

**NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION (CBSC)**

**REGARDING ADOPTION OF AMENDMENTS TO THE 2010 CALIFORNIA BUILDING STANDARDS
CODE, TITLE 24, CALIFORNIA CODE OF REGULATIONS (CCR), PARTS 2, 3, 4, 5 and 6 in TITLE 24,
CCR, PART 11, CALIFORNIA GREEN BUILDING STANDARDS CODE**

Notice is hereby given that CBSC proposes to adopt, approve, codify, and publish primarily voluntary green building standards in CCR, Title 24, Part 11, which is currently reserved.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009, until 5:00 PM on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or emailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5 (a) 17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code (H&SC) Sections 16600, 18928, 18930.5, 18934.5, 18934.6, and 18938(b) and Government Code Section 14617. The purpose of these building standards is to implement, interpret, and make specific the provisions of H&SC, Sections 16600 through 16604 and Division 13, Part 2.5, commencing with Section 18901; and Government Code Sections 14617.

INFORMATIVE DIGEST

Summary of Existing Laws

H&SC Section 16600 authorizes the commission and the Division of the State Architect to develop and adopt building seismic retrofit guidelines for state buildings.

H&SC Section 18928 authorizes the commission to adopt the most recent edition of model codes, national standards, or specifications.

H&SC Section 18934.5 sets forth that, where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

H&SC Section 18934.6 mandates that the commission shall adopt, approve, codify, and publish by reference Appendix Chapter 1 of the International Existing Building Code for providing the minimum standards for unreinforced masonry buildings.

H&SC 18930.5 grants CBSC the authority, if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

H&SC Section 18938(b) provides that model code standards as referenced in the California Building Standards Code (CCR, Title 24) shall apply to all occupancies throughout the state, and shall become effective 180 days after publication in the California Building Standards Code by CBSC, or on a later date after publication established by CBSC.

H&SC Section 38500 et seq (AB 32, Stats 2006, c. 488) requires a cap on greenhouse gas (GHG) emissions by 2020, mandatory emissions reporting, and a market-based compliance program.

Government Code Section 14617 authorizes the commission and the Division of State Architect to establish a standard of lighting for parking lots at the University of California, California State University, and California Community Colleges.

Government Code Sections 65601 through 65607 regulate use of recycled water in landscaping.

Public Resources Code Sections 42900 through 42911 provide for access in development projects to adequate areas for collection and loading of recyclable materials, and include a model ordinance for local agency adoption.

Summary of Existing Regulations

California Code of Regulations (CCR), Title 24, also referred to as the 2007 California Building Standards Code incorporates the following:

- Part 5, the California Plumbing Code, with Appendix G graywater irrigation standards authored by Department of Water Resources
- Part 6, the California Energy Code, which contains minimum energy efficiency standards for non-residential buildings in California promulgated by the California Energy Commission (CEC)
- Part 11, the California Green Building Standards Code (CGBSC), which contains mandatory and voluntary green building standards for residential, nonresidential, and medical facilities.

Other relevant CCR titles:

- Title 17 includes regulations for air quality promulgated by the California Air Resources Board
- Title 20, Article 4, Appliance Efficiency regulations, contains CEC standards for water consumption of widely used plumbing fixtures.
- Title 23 includes the Model Water Efficient Landscape Ordinance recently updated by Department of Water Resources.

Summary of Governor's Executive Orders

S-20-04, December 14, 2004, instructs state entities to design, construct, and operate all new and renovated state-owned facilities paid for with state funds as "LEED Silver" or higher certified buildings.

S-3-05, June 1, 2005, establishes targets for limiting GHG emissions to 2000 levels by 2010, to 1990 levels by 2020, and to 80% of 1990 levels by 2050. It directs the Secretary of the Environmental Protection Agency (EPA) to coordinate this effort with the Secretary of the Business, Transportation and Housing Agency, Secretary of the Department of Food and Agriculture, Secretary of the Resources Agency, Chairperson of the Air Resources Board, Chairperson of the Energy Commission, and the President of the Public Utilities Commission. These agencies formed a Climate Action Team (CAT) to report to the governor by January, 2006 and periodically thereafter on strategies and progress in meeting the goals.

S-20-06, October 17, 2006, directs EPA to continue coordinating reduction of GHG emissions and development of market-based strategies for achievement, mandated by AB 32.

Summary of Effect

This proposed action will make effective mandatory and voluntary green building standards available in Title 24, Part 11 for buildings under authority of CBSC, on a date commensurate with the 2010 annual code adoption cycle, either 180 days after publication in Title 24 or at a later date to be determined by CBSC.

Comparable Federal Statute or Regulations

The Environmental Protection Agency (EPA) defines "Brownfield Development", an option proposed for site planning and design. EPA also regulates ozone-depleting and climate warming chemicals, as well as other air pollutants like wood smoke in updates to the 1970 Clean Air Act. The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., also known as the Clean Water Act) is adopted in California by the State Water Resources Control Board for management of storm water during construction.

Policy Statement Overview

The standards in the 2008 CGBSC were developed with assistance of a green building focus group made up of state agencies, building officials, industry representatives, model code publishers, and environmental organizations, drawing upon existing points-based green building programs (including LEED, the Collaborative for High Performance Schools, and Green Globes), best practices, guidelines, state agency laws and regulations, draft national standards, and other published material. Working with the focus group in the first half of 2009, CBSC is proposing updated mandatory and voluntary standards for site planning and design, energy efficiency, water conservation, material conservation, and environmental quality, incorporating public comments received in the last code cycle as well as during the 2009 code development process.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

CBSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CBSC has determined that projects following the Green Building Code guidelines would impose a mandate on local agencies in the form of verification. However, the mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code. No mandate is imposed on school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or savings to any state agency: **None**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **None**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**

Estimate: **None**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

CBSC has made an initial determination that the adoption of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. The costs of the mandatory measures proposed are summarized in the Initial Statement of Reasons and in the Economic and Fiscal Impact Statement prepared by the agency, and are not considered significant when weighed against the benefits.

DECLARATION OF EVIDENCE

CBSC's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action over and above the Initial Statement of Reasons and the Economic and Fiscal Impact Statement which are part of this rulemaking.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

CBSC has made an assessment of the proposed code changes and has determined that these changes do not require a report.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

CBSC is aware of initial cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action. However, it is also anticipated that such costs would be recouped in long-range savings expressed in utility and transportation costs, worker productivity, health costs, and goodwill. The Initial Statement of Reasons and the Economic and Fiscal Impact Statement support this statement.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

CBSC has assessed whether or not and to what extent this proposal will affect the following:

- **The creation or elimination of jobs within the State of California.** These regulations, employing emerging green building technologies, products, and services, should create jobs within the State of California.
- **The creation of new businesses or the elimination of existing businesses within the State of California.** These regulations, employing emerging green building technologies, products, and services should create new business and should expand opportunities for existing business within the State of California.
- **The expansion of businesses currently doing business with the State of California.** These regulations will position California in the lead for statewide green building guidelines, and should provide opportunities for businesses currently doing business within the State of California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The CBSC must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the persons named below.

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below.

CBSC CONTACT PERSONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Jane Taylor, Senior Architect
jane.taylor@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No: (916) 263-0916
Facsimile No: (916) 263-0959