

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT - STRUCTURAL SAFETY (DSA-SS)

REGARDING THE CALIFORNIA GREEN BUILDING STANDARDS CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a final statement of reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS:

(Government Code Section 11346.9(a) (1) requires an update of the information contained in the initial statement of reasons. If update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the initial statement of reasons, the state agency shall comply with Government Code Section 11347.1)

The Division of the State Architect finds that no revisions have been made which would warrant a change to the initial statement of reasons.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS.

(Pursuant to Government Code Section 11346.9(a) (2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s).)

The Division of the State Architect has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts. Because this initial version of the green building standards proposed is primarily voluntary in nature, DSA has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. Thus, the mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S).

(Government Code Section 11346.9(a) (3))

COMMENTER: William Schock, CALBO, **no section number:**

Mr. Schock comments that; 1) hyperlinks to private websites should not be included in the body of the code, 2) when state agencies adopt the same sections the language should be correlated to avoid inconsistencies and duplication, and 3) language used should be enforceable language.

RESPONSE: While the comments are not directed to a specific code section proposed, DSA believes that the comments have merit and has worked with the other state agencies proposing adoption of the CGBC to coordinate language, provide more generic informational references instead of specific web pages and ensure that proposed text is written in an enforceable tone. DSA will continue this effort in future development of this code.

COMMENTERS: Scott Harriman, Senior Planner, and Robert Woods, Chief Building Inspector, City of Walnut Creek, **no section number**, (Criteria 1, 2, 6, and 7):

The commenters suggest that the proposed regulations overlap with the energy code and clean water provisions. The standards already exist (for example, Green Point Rated and LEED), and they suggest adoption of one of those systems. They suggest that 1) enforcement should not be difficult compared to energy standards that are already enforced, 2) use of an affidavit from the designer or consultant to certify compliance, 3) use of third party inspectors, although they do not favor this idea as burdensome on the owner and builder, and 4) non-mandatory compliance options need to be clarified, since they do not seem to serve any purpose. Further, they feel that these standards will impose additional staff time on the city for plan review and inspection.

RESPONSE: DSA observes that the comments lack specificity in identifying the adoption, amendment, or repeal of regulations that are being proposed and do not make specific suggestions to specific text. DSA notes that points-based systems such as Green Point Rated and LEED are not national standards, and cannot be adopted as such. No code changes have been proposed to CBSC's rulemaking package as a result of this comment. DSA will take the concerns expressed in these comments to the next rulemaking cycle.

COMMENTERS: Dan Geiger and Andrea Traber, United States Green Building Council and Paul Poirier, AIA, LEED AP, Poirier + David Architects, et al, on **Section 101.2:**

Change Item #5 "Environmental air quality" to "Indoor air quality". Chapter 8 refers to Indoor Air Quality (IAQ), so changing the language here clarifies its applicability, vis a vis outdoor air quality.

RESPONSE: DSA is not accepting the commenters' proposed change, because limiting standards to indoor air quality may ignore outdoor air quality impacts, such as those for ozone-depleting chemicals, environmental tobacco smoke, and VOCs emitted by exterior coatings. Also, other building standards affecting outdoor air quality may be identified in future development of this code, as coordinated with the California Air Resources Board (ARB).

COMMENTERS: Dan Geiger and Andrea Traber, United States Green Building Council and Paul Poirier, AIA, LEED AP, Poirier + David Architects, et al, on **Section 101.3:**

Add the phrase "as noted further in Sec 101.3.1" to the end of the section, because this standard should apply to all buildings in the State of California. (Criteria 1 and 6)

RESPONSE: DSA is not accepting the commenters' proposed change, because the addition of the phrase "as noted further in Sec 101.3.1" does not follow code format or correspond to Chapters 1 in other parts of Title 24. Its addition is unnecessary since §101.3.1 is clearly a subsection of 101.3.

COMMENTERS: Dan Geiger and Andrea Traber, United States Green Building Council; Paul Poirier, AIA, LEED AP, Poirier + David Architects, et al; and William Schock, California Building Officials (CALBO), on **Section 101.7:**

Delete the last sentence "However, in no case shall the [local] amendments, additions or deletions to this code be effective any sooner than the effective date of this code". Based on criteria 6 and 3, this phrase is vague, because the standards in the code are largely voluntary.

RESPONSE: DSA is not accepting the commenters' proposed change, because the subject phrase corresponds to Building Standards Law, State Housing Law, and Chapters 1 in other parts of Title 24. While the commenter notes that the current proposal is for voluntary standards and thus effective date is a moot point, local jurisdictions may wish to adopt some of them as mandatory. Also, DSA will be proposing mandatory provisions for future editions of the code, when the effective date may have impact.

COMMENTERS: Dan Geiger and Andrea Traber, United States Green Building Council and Paul Poirier, AIA, LEED AP, Poirier + David Architects, et al, on **Section 101.7.1:**

In Item #1 of this section "... findings . . . based upon climatic, topographical, or geological conditions" - clarify if "climatic" refers to local climatic conditions or global climactic considerations. Meaning of "climatic" considerations is unclear. For example, a local authority may desire to adopt more carbon emission-related stringent codes out of concern for global climate change, vs. local climatic conditions. (Criterion 6)

RESPONSE: DSA is not accepting the comment, because Section 101.8 of the California Building Code contains identical language to what is proposed for this section, and the terms come from Building Standards Law. DSA has no authority to determine how a jurisdiction makes its local findings.

COMMENTER: William Schock, CALBO, on **Section 102.3:**

Add, in the second sentence, the phrase after "special documentation . . . as specified in this code or as required by the enforcing agency."

RESPONSE: DSA is not accepting the commenter's proposed change, because it is not needed. However, in light of the comment DSA has withdrawn the entire sentence which the commenter proposed amending as extraneous to the meaning of the paragraph. Further development of documentation and verification requirements is anticipated in the next rulemaking cycle, when DSA will propose mandatory standards with input from stakeholders. The withdrawn text was made as an editorial change since DSA-SS has not adopted any green building standards contained in the proposed Part 11, Chapter 2 through Chapter 11 and Appendix A.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS.

(Government Code Section 11346.9(a) (4))

The initial version of the green building standards proposed is primarily voluntary. Therefore, DSA has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the adopted regulation. The alternative would be mandatory green building standards, which could have an effect.

REJECTED PROPOSED ALTERNATIVES THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:

(Government Code Section 11346.9(a) (5))

DSA has not proposed standards that could pose economic impact to small business, therefore no proposed alternatives were considered.