

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION**

**REGARDING THE CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
AND
THE CALIFORNIA EXISTING BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 10**

**CERTIFICATION OF COMPLIANCE FOR EMERGENCY BUILDING STANDARDS
(BSC EF-01-17)**

Notice is hereby given that the California Building Standards Commission (CBSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Parts 2 and 10. The CBSC is proposing building standards related to exterior elevated elements.

PUBLIC COMMENT PERIOD

(Government Code Section 11346.5(a)(1) and Section 11346.5(a)(15))

A public hearing has not been scheduled; however, written comments will be accepted from **September 8, 2017**, until 5:00PM on **October 23, 2017**. Please address your comments to:

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

Written Comments may also be 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.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the California Building Standards Commission to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

(Government Code Section 11346.5(a)(18)), (Government Code Section 11346.8(c))

Following the public comment period, the 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 the 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

(Government Code Section 11346.5(a)(2))

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code (H&SC) Sections 18930, 18934.5, 18937, 18938, 18944, and Government Code (GC) Section 11346.1(e). The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code (H&SC) Sections 18930, 18934.5, 18937, 18938, 18944, and Government Code (GC) Section 11346.1(e). The CBSC is proposing this regulatory action based on Health and Safety Code (H&SC) Sections 18930, 18934.5, 18937, 18938, 18944, and Government Code (GC) Section 11346.1(e).

INFORMATIVE DIGEST

(Government Code Section 11346.5(a)(3))

An informative digest drafted in plain English in a format similar to the Legislative Counsel's Digest shall include the following:

Summary of Existing Laws

H&SC Section 18928.1 requires the incorporation of published model codes, national specifications, or published standards.

H&SC Section 18930 requires that any building standard proposed or adopted by state agencies be submitted to and approved or adopted by the Building Standards Commission, prior to codification.

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 18937 provides that the commissioners shall act on emergency standards within 30 days, and they must act on the merit of the emergency finding as well as on the proposed standards.

H&SC Section 18938 requires the filing of emergency standards with the Secretary of State by CBSC only after they have been approved by the commissioners. It requires that the standards become effective when filed with the Secretary of State or at a later date specified in the standards, and that they be published in Title 24.

GC Section 11346.1(e) states that no regulation, amendment, or order of repeal initially adopted as an emergency regulatory action shall remain in effect more than 180 days unless the adopting agency has complied with Sections 11346.2 to 11347.3, inclusive, either before adopting an emergency regulation or within the 180-day period. The adopting agency, prior to the expiration of the 180-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, amendment, or order of repeal, the rulemaking file, and a certification that Sections 11346.2 to 11347.3, inclusive, were complied with either before the emergency regulation was adopted or within the 180-day period.

Summary of Existing Regulations

The California Building Code (Part 2, Title 24, California Code of Regulations, contains requirements for construction documents in Section 107.2, for inspection in Section 110.3.8, for live loads in Table 1607.1, and for wood protection in Section 2304.12.

The California Existing Building Code (Part 10, Title 24, California Code of Regulations, contains requirements for construction documents in Section 106.2, and for inspection in Section 109.3.

Summary of Effect

This proposed action will make permanent, upon approval by the commissioners, emergency modifications to the body of regulations with enhanced design and construction measures for exterior elevated elements, to minimize risk of failure in newly-constructed buildings. It will also reduce risk of failure due to latent causes, for existing buildings.

This proposed action will make effective, upon adoption, approval by the commissioners, and filing with Secretary of State the addition of Sections 107.2.7 and 110.3.8.1 to Chapter 1, and Sections 2304.12.2.6 of Chapter 23, Title 24, Part 2, and the amendment of Table 1607.1 of Chapter 16 and Section 2304.12.2.5 of Chapter 23, Title 24, Part 2 for buildings within CBSC authority, necessitating immediate action to further protect the public peace, health, safety and general welfare.

This proposed action will make effective, upon adoption, approval by the commissioners, and filing with Secretary of State the addition of Sections 101.8, 106.2.6 and 109.3.10 to Chapter 1, Title 24, Part 10 for buildings within CBSC authority, necessitating immediate action to further protect the public peace, health, safety and general welfare.

Comparable Federal Statute or Regulations

There currently are no federal laws or regulations for exterior elevated elements.

Policy Statement Overview

CBSC is responsible for the development of building standards for all occupancies of state buildings, including buildings constructed by the Trustees of the California State University and the Regents of the University of California, for which no other state agency has authority or expertise.

Evaluation of consistency

The proposed action is not incompatible or inconsistent with existing regulations.

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

(Government Code Section 11346.5(a)(4))

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

(Government Code Section 11346.5(a)(5))

CBSC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. CBSC does not have authority to propose building standards for school districts. The proposed building standards do not impose a mandate on local jurisdictions.

ESTIMATE OF COST OR SAVINGS

(Government Code Section 11346.5(a)(6)) An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district. Provide a copy of the "Economic and Fiscal Impact Statement" (Form 399)

- A. Cost or Savings to any state agency: None known
- 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: CBSC has prepared an Economic and Fiscal Impact Statement (Form 399) concerning the proposed action which states the following:

- Because stronger materials and better-ventilated assemblies are generally a higher purchase cost, CBSC anticipates a very minor economic impact to the regulated community. The Code already allows alternate materials and methods, as an option to the regulated community, which may raise or lower associated cost. Costs of exterior elevated elements is of such small significance, as a portion of overall building cost, that CBSC believes the minor costs associated with proposed changes in materials and methods are reasonable, and are offset by the benefit of reduced risk in the integrity of exterior elevated elements (EEE), and increased safety factors. In addition, the enhanced EEE detailing and construction inspection requirements would increase the life expectancy of EEE, thereby reducing potential future repair costs.
- CBSC recognizes that implementation of these provisions will result in the expected benefit of safer conditions statewide, but acknowledges a likely economic impact to businesses that sell ventilation products or fire protection materials (which may see an increase in revenue resulting from materials purchases), and the installation of such materials.

- The 2018 International Building Code and 2018 International Existing Building Code (model code) provisions are due to be published in September. CBSC will consider adopting these proposals during the next cycle.

INITIAL DETERMINATION OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

(Government Code Section 11346.5(a)(7)) If the agency makes an initial determination that the adoption/amendment/ repeal of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The determination shall include the following:

- A. Identification of the types of businesses that would be affected.
Businesses that manufacture, sell, and/or install fire sprinkler systems, soffit enclosure vent screens, or framing lumber may be affected by this regulation.
- B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action.
None anticipated.
- C. The CBSC has made an initial determination that the adoption of this regulation may have a minor adverse economic impact on businesses. The CBSC has not considered proposed alternatives that would lessen any adverse impact on business and invites you to submit proposals. Submissions may include the following considerations:
 - The establishment of differing compliance requirements which take into account the resources available to businesses.
 - Consolidation or simplification of compliance for businesses.
 - The increased use of performance standards in lieu of prescriptive standards.
 - Exemption or partial exemption from the regulatory requirements for businesses.

DECLARATION OF EVIDENCE

(Government Code Section 11346.5(a)(8)) The declaration the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

CBSC's initial determination is that there will be no significant statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states. It does not require any additional evidence, documents or other evidence to support this action because the purpose of the regulations is to make permanent the emergency measures currently in force, and to align with the next cycle of model codes that will ultimately be captured into the Title 24, California Code of Regulations.

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

(Government Code Section 11346.3(d)). Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

Not applicable.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

(Government Code Section 11346.5(a)(9)) Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact provide the following statement:

Representative private individuals and/or businesses may incur costs in reasonable compliance with this proposed action (see "ESTIMATE OF COST OR SAVINGS" section above).

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

(Government Code Section 11346.5(a)(10), Government Code Section 11346.3(b)(1))

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 may result in the creation and/or elimination of jobs within the construction materials product/service industry, related to the construction of EEEs, as stated in the Form 399

The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations may result in the creation and/or elimination of existing businesses within California's construction materials product/service industry, as stated in the Form 399

The expansion of businesses currently doing business with the State of California.

These regulations may result in the expansion of businesses within California's construction materials product/service industry, as stated in the Form 399.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The implementation of these regulations will likely result in the benefit of improved serviceability and longevity of EEE statewide, which will help increase public safety. Therefore, CBSC finds that these regulations are necessary for the public's health, safety, and welfare because they promote improved serviceability and longevity.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

(Government Code Section 11346.5(a)(12)) requires that an action that would impact housing shall include the estimated cost of compliance and potential benefits of a building standard, if any, that were included in the initial statement of reasons. In addition, the agency officers shall make available to the public, upon request, the agency's evaluation, if any, of the effect of the proposed regulatory action on housing costs

Because CBSC does not have authority to promulgate regulations applicable to residential occupancies, this proposed regulatory action would not impact housing.

CONSIDERATION OF ALTERNATIVES

(Government Code Section 11346.5(a)(13))

Exterior elevated elements are a design alternative; thus, other alternatives need not be considered. CBSC has determined that no reasonable alternative 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

(Government Code Section 11346.5(a)(20)), (Government Code Section 11346.5(a)(19))

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 person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

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 person named below or at the California Building Standards Commission website.

Government Code Section 11346.5(a)(21) states that CBSC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

(Government Code Section 11346.5(a)(14))

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

Michael L. Nearman, Deputy Executive Director

2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No.: (916) 263-0916
Michael.Nearman@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

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

Gary L Fabian, Associate Architect

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No: (916) 263-0916
gary.fabian@dgs.ca.gov

Back-up:

Michael L. Nearman, Deputy Executive Director

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