

**NOTICE OF PROPOSED ACTION  
TO BUILDING STANDARDS OF THE  
DIVISION OF THE STATE ARCHITECT—STRUCTURAL SAFETY (DSA-SS AND DSA-SS/CC)**

**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  
(DSA-SS and DSA-SS/CC EF-01-17)**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division of the State Architect (DSA) 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 DSA is proposing building standards related to exterior elevated elements (EEE).

**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 faxed to (916) 263-0959 or emailed to [CBSC@dgs.ca.gov](mailto: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 Division of the State Architect is proposing this regulatory action based on Health & Safety Code Section 16022, and Education Code Sections 17310, 81142, and 81053.

## **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**

**EC Sections 17310 and 81142** authorize the State Architect to establish building standards for public elementary and secondary schools, and community colleges.

**EC Sections 81052 and 81053** authorize the State Architect to establish building standards which a community college may elect to use in lieu of those standards promulgated in accordance with Section 81142.

**H&SC Section 16023** authorizes the State Architect to establish building standards for state-owned and state-leased essential services buildings.

**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 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 Section 1616.5 and Table 1607A.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 Section 1616.5 of Chapter 16 and Table 1607A.1 of Chapter 16A and Section 2304.12.2.5 of Chapter 23, Title 24, Part 2 for buildings within DSA 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 101.8.1, 106.2.6 and 109.3.10 to Chapter 1, Title 24, Part 10 for buildings within DSA 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 EEE.

### Policy Statement Overview

DSA is responsible for the development of building standards for state-owned or state-leased essential services buildings, public elementary and secondary schools, and community colleges.

### 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))

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

## MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

The DSA has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

## 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: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No**
- E. Cost or savings in federal funding to the state: **No**

Estimate: DSA has prepared an Economic and Fiscal Impact Statement (STD 399) concerning the proposed action which states the following:

- Because DSA already enforces existing code requirements for moisture barriers, ventilation, and inspection, DSA anticipates very minor or no direct economic impact to the regulated community. The California Building Code allows alternate materials and methods, as an option to the

regulated community, which may result in increased or decreased associated cost. Costs of EEEs is of such small significance, as a portion of overall building costs, that DSA believes the very minor costs associated with any proposed changes in materials and methods in response to the proposed regulations are reasonable, and are offset by the benefit of reduced risk in the integrity of EEEs, and in increased safety factors. In addition, enhanced EEE detailing and construction inspection requirements increase the life expectancy of EEEs thereby reducing potential future repair costs.

- DSA recognizes that implementation of these provisions will result in the expected benefit of safer conditions statewide, but acknowledges a possible very minor economic impact to businesses that sell ventilation products or impervious moisture barrier products or structural framing (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 impervious moisture barriers, soffit enclosure vent screens, or structural framing 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 DSA has made an initial determination that the adoption of this regulation may have a very minor adverse economic impact on businesses. The DSA 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.

DSA'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. Additional evidence, documents, testimony or other evidence to support this action is not required because the purpose of the proposed 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 adopted 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 - the proposed regulatory action does not require a report by any business.

**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 minor costs in reasonable compliance with this proposed action (see "ESTIMATE OF COST OR SAVINGS" and "INITIAL DETERMINATION" sections above).

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

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

DSA 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 will not cause the elimination of jobs within the State of California. These regulations may have very minor or no direct effect on creation of additional jobs within California's construction materials product/service industry, related to the construction and maintenance of EEEs.

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

These regulations will not cause the elimination of existing business with the State of California. These regulations may have very minor or no direct effect on creation of businesses within California's construction materials product/service industry, related to the construction and maintenance of EEEs.

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

These regulations may have very minor or no direct effect on expansion of businesses within California's construction materials product/service industry, related to the construction and maintenance of EEEs.

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

These regulations pertain to enhanced detailing, construction inspection and maintenance of EEE and were prepared in response to a sudden and catastrophic balcony failure at Library Gardens in Berkeley, on June 16, 2015. Failures such as this demonstrate that, due to the enclosed nature of many EEE assemblies, causation factors leading to failure are not always observable in time for repair or mitigation. These regulations are intended to prevent future occurrences by reducing risk factors. 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, DSA finds that these regulations are necessary for the public's health, safety, and welfare.

### **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)

DSA does not have authority to propose regulations applicable to residential occupancies; therefore, this proposed regulatory action will not impact housing costs.

### **CONSIDERATION OF ALTERNATIVES**

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

These regulations mirror the provisions currently being amended to the 2018 IBC and IEBC. Given the extensive code adoption process, the opportunity to include proposed measures with the next triennial cycle schedule would make the resulting building standards effective at the local level on January 1, 2020.

DSA finds these provisions as being essential and critical for public health and safety and that there should be no undue delay in enacting measures to achieve this goal. Therefore, DSA 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)(16)), (Government Code Section 11346.5(a)(20))

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/>

(Government Code Section 11346.5(a)(19).)

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).)

Division of the State Architect 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

Facsimile No.: (916) 263-0959

[Michael.Nearman@dgs.ca.gov](mailto: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:

**Diane Gould, Supervising Structural Engineer**

Division of the State Architect  
1102 Q Street, Suite 5100  
Sacramento, CA 95811  
Telephone No: (916) 324-6959  
[diane.gould@dgs.ca.gov](mailto:diane.gould@dgs.ca.gov)

**Back-up:**

**James P. Hackett, Principal Structural Engineer**

Division of the State Architect  
1102 Q Street, Suite 5100  
Sacramento, CA 95811  
Telephone No: (916) 322-4699  
[jim.hackett@dgs.ca.gov](mailto:jim.hackett@dgs.ca.gov)