

DOCKETED

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Comment Received From: Mia Marvelli

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2019 Part 6 update

Additional submitted attachment is included below.

From: California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833

March 5, 2018

Via email <https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=17-BSTD-02>

To: California Energy Commission – Docket number 17-BSTD-02

Re: 2019 California Energy Code, Part 6 of Title 24, California Code of Regulations

Thank you for giving the California Building Standards Commission (CBSC) the opportunity to provide comments for docket number 17-BSTD-02 as it pertains to MERV 13 ratings as part of the 2019 California Energy Code update. CBSC commends the California Energy Commission for being a leader in energy efficiency regulations that make major contributions to meet California's greenhouse gas emissions goals. CBSC is submitting a comment to the Energy Commission's proposed 2019 California Energy Code (Part 6) Section 120.1 specific to MERV 13 rating requirements for ventilating mechanical systems for non-residential buildings.

MERV rating and labeling requirements currently exist in the California Green Building Standards Code, Part 11, (CALGreen) and the California Mechanical Code, Part 4, both within Title 24 of the California Code of Regulations. These approved and published provisions were proposed by the CBSC within its green building standards authority for non-residential occupancies found in Health and Safety Code 18930.5. The Division of the State Architect co-adopts the same requirements for filters in CALGreen and the Mechanical Code for public school construction. The Department of Housing and Community Development has submitted a public comment to the California Energy Commission with similar concerns.

CSBC believes that the California Energy Commission proposed Part 6 MERV 13 filter requirements present a conflict with existing code provisions in the CALGreen Code, Section 5.504.5.3 which requires at least a MERV 8, Tier 1 and Tier 2 reach standards for MERV 11 and 13 respectively, and the California Mechanical Code Section 503.3 which references and restates the CALGreen Code Section 5.504.5.3 for filters. CBSC believes that these potential conflicts in the regulations violate the nine-point criteria found in Health and Safety Code Section 18930 (a) which states in part; *Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency*

that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

- 1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.*
- 2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.*

Because these proposed code changes affect multiple state agencies, the CBSC would like to conduct a Coordinating Council meeting so this may be publically discussed amongst the state agencies. During the November 14, 2017 Coordinating Council meeting some of these concerns were identified but have yet to be resolved. More information about the about the purpose of the Coordinating Council may be found at http://www.bsc.ca.gov/abt_bsc/cncl.aspx.

Below is historical information to provide context to CBSC's comment.

2010 CALGreen Code nonresidential occupancies

The CBSC CALGreen Code has a similar code provision that regulates the minimum MERV rating for ventilating mechanical systems for non-residential buildings. CBSC's first proposed MERV filter regulations, found in CALGreen Code Section 5.504.5.3 Filters, during the 2009 Triennial Code adoption rulemaking cycle intended to filter particulate matter from the air by the use of at least MERV 8-rated filters, thereby improving indoor air quality for building occupants. Voluntary Tier 1 reach standards for MERV 11 were also approved. Voluntary CALGreen reach standards are available for local jurisdictions to adopt and enforce via an ordinance. BSC worked closely with the California Air Resources Board and other state agencies and received wide support from industry, equipment manufacturers and stakeholders. These provisions were approved by the California Building Standards Commission and filed with the Secretary of State January of 2010 and became effective statewide January 1, 2011.

2013 CALGreen Code and Mechanical Code nonresidential occupancies

During the 2012 triennial code adoption cycle, CBSC further amended the MERV rating requirements by adding two exceptions that exempted filters for high efficiency HVAC units and existing mechanical equipment. Additionally, Section 5.504.5.3.1 was added to require filters to be labeled by the manufacturer. CBSC worked with the California Energy Commission on these proposed changes. Also during the 2012 code rulemaking cycle, CBSC proposed a voluntary Tier 2 reach standard for MERV 13 rating. CBSC worked closely with the California Air Resources Board and other state agencies. These new mandatory and voluntary requirements became effective January 1, 2014.

2016 California Mechanical Code

During the 2015 triennial code adoption cycle CBSC added a reference for filters in the 2016 California Mechanical Code Section 503.3 Filters. The code references were added pursuant to Health and Safety Code 18940.5 which states..... *agencies that propose green building standards for inclusion in Part 11 of Title 24 of the California Code of Regulations shall, to the extent that it is feasible, reference or reprint the green building standards in other relevant portions of Part 2, 2.5, 3, 4, 5, or 6 of Title 24 of the California Code of Regulations.* The 2016 California Mechanical Code became effective January 1, 2017.

CBSC looks forward to working with the California Energy Commission, other state agencies and interested parties to resolve this potential conflict in the California Building Standards Code, Title 24, California Code of Regulations.

Sincerely,

Mia Marvelli, Executive Director
California Building Standards Commission