

DOCKETED

Docket Number:	21-BSTD-03
Project Title:	2022 Rulemaking for Part 11 (CalGreen) and Parts 2-5 of the Building Standards Code
TN #:	238643
Document Title:	Notice of Proposed Action
Description:	Proposed revisions to the California Building Energy Efficiency Standards, 2022 California Green Building Standards Code, Title 24, Part 11 and Parts 2, 2.5, 3, 4, and 5.
Filer:	Amber Beck
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	7/2/2021 9:31:01 AM
Docketed Date:	7/2/2021

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

energy.ca.gov

CEC-057 (Revised 1/21)

**NOTICE OF PROPOSED ACTION****PROPOSED REVISIONS TO THE CALIFORNIA
BUILDING ENERGY EFFICIENCY STANDARDS****2022 CALIFORNIA GREEN BUILDING STANDARDS CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24,
PART 11,
And
PARTS 2, 2.5, 3, 4, and 5**

**California Energy Commission
Docket No. 21-BSTD-03
Notice Published on July 2, 2021**

INTRODUCTION

Notice is hereby given that the California Energy Commission (Energy Commission) proposes to adopt, changes to the Building Energy Efficiency Standards contained in the California Green Building Standards Code, California Code of Regulations (CCR), Title 24, Part 11 (also known as CALGreen). In addition, the Energy Commission is making non-substantive changes to Parts 2, 2.5, 3, 4, and 5.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) regarding the need for the proposed revisions and has made available all the information upon which its proposal is based. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed amendment language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>

PUBLIC HEARING AND ADOPTION BY COMMISSION

The Energy Commission will hold a public hearing for the purpose of hearing comments on the proposed standards at the date and time listed below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed standards at the public hearing.

The public hearing will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to

encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

Public Hearing and Proposed Adoption Date
September 30, 2021
10:00 a.m. (Pacific Time)

REMOTE ATTENDANCE

The workshop may be accessed by clicking the Zoom link below or visiting [Zoom](https://join.zoom.us) at <https://join.zoom.us> and entering the ID and password for the workshop listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Public Advisor's Office at publicadvisor@energy.ca.gov or (800) 822-6228.

Link:

<https://energy.zoom.us/j/93869230237?pwd=Zm96c09ULzdXTjd4eldtUXdnUGErzd09>

Webinar ID: 93869230237

Password: mtg@10am

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the telephone, dial *9 to "raise your hand" and *6 to mute/unmute your phone line.

PUBLIC ADVISOR

The Energy Commission's Public Advisor's Office provides the public assistance in participating in Energy Commission proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at publicadvisor@energy.ca.gov, by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The Energy Commission will work diligently to accommodate all requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Public Advisor's office via email or phone.

MEDIA INQUIRIES

Direct media inquiries to the Media and Public Communications Office to (916) 654-4989 or mediaoffice@energy.ca.gov.

WRITTEN COMMENT PERIOD

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The public comment period for the 2022 Green Building Standards will be held from July 2 through August 16, 2021. Any interested person, or their authorized representative, may submit written comments to the Energy Commission for consideration on or prior to August 16, 2021. The Energy Commission appreciates receiving written comments at the earliest possible date.

The Energy Commission encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>, which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with 20 California Code of Regulations Section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 21-BSTD-03 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit, MS-4
RE: Docket No. 21-BSTD-03
1516 9th Street, MS-4
Sacramento, CA 95814

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Pursuant to Government Code Section 11346.5(a)(18), following the written public comment period and the public hearing, the Energy Commission 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). The Energy Commission will accept written comments on the modified building standards during the 15-day period.

AUTHORITY AND REFERENCE

The Energy Commission proposes to adopt these regulations under the authority granted by Public Resources Code Sections 25213, 25218, 25218.5, 25402, subdivisions (a)-(b), 25402.1, 25402.4, 25402.5, 25402.8, 25910, 25942, and 25943.

The Energy Commission proposes to implement, interpret, or make specific Public Resources Code Sections 25007, 25008, 25310, 25402, subdivisions (a)-(b), 25402.1, 25402.4, 25402.5, 25910, 25942, and 25943, and Health and Safety Code Sections 18390, 18934, and 18935.

INFORMATIVE DIGEST

Summary of Existing Laws and Regulations

The Warren-Alquist Act (California Pub. Res. Code Sections 25001 et seq.) establishes the Energy Commission as California’s primary energy policy and planning agency. Public Resource Code Sections 25213, 25402, 25402.1, 25402.4, 25402.5, 25402.8, 25910, 25942, and 25943 mandate and/or authorize that the Energy Commission adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water in newly constructed buildings and certain additions and alterations to existing buildings. One

of the ways the Energy Commission satisfies this requirement is through the California Green Building Standards Code, (California Code of Regulations, Title 24, Part 11) found in the California Building Standards Code. As a part of the California Building Standards Code, the California Green Building Standards Code follows the same three-year update cycle.

Therefore, the Energy Commission proposes to update the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11) and provide non-substantive changes to Parts 2, 2.5, 3, 4, and 5. Proposed changes to Parts 2, 2.5, 3, 4, and 5 consist entirely of nonsubstantive cross-references to the Energy Code made at the request of, and coordinated with, proposing agencies. The Energy Commission proposes to adopt these amendments for publication in 2022 with an effective date of January 1, 2023.

Comparable Federal Statute or Regulations

The Energy Commission has determined that there are no existing comparable federal regulations or statutes.

Policy Statement Overview

The changes proposed in this rulemaking are updates to the voluntary energy efficiency provisions of the California Green Building Standards. These voluntary guidelines, contained in Title 24, Part 11 of the California Code of Regulations, go beyond the mandatory standards in Part 6. In addition to updating the voluntary provisions in Title 24 Part 11, the Energy Commission is also proposing non-substantive changes to Parts 2, 2.5, 3, 4, and 5, which direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

The Energy Commission has conducted an evaluation for other state regulations in this area and has determined that the proposed standards are neither inconsistent nor incompatible with existing state regulations. The Energy Commission is the sole state agency authorized to promulgate building energy efficiency standards. These changes update the Energy Commission's longstanding voluntary measures (Part 11) and provide various non-substantive cross-references to the Energy Code (Parts 2, 2.5, 3, 4, and 5). These non-substantive changes were made at the request of, and in coordination with, proposing agencies.

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

None

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

ESTIMATE OF COST OR SAVINGS

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.

- 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: There are no estimated costs or savings associated with the proposed regulations because compliance with the Part 11 provisions are voluntary, not required, and because the proposed amendments to Parts 2, 2.5, 3, 4, and 5 consist entirely of non-substantive cross-references to the Energy Code.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES.

The Energy Commission has made an initial determination that the proposed regulations are unlikely to have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

The proposed regulations take additional steps in meeting California’s energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards.

The changes proposed to Parts 2, 2.5, 3, 4, and 5 are non-substantive changes to effectively communicate the regulation in a precise and clear manner but do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect.

DECLARATION OF EVIDENCE

The basis for the Energy Commission’s findings of no impacts is that the California Green Building Standards are voluntary provisions and the amendments to Parts 2, 2.5, 3, 4, and 5 are entirely non-substantive cross-references to the Energy Code.

DOCUMENTS INCORPORATED BY REFERENCE

The Energy Commission is not proposing to incorporate by reference any documents.

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

The proposed regulations do not impose a new reporting requirement.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The proposed regulations take additional steps in meeting California's energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards.

The changes proposed to Parts 2, 2.5, 3, 4, and 5 are non-substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect.

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

The Energy Commission 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.

The proposed regulations take additional steps in meeting California's energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards. Therefore, the Energy Commission has determined it is unlikely any jobs will be created or eliminated as a result of the proposed regulation.

The changes proposed to Parts 2, 2.5, 3, 4 and 5 are non-substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a

precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes, which consist entirely of cross-references to regulations in Part 6, do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect. Therefore, the Energy Commission has determined it is unlikely any jobs will be created or eliminated as a result of the proposed regulation.

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

The proposed regulations take additional steps in meeting California's energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11) The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards. Therefore, the Energy Commission has determined it is unlikely businesses will be eliminated or created as a result of the proposed regulation.

The changes proposed to Parts 2, 2.5, 3, 4 and 5 are non-substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes, which consist entirely of cross-references to regulations in Part 6, do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect. Therefore, the Energy Commission has determined it is unlikely any businesses will be eliminated or created as a result of the proposed regulation.

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

The proposed regulations take additional steps in meeting California's energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11)The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of

the effects of the proposed standards. Therefore, the Energy Commission has determined it is unlikely businesses will expand as a result of the proposed regulation.

The changes proposed to Parts 2, 2.5, 3, 4 and 5 are non-substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes, which consist entirely of cross-references to regulations in Part 6, do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect. Therefore, the Energy Commission has determined it is unlikely any businesses will expand as a result of the proposed regulation.

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

The proposed updates to the voluntary appendices will have no direct effect on health, welfare, worker safety, or the environment. The updates may encourage consideration and adoption of local ordinances relating to energy efficiency in buildings, and such ordinances, if adopted, may have positive impacts on health, welfare, and the environment known to result from energy efficiency. However, as such impacts are speculative, they are not considered in this rulemaking. The proposed non-substantive amendments to Parts 2, 2.5, 3, 4, and 5 are intended to improve the readability and clarity of the code, and may result in improved compliance with the Energy Code, which may also result in positive impacts on health, welfare, and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

The Energy Commission has made an initial determination that amending the voluntary provisions of Part 11 and non-substantive amendments to Parts 2, 2.5, 3, 4, and 5 are unlikely to have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The CEC has determined that no reasonable alternative considered by the CEC or that has otherwise been identified and brought to the attention of the CEC 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.

The CEC invites interested persons to present statements, arguments, or data concerning alternatives to the proposed standards at the scheduled hearing or during the written comment period.

AVAILABILITY OF RULEMAKING DOCUMENTS

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking have been posted at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>.

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the address below. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the Express Terms, the Initial Statement of Reasons (ISOR), the Economic and Fiscal Impact Statement (STD. 399), any documents relied upon, and any documents incorporated by reference. Copies may be obtained by contacting Corrine Fishman at the phone number below or accessed through the CEC website at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>.

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting the CEC's website at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>. or by contacting the contact person listed below.

CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

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

Corrine Fishman
Regulations Manager
California Energy Commission
Efficiency Division
(916) 805-7452
corrine.fishman@energy.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:

Primary Contact:

Payam Bozorgchami, PE
Senior Civil Engineer
California Energy Commission
Building Standards Office, Efficiency Division
(916) 931-9765
payam.bozorgchami@energy.ca.gov

Secondary Contact:

Peter Strait, Supervisor
California Energy Commission
Building Standards Office, Efficiency Division
(916) 805-7427
peter.strait@energy.ca.gov