

**CALIFORNIA ENERGY COMMISSION**

1516 Ninth Street Sacramento, California 95814

Main website: [www.energy.ca.gov](http://www.energy.ca.gov)



**UPDATED INFORMATIVE DIGEST**

**PROPOSED BUILDING STANDARDS  
OF THE CALIFORNIA ENERGY COMMISSION:**

**CALIFORNIA CODE OF REGULATIONS, TITLE 24,  
PART 1 and PART 6 (CALIFORNIA ENERGY CODE)**

**CALIFORNIA ENERGY COMMISSION  
Nonresidential Acceptance Testing Certification Rulemaking  
DOCKET NUMBER 12-BSTD-2:  
2013 BUILDING ENERGY EFFICIENCY STANDARDS  
December 17, 2012**

## **BACKGROUND**

In September 2012, the Energy Commission published a Notice of Proposed Action (NOPA) regarding proposed revisions to the California Building Energy Efficiency Standards, California Code of Regulations, Title 24, Parts 1 and 6, for Nonresidential Acceptance Testing Certification. The proposed language was made available for public comment for 45 days as required by law. The proposed language was also known as the “45-Day Language” or “45-Day Express Terms.” The Notice of Proposed Action also stated that the hearing before the full Energy Commission for final adoption of the 45-Day Language Express Terms would be held November 14, 2012, unless the Energy Commission decided to make substantive changes to the Express Terms through 15-Day Language, in which case the public hearing would be continued to a later noticed date, and an additional public comment period would be held. The Notice of Proposed Action advised that:

Interested persons should be aware that any of the provisions of the amendments under consideration by the Energy Commission could be substantively changed as a result of public comment, staff recommendations, or discussions at the Energy Efficiency Commissioner or Full Commission Hearings. Changes could be made to add additional requirements, remove proposed requirements, or refer to subsequent development of language for the Building Energy Efficiency Standards compliance manuals developed pursuant to Public Resources Code section 25402.1, subd. (e). Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations.

On November 1, 2012, a Notice of Postponement of Hearing was published, setting a new date for consideration of proposed regulations for Nonresidential Acceptance Testing Certification for December 12, 2012. On November 26, 2012 a Notice of Hearing was published providing for a 15-day public comment period for proposed changes to the 45-Day Language that was initially proposed, and additional documents relied upon in developing the proposed regulations.

## **UPDATED INFORMATIVE DIGEST**

This section updates the Informative Digest<sup>1</sup> that was published in the Notice of Proposed Action<sup>2</sup> for these regulations.

---

<sup>1</sup> See Gov. Code §§ 11346.2, subd. (a)(3), 11346.9, subd. (b).

**A. Summary of Existing Laws and Regulations Related Directly to the Proposed Action or to the Effect of the Proposed Action**

There have been no changes in the existing laws or regulations related directly to these regulations (or to their effects) from those described in the Informative Digest in the Notice of Proposed Action.<sup>3</sup>

**B. Consistency with Existing Comparable Federal Regulations and Statutes**

As stated in the Informative Digest in the Notice of Proposed Action, there are no federal energy standards applicable to nonfederal buildings. (The current and proposed California building standards do, however, reference federal energy standards for particular appliances.)<sup>4</sup> However, there is a complex series of federal actions that can affect state energy standards.

The United States Department of Energy (DOE) is required by law (in the Energy Conservation and Production Act (ECPA, Public Law 94-385)) to determine whether the latest edition of ASHRAE Standard 90.1 (for commercial and multi-family high-rise residential buildings) or the latest version of the International Energy Conservation Code (for low-rise residential buildings) will improve energy efficiency compared to the previous edition of the corresponding standard or code. DOE has one year to publish a determination in the Federal Register after each new edition of the standard/code is published.<sup>5</sup>

Federal law also requires that DOE publish determinations as to whether new editions of ASHRAE Standard 90.1 and the International Energy Conservation Code will improve energy efficiency. The determinations are based on analyses by the Building Energy Codes Program (BECP) and are required by Section 304 of ECPA, as modified by the Energy Policy Act of 1992 (EPAAct 1992). DOE has one year to publish the determinations after the newest edition of the standard is published.

If DOE finds that the newest version of ASHRAE Standard 90.1 is more energy efficient than the previous version, states are required by EPAAct 1992 to certify that their building energy codes or standards meet or exceed the requirements of

---

<sup>2</sup> Notice of Proposed Action, Revisions to the California Building Energy Efficiency Standards, Cal. Code of Regulations, Tit. 24, Parts 1 and 6 (California Energy Code), Sept. 5, 2012 (NOPA).

<sup>3</sup> See NOPA, pp. 4-6.

<sup>4</sup> See NOPA, p. 6.

<sup>5</sup> See <http://www.energycodes.gov/regulations>.

the new standard within two years. Ever since the federal requirement went into effect, the Title 24 Building Energy Efficiency Standards have exceeded not only ASHRAE Standard 90.1 but also all other nationwide building standards, and the same is true of the 2013 Standards.

### **C. Policy Statement Overview and Specific Benefits of the Proposed Regulations**

Since 2005 Building Energy Efficiency Standards (California Code Regulations, Title 24, Part 6) have required that specific equipment and controls installed in nonresidential buildings be tested according to Energy Commission adopted “acceptance testing” protocols to demonstrate their proper installation before the building is approved for occupancy. Compliance documentation must be signed by both the Field Technician who completed the acceptance testing and the licensed person who is legally responsible for the installation under the Business and Professions Code. The current Standards do not specify qualifications or training that the Field Technician must meet to be authorized to complete the acceptance testing.

Studies and stakeholder comments provided to the Energy Commission and discussed below indicate that acceptance testing occurring in the field is currently inadequate. Because of inconsistent levels of training Field Technicians as a whole are not providing the assurances necessary that the installed systems are delivering the energy efficiencies and monetary savings expected by building owners and which are required by state law. This is the problem the Commission seeks to address with the proposed regulations.

The proposed regulations create an independent third party certification and training program to ensure Field Technicians and their employers acquire minimal level of training and skill to verify nonresidential lighting controls and mechanical systems comply with existing energy efficiency building standards.

These regulations will deliver many benefits to the health and welfare of California residents, to worker safety, and to the state’s environment. (See Gov. Code, § 11346.5, subd. (a)(3)(C).) They will provide building owners with a high quality verification of the energy saving features of their buildings’ lighting and mechanical components therefore ensuring the building owner is obtaining the benefits of their investment in various technologies. The people of California benefit as less energy is used, eliminating the need for development of additional generation and the environmental damage associated with such energy projects including greenhouse gas emissions. In addition, by developing a rigorous

training and certification program the state will benefit by increasing the awareness among the building industry of the economic and environmental value of energy efficiency that may lead to over all gains in energy efficiency in other areas of building systems.

These newly proposed regulations will be amended to the 2013 Standards that were adopted by the Energy Commission in May, 2012. The combined 2013 Standards update will be considered for approval by the Building Standards Commission in December, 2012.

#### **D. Evaluation of Consistency with Existing State Regulations**

There is no inconsistency or incompatibility with existing state regulations. As described in the Resolution adopting the regulations,<sup>6</sup> the regulations are consistent with the Energy Code, the California Building Code,<sup>7</sup> the Warren-Alquist Act,<sup>8</sup> and the California Building Standards Law.<sup>9</sup>

#### **E. Other Applicable Matters Prescribed by Statute**

Other applicable matters prescribed by statute are described in the Final Statement of Reasons, pages 2 - 6 and 19 – 22, 29, and in the Nine Point Criteria Analysis.

---

<sup>6</sup> See Resolution Adopting Proposed Regulations, Nonresidential Acceptance Testing Certification, Reso. No. 12-1212-7, Dec. 12, 2012, pp. 4-7. 9-12.

<sup>7</sup> Cal. Code Regs., tit. 24.

<sup>8</sup> Pub. Resources Code § 25000 et seq.

<sup>9</sup> Health & Safety Code § 18901 et seq.