

BOMA CALIFORNIA REGULATORY ISSUES UPDATE - DEC 2019



Summary of the major regulatory issues BOMA is engaging on impacting codes and standards in the State of California:

ENERGY COMMISSION 2023 Update: Focus Shifts to Non-Residential Buildings

New energy standards take effect in January 2020; and the California Energy Commission has already begun working on the efficiency standards that will take effect in 2023.

After recently adopting the nation's first solar mandate for new homes, *the CEC plans to shift its focus to non-residential buildings for the 2023 standards.*

As with the past four updates, the Investor Owned Utility (IOU)-sponsored Codes and Standards Enhancement (CASE) team has been conducting a series of stakeholder meetings that concluded in the middle of November. From there, the CEC staff will take the comments received during the CASE meetings and begin drafting proposed changes to the standards.

The CEC is also looking into ways to further the application of community solar, which has great potential for rooftop areas of existing commercial buildings. Draft changes to the standards will then be unveiled by the CEC at workshops to be held during the first two quarters of 2020.

There is A GREAT NEED for funding to conduct technical studies to inform the code writing process.

Utility Line Extension Issues

Discussions have begun with PG&E and Edison to try and address two growing problems in the field:

- Extensive delays in getting adequate utility service on new projects
- Constantly changing construction specification requirements

In effort to implement a process for utility line extensions that is like the process for building codes, AB 1026 was introduced to establish an 18-month "no-change" period once an investor-owned utility has approved the line extension design. After extensive debate over the summer, the Governor signed AB 1026 into law.

Regarding service delays, PG&E is now prioritizing the hiring of new employees to specifically address the new construction delays. A similar outreach has been made with Edison. At this point, there is not a full understanding of how the recent fires and blackout will impact these delays.

Firestorm Response

In response to the recent firestorms and decarbonization policies, the Office of the State Fire Marshal has convened a Tall Wood Building Task Force to consider expedited adoption of national regulations that will allow the construction of much taller wood buildings than that previously allowed. This has great potential for the use of wood in mixed-occupancy construction that has been limited to 6 stories for decades.

While stringent structural requirements will still have to be met, allowing for taller wood buildings will provide a great use for harvested timber while at the same time capturing the CO2 embedded in the wood rather than have it released into the atmosphere via decomposition of the wood material.

Decarbonization Policy Efforts Begin to Replace Zero Net Energy

A new effort at the Capitol seeks to eliminate natural gas use in new construction and reduce gas usage in existing buildings. This effort goes beyond “zero net energy” (ZNE) and is being referred to by proponents as “zero-emission buildings” or ZEB’s.

In addition to producing as much on-site renewable energy as a building needs throughout one year, a ZEB would also produce a net-zero level of greenhouse gas emissions throughout a one-year period. The easiest way to accomplish this is elevated levels of energy efficiency measures, on-site solar photovoltaic panels combined with battery storage technology, and lastly, **going all-electric**.

While this may sound good from a climate-change adaptation perspective, there are very serious, unresolved issues related to local and statewide electric grid reliability.

A Collision of Well-Intended Policies:

- (1) **Renewable Energy:** In a relatively brief period (within 3-6 years), California’s electric grid will be dealing with a substantial increase in daytime renewable energy flowing into the grid during the middle of the day (10am-3pm). The electric grid is not a battery, so the utilities will need to send that power somewhere, presumably Nevada and Arizona.
- (2) **Electric Vehicle Charging:** The Air Resources Board (ARB) wants to see a six-fold increase in the number of electric vehicles in California by 2025 (1.5 million versus today’s 250,000). And by 2030, ARB wants to see at least 5 million EV’s on the road.
- (3) **Electrification:** There is now a serious effort to eliminate natural gas use in new building construction to further reduce greenhouse gas emissions. The last of California’s nuclear power plants are going off-line in just a couple of years, and now, the “electrification” effort will effectively place all our energy “eggs” into one electrified basket. This will mean an increase in electricity demand during peak load time-periods from the beginning of May until the end of October, the same time that the grid must withstand firestorms and maintenance shut-downs. Any one of these issues could lead to rolling brown-outs or black-outs.

Switching over to electric power is not as cost-effective as a gas in certain applications, and therefore proponents of electrification are presently seeking to change the CEC’s longstanding definition of “cost-effective.” Based on statute, the Public Resources Code requires all the CEC’s building energy efficiency standards to be “cost-effective over the life of the structure (30 years) based on historical practice”.

This means the building owner will get their money back in the form of reduced utility bills over those 30 years. Proponents of electrification want to require the CEC to add to this calculation the “quantification of the economic value of greenhouse gas reduction measures on a per-building basis.”

This means whatever the CEC says is cost-effective will be cost-effective, and the building owner will no longer get their money back.

In response, we will be strongly opposing any proposed change the existing statutory definition of “cost-effective.”

With the passage of industry-supported legislation, (AB 3232) the CEC is now required to investigate the interactive effect of the three issues cited above and suggest appropriate policy responses. Also, we are actively participating in several “decarbonization” efforts now occurring at the Capitol, and we have become formal respondents to the related Order Instituting Investigation (OII) just initiated by the Public Utilities Commission.

Permit Extension Bill takes Effect

In a move strongly supported by industry, Governor Brown has signed AB 2913 (Wood), a measure that extends the expiration date of building permits from 6 months to 12 months. Also, the bill amends the statute to make it clear that all local jurisdictions have the authority to grant one or more 6-month extensions for just cause.

For the past 30+ years, the existing statute has stipulated that a builder must comply with the building codes that are in effect on the date the initial permit application is submitted to the local building department and that this initial permit was good for six months.

However, the ability to grant extensions was in the administrative code, and numerous local jurisdictions chose not to adopt this authority. Making matters worse, California (and the rest of the nation) has been struggling with a severe labor shortage over the past decade with no end in sight. This problem has been further exacerbated by the wildfires over the past two years, making the need to suspend or delay projects for short periods a shared reality within the industry.

AB 2913 seeks to address these issues by doubling the amount of time the initial permit is valid and by placing into statute the authority for locals to grant one or more extensions for just cause.

DSA Access Code Advisory Group

In a move to improve transparency in the development of disabled accessibility standards, the Division of the State Architect (DSA) has appointed 13 individuals to serve on the newly formed Access Code Collaborative (ACC).

This effort is mainly in response to the growing level of opposition shown by disabled community advocates towards any effort by DSA to update the accessibility codes.

An industry representative was appointed to the group and attended the first eight meetings and will continue to serve throughout 2019 and 2020.

Seismic Safety Proposals Run Aground (Again) in 2019

The two seismic safety proposals vetoed by Governor Brown in the fall of 2018 were reintroduced by Assembly Member Nazarian and met with a similar outcome in 2019.

AB 393 (Nazarian) would have directed the Building Standards Commission to investigate and consider adopting a “functional recovery” structural standard for buildings in regions of high seismic activity (about half the state).

In theory, a “functional recovery” standard would allow occupants in a building to safely exit during a seismic event and then re-enter and occupy the building immediately after the seismic event.

At the request of industry, the 2018 version of the bill was completely rewritten to direct the BSC to establish a working group to determine if the concept of “functional recovery” should replace the long-standing national and state goal of having buildings provide “emergency egress” during a serious seismic event.

If the group of industry experts comes to this conclusion, they would then determine what the new building standards should be, if they are cost-effective, and to what extent, if any, these new

standards should apply to the worst seismic regions in the state. However, citing that this would effectively duplicate the national code-development process and cost the State of California millions of dollars, the bill was held in the Senate Appropriations Committee.

AB 492 (Nazarian), like last year's AB 2681, was referred to as the Seismic Resilience Initiative (SRI) and would have required building owners to work with local building departments to identify "vulnerable buildings".

While well-intended, the initial bill did not identify a funding source that could be accessed by local governments, creating the potential for an unfunded state mandate costing over \$100 million dollars. The initial proposal also called for statewide application, which would involve a local review of over ten million structures in a short period.

Even though the author had amended the bill to drastically cut the area of application and require the Office of Emergency Services (OES) to identify sources of funding to cover the local jurisdiction costs, cost concerns prompted **Governor Brown to veto this legislation in 2018.**

In 2019, AB 492 ran aground in Assembly Revenue & Tax over similar concerns: Cost impact to local governments.

Both bills are expected to reappear in the 2020 Legislative session.