

CALGREEN: A LANDMARK LAW THAT MANDATES ONLY MODEST CHANGE

The 2010 California Green Building Standards Code, or CALGreen, is now mandatory, effective as of Jan. 1, 2011. California is the first state to adopt a green building code that imposes energy efficiency and other green standards on new construction in an effort to achieve reductions in natural resource consumption and greenhouse gas emissions. Despite its first-in-the-nation status, CALGreen represents only a modest change from prior California green building requirements.

CALGreen establishes minimum uniform standards for green building that apply to many types of new construction, including commercial, low-rise residential, state owned and educational buildings. Cities and counties were required to draft and approve ordinances to adopt CALGreen by Jan. 1.

CALGreen was developed by the California Building Standards Commission, the state agency charged with developing and adopting building standards and codes, in response to California's Global Warming Solutions Act or AB 32. The Act requires a reduction of greenhouse gas emissions levels to those found in the year 1990 by 2020. Following passage of the Act in 2006, state legislators focused on buildings, which are the second largest contributor to greenhouse gas emissions at 24 percent, and introduced several bills containing potentially inconsistent and unrealistic green building standards.

To avoid the legislature's potential passage of these conflicting, and in some cases unreasonable, green building standards, the Building Standards Commission started developing CALGreen three and one-half years ago by reviewing local green ordinances. The commission determined that although some cities had implemented green building provisions, the local green building codes were based on different standards, creating inconsistencies from city to city.

In response, the commission sought to set minimum uniform standards. It solicited input from the building industry including the American Architects Association, the Building Industry Association, the International Council of Shopping Centers, the National Association of Industrial and Office Parks, and the California Business Properties Association, as well as state agencies, such as the California Energy Commission, the Air Resources Board, the Department of Water Resources, the Department of General Services, and California Department of Resources Recycling and Recovery. The commission also reviewed LEED and other green building rating systems.

CALGreen encompasses residential and non-residential mandatory measures. The non-residential mandatory measures are classified into the following categories: Planning and Design; Energy Efficiency; Water Efficiency and Conservation; Material Conservation and Resource Efficiency; and Environmental Quality.

Among the mandatory measures, developers must divert 50 percent of construction waste from landfills through recycling or re-use of materials. They must provide designated, and in some cases preferred, parking for bicycles, carpool and clean-air vehicles. They must use low pollutant-emitting construction and finishing materials. They must install separate water meters for indoor and outdoor uses for buildings over 50,000 square feet. They must also

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install moisture-sensing or “smart” irrigation systems for larger landscape projects. Additionally, developers must reduce potable water consumption by 20 percent through performance or prescriptive standards, and wastewater by 20 percent through installation of water-conserving fixtures or the use of graywater, rainwater or recycled water. Light pollution from the site must be reduced, and building commissioning is required for buildings 10,000 square feet and larger.

For all of these requirements, local jurisdictions have the ability to increase fees and charges to defray the costs of additional staffing requirements arising from CALGreen enforcement efforts, as each City’s planning department and building inspectors will be primarily responsible for ensuring compliance with CALGreen.

In many cases, CALGreen merely adopts existing state requirements. For example, it does not impose any new energy efficiency standards. Buildings are merely required to comply with the California Energy Commission’s existing Title 24 requirements. However, the commissioning requirement is new: a third party must review, test and adjust building design, construction and operation systems to ensure that the components perform according to the developer’s requirements.

CALGreen permits local jurisdictions to adopt codes with requirements that exceed the minimum standards. In addition, CALGreen includes two sets of voluntary provisions referred to as Tier 1 and Tier 2 to encourage communities to take further action. Examples of the Tier 1 voluntary measures include exceeding energy efficiency by 15 percent, achieving 30 percent water savings, reducing construction waste by 65 percent, using up to 10 percent recycled materials, and designating 10 percent of parking spaces for fuel efficient vehicles.

The Tier 2 voluntary measures are even “greener.” Tier 2 voluntary measures include exceeding energy efficiency by 30 percent, achieving 35 percent of water savings, reducing construction waste by 80 percent, using 15 percent recycled materials, and designating 12 percent of parking spaces for fuel efficient vehicles. Tier 2 also contains a solar reflectance index standard for “cool” roofs.

Although most cities adopted green building codes by only incorporating the mandatory standards of CALGreen, some cities adopted more stringent standards. For example, Los Angeles and San Francisco have each adopted building codes that include higher requirements for sustainability and efficiency. The Los Angeles Green Building Code exceeds CALGreen by applying not only to new structures, but also to all building additions and alterations with a value in excess of \$200,000, and by requiring “solar ready” roofs and electric vehicle-ready components for all new buildings. Los Angeles did not impose the voluntary measures in Tier 1 and Tier 2 as mandatory requirements, but incentivized “greener” building by providing that developers who comply with them will receive expedited permit processing. In 2008, San Francisco passed a Green Building Ordinance, which generally contains more stringent requirements. Nevertheless, the adoption of CALGreen required San Francisco to include the CALGreen mandatory provisions. At the same time, it retained or increased the Green Building Ordinance’s more stringent standards.

There is a general alignment between CALGreen and United States Green Building Council’s Leadership in Energy and Environmental Design (LEED) rating system, the leading green building certification system. LEED provides third-party verification that a building or community was designed and built using strategies aimed at energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality, stewardship of resources, and sensitivity to resource impacts. LEED is a point-based certification system in which the level of LEED certification depends on the number of points achieved. There are a total of 100 possible points and 10 possible bonus points under the LEED rating system. The following number of points are required for each level of certification: (a) certified (40-49 points), (b) silver (50-59 points), (c) gold (60-79 points), and (d) platinum (80 or more points).

Compliance with CALGreen sets a project up for success in obtaining LEED certification. CALGreen's mandatory measures categories (i.e., Planning and Design, Energy Efficiency, Water Efficiency, etc.) are similar to the LEED's five basic environmental categories: Sustainable Sites, Water Efficiency, Energy and Atmosphere, Materials and Resources, and Indoor Environmental Quality. With respect to new construction, compliance with CALGreen relates to 47 out of a possible 100 LEED points. For instance, CALGreen's building commissioning requirements satisfy the LEED prerequisite for building commissioning. LEED and CALGreen contain the same requirements for low-emitting products for building materials, and similar to LEED, CALGreen requires carbon dioxide monitoring. CALGreen also uses similar documentation and guidelines.

Unfortunately, compliance with CALGreen will not achieve LEED certification by itself. In fact, compliance with CALGreen will directly achieve only 15 points out of the minimum 40 points required for LEED certification. For example, LEED requires a 10 percent reduction in the Title 24 energy standards as a prerequisite to obtaining certification. CALGreen merely requires compliance with Title 24. Moreover, each require separate reviews and duplicate documentation submittals. The LEED reviews may be inconsistent with the jurisdictional reviews conducted in connection with building permit issuance.

Overall, CALGreen represents a modest change from prior California green building standards. It does not require any increase in energy efficiency and many of CALGreen's provisions merely incorporate existing requirements. The commission, however, periodically reviews and updates building standards, typically every three years. It is anticipated that the during the next adoption cycle the commission will address additions, remodels, high-rise residential above four stories. Moreover, it is expected that several Tier 1 voluntary measures will become mandatory following the next review.

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