

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 2.
CALIFORNIA ARCHITECTS BOARD

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Zero Net Carbon Design Continuing Education for Architects

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be received by the Board at its office not later than 5:00 p.m. on **Tuesday, August 8, 2023**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 5556 and to implement, interpret or make specific BPC section 5600.05 (a)(2)(B), the Board is considering adopting section 166 in article 10 of division 2 of title 16 of the California Code of Regulations¹ (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

[Assembly Bill \(AB\) 1010 \(Chapter 176, Statutes of 2021\)](#) added BPC section 5600.05 subsection (a), paragraph (2), subparagraph (B), which requires architects to complete five hours of continuing education (CE) coursework on zero net carbon design (ZNCD). The statute requires the Board to develop regulations to implement a requirement for architects to complete five hours of coursework regarding ZNCD as a condition of license renewals occurring on or after January 1, 2023. The statute requires the Board

¹ All CCR references are to title 16 unless otherwise noted.

to promulgate regulations to establish qualifications for courses and course providers by July 1, 2024.

The Board currently does not have any regulation regarding ZNCD CE courses and course providers as required by BPC section 5600.05 (a)(2)(B).

This regulatory proposal will establish within CCR section 166 the following subsections:

- Subsection (a) provides definitions of the terms used in the proposed regulation.

Subsection (a), paragraph (1) would define “trainers or educators with knowledge and expertise in zero net carbon design” as a person with a minimum of three projects within the last ten years in the designing of carbon neutral architecture and who meets one of the three additional requirements of subsection (f).

Subsection (a), paragraph (2) would define “zero net carbon design requirement” to mean architectural designs including resilient designs of new construction and/or existing facilities that produce on-site, or equitably procures from offsite, enough carbon-free renewable energy to meet the building’s operations energy consumption over the building project’s lifecycle. This also includes architectural design responsive to embodied carbon reduction and resilient performance of a facility that results in reduced embodied carbon or minimized carbon.

Subsection (a)(2)(A) would define resilient performance as the capacity of a system, for example: a community, society, or ecosystem, to withstand physical calamities and continue to function. Resilient building design as described in this subparagraph fosters resilient performance.

Subsection (a)(2)(B) would define “equitably procures from offsite” as referring to consideration of environmental justice goals.

- Subsection (b) clarifies the number of CE hours required as well as the two-year period during which the mandated five hours of ZNCD CE must be completed. Subsection (b) also clarifies that when a licensee is renewing on a delinquent basis, the mandated ZNCD CE completion must have occurred during the 24 months immediately preceding their delinquent renewal. This further clarifies that a licensee cannot use completion of the same ZNCD CE coursework to fulfill the ZNCD CE requirement for multiple renewal periods. Subsection (b) clarifies that credit towards the ZNCD CE requirements will not qualify if a licensee is unable to maintain, and upon request of the Board make available, a certificate of completion, records, or other evidence showing completion of the ZNCD CE requirement, and that the completed coursework meets the criteria specified in the proposed regulation.
- Subsection (c) clarifies that course materials must be pertinent to architecture and ZNCD. Subsection (c) also clarifies which course topics will fulfill the ZNCD CE

requirement by setting out a list of acceptable ZNCD CE course topics.

- Subsection (d) establishes minimum quality standards that ZNCD CE courses must meet by requiring the educational objective(s) of the course be in subject matters identified in subsection (c), the material logically organized and presented, and the material be presented by qualified educators or trainers who meet the qualifications in subsection (f).
- Subsection (e) establishes the two conditions under which a certificate of completion is provided. A certificate of completion is provided (1) for completing an in-person or live webinar course or (2) for completing a recorded webinar course and passing a test demonstrating proficiency in the ZNCD CE coursework with a minimum cumulative score of at least 70%.
- Subsection (f) establishes a trainer or educator's minimum qualifications for knowledge and expertise required to teach ZNCD CE coursework.
- Subsection (g) clarifies that a licensee cannot fulfill their ZNCD CE requirement through self-teaching, self-directed activities, or by teaching, instructing, or presenting a course on ZNCD requirements.
- Subsection (h) specifies course providers must maintain for three years course completion records that include the information specified in BPC section 5600.05(b).
- Subsection (i) requires, within ten business days of the completion of the course, that course providers issue to a licensee who completed an in-person or live webinar course, or who took a recorded course and passed a post-course test with a minimum score of at least 70%, a certificate of completion that includes the information specified in BPC section 5600.05(b). This subsection helps to ensure that ZNCD CE providers and licensees will be able to provide the completion documentation that the Board will require during ZNCD CE audits.
- Subsection (j) requires course providers to issue, within ten business days of receiving a request from a licensee who is subject to a CE audit, copies of coursework documentation described in subsection (h). This subsection also makes clear that obtaining such records and providing them to the Board is the responsibility of the licensee who is the subject of a ZNCD CE audit and places an affirmative duty on licensees to cooperate and take all steps needed to obtain required information, by providing any authorization or consent needed to release records.
- Subsection (k) requires non-compliant licensees to complete both the CE prescribed for the prior renewal period as well as the CE prescribed for the current renewal period, and to provide proof to the Board that the deficiency has been remedied before the end of the current renewal period.

Anticipated Benefits of Proposal:

The anticipated benefits of this regulation are healthier buildings with reduced zero carbon emissions for the public. This regulation aligns with Governor Newsom's climate change policy goal relating to clean and healthy buildings – [a goal of 3 million climate-ready and climate-friendly homes by 2030 and 7 million by 2035, supplemented by 6 million heat pumps by 2030, and directing 50 percent of investments to low-income and disadvantaged communities.](#) Requiring architects to learn about ZNCD in architecture and to keep their knowledge current will contribute to the creation of clean and healthy buildings and therefore healthier people.

Architects will benefit from this regulation by regularly updating their knowledge of ZNCD in architecture. For architects licensed in multiple states, this can be an enhanced benefit as California is leading the nation in this area of architecture and climate action.

This regulatory proposal benefits the state's environment because it will lead to reduction in the release of greenhouse gases, specifically carbon, into the environment.

This regulatory proposal does affect the health and welfare of California residents because it will lead to healthier buildings with reduced carbon emissions for the public. Requiring architects to learn about ZNCD in architecture and to keep their knowledge current will contribute to the creation of clean and healthy buildings and therefore healthier people. This regulatory proposal does not affect worker safety because it does not involve worker safety. This regulatory proposal does affect the state's environment because it will lead to reduction in greenhouse gases, specifically carbon, into the environment.

The regulation promotes fairness by both including in the definition of "zero net carbon design requirement" in subsection (a)(2) and the term "equitably procures" in describing procuring offsite carbon-free renewal energy, and by allowing courses on environmental justice in subsection (c). Minority communities are exposed to disproportionate concentrations of environmental toxicities that are often the result of building design, location of industry, materials used, and other factors that are impacted by architects. Environmental justice goals seek to treat all people and communities fairly and to ameliorate these disproportionate conditions. The US Environmental Protection Agency (EPA) defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies and fair treatment as no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies. Applying the EPA's definition of environmental justice to the ZNCD CE regulation means that during the lifecycle of the building, from extraction to recycling or disposal of materials, all people and communities should be

treated fairly, and no one should bear a disproportionate share of toxins or other polluting byproducts in the quest for ZNCD building design.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: The regulations do not result in a fiscal impact to the state. The Board does not anticipate additional workload or costs resulting from the proposed regulations.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard): None

BUSINESS IMPACT ESTIMATES

The Board has made an initial determination that the adoption of this regulation may not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following.

The following reporting, recordkeeping, or other compliance requirements are projected to result from the proposed action:

- (A) ZNCD CE course providers are required to keep proof of course completion, including course completion records and other records of completion that contain information specified in BPC section 5600.05 for at least three years from the date of course completion.
- (B) CE providers are required to issue a certificate of completion to each ZNCD CE course participant who successfully completes the course within ten days from the completion of the course.

- (C) Upon written request by a licensee who is subject of a ZNCD CE audit, the provider must provide a copy of the requested records within ten days of the date of the request.
- (D) If selected for audit by the Board, a licensee is responsible to obtain provider records requested by the Board and to make them available to the Board.

The Board has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence that supports this determination.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would incur in compliance with the proposed regulation.

Any costs to comply with the five-units of ZNCD coursework are a result of current law.

The Board notes the regulations do not increase or decrease the total number of CE hours required for license renewal. As a result, no economic impact is being reported.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has determined that this regulatory proposal will not impact the creation of jobs, new businesses, or existing businesses or the expansion of business in the State of California.

This regulatory proposal will have the following effects:

It will not create jobs within the State of California because it is anticipated that existing CE providers will expand to offer additional courses to meet the ZNCD CE requirements. It will not eliminate jobs within the State of California.

It will not create new businesses nor affect the expansion of businesses currently doing business within the State of California because existing CE providers may offer additional courses to meet the ZNCD CE requirements.

The Board does not maintain data on the number of businesses and is unable to determine the number of jobs, new businesses, and expansion of businesses that will be impacted.

Benefits of Regulation

This regulatory proposal does affect the health and welfare of California residents because it will lead to healthier buildings with reduced carbon emissions for the public. Requiring architects to learn about zero net carbon design in architecture and to keep their knowledge current will contribute to the creation of clean and healthy buildings and therefore healthier people.

This regulatory proposal does not affect worker safety because it does not involve worker safety. This regulatory proposal does affect the state's environment because it will lead to reduction in greenhouse gases, specifically carbon, into the environment.

Business Reporting Requirements

This regulatory action does not require businesses to file a report with the Board.

Effect of Small Businesses

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted, any costs of compliance is a result of current law.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subsection (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit written comments relevant to the above determinations at the 2420 Del Paso Road, Suite 105, Sacramento, California 95834 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AD RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2420 Del Paso Road, Suite 105, Sacramento, California 95834.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Jane Kreidler
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 471-0772
E-Mail Address: jane.kreidler@dca.ca.gov

The backup contact person is:

Name: Laura Zuniga
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 471-0760
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AVAILABILITY OF DOCUMENT ON THE INTERNET: Materials regarding this proposal can be found at https://www.cab.ca.gov/news/laws/proposed_regulation.shtml.

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at https://www.cab.ca.gov/news/laws/proposed_regulation.shtml