

**INITIAL EXPRESS TERMS  
FOR  
PROPOSED BUILDING STANDARDS  
OF THE  
CALIFORNIA BUILDING STANDARDS COMMISSION  
REGARDING PROPOSED CHANGES TO THE  
2019 CALIFORNIA ADMINISTRATIVE CODE (Cal. Code Regs., Title 24, Part 1)  
(BSC 01/18)**

The State agency shall draft the regulations in plain, straightforward language, avoiding technical terms as much as possible and using a coherent and easily readable style. The agency shall draft the regulation in plain English. A notation shall follow the express terms of each regulation listing the specific statutes authorizing the adoption and listing specific statutes being implemented, interpreted, or made specific. (Gov. Code, § 11346.2(a)(1) (PART 1 – ADMINISTRATIVE CODE))

**LEGEND FOR EXPRESS TERMS**

1. Existing California amendment language appears upright.
2. Amended or new California amendment language appears upright and underlined.
3. Repealed California amendment language appears ~~upright and in-strikeout~~.

**INITIAL EXPRESS TERMS**

**ARTICLE 1  
GENERAL**

...

**ITEM 1.**

**Section 1-101. Abbreviations.**

...

OSHPD 1 and 1R Identifies code provisions by OSHPD

...

OSHPD 5 Identifies code provisions by OSHPD

...

**Authority cited:** Government Code Section 11000, and Health and Safety Code Sections 18931(f) and 18940.5.

**Reference:** Government Code Section 11000, and Health and Safety Code Sections 18931(d) and 18940.5.

**ITEM 2.**

**Section 1-103. Definitions.**

...

**FEES, APPROPRIATE FRACTIONS THEREOF.** Fee increments for permit values less than \$100,000 as described in Article 5, Section 1-505.

...

**NOTICE OF PROPOSED ACTION.** For the purposes of this chapter is synonymous with the term Notice of Proposed Building Standard.

...

**STATE AGENCY REPRESENTATIVE(S).** For the purposes of this chapter means representative(s) of state proposing or adopting agencies.

...

**Authority cited:** Government Code Section 11000, and Health and Safety Code Sections 18929.1, 18931(f) and 18949.6.

**Reference:** Government Code Section 11000, and Health and Safety Code Sections 18927, 18929-18932, 18934, 18935, 18936, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6.

**ARTICLE 2**

**DUTIES AND RESPONSIBILITIES OF THE BUILDING STANDARDS COMMISSION,  
THE EXECUTIVE DIRECTOR, AND COMMISSION PERSONNEL ~~AND RESOURCES~~**

...

**ITEM 3.**

**Section 1-211. Application for code advisory committee appointment.**

...

(f) **Notice of appointment.** The Executive Director, or ~~his or her~~ their designee, shall provide written notice to applicants selected by the Commission for appointment to a Code Advisory Committee. Written notice shall also be provided to all applicants not selected for appointment to a Code Advisory Committee.

...

**Authority cited:** Health and Safety Code Sections 18909(c), 18929, 18930.5, 18949.6 and 18931(f).

**Reference:** Health and Safety Code Sections 18927, 18929, 18930.5, 18931(f), 18934, 18936 and 18949.6.

### ARTICLE 3 APPEALS AND PETITION PROCEDURES

...

#### **ITEM 4.**

##### **Section 1-309. Receipt and processing appeals.**

(a) Receipt of any appeal shall be acknowledged in writing by the Executive Director, or their designee, within 45 days of receipt, advising the appellant and any state or local agency party to the appeal, of the acceptance or rejection of the appeal, as filed, or the need for additional information to make a determination. The reply shall also set forth the planned action of the Commission in response to an accepted appeal, together with reasons for the proposed action.

...

(c) Following the acceptance of an appeal, The the Executive Director and Chair of the Commission's Appeals Committee, as appointed by the Chair of the Commission, shall, acting together, designate a hearing authority by determining ~~determine~~ whether the appeal should be heard by the Appeals Committee, the full Commission, a member of the Commission designated as hearing officer, or by a hearing officer appointed by the Office of Administrative Hearings.

(d) ~~The Executive Director shall, in writing, advise the appellant and any state or local agency as a party to the appeal within 15 days of the determination. The written notice shall identify the hearing authority, procedures, and the scheduled hearing date, time and location. Within 15 days of determining the hearing authority, and no less than 15 days prior to the appeal hearing date, the Executive Director, or their designee, shall provide to the appellant and any state or local agency as a party to the appeal, written~~

notice identifying the hearing authority, procedures, and when possible the scheduled hearing date, time and location.

**Authority cited:** Health and Safety Code Sections 18931 and 18945.

**Reference:** Health and Safety Code Sections 18931, 18945 and 18946.

**ITEM 5.**

**Section 1-311. Appeal hearing procedures.**

(a) When it is determined pursuant to subsection 1-309(c) that the appeal shall be heard by the Commission's Appeals Committee or a member of the Commission appointed as the hearing officer, the following provisions shall apply:

...

2. The Appeals Committee or the member of the Commission appointed as the hearing officer shall not be bound by the rules of evidence or procedures applicable in the courts. Appellant, appellant's witnesses, and any other interested persons may present testimony, argument and/or documentary material concerning the matter(s) under consideration.
3. The Appeals Committee or the member of the Commission appointed as the hearing officer shall prepare ~~its~~ their finding(s) and decision within 30 days after the appeal hearing.
4. The Executive Director shall, in writing, advise the appellant, any state or local agency as a party to the appeal, and the Commission, of the Appeals Committee or the member of the Commission appointed as the hearing officer decision within 15 days from the date of the decision.
5. When an appeal is heard by the Appeals Committee or the member of the Commission appointed as the hearing officer, either party may request a reconsideration of the decision by the Commission. The request must be submitted to the Executive Director in writing no more than 45 days after the date the original decision by the Appeals Committee or member of the Commission appointed as the hearing officer is made.

...

7. Notwithstanding the foregoing, the appeal may be withdrawn at any time by the appellant upon written notice to the Executive Director. Upon withdrawal, no further proceeding as specified above shall take place. The withdrawal of the

appeal shall be accepted with or without prejudice, as determined by the Commission's Appeals Committee or the member of the Commission appointed as the hearing officer.

(b) When it is determined pursuant to subsection 1-309(c) that an appeal hearing shall be heard by the Commission, or pursuant to subsection 1-311(a) 5 that a reconsideration hearing is to be conducted by the Commission, the following provisions shall apply:

...

2. The Executive Director shall provide written notice of the time, date and location of the hearing to interested parties, as provided in subsection 1-309(d), and invite expert or other witnesses as necessary for the hearing. ~~The notice shall be issued at least 15 days before the scheduled hearing.~~

3. The Commission shall not be bound by the rules of evidence or procedure applicable in the courts. The hearing shall be conducted according to the Commission's own rules, accepting evidence as it requires, and chaired by its regular Chairperson. Appellant and other interested parties may present relevant testimony, argument or documentary material as acceptable to the Commission.

...

(c) The Commission may elect, pursuant to subsection 1-309(c), to refer the appealing parties to a hearing officer appointed by the Office of Administrative Hearings ~~as described in Health and Safety Code Section 18946~~. When such referral is made to the Office of Administrative Hearings, the hearing procedures and requirements shall be conducted as prescribed in Health and Safety Code Section 18946 and to the applicable regulations in California Code of Regulations, Title 1, Division 2.

**Authority cited:** Health and Safety Code Section 18931, 18945 and 18946.

**Reference:** Health and Safety Code Section 18931, 18945 and 18946 and Government Code Section 13959.

**ITEM 6.**

**Section 1-313. Petitions.**

...

(e) Petitions are not to be used to address matters relating to a currently proposed building standard or an adopted building standard prior to its effective date. Any concerns relating to currently proposed building standards should be brought forward during the public comment period designated for the proposed building standard.

**Authority cited:** Health and Safety Code Sections 18931 and 18949.6.

**Reference:** Health and Safety Code Sections 18931 and 18949.6.

**ITEM 7.**

**Section 1-317. Emergency petition.**

...

(b) If the emergency petition is approved by the Commission and if the petition is accepted pursuant to this article, the proposing or adopting agency shall develop and/or adopt new or amended building standards necessary to satisfy the cause for the petition. The new or amended building standards shall be proposed and adopted as emergency ~~regulations~~ building standards as permitted by Health and Safety Code Sections 18934.8 and 18937, and as provided for in section 1-419 of this chapter.

**Authority cited:** Health and Safety Code Sections 18931, 18934.8, 18937 and 18949.6.

**Reference:** Health and Safety Code Sections 18931, 18934.8, 18937 and 18949.6.

**ITEM 8.**

**1-321. Petition processing by proposing or adopting agencies.**

Upon receipt of a petition forwarded by the Commission, or a petition received directly from a petitioner, the proposing ~~agency~~ or adopting agency shall be responsible for the following duties:

...

(c) If the proposing ~~agency~~ or adopting agency determines that it has jurisdiction and that a received petition is complete, it shall take ~~one of the following action(s)~~ as appropriate, communicating with the petitioner and Commission, within the noted time lines:

1. The agency may ~~reject, deny or accept or approve~~ a petition in part and may grant other relief or take other action as it may determine to be warranted by the petition and shall notify the petitioner and the Commission in writing of the action.

...

4. If the ~~approved~~ accepted petition contains an emergency clause, the agency shall also rule on the existence of an emergency, ~~and if it~~ If the agency concurs that an emergency exists, it shall schedule code development and begin adoption procedures on an emergency basis in accordance with section 1-419 of this chapter. The agency shall notify the Executive Director of its intent to commence rulemaking pursuant to Health and Safety Code Section 18926(b).

**Authority cited:** Health and Safety Code Sections 18931, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6.

**Reference:** Health and Safety Code Sections 18926, 18931 and 18949.6.

#### ARTICLE 4 RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

...

#### **ITEM 9.**

##### **1-407. Initial rulemaking file submittals by a state proposing agency.**

(a) State proposing agencies developing building standards, or administrative regulations to support building standards, to be published in Title 24, shall prepare a rulemaking file for submittal to the office of the Commission, which shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The Notice of Proposed Action required by this section shall be approved by the Commission prior to any official notice to conduct a hearing or comment period regarding the proposed rulemaking. Forms, templates, and checklists for developing rulemakings are available from the Commission.

...

**Authority cited:** Government Code Sections 11346–11348 and Health and Safety Code Sections 18930, 18931, ~~and 18935~~ and 18949.6.

**Reference:** Health and Safety Code Sections 18930, 18931, ~~and 18935~~ and 18949.6.

#### **ITEM 10.**

##### **1-408. Certification of delegation of authority.**

(a) Whenever a certification is required by this article, it shall be made by the head of the state agency that is proposing, adopting, amending or repealing building standards or administrative regulations, or by a designee of the agency head. The certification and delegation shall be in writing.

(b) The certification wet signature required on the Notice/Submission Face Sheet (BSC-1) by Sections 1-407(b) 1, 1-415(a) 1, and 1-419(b) 1 and the certification wet signature required on the Department of Finance Economic and Fiscal Impact Statement (STD. 399) required by Section 1-415(a) 7 shall be made by the agency director, or their designee, of the agency proposing or adopting the building standards. A written delegation identifying the agency's authorized signatory designee(s) shall be submitted prior to or with the rulemaking file(s) when the Notice/Submission Face Sheet (BSC-1) is signed by other than the agency director.

**Authority cited:** Government Code Sections 11340 et seq. and Health and Safety Code Sections 18929.1, 18930, 18931, 18934, 18935 and 18949.6.

**Reference:** Government Code Sections 11340 et seq. and Health and Safety Code Sections 18929.1, 18930, 18931, 18934, 18935 and 18949.6.

#### **ITEM 11.**

##### **1-411. Public comment rulemaking file submitted by a state proposing agency.**

...

(b) State proposing agencies shall submit rulemaking files to the Commission on or before the deadline established by the Commission, in preparation for the 45-day public comment period. Forms, templates, and checklists for developing rulemakings are available from the Commission.



...

**Authority cited:** Health and Safety Code Sections 18929.1, 18930, 18934, ~~and~~ 18935 and 18949.6, and Government Code Section 11346 et seq.

**Reference:** Health and Safety Code Sections 18929.1, 18930, 18934, ~~and~~ 18935 and 18949.6, and Government Code Section 11346 et seq.

## **ITEM 12.**

### **1-415. Final rulemaking file by state proposing agencies.**

(a) After any hearings and the close of all public comment periods a final rulemaking file shall be submitted to the Commission with all rulemaking documents complete and ready for the Commission's public meeting to consider adoption. Forms, templates, and checklists are available from ~~on~~ the Commission's website ~~www.bsc.ca.gov~~. Each final rulemaking file shall be organized and indexed to identify the following items required for inclusion:

1. ...

...

**Authority cited:** Health and Safety Code Sections 18931(f) ~~and~~ 18949.6.

**Reference:** Health and Safety Code Sections 18931(f) ~~and~~ 18949.6.

## **ITEM 13.**

### **1-419. Emergency building standards.**

...

(f) Readoption of an emergency building standard pursuant to Government Code section 11346.1(h) requires sending a notice of proposed action pursuant to Government Code section 11346.1(a)(2).

In addition to fulfilling the requirements for submission of building standard actions described in this section and sections 1-407, 1-411, 1-415 and 1-420 of this article, as applicable, a state proposing or adopting agency requesting approval for readoption of an emergency building standard shall provide the following:

1. A written statement providing specific facts demonstrating by substantial evidence that the agency has made substantial progress and proceeded with diligence to comply with Government Code section 11346.1(e); and either
2. A statement that the emergency circumstances are unchanged since the initial

adoption or prior readoption; or

3. An updated finding of emergency required by Government Code section 11346.1(b) to reflect circumstances that have changed since the initial adoption or readoption.

(g) Rulemaking files for readoption of emergency building standards submitted to the Commission for consideration shall include each of the following:

1. One (1) original Building Standards Notice/Submission Face Sheet (BSC-1), with the wet signature of the agency director or designee.
2. Two (2) copies of the Finding of Emergency previously approved by the Commission satisfying requirements of Government Code Section 11346.1 of this article.
3. Two (2) copies of the statement relative to substantial progress, and the statement that the emergency remains unchanged or an updated finding of emergency, as appropriate. The statements and updated finding shall incorporate the provisions of section 1-419(f) of this article.
4. Two (2) copies of the Express Terms illustrating the approved/adopted emergency building standards.
5. Two (2) copies of the written Nine-Point Criteria Analysis substantiating compliance with Health and Safety Code section 18930.
6. Any supporting documentation on which the approved/adopted emergency building standards are based.
7. One (1) electronic file copy of each of the above documents listed under subsection 1-419(g). The electronic documents shall be suitable for immediate placement on the Commission's website for public viewing.

**Authority cited:** Government Code Sections 11346.1 and 11346.5 and Health and Safety Code Sections 18930, 18937 and 18949.6.

**Reference:** Government Code Sections 11346.1 and 11346.5 and Health and Safety Code Sections 18913, 18930, 18935, 18937, and 18938 and 18949.6.

**ITEM 14.**

**1-420. State adopting agency submittals.**

...

(b) In accordance with Health and Safety Code Section 18935, the notice of proposed action and the initial statement of reasons shall be submitted to the Commission for review. The notice and the initial statement of reasons shall be submitted a minimum of 45 days in advance of the state adopting agency beginning its initial 45-day public comment period. Along with the notice and initial statement of reasons, the adopting agency shall include its initial express terms for review by the Commission.

After review and determination that the notice of proposed action and initial statement of reasons are in compliance with Article 5 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the Commission shall approve the documents and notify the state adopting agency in writing within 5 calendar days of the approval. The Commission shall submit the notice of proposed action to the Office of Administrative Law (OAL) for publication in its California Regulatory Notice Register pursuant to OAL's procedures.

(b)(c) The submitted rulemaking files for adopted building standards and emergency building standards shall contain and comply with the applicable related provisions in Sections 1-407, 1-411, 1-415 and 1-419 of this article as appropriate.

After any hearings, the close of all public comment periods and the state adopting agency receiving approval from its commission, board or other approving body, a final rulemaking file shall be submitted to the Commission. The final rulemaking file shall consist of items 1 through 17 of Section 1-415 of this article. Each final rulemaking file shall be organized and indexed to identify all items comprising the final rulemaking file.

(e)(d) A representative of the submitting state adopting agency shall be present at the Commission's public meeting at which approval will be considered. The representative shall do the following:

1. Summarize the adopted building standards or emergency building standards.
2. Summarize the agency's activities to satisfy requirements for rulemaking.
3. Respond to any questions by the Commission.

**Authority cited:** Government Code Section 11346 et seq. and Health and Safety Code Sections 18930 and 18949.6.

**Reference:** Government Code Section 11346 et seq. and Health and Safety Code Sections 18930, 18935, 18937 and 18949.6.

**ITEM 15.**

**1-421. A change ~~Change~~ without regulatory effect.**

(a) Notwithstanding the rulemaking procedures specified in ~~Sections 407 and 415~~ Article 4 of this chapter, a ~~state adopting agency or state proposing agency proposing or adopting agency~~ may add to, revise or delete text published in Title 24 of the California Code of Regulations, with the approval of the Commission, when the change has no regulatory effect as provided in this section.

(b) A ~~state adopting agency or state proposing agency proposing or adopting agency~~ acting pursuant to this section on provisions of Title 24 that are also adopted by other state agencies, shall obtain the written concurrence of the other agencies in regard to the change without regulatory effect.

(c) A ~~Change without Regulatory Effect~~ change without regulatory effect is a change to the provisions of Title 24 that does not impose any new requirement for the design or construction of buildings and associated structures and equipment. A ~~Change without Regulatory Effect~~ change without regulatory effect may include, but is not limited to:

...

3. Deleting a regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a United States District Court located in the State of California, the United States Court of Appeals for the Ninth Circuit, or the United States Supreme Court; however, the Commission shall not approve any proposed ~~Change without Regulatory Effect~~ change without regulatory effect if the change is based on a superior court decision which invalidated the regulatory provision solely on the grounds that the underlying statute was unconstitutional;

...

(d) The rulemaking file for a change without regulatory effect to be submitted to the Commission for adoption or approval, and publication in Title 24 shall include the following:

1. A completed Building Standards Face Sheet (BSC-1) as required by Section 4-

~~419-1-415~~ of this chapter; and

2. Express Terms illustrating the change in the form required by Section ~~419-1-415~~ of this chapter; and

...

(e) The Commission shall make a determination regarding a change submitted pursuant this section within thirty (30) days of its receipt. Within ten (10) days of making a determination, the Commission shall send written notification of the determination to the agency that submitted the change ~~when~~:

1. ~~When the~~ The Commission determines that the submitted change meets the requirements of this section for a ~~Regulatory Change without Effect, change without regulatory effect~~, the regulatory change shall be filed with the Secretary of State and the Commission shall publish the change in Title 24, California Code of Regulations.
2. ~~When the~~ The Commission determines that the submitted change does not meet the requirements of this section for a ~~Regulatory Change without Effect, change without regulatory effect~~, or does not comply with the rulemaking requirements of this section, the written determination by the Commission shall provide sufficient itemization of the deficiencies. The agency may correct the rulemaking file for reconsideration by the Commission, or begin proceeding with a regulatory action pursuant to ~~Section 407~~ Article 4 of this chapter.

**Note:** ~~Authority cited: Health and Safety Code Sections 18909, 18930 and 18931(f) Sections 18929.1, 18930, 18931(f) and 18949.6.~~

**Reference:** ~~Health and Safety Code Sections 18909, 18930 and 19931(f) Sections 18929.1, 18930, 18931(f) and 18949.6.~~