

**45-DAY INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE CALIFORNIA BUILDING STANDARDS COMMISSION
REGARDING THE 2019 CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1**

(BSC 01/18)

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS

Government Code Section 11346.2(b)(1) requires a statement of specific purpose of each adoption, amendment, or repeal and the problem the agency intends to address and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.

ITEM 1. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 1, GENERAL

Section 1-101. Abbreviations.

OSHPD 1 and 1R. The existing abbreviation to identify the Office of Statewide Health, Planning and Development (OSHPD) is amended to reflect a new category “1R” to address a revised building standard application for OSHPD regulated general acute care hospitals and acute psychiatric hospitals, and applicable construction provisions. It is specifically addressing non-conforming hospital buildings that have been removed from acute care service. OSHPD is amending other Parts of Title 24 to define the application of building standards for this new category.

OSHPD 5. This is a new category of application proposed to be added to other Parts of Title 24 by OSHPD applicable to acute psychiatric hospital buildings. OSHPD is amending other specific Parts of Title 24 to define the application of building standards for this new category.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 2. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 1, GENERAL

Section 1-103. Definitions.

FEES, APPROPRIATE FRACTIONS THEREOF. The definition is proposed for amendment to correct the inaccurate citation reference from Section I-505 to Section 1-505. This was a typographical error and was inadvertently overlooked and requires correction for accuracy.

NOTICE OF PROPOSED ACTION. This definition is proposed to be added for purposes of interpreting and making specific a statutory term contained in California Health and Safety Code Section 18935 relative to the term “Notice of proposed building standards”. These two terms are synonymous in meaning, and so to avoid confusion clarifying that the term “Notice of Propose Action” is synonymous is necessary.

STATE AGENCY REPRESENTATIVE(S). This definition is proposed to be added for the purpose of clarifying that the positions available on the six Code Advisory Committees, other than ex-officio position(s), may be filled by representatives from California state agencies which have no authority to propose or adopt building standards pursuant to the provisions of Health and Safety Code, Division 13, Part 2.5 and the provisions of Chapter 1, Part 1, California Administrative Code, Title 24, California Code of Regulations. This term is presently used in Section 1-209 Code advisory committees., subsection (d) Members., items 1. through 6. This proposal would allow for an expanded pool of candidates having knowledge, expertise and enforcement experience in building standards or general subjects assigned to the specific committee. It is not unusual for the Commission to experience an absence of candidates or qualified candidates when making appointments to the six Code Advisory Committees, occasionally leaving one or more vacant positions on the Code Advisory Committee(s).

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 3. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 2, DUTIES AND RESPONSIBILITIES OF THE BUILDING STANDARDS COMMISSION, THE EXECUTIVE DIRECTOR, COMMISSION PERSONNEL AND RESOURCES

ARTICLE 2 Title. The title of this article is proposed for amendment for clarity and brevity purposes, and reduces extraneous wordage.

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

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Subsection 1-211(f). This section is proposed to be amended to remove the phrase “his or her” and include the gender neutral term “their” for clarity purposes.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 4. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 3, APPEALS AND PETITION PROCEDURES

Section 1-309. Receipt and processing appeals.

Subsection 1-309(a). This section is proposed to be amended to allow a designee of the Executive Director to provide the written acknowledgement in lieu of the written acknowledgement coming only from the Executive Director. This task can be delegated to appropriate staff by the Executive Director, or in the absence of the Executive Director the task can be assumed or delegated by the Deputy Executive Director.

Subsection 1-309(c). This section is proposed to be amended to clarify and make specific the protocol and sequential steps for processing an appeal for designating a hearing authority. The proposed amendments would mirror the statutory allowance accurately by including that a single member of the Commission may be designated as the hearing officer, thereby bringing the existing regulation into alignment with the California Health and Safety Code Section 18946 which it seeks to implement, clarify and/or make specific.

Subsection 1-309(d). This section is proposed to be amended to clarify that the written notice to the appellant is required to be provided within 15 days of determining the hearing authority. This clarification helps provide a fixed point in time upon which the Commission staff can coordinate the hearing. Given the complexities of scheduling to include availability of the hearing authority, securing a venue for the hearing, and the appellant's availability, a full Commission meeting, or Appeals Committee, or a single member of the Commission or a hearing officer from the Office of Administrative Hearings can take an inordinate amount of time. The amendment further provides the Commission with the latitude to "when possible" provide hearing time, date and venue within the written notice.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 5. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 3, APPEALS AND PETITION PROCEDURES

Section 1-311. Appeal hearing procedures.

Subsections 1-311(a), and (a)(2) through (a)(5). These subsections are proposed to be amended to include that the appointed hearing officer may be a member of the California Building Standards Commission. California Health and Safety Code Section 18946 authorizes the Commission to designate a member of the Commission to be a hearing officer. Amending these subsections will include this provision and clarify that the provisions previously applicable only to the Appeals Committee, also apply to the member of the Commission appointed to be a hearing officer. Minor editing also is proposed for grammatical clarity.

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Subsection 1-311(a)(7). This subsection is proposed to be added in order to afford the appellant the right to withdraw an appeal when the appeal is to be considered by the Commission's Appeals Committee. Presently this option is not afforded the appellant, and should be afforded the same option whether heard by the full Commission or a member of the Commission. Presently, Section 1-311(b)(5) of this article affords the appellant the right to withdraw an appeal before the full Commission when the appellant chooses to do so.

Subsection 1-311(b). This subsection is proposed to be amended to provide clarity by referencing the subsection authorizing the selection of the appeal hearing body or officer, and the subsection authorizing the reconsideration of an appeal before the Commission.

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Subsection 1-311(b)(2). This subsection is proposed to be amended to provide clarity by referencing the subsection requiring the Executive Director notify the appellant and any state or local agency that is party to the appeal. The proposed amendment removes the duplication of the notification time requirement as the notification timing for both the determination and hearing date is reflected in Section 1-309(d).

Subsection 1-311(b)(3). This subsection is proposed to be amended to add the clarification that the Commission is not to be bound by evidentiary requirements or procedures applicable to the courts. This dispensation presently is afforded to the Appeals Committee in the present section 1-311(a)(2). This provision will help clarify that the Commission too has this exclusion.

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Subsection 1-311(c). This subsection is proposed to be amended to provide clarity by referencing the subsection requiring the Executive Director notify the appellant and any state or local agency that is party to the appeal. Secondly, the proposal provides reference to the reference statute that provides procedural requirements for appeals heard by a hearing officer appointed by the Office of Administrative Hearings (OAH). Further, clarification and specified reference is made to the California regulations governing hearings conducted by the OAH under which the OAH hearing officer would conduct the appeal hearing.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 6. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 3, APPEALS AND PETITION PROCEDURES

Section 1-313. Petitions.

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Subsection 1-313(e). This subsection is proposed to be amended for clarity and grammar. The term “building standard” in the second sentence in the subsection is made plural to reflect both proposed and adopted building standards are included. Both types of building standards, proposed and adopted, are identified in the first sentence in this subsection.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 7. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 3, APPEALS AND PETITION PROCEDURES

Section 1-317. Emergency petition.

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Subsection 1-317(b). This subsection is proposed to be amended to reflect agreement in terms with the provision of section 1-419 as it pertains to emergency “building standards”. Additionally, reference is made to section 1-419 for clarity, so that the regulated public is made aware that regulatory procedures in Article 4 of this chapter also govern the rulemaking of emergency building standards.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 8. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 3, APPEALS AND PETITION PROCEDURES

Section 1-321. Petition processing by proposing and adopting state agencies. The title and lead sentence of this section is proposed to be amended to clarify which agencies process petitions pursuant to these regulations.

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Subsection 1-321(c). This subsection is proposed to be amended for grammatical and consistency purposes in this chapter to remove the term “agency”. Additionally, the proposed amendment is intended to clarify that the proposing or adopting agency may take more than one action as appropriate under this subsection. For instance, subsection 1-321(c) 1. authorizes the state agency to deny or accept the petition in part and authorize other relief or action as warranted. And, subsection 1-321(c) 4. requires the state agency, when the petition contains an emergency clause, to conduct rulemaking to specific requirements, and notify the Commission’s Executive Director of such intent. Two actions would be conducted by a state agency. Removing the language “one of” accurately presents the regulation to the regulated public and makes the provision clear.

Subsection 1-321(c) 1. This subsection is proposed to be amended to reflect terms consistent with article 3 of Chapter 1. Section 1-325. Reconsideration of denied petitions. addresses the denied petition in terms of the reconsideration available and the due process. Using the term “reject” is not consistent with the terminology used in other sections of this article. The term “approve” is synonymous with the term “accept” and is therefore redundant and unnecessary.

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Subsection 1-321(c) 4. This subsection is proposed to be amended to clarify that the acceptance of the petition constitutes an “approval” of the petition. Restructuring of the paragraph is made to further clarify and make the proposed amended section read more succinctly. The addition of the reference to section 1-419 is made for clarity, so that the regulated public is made aware that regulatory provisions in Article 4 of this chapter also govern the rulemaking of emergency building standards. Lastly, reference is made to the Health and Safety Code Section 18926(b) to remind the proposing or adopting state agencies that written notification of its intent to conduct an emergency rulemaking is required to be provided to the Commission’s Executive Director. The notification is necessary so that the Executive Director may evaluate the proposal, workload impact, whether other state proposing or adopting agencies are affected by the proposed emergency rulemaking, and determine when the Commission must be assembled to consider the proposed emergency building standard(s). Health and Safety Code section 18937 requires that the Commission consider the proposal within 30 days of filing with the Commission.

Reference: Government Code Section 11349(e) states “Reference” means the statute, court decision or other provision of law which the agency implements, interprets, or makes

specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed for amendment accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 9. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

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

Subsection 1-407(a). This subsection is proposed to be amended by the addition of a “Note:” which provides information and guidance to the state agencies that CBSC forms, templates and checklists are available to the state agency when developing its rulemaking. Providing this information in the form of a “Note:” within this subsection aids the user (state agencies) by making them aware of the availability of current forms, templates and checklists helping ensure that its rulemaking documents comply with specific requirements for content, completeness, statutory authority and reference, and other requirements.

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Authority: Government Code Section 11349(b) states “Authority” means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation. Based on this definition the citation is proposed to be added accordingly.

Reference: Government Code Section 11349(e) states “Reference” means the statute, court decision or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed to be added accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 10. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

Section 1-408. Certification of delegation of authority. This new section is proposed in order to implement, interpret, clarify and make specific the Government Code provision(s) regarding the authorized signatory and appropriate notification of the delegated authorized

signatory, and the document requiring signature being an original (e.g. wet) signature. The title is proposed to clarify the subject matter to which the proposed section addresses.

Subsection 1-408(a). This new subsection is proposed in order to interpret and make clear Government Code provisions applicable to the development of regulations, specifically Government Code Section 11343(g) requiring written certification by the agency head or their designee.

Subsection 1-408(a) will require that whenever a certification is required by Article 4 of this chapter, that it be made in writing by the appropriate head of the state agency proposing, adopting, amending, or repealing building standards or administrative regulations. Additionally, the proposal would authorize the agency head to delegate signing certifications to one or more designees of the agency head.

That delegation would be required to be provided to the Commission in writing by the agency head. Requiring written certification on the form BSC- 1 affirms to the Commission that the rulemaking is authorized by the agency head or their designee and that they attest to its accuracy and understands that an inaccurate certification may result in a rejection of the rulemaking. The same holds true for the Department of Finance's form STD 399, requiring written certification on this form affirms to the Commission that the appropriate agency head or their designee attests to their agency having completed the form according to specific State Administrative Manual (SAM) instructions, and understand the fiscal impacts.

Subsection 1-408(b). This new subsection is proposed in order to require the certification be a "wet signature" (original signature:) on the specified Department of Finance's document STD 399, and the Commission's notice/submission document BSC-1 both identified and required to be used and submitted to the Commission in a number of specified sections in Article 4. Requiring that the certification be a wet signature confirms to the Commission that the rulemaking is authorized by the agency head or their designee. Additionally, the newly proposed subsection reiterates the requirement that the appropriate person sign the certification. Lastly, the newly proposed subsection specifies when the written delegation is to be provided to the Commission in order that the rulemaking not be delayed or rejected.

Authority: Government Code Section 11349(b) states "Authority" means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation. Based on this definition the citation is proposed to be added accordingly.

Reference: Government Code Section 11349(e) states "Reference" means the statute, court decision or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed to be added accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 11. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

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

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Subsection 1-411(b). This subsection is proposed to be amended by the addition of a “Note:” which provides information and guidance to the state agencies that CBSC forms, templates and checklists are available to the state agency when developing its rulemaking. Providing this information in the form of a “Note:” within this subsection aids the user (state agencies) by making them aware of the availability of current forms, templates and checklists helping ensure that its rulemaking documents comply with specific requirements for content, completeness, statutory authority and reference, and other requirements.

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Authority: Government Code Section 11349(b) states “Authority” means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation. Based on this definition the citation is proposed to be added accordingly.

Reference: Government Code Section 11349(e) states “Reference” means the statute, court decision or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed to be added accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 12. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

Section 1-415. Final rulemaking file by state proposing agencies.

Subsection 1-415(a). This subsection is proposed to be amended to provide information and guidance to the state agencies that CBSC forms, templates and checklists, necessary and assistive, are available to the state agency when developing its rulemaking. The reference solely to the CBSC website as being the sole source for obtaining CBSC forms, templates and checklists is removed so as not to confuse the user (state agencies). These documents are available directly from CBSC by requesting via e-mail, telephone, through

workshops/training provided by CBSC to the state agencies prior to code adoption cycles and the CBSC website. Providing this information within this subsection aids the user (state agency) by helping ensure that its rulemaking documents comply with specific requirements for content, completeness, statutory authority and reference, and other requirements.

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Authority: Government Code Section 11349(b) states “Authority” means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation. Based on this definition the citation is proposed to be added accordingly.

Reference: Government Code Section 11349(e) states “Reference” means the statute, court decision or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed to be added accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 13. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

Section 1-419. Emergency building standards.

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Subsection 1-419(f). This newly proposed subsection is intended to interpret, implement and make specific requirements for proposing and adopting agencies to seek readoption of emergency building standards. Government Code Section 11346.1(h) allows for the readoption of approved emergency regulations, and allows up to two readoptions each for a 90 day period. This proposed subsection is intended to provide the regulated public with specific requirements in order to effect readoption of emergency building standards when necessary.

The newly proposed subsection identifies the existing sections within Article 4 of this chapter with which state agencies must comply in order to “certify” (make permanent) the approved emergency building standards. This is provided to clearly point out to the regulated public that, where appropriate, these provisions are applicable and must be met by the state agency. The subsection requires that when requesting readoption of approved emergency building standards or previously readopted emergency building standards that the information following in items 1 through 3 is provided as appropriate.

Subsection 1-419(f) 1. This newly proposed subsection is intended to require, as Government Code Section 11346.1(h) specifies, that the state agency must have made substantial progress and has proceeded with diligence to make the emergency building standards permanent. A written statement to that effect would be required in order to affirm to the Commission attesting to the state agency's significant progress and endeavor to proceed with due haste, with time being of the essence.

Subsection 1-419(f) 2. This newly proposed subsection is intended, when this condition exists, to require a written statement that the circumstances necessitating the emergency, as defined in Government Code Section 11342.545, remains unchanged since the initial approval of the emergency building standards or its readoption. This statement is necessary in order to affirm to the Commission that were it to readopt the emergency building standards that the reason for the emergency remains unresolved and has not concluded.

Subsection 1-419(f) 3. This newly proposed subsection is intended, when this condition exists, to require that the finding of emergency required by the Government Code be updated to reflect any changes in the situation or circumstances that brought about the emergency building standards filing initially. This is necessary in order that the Commission affirms the continued need for the emergency and that the revised finding of emergency meets the criteria of an emergency specified in Government Code Section 11342.545.

Subsection 1-419(g). This newly proposed subsection provides guidance to the regulated proposing and adopting agencies regarding the necessary documents and electronic media requiring completion and filing with the Commission in order to effect the readoption of emergency building standards.

Subsection 1-419(g) 1 through 7. These newly proposed subsections are necessary to ensure that when the Commission considers a readoption of emergency building standards that the proposed rulemaking is consistent and comprehensive relative to the previous and existing rulemaking file and cohesiveness within that rulemaking file is maintained. If the proposing or adopting state agency may or may not have made changes since approval of the emergency building standards or any readoption, the Commission, in its oversight role, must affirm that the rulemaking is accurate, complete and lawful by meeting provisions of existing statutes found in the California Health and Safety Code, Division 13, Part 2.5 known as the California Building Standards Law and the California Government Code, Title 2, Division 3, Part 1, Chapter 3.5 known as the Administrative Procedure Act. The Commission's rulemaking process is transparent and requires significantly greater public participation than other rulemaking processes that other state agencies must follow.

Authority: Government Code Section 11349(b) states "Authority" means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation. Based on this definition the citation is proposed for amendment accordingly.

Reference: Government Code Section 11349(e) states "Reference" means the statute, court decision or other provision of law which the agency implements, interprets, or makes

specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed for amendment accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 14. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

Section 1-420. State adopting agency submittals.

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Subsection 1-420(b). This newly proposed subsection provides specific compliance and filing requirements referenced in statute, and specifies a minimum submittal time period prior to the beginning of the adopting agency's planned initial 45 day public comment period. This advance submittal time period ensures minimum time for the Commission to review, consider, work-out any necessary changes or need for additional information, and if returned, development of any correspondence, and further allows for turn-around of the documents by the adopting agency in order to meet its scheduled 45-day public comment period, and commission, board or other approving body hearing date. Lastly, this time period takes into account the Office of Administrative Law (OAL) notice publication schedule and deadlines. The Commission is required by statute to file notices with OAL for publication. OAL publishes its Notice Register every Friday, and in order for notices to be published timely, requires that the notice be received no later than 10 calendar days before the publication date. This timeline deadline is incorporated into the proposed minimum 45 day advance submittal time.

This newly proposed subsection additionally requires the Commission, after review and determination that the notice and initial statement of reasons are acceptable, notify the adopting agency in writing within five calendar days of Commission approval so that the adopting agency may proceed with its initial 45-day public comment period, understanding that often time is of the essence in scheduling and holding such comment periods. And upon its approval, the Commission is required to file the notice with OAL in order to have the notice published, as noted above, in a timely manner. The incorporation of the express terms into the review process allows the Commission to establish whether the notice and initial statement of reasons align with each other and supports the adopting agency's proposed express terms.

Subsection 1-420(c). This subsection is proposed to be amended by the change in the alpha designation from subsection (b) to subsection (c), allowing for a new subsection (b). A number of amendments are made for clarity purposes, including deleting an adopting agency needing to comply with the provisions of subsections 1-407 and 1-411 of this article. While the adopting agency is currently required to submit its notice and initial

statement of reasons to the Commission for approval and filing of the notice with the Office of Administrative Law, it is not necessary for the adopting agency to submit to this Commission its initial rulemaking or rulemaking for 45 day or 15 day comment periods. An adopting agency conducts its own initial rulemaking, and 45 day and 15 day comment periods as permitted by statute.

The proposed amendment to this subsection further clarifies when an adopting agency is required to submit its rulemaking creating, amending or repealing building standards. The proposed amendment directs the adopting agency to the present requirements for filing a final rulemaking with the Commission in order for the Commission to evaluate the rulemaking and determine whether the adopting agency fulfilled the rulemaking requirements stipulated in the California Health & Safety Code and Government Code, and the regulations provided by Chapter 1, of the California Administrative Code, Part 1, Title 24, California Building Standards Code. The organizing and indexing of the rulemaking file is stipulated in order to make the rulemaking file complete and readily reviewable by the Commission and the regulated public.

Subsection 1-420(d). This subsection is proposed to be amended by the change in the alpha designation from subsection (c) to subsection (d), allowing for a new subsection (b). No other amendments were made to this subsection.

Authority: Government Code Section 11349(b) states “Authority” means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation. Based on this definition the citation is proposed for amendment accordingly.

Reference: Government Code Section 11349(e) states “Reference” means the statute, court decision or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed for amendment accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

ITEM 15. CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

Section 1-421. Change without regulatory effect.

The title of this section is proposed for amendment for clarity and brevity purposes, and reduces extraneous wordage.

Subsections 1-421(a), (b), (c) and (c) 3. These subsections are proposed for amendment to make terminology consistent with other sections and subsections of Chapter 1 and promote brevity within the regulations. Additionally, subsection 1-421(a) is amended to

make change without regulatory effect applicable to Article 4, rather than only two specific sections within Article 4. Numerous other provisions in Article 4 constitute rulemaking procedures and for clarity and inclusiveness necessitate that this section have a broader application.

Subsection 1-421(d). No change is proposed to this part of subsection 1-421(d).

Subsection 1-421(d) 1. and 2. These subsections are proposed for amendment to correct an inaccurate reference to the applicable rulemaking section specifying the completion and submittal of the Building Standards Face Sheet (BSC-1) and the express terms. Without this correction, reference is made to emergency building standards provision rather than to the final rulemaking document requirements.

Subsection 1-421(e). This subsection is proposed for amendment for clarity and brevity by reducing regulatory language.

Subsection 1-421(e) 1. and 2. These subsections are proposed for amendment to make consistent the phrase “change without regulatory effect” throughout Article 4. The existing phrase in these two subsections “Regulatory Change without Effect” is inconsistent with the whole of Article 4. This change removes any confusion relative to the appropriate phrase to be used when applying the provisions of this section or in reference to these provisions.

...

Authority: Government Code Section 11349(b) states “Authority” means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation. Based on this definition the citation is proposed for amendment accordingly.

Reference: Government Code Section 11349(e) states “Reference” means the statute, court decision or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Based on this definition the citation is proposed for amendment accordingly.

CAC Recommendation: The BFO Code Advisory Committee recommended Approve as Submitted (AS)

CBSC Response: The CBSC agreed with the CAC recommendation.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS

Government Code Section 11346.2(b)(3) requires an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the regulation(s).

There was no technical, theoretical or empirical study, report, or similar documents used as the basis for the proposed amendments to the 2019 California Administrative Code.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS

Government Code Section 11346.2(b)(1) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.

The proposed amendments to administrative regulations do not mandate any specific technologies or equipment, and do not require any prescriptive standards.

CONSIDERATION OF REASONABLE ALTERNATIVES

Government Code Section 11346.2(b)(4)(A) requires a description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific action or procedures, the imposition of performance standards shall be considered as an alternate. It is not the intent of this paragraph to require the agency to artificially construct alternatives or describe unreasonable alternatives.

No reasonable alternatives were considered as the proposed regulations are administrative in nature, and consistent with interested party input and are either non-regulatory in nature, practical measures to assist the regulated public or required by the Administrative Procedure Act (Gov. Code § 11340 et seq.) and/or California Building Standards Law (Health and Safety Code, § 18901 et seq.)

REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

Government Code Section 11346.2(b)(4)(B) requires a description of any reasonable alternatives that have been identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business.

No alternatives were identified that would lessen any adverse impact on small business. Small businesses will not experience an adverse impact due to these amendments.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS

Government Code Section 11346.2(b)(5)(A) requires the facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

The California Building Standards Commission (CBSC) did not identify any facts, evidence, documents, testimony, or other substantiation to make an initial determination of significant adverse economic impact on businesses. CBSC has determined that this regulatory action would not have a significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Government Code Sections 11346.3(b)(1) and 11346.5(a)(10)

The California Building Standards Commission has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not affect the creation or cause the elimination of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of existing business within the State of California.

C. The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations will update and clarify minimum administrative building standards that will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE, ESTIMATED POTENTIAL BENEFITS, AND RELATED ASSUMPTIONS USED FOR BUILDING STANDARDS

Government Code Section 11346.2(b)(5)(B)(i) states if a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.

There are no increased costs to comply with the proposed administrative regulations. The amendments provide clarity and regulatory consistency for the code user.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Government Code Section 11346.2(b)(6) requires a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal to describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from these federal regulations upon a finding of one or more of the following justifications: (A) The differing state regulations are authorized by law and/or (B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

There are no proposed administrative regulations that duplicate or conflict with federal regulations. There are no federal regulations addressing this same subject matter.