

[REVISED – See * Item 7]
**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 01/19)**

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.

Chapter 1 of the California Administrative Code is reserved to the California Building Standards Commission and contains regulations that explain the various functions of the California Building Standards Commission (CBSC) as it works to develop, adopt, and publish building standards in Title 24, California Code of Regulations. It also includes requirements for the state proposing agencies and state adopting agencies involved in the development of building standards.

The proposed additions, amendments and deletions to Chapter 1, of Part 1, Title 24, California Code of Regulations, are being made to clarify, implement and make specific requirements relative to the Commission's coordinating council, APA requirements for mailing notices, state adopting agency rulemaking responsibilities, clarification regarding the Building Standards Administrative Special Revolving Fund (BSASRF) and various editorial improvement, clarity, and consistency changes. Specific rationale is provided for each item.

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

Section 1-101. Abbreviations.

SL This abbreviation is proposed for correction as the existing description of this abbreviation inaccurately represents the state agency as referenced in other parts and articles of the California Building Standards Code, Title 24, California Code of Regulations. An example of the appropriate description for the abbreviation is reflected in Section 1.12 of the California Building Code, Part 2, Title 24, California Code of Regulations. The abbreviation in the California Administrative Code, Part 1, Chapter 1 should reflect "Librarian" rather than "Library." The abbreviation is therefore proposed for amendment to accurately reflect the accurate meaning of "SL."

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

Section 1-103. Definitions.

Fees, fractions thereof. This definition is proposed to be amended to clarify that the use of “fractions thereof” in the regulation refers to \$25,000 increments for building permits with a valuation below \$100,000 as shown in Table 1-505, as opposed to fractions of the \$1 fee increments. The definition is also being changed by adding “individual building” in front of “permit” to clarify that fees are based on *individual building permits*. This amendment is necessary to make clear to the code user that fees are based on each building permit valuation, not a sum of **all** permit valuations collected in a fiscal quarter. As explained in the next section, local jurisdictions have misunderstood this and submitted BSASRF fees that are less than what is required.

Petition. The existing definition is proposed for amendment to clarify that certain state agencies may also receive petitions regarding building standards. Presently the definition states that the term “Petition” as a written submittal to the Commission. However, Sections 1-313 and 1-321, Chapter 1, California Administrative Code, Part 1, Title 24, California Code of Regulations, address the receipt of and processing of a petition received by a state agency and directs state agencies to proceed with specific responsibilities and with time frames to be followed. In order to clarify that the term “Petition” includes written submittals received directly by a state agency, the definition is proposed for amendment to include state adopting and proposing agencies.

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

Section 1-315. Criteria for petition.

Subsection 1-315(b) 1. This existing subsection is proposed for amendment to include that a pertinent regulation may also represent a conflict with a current building standard, and is cause for petitioning either the commission or the appropriate state agency. Presently, Subsection (b) 1. stipulates that the criteria for the petition may be only be based upon pertinent statute(s). This limits the scope of the purpose of this subsection by excluding a regulation(s) that also represents a conflict with one or more current building standards. The proposed amendment is to add regulation(s) to the criteria.

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

Section: 1-409. Code advisory committee review.

Subsection 1-409(a). This existing subsection is proposed for amendment to correct the referenced section. Presently, the referenced section reflects “Section 406”. The proposed amendment is to accurately reflect “Section 1-406” to direct the code user to the

appropriate code section within Chapter 1, California Administrative Code, Part 1, Title 24, California Code of Regulations.

ITEM 5: CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 4, RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS

Section: 1-413. Public comments and related actions.

Subsection 1-413(c). This existing subsection is proposed for repeal and a note is added at the end of Section 1-413 containing the same information inclusive of CBSC's updated website URL. This subsection is proposed for repeal as it is not a regulatory specified requirement or prohibition but is a note for public awareness of the appropriate website for obtaining the form provided to aid the public in its submittal of public comment.

ITEM 6: 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) 6. This existing subsection is proposed for amendment to accurately refer to emergency "building standards" as provided for in Section 1-419. Emergency Building Standards of Chapter 1, California Administrative Code, Part 1, Title 24, California Code of Regulations.

Subsection 1-415(a) 10. This existing subsection is proposed for amendment to add the requirement for a written statement of mailing notice be included in the state agency's final rulemaking submittal. This is necessary in order that the provisions of the newly proposed subsection 1-412(a) are complied with by the state agency.

Subsection 1-415(a) 16. This existing subsection is proposed for amendment to accurately refer to emergency "building standards" as provided for in Section 1-419. Emergency Building Standards of Chapter 1, California Administrative Code, Part 1, Title 24, California Code of Regulations.

Subsection 1-415(a) 17. This new subsection is proposed to be added to make specific the requirement for a statement of mailing notice for the 45-Day public comment period. Section 86, Article 2, Chapter 1, Division 1, Title 1, California Code of Regulations specifies that a rulemaking record contain a statement confirming that the state agency complied with Government Code Section 11346.4(a)(1) through (4) regarding the mailing of the notice of proposed action at least 45 days prior to the close of the public comment period or public hearing. The inclusion of this specific requirement in these administrative regulations makes it clear that the same requirement pertains to state proposing and adopting agencies for building standards rulemakings. This new subsection also makes clear that while the written statement from the state agency is required, the state agency it

is not required include a copy of its mailing list to the California Building Standards Commission.

Subsection 1-415(a) ~~18~~ 17. This existing subsection is renumbered to 18 to accommodate new subsection 17.

Authority: Government Code Section 11349(b) states “Authority” means the provision of the 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 of a regulation. Based on this definition the citation is proposed to be added accordingly.

ITEM 7: CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 5, CITY, COUNTY, AND CITY AND COUNTY BUILDING PERMIT FEES

[REVISED * Section 1-503 only]

Section 1-503. Definitions.

Fees, ~~appropriate fractions thereof.~~ This change is being proposed to amend the title to remove the word “appropriate” for Fees, fractions thereof.

This change is editorial in nature and is needed to align with the other changes being made to the fees Section 1-505(b).

Section 1-505. Fee Assessment.

Subsection 1-505(b). This subsection is proposed to be amended to clarify how jurisdictions are required to calculate and assess the fee on building permits issued for all disciplines covered by Title 24 and for which a valuation is made. (Reference Section 1-505(a)).

Approximately 20 percent of fee submittals to CBSC are not calculated properly. CBSC staff research shows the following:

- Jurisdictions divide the total valuation of all building permits issued during a fiscal quarter by \$25,000, instead of assessing the fee on a per building permit basis.
 - For example, the dollar amount of the total fees assessed is less than the total number of permits issued. For instance, a \$2 fee assessment is reported on a \$50,000 permit valuation total, but the report submitted by the local jurisdiction also states that ten (10) permits were issued. Therefore, a minimum of \$10 in fees should have been assessed because a minimum of \$1 is required to be assessed on each building permit issued.
 - Jurisdictions are reporting that the amount of “fees assessed” for a quarter is equal to the total of quarterly building permit valuations divided by \$25,000.
- Jurisdictions are submitting less than whole dollar amounts.
 - For example, a jurisdiction reports that a building permit with a valuation of

\$17,000 was assessed a fee of 68 cents, instead of the \$1.

- Jurisdictions are incorrectly using the fee table (Table 1-505) for fees of \$25,000.01 to \$25,000.99, etc.
 - For example, a \$1 fee is assessed instead of \$2 for a permit valuation of \$25,000.50.

Conclusion: Improper calculations result in fees that are not assessed or remitted for the minimum of \$1 per building permit and in whole dollar amounts. Additionally, the proposed amended table will remove the “grey areas” regarding the 99 cents between each \$25,000 increment for proper calculations and submittals. This amendment will clarify that the fee shall be assessed and submitted at a rate of \$4 per \$100,000, or fractions thereof, and per Table 1-505, for each building permit, with a minimum of \$1 per permit, and in whole dollars.

Section 1-507. Fee collection.

Subsection 1-507(a) 1. This subsection is proposed to be amended to clarify that when a city, county, or city and county submits the Fee Report Form (BSC-2) to the California Building Standards Commission (CBSC), that the reporting form be complete and that the check, made payable to CBSC, accompany the completed form. These amendments will address difficulties CBSC staff have encountered in receiving partly completed reporting forms, and receipt of checks without an accompanying reporting form or receipt of the reporting form without an accompanying check. Staff is then obligated to contact the local agency to either obtain missing information on the reporting form, or the missing reporting form or check.

Subsection 1-507(a) 3, Note. This subsection note is proposed to be amended to effect a change in CBSC’s website URL in order that local agencies may download the BSASRF (the Fund) forms for completion and submittal to CBSC, and to highlight the availability of a detailed guide to filing the building permit fee.

Authority: Government Code Section 11349(b) states “Authority” means the provision of the 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.

ITEM 8: CHAPTER 1. ADMINISTRATIVE REGULATIONS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION, ARTICLE 5, CITY, COUNTY, AND CITY AND COUNTY BUILDING PERMIT FEES

Section 1-509. Request for refund of fees.

Subsection 1-509(a). This subsection is proposed to be amended for grammatical consistency. The word “determine” is amended to its plural form.

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

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 amendment 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 Section 11340 et seq.) and/or California Building Standards Law (Health and Safety Code Section 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.

BSC has determined that the regulations being proposed are administrative and will only impact Part 1 of Title 24 regarding procedures for compliance with BSC rulemaking processes by state adopting and proposing agencies. A workshop was conducting during the pre-cycle regulatory development period for the 2019 Intervening code cycle. During this workshop BSC determined that there were no objections to the proposed changes to the administrative code by the state agencies or the attending public. Through this process BSC did not identify any facts, evidence, documents, testimony, or other substantiation to make an initial determination of significant adverse economic impact on businesses.

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 cause the elimination of jobs within the State of California.

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

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