

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE CALIFORNIA BUILDING STANDARDS COMMISSION
REGARDING THE 2022 CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1**

(BSC 04/21)

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 and amendments to Chapter 1, of Part 1, Title 24, California Code of Regulations, are being made to clarify, implement and make specific requirements relative to Code Advisory Committee applicants and state agencies' rulemaking submittals. Specific rationale is provided for each item.

The following items include rationale edits based on the July 7 and 8, 2021 Building, Fire and Other Code Advisory Committee (BFO CAC) meeting.

ITEM 1

Chapter 1, Article 2, Section 1-209. Code Advisory Committees.

Subsection 1-209(d) This existing subsection is proposed for amendment to clarify the requirements of a Fire Official and Local Government Water Efficiency Official positions in the Code Advisory Committees.

In recent years cities and counties are opting to hire consultants to conduct various building department functions, including plan review, fire inspection, and building department administrative duties. During the 2012 Triennial Code Adoption Cycle CBSC proposed a similar amendment allowing a building official consultant to be selected as a Code Advisory Committee member. Recently a number of Code Advisory Committee applicants have applied for the position of Fire Official or Local Government Water Efficiency Official when in fact they were not serving in the official capacity of a full time

Fire Official or Local Government Water Efficiency Official and/or were functioning in the role as a consultant. The footnote for these classifications, for all Code Advisory Committees is being amended to clarify that a Fire Official and Local Government Water Efficiency Official may be a consultant but must be serving in the official capacity of a full-time Fire Official or Local Government Water Efficiency Official for the local jurisdiction.

CAC Recommendation:

Further Study. The Building, Fire and Other (BFO) CAC recommended to revise the language to have preference for a local government employee over a third-party consultant.

Agency Response:

Disagree. Based on the comments received at the BFO CAC, CBSC contacted several local authorities having jurisdiction to solicit their feedback on the suggested change and based on the feedback, it was deemed unnecessary to revise the language as it would provide some limits and discretionary determination of the Commissioners who provide the selection of the CAC members. The goal of the Commissioners in appointing CAC members is to appoint the most qualified candidate. If being a third-party is an issue in the qualifications of the candidate, the Commissioners would consider that; however, a well-qualified third-party candidate should not automatically be considered a lesser-tiered preference.

ITEM 2

Chapter 1, Article 4, Section 1-407. Initial rulemaking file submittals by a state proposing agency.

Subsection 1-407(b) This existing subsection is proposed for amendment to add document accessibility as a requirement for documents included in a state agency's initial rulemaking submittal. This is necessary in order to bring a new requirement to the state agencies' attention and eliminate delays, corrections, and additional resubmittals of the initial rulemaking documents required to comply with Government Code section 11546.7.(a). CBSC is charged with administering the Title 24 rulemaking process and posting rulemaking documents is part of that process. Government Code section 11546.7 was added to law via Assembly Bill 434 (Chapter 780, Statutes of 2018) which requires the director of each state agency as specified, to post on its internet website a signed certification that the internet website is in compliance with Sections 7405 and 11135, and the Web Content Accessibility Guidelines 2.0 or a subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria. In response to AB 434, all materials posted to CBSC's website must meet these requirements. Therefore, CBSC is requiring state agencies to submit their rulemaking files in this form.

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 reference to Government Code section 11546.7.(a) is proposed to be added.

CAC Recommendation:

Approve.

Agency Response:

Accept.

ITEM 3

Chapter 1, Article 4, Section 1-411. Public comment rulemaking file submitted by a state proposing agency.

Subsection 1-411(c) This existing subsection is proposed for amendment to add document accessibility as a requirement for documents included in a state agency's public comment rulemaking file submittal. This is necessary in order to bring a new requirement to the state agencies' attention and eliminate delays, corrections, and additional resubmittals of the public comment rulemaking documents required to comply with Government Code section 11546.7.(a).

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 reference to Government Code section 11546.7.(a) is proposed to be added.

CAC Recommendation:

Approve.

Agency Response:

Accept.

ITEM 4

Chapter 1, Article 4, Section 1-415. Final rulemaking file by state proposing agencies.

Subsection 1-415(a) This existing subsection is proposed for amendment to add document accessibility as a requirement for documents included in a state agency's final rulemaking file submittal. This is necessary in order to bring a new requirement to the state agencies' attention and eliminate delays, corrections, and additional resubmittals of the final rulemaking documents required to comply with Government Code section 11546.7.(a).

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 reference to Government Code section 11546.7.(a) is proposed to be added.

CAC Recommendation:

Approve.

Agency Response:

Accept.

ITEM 5

Chapter 1, Article 4, Section 1-419. Emergency building standards.

Subsections 1-419(b) and 1-419(g) These existing subsections are proposed for amendment to add document accessibility as a requirement for documents included in a state agency's rulemaking file submittal for emergency building standards. This is necessary in order to bring a new requirement to the state agencies' attention and eliminate delays, corrections, and additional resubmittals of the rulemaking documents required to comply with Government Code section 11546.7.(a).

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 reference to Government Code section 11546.7.(a) is proposed to be added.

CAC Recommendation:

Approve.

Agency Response:

Accept.

ITEM 6

Chapter 1, Article 5, Section 1-507. Fee Collection.

Section 1-507 is proposed to be amended to include information regarding the new electronic payment platform that is available for jurisdictions to pay the fee. This payment platform is optional and provides flexibility for the local jurisdictions as electronic payments become more prevalent.

Subsection 1-507(a)1. This subsection is proposed to be amended to remove information regarding the check-only payment method.

Subsection 1-507(a)2. In response to BFO CAC recommendation, this subsection is proposed to be amended to remove information regarding the check-only payment method.

Subsection 1-507(a)3. This subsection is proposed to be amended to add instructions for submitting payment and forms by mail (check) or email (electronic payment platform).

Subsection 1-507(a) Note. This note is proposed to be amended to let code users know that they may only use the approved electronic payment platform, and that there is information regarding the platform on our website.

CAC Recommendation:

Further Study. The BFO CAC recommended to revise 1-507(a)2 also, as it appears to be conflicting with revised 1-507(a)1 and 1-507(a)3.

Agency Response:

Accept. In response to BFO CAC recommendation, subsection 1-507(a)2 is proposed to be amended to remove information regarding the check-only payment method.

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 2022 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. Some of the proposed amendments require state agency rulemaking submittals to be compliant with accessibility standards established by Government Code Section 11546.7.

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 or practical measures to assist the regulated public and required by the Government Code section 11546.7.(a).

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.

CBSC has determined that the regulations being proposed are administrative and will only impact Part 1 of Title 24 regarding procedures for compliance with CBSC rulemaking processes by state adopting and proposing agencies and specific requirements relative to Code Advisory Committee applicants and the optional fee payment methods. Small businesses will not experience an adverse impact due to these amendments. No alternatives were identified that would lessen any adverse impact on small business.

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.

CBSC has determined that the regulations being proposed are administrative and will only impact Part 1 of Title 24 regarding procedures for compliance with CBSC rulemaking processes by state adopting and proposing agencies and specific requirements relative to Code Advisory Committee applicants and the optional fee payment methods.

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 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 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 not affect the health and welfare of California residents, worker safety or the environment. These regulations are administrative in nature and impact procedures for the administration of the rulemaking process.

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.

CBSC has determined that the proposed amendments to Part 1 of Title 24 are administrative in nature, are not building standards, and do not implement or enforce building standards.

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.