

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE CALIFORNIA BUILDING STANDARDS COMMISSION
REGARDING THE 2022 CALIFORNIA RESIDENTIAL CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2.5**

(BSC 06/21)

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.

These proposed actions by the California Building Standards Commission (CBSC) are non-regulatory, and benefit all proposers, adopters, and users, making modifications and clarifications to the 2019 California Residential Code. Most of the changes are based on the enactment of SB 442 (Chapter 670, Statutes of 2017). These actions meet criteria (3), in the public interest, of Health and Safety Code 18930(a).

The proposed changes to the building standards, with statewide application, will lead to improved clarity and therefore understanding.

ITEM 1

Chapter 1 - Division I CALIFORNIA ADMINISTRATION

Section 1.1.3.2 Regulated buildings, structures and applications

The proposed modification to the “Note” replaces a reference to an incorrect location. BSC edited this note in Parts 2 and 10 in the 2015 Triennial Code Adoption Cycle to correct where the code user can find language explaining how to distinguish model code vs. California amendments. For consistency BSC proposes to edit the note to match other parts of Title 24. There is no intended change in regulatory effect.

Building Fire and Other (BFO) Code Advisory Committee (CAC)

Recommendation:

Approve.

Agency Response:

Accepts the CAC recommendation.

ITEM 2

Chapter 1 - Division II ADMINISTRATION

Section R105.5.1 Expiration

BSC proposes to amend Section 105.5 Expiration, by adding a subsection to address recent statutory requirements in Assembly Bill 2913 (AB 2913) (Chapter 655, Statutes of 2018), which became operative January 1, 2019 and amended Health and Safety Code (HSC) Section 18938.5(b)(2)(B) and added HSC Section 18938.6 to Building Standards Law.

BSC proposes regulations changing the exception relative to the permit expiration time period from 180 days to 12 months. The legislation also added HSC Section 18938.6 to provide that every permit shall remain valid if the work on the site authorized by the permit is commenced within 12 months after its issuance; the exception being where the permittee has abandoned the work authorized by the permit. Furthermore, this new law authorizes the permittee to request extension of the permit, and the building official may grant in writing one or more extensions in increments not exceeding 180 days.

According to the Assembly Bill 2913 fact sheet, “many local jurisdictions have adopted administrative provisions allowing for one or more extensions, there is a lack of uniformity throughout the state regarding availability and length of time associated with local permit extensions. The inconsistency in this area contributes to a situation that is not helpful in addressing the housing shortages experienced throughout the state. Additionally, California has been confronted with numerous natural disasters resulting in the complete destruction of over 8,000 structures. The push to rebuild these structures has placed significant, unplanned strain on local capabilities. Issues related to insurance payouts, infrastructure and utility repairs and access to needed materials and labor have created an additional burden that is impacting areas far beyond those devastated disaster areas. The stage is set for a very long build-out process. Any one of these issues can result in an unintended delay in the construction process which could easily take years to resolve, a period well beyond the 180 days currently allocated for a building permit. This is now an issue of statewide concern.”

HSC Section 18938.5, subdivision (B), states that “*A permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 12 months from the date of the permit or the permittee has abandoned the work authorized by the permit.*” The amended law authorizes a permittee to request and the building official to grant, in writing, one or more extensions of time for periods of not more than 180 days per extension. The amended law authorizes the permittee to request the extension in writing and demonstrate justifiable cause for the extension. *HSC section 18938.6, subdivision (a), “Every permit shall remain valid for purposes of this part if the work on the site authorized by that permit is commenced within 12 months after its issuance, unless the permittee has abandoned the work authorized by the permit.”*

Building Fire and Other (BFO) Code Advisory Committee (CAC)

Recommendation:

Approve.

Agency Response:

Accepts the CAC recommendation.

ITEM 3

Chapter APPENDIX V – SWIMMING POOL SAFETY ACT

Sections: ~~AV100.1 through AV100.9~~ AV100

HSC Section 18942 directs the California Building Standards Commission to reprint The Swimming Pool Safety Act (the Act) into Title 24. BSC also reprints the Act in Part 2 of Title 24, CBC Chapter 31 for convenience to enforcement agencies and the regulated community. Legislation, SB 442 (Chapter 670, Statutes of 2017) updated the swimming pool safety act. Therefore, in 2017 BSC adopted the new swimming pool safety act provisions, by way of a Change Without Regulatory Effect (CWoRE). This action made the provisions within Chapter 31 for swimming pool safety current for the maximum safety standards required in law. This is also reflected within Appendix V proposed in the 2022 California Residential Code (CRC). However, to align with the CBC, Chapter 31 BSC is reformatting the Appendix to reflect the language found within the legislation. Furthermore, BSC proposes changes to the title note since the provisions contained in the Appendix are mandatory to reflect the Swimming Pool and Safety Act found in Legislation, SB 442. No changes to the regulation were intended with this action. There is no change in regulatory affect and no new fiscal impact.

Building Fire and Other (BFO) Code Advisory Committee (CAC)

Recommendation:

Approve.

Agency Response:

Accepts 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 were no formal studies or reports used as the bases for the proposed reformatting of an existing amendment in the 2021 CRC.

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.

California Building Standards Law (Health and Safety Code Section 18901 et seq) requires the inclusion of the Swimming Pool Safety Act (Act) within the California Residential Code (CRC), Part 2.5, Title 24. However, this proposal only contains reformatted code language with no intended change in regulatory effect.

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.

BSC has not identified any reasonable alternatives to these proposed regulations, which do not mandate the use of specific technologies or equipment. This proposal includes clarifying code language with no intended change in regulatory effect.

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 to lessen any adverse impact on small businesses. The reformatting of the Act has no 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.

The reformatting of an existing amendment that has no intended change outside of reformatting to match law, the regulation will not have a significant adverse economic impact on business.

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.
This regulation will not affect the creation or 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.
This regulation will not affect the creation or elimination of existing businesses within the State of California
- C.** The expansion of businesses currently doing business within the State of California.
This regulation will not affect the expansion of businesses currently doing business with 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 building standards, which 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.

BSC did not identify any costs to comply with the proposed amendments. The reformatting provides 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 federal regulations related to this proposed action, which is required by Health and Safety Code Section 18928.