

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION
REGARDING THE 2019 ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1
(BSC 01/19)**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of California Building Standards Commission proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. The CBSC is proposing building standards related to administrative regulations.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020**, until **5:00 PM on June 8, 2020**.

Comments may be submitted to CBSC via:

[e-Comment form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020**:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Note: Only comments received in an accessible format will be viewable via CBSC's website. Use the e-Comment form to ensure accessibility.

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Government Code Sections 11000 and 11346 et seq. and Health and Safety Code Sections 18909, 18926, 18927, 18929, 18929.1, 18930, 18930.5, 18931, 18931.6, 18931.7, 18932, 18934, 18935, 18936, 18949.1, 18949.3, 18949.5, and 18949.6.

The purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Sections 11000 and 11346 et seq. and Health and Safety Code Sections 18909, 18926, 18927, 18929, 18929.1, 18930, 18930.5, 18931, 18931.6, 18931.7, 18932, 18934, 18935, 18936, 18949.1, 18949.3, 18949.5, and 18949.6.

The California Building Standards Commission is proposing this regulatory action based on Health and Safety Code Sections 18909, 18926, 18927, 18929, 18931.6, 18931.7, 18932, 18935, 18936.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Government Code Section 11000. Defines commissions and other referenced departments as “state agencies.”

Government Code Section 11346 et seq. establishes the specified statutes of Article 5 to which CBSC is required to comply as specified in Health and Safety Code Section 18929.

Health and Safety Code Section 18909(c) establishes the rule relating to the implementation or enforcement of a building standard not otherwise governed by statute.

Health and Safety Code Section 18926 sets forth CBSC authority and state agency responsibilities relative to the duties of the Coordinating Council, and state agencies comprising the Coordinating Council.

Health and Safety Code Section 18927 permits CBSC to appoint advisory panels composed of volunteers from professions most likely to be knowledgeable in and affected by building standards, to advise CBSC.

Health and Safety Code Section 18929. Outlines the process for adoption of administrative regulations applying to implementation or enforcement of building standards and publication into Part 1, Title 24.

These administrative regulations may impact the proposing state agencies regarding; criteria to be used for acceptance of a petitions; responsibility of the state adopting and proposing agencies regarding the 45-Day statement of mailing notice requirements; clarify final rulemaking file requirements by state proposing agencies including, providing written statement of mailing notice; and clarify how local jurisdictions are required to

calculate and assess the Building Standards Administrative Service Revolving Fund (BSASRF) for green building standards fees on building permits.

Health and Safety Code Section 18929.1 states that CBSC shall receive proposed building standards from state agencies for consideration in an 18-month code adoption cycle. The commission shall develop regulations setting forth the procedures for the 18-month adoption cycle.

Health and Safety Code Section 18930 establishes approval or adoption of building standards; analysis and criteria; review consideration; factual determinations (AKA Nine-Point Criteria).

Health and Safety Code Section 18930.5 grants CBSC the authority, if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, to adopt, approve, codify, update, and publish green building standards for those occupancies.

Health and Safety Code Section 18931 establishes the duties of the commission regarding review and approval, return for amendment with recommended changes, or reject the building standard; codify and publish the approved standards; resolve conflict; ensure consistency; hear appeals and adopt administrative procedures.

Health and Safety Code Section 18931.6 establishes that each city, county or city and county shall collect a fee from an application for a building permit for transmission to the CBSC so that CBSC can deposit it into the Building Standards Administrative Special Revolving Fund.

Health and Safety Code Section 18931.7(b) states that CBSC can utilize the Building Standards Administration Special Revolving Fund for the updating of verification guidelines for Tier 1 or Tier 2 green building standards.

Health and Safety Code Section 18931.7(f) states that CBSC can adopt any procedural regulation which it deems necessary to administer this part.

Health and Safety Code Section 18931.7(d) ensures consistency in nomenclature and format in the code.

Health and Safety Code Section 18932 establishes the contents and format of the building standards code.

Health and Safety Code Section 18934 sets forth a mandate that authorizes CBSC to adopt and the commission adopt regulations establishing procedures to ensure public participation in the development of building standards and regulations.

Health and Safety Code Section 18935 provides for CBSC authority to review and approve proposing and adopting agency notices and initial statements of reasons; publish notices with the Office of Administrative Law; coordinate hearings held by adopting agencies.

Health and Safety Code Section 18936 sets forth CBSC responsibilities for delivery of notices of meetings within a specified time and, at a minimum, to whom these notices are to be sent.

Health and Safety Code Section 18949.1 through 18949.5 transferred authority to adopt, or review and approve building standards to CBSC for specific state agencies.

Health and Safety Code 18949.6 requires CBSC to adopt procedural regulations for the adoption of building standards and administrative regulations; the adoption process is required to facilitate the triennial adoption of model codes; and, requires the procedural regulations allow for public review of proposed building standards and administrative regulations

Summary of Existing Regulations

Chapter 1 of the 2019 California Administrative Code (Cal. Code Regs., Title 24, Part 1, Chpt. 1) contains regulations that explain the various responsibilities and functions of BSC addressing the development, adoption and publication of building standards in Title 24, California Code of Regulations. It also includes requirements for state proposing agencies and state adopting agencies involved in the development of building standards as well as addressing local jurisdiction BSASRF fund, fee processing, determination and calculation for green building standards.

Summary of Effect

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 APA requirements for mailing notices, state adopting agency rulemaking responsibilities and various editorial improvement, clarity, and consistency changes. Additionally, clarification regarding the process used at the local jurisdiction level to calculate the BSASRF fund fee requirements. Specific rationale is provided for each item within the Initial Statement of Reasons (ISOR).

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to the CBSC proposed action.

Policy Statement Overview

The proposed additions, amendments, and deletions to Chapter 1 of the 2019 California Administrative Code address necessary procedures relative to clarity and consistency within the regulations pertaining to reference statutes. The proposals are purposed to assist the public and state proposing agencies and state adopting agencies with the requirements and processes regarding rulemaking, enforcement, Commission actions on proposed or adopted building standards, appeals and petitions. Renumbering may be necessary in order to accommodate new provisions necessitating separate numbering for organizational reasons to include sequence of rulemaking proceedings and updating the processes used at the local jurisdiction level for fee calculations related to the BSASRF fund.

Evaluation of Consistency

BSC has determined that the proposed administrative regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

BSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

BSC has determined that the proposed regulatory action would not impose a new mandate on local agencies related to the BSASRF fund calculation process, or school districts.

BSC does not have authority to impose building standards or regulations on school districts. Further, the proposed regulatory actions are administrative in nature and would not enact a new mandate on local agencies related to the BSASRF fund calculation process, or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **No**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No**
- E. Cost or savings in federal funding to the state: **No**

Estimate: Any additional expenditure resulting from this proposed action would be minor and absorbable within the existing budget and resources of BSC.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

BSC has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

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 conducted 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. The public may submit information, facts, or documents either supporting BSC's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

The provision of Government Code Section 11346.3(d) is not applicable. No report is required for the adoption/amendment/repeal of these proposed administrative regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

BSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

Reference: Government Code Section 11346.5(a)(10).

The BSC 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 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 OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

BSC has determined that this proposal would not have a significant effect on housing costs.

BSC does not have authority to impose building standards or regulations affecting housing. Further, the proposed regulatory actions are administrative in nature and would not enact a mandate affecting housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

BSC has determined that no reasonable alternative considered by BSC or that has otherwise been identified and brought to the attention of BSC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the [CBSC website](http://dgs.ca.gov/BSC): dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website](http://dgs.ca.gov/BSC): dgs.ca.gov/BSC

Reference: Government Code Section 11346.5(a)(21).

BSC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Gary Fabian, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Gary Fabian, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No: (916) 263-0916
E-mail: gary.fabian@dgs.ca.gov

Designated Back-Up Contact Person

California Building Standards Commission
Michael L. Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No: (916) 263-0916
E-mail: Michael.Nearman@dgs.ca.gov