

**INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION**

**REGARDING THE CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1, CHAPTER 1**

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 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 the agency intends to address 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 contains regulations allowing the public to understand the various functions of the Commission as it works to develop, adopt, and publish the building standards in Title 24, California Code of Regulations. Additionally, it contains requirements for the proposing agencies and adopting agencies, involved in the development of the building standards.

All of the following statements of reasons explaining the proposed changes are in the order of the proposed adoption shown in the Express Terms (proposed regulatory language) available with the documents associated with this rulemaking proposal.

Problem, Rationale and Benefits:

The general purpose of this proposed action is principally intended to clarify and make minor corrections to the provisions of the chapter that governs much of the activities of the California Building Standards Commission, its employees, committees, and state agencies involved in the development and or adoption of Title 24, California Code of Regulations, known as the California Building Standards Code.

Article 1. The Article identification number is being changed from 1-1 to 1, to coordinate format of the numbering of the articles of the chapter.

Section 1-101. Abbreviations. The opening paragraph amendments are being proposed to improve the clarity of the application of the abbreviations in this chapter and in other Parts of Title 24.

CEBC: Added because Part 10 of Title 24, known as the California Existing Building Code, will be abbreviated as CEBC.

CEC: Added because Part 6 of Title 24, known as the California Energy Code, will be abbreviated as CEC.

CGBSC: Added because Part 11 of Title 24, known as the California Green Building Standards Code, will be abbreviated as CGBSC.

CHBC: Added because Part 8 of Title 24, known as the California Historical Building Code, will be abbreviated as CHBC.

SHSC: Amended for abbreviation consistency.

UBC STDS: Amended to clarify references to UBC Standards, which are still found in Part 10, the California Existing Building Code.

Section 1-105. Amended for punctuation corrections

Section 1-201. Amended for punctuation corrections

Section 1-207. Amended for punctuation corrections

Section 1-209

Subsection (d)(2)(B)(6) & (7) (Plumbing, electrical, mechanical and energy committee (PEME)) AND Subsection(d)(6)(B)(8) & (9) (Green building committee (GREEN)). The amendment proposes to allow the Commission to appoint a plumbing inspector for PEME and a mechanical or electrical as an energy/building performance specialist for GREEN. The California Green Building Standards Code contains provisions for water conservation and voluntary measures for energy conservation.

Problem, Rationale and Benefits:

Purpose: Slightly modify the makeup of the Plumbing, Electrical, Mechanical and Energy Code Advisory Committee (PEME CAC) and Green Building CAC in response to comments from the Code Change Committee of CBSC.

Problems:

- At a recent public CBSC meeting, Commissioner Barthman requested that a plumbing expert be assigned to the PEME committee by staff. He had also noted in the past that, in the assignment of Local Government Water Efficiency Officials to both PEME and Green CACs, members with expertise in energy efficiency were omitted.
- However, regulations limit CAC voting membership to nine members. Increasing members to ten invites tie votes; increasing membership to eleven leads to unwieldy committees and possible arbitrary position assignments.
- In addition, in recent years, more cities and counties are hiring consultants for various building department functions, including building officials. Those who train or consult multiple local agencies have been challenged in both building official positions on the CBSC and the CACs.

Rationale and Benefits:

- To solve the first problem for committee positions without increasing members, it is proposed that the Local Government Water Official position on the PEME CAC be combined with the Public Member, as was done last cycle for the Green CAC. A Plumbing Inspector is proposed to be added, with the benefit of being responsive to Mr. Barthman's request and CBSC concurrence. No energy consultant is proposed for this committee, which considers minimum electrical, plumbing and electrical standards but not energy, despite its name. The use of "or" be used rather than "/" for clarity.
- On the Green CAC, it is proposed to offer an alternate for Energy Specialist in both Mechanical and Electrical Engineer positions. The CALGreen Code continues to be a repository for voluntary energy regulations, including "reach" standards or tiers for enhanced building energy efficiency, proposed by the Energy Commission. Most "green" electrical and mechanical engineers have expertise in systems designed to promote building energy efficiency. This change will have the benefit of either emphasizing that expertise by engineers, or by allowing applications from building energy specialists who do not happen to be PEs. The use of "or" be used rather than "/" for clarity.
- To clarify for applicants and the CBSC concerning qualifications for the Local Government Building Official, it is proposed to add a footnote for that position that permits applications and selection of consultants dedicated to full-time service for a single city, county, or city and county. As direct hires become scarcer, this change should have the benefit of widening the applicant pool while keeping the intent of service by an active building official but not by a part-time consultant. At the last CBSC meeting, Commissioners appointed a consultant for Local Government Building Official to Health Facilities CAC, noting that the individual devoted his duties full time to the City of Atherton.

Section 1-211

Problem, Rationale and Benefits:

The California Building Standards Commission (CBSC) is proposing new administrative regulations in order to establish an orderly and consistent means for considering appointments to the Code Advisory Committees. Health and Safety Code Section 18927 authorizes the CBSC to utilize panels of experts and interested parties to help the CBSC review and evaluate proposed building standards. Section 18927 reads as follows:

The commission may appoint from the design professions, the building and construction industry, the affected general public, and interested governmental agencies, appropriate advisory panels to advise the commission and its staff with respect to building standards. The persons appointed to the panels shall be specifically knowledgeable and qualified in the type of work embraced by the building standards in question. These persons shall serve without compensation, but may receive actual necessary travel expenses.

Building standards are developed by state agencies with specific authority for various types of buildings or building uses. The CBSC has six Code Advisory Committees in current use to perform the review of proposed building standards developed by such state agencies as the Office of the State Fire Marshal, Division of the State Architect,

Department of Housing and Community Development, and several more. The adopted building standards are published in Title 24 of the California Code of Regulations, which is known as the California Building Standards Code. The building standards of Title 24 apply throughout the state and to all building occupancies. Local government is charged by state law to enforce Title 24 within their respective jurisdictions. As prescribed in state law some state agencies enforce provisions of Title 24, which they developed for Title 24. Two examples are the Division of the State Architect who develops and enforces building standards applicable to public school buildings, and the California Corrections Authority who develop and enforces building standards applicable to correctional facilities. It is important that proposed building standards, due to their potential impact on the design, construction, maintenance and cost of buildings throughout the state, be clear, concise, and achievable, with minimal negative impact on the environment and without unnecessary burden. The Code Advisory Committees, made up of unpaid volunteers, meet approximately once each 18 months to perform a review of proposed building standards and make recommendations to the CBSC as to the appropriateness of the proposal. This is an important part of the code adoption process as it exposes proposed building standards to critical review by people with expertise and professional experience before the general public review and public hearings. The CAC meetings are open to the public. Following the CAC meetings, the state agencies evaluate the CAC comments and recommendations and often times amend the proposed building standards before advancing the proposal. Accordingly, the CBSC proposes new Section 1-211, to be located in Article 2 of Chapter 1, of Part 1, of Title 24, California Code of Regulations, in order that the process of selecting persons to serve on the Code Advisory Committees is orderly, fair, and documented.

Section 1-211(a).

In order to establish an orderly process for the selection of candidates volunteering to serve on a Code Advisory Committee (CAC), this proposed subsection requires the applicant to complete an application form provided by the CBSC. This will help to collect the same information from each applicant. Because there are six Code Advisory Committees, and multiple positions, the review and selection process has been difficult in the past when some applicants have requested consideration for appointment to more than one position, and on more than one CAC. By requiring a separate application from each position, the CBSC will have a clear understanding of the applicant's wishes as it considers appointments to the six CACs. In the past it has been necessary for the CBSC to make additional copies of applications from those applicants desiring to be considered for more than one vacancy. Requiring a separate application for each position sought, simplifies the process and reduces the chance of error.

Section 1-211(b).

This proposed subsection requires the applicant to use only the application form provided by the CBSC, which is available from the CBSC on request, or via the CBSC website. The required application form will provide the CBSC the applicant's information (name, and address) enabling communication with the applicant. It will help to standardize the applicant's statements of qualifications, which will streamline the review process. The CBSC address is provided in the proposal in order that all applications may be sent to the correct location for consideration. The requirement for a resume and other supportive information is being proposed in order that the CBSC may evaluate an applicant's experience with the code subjects assigned to the CACs.

Section 1-211(c)

This subsection is proposed as part of the effort to develop an orderly process of obtaining applications for appointment to the CACs. It will urge potential applicants to act promptly when an application period closure date is established by the CBSC. Many times the standing members of CAC announce their departure as a new schedule of CAC meetings is announced for a code adoption cycle making the need for prompt action to fill the vacancy(s) before the CACs conduct meetings. Yet the CBSC wants the discretion to determine if an application period is needed.

Section 1-211(d)

This subsection is proposed in order to make it clear that the CBSC will make all decisions in regard to applicants desiring to serve as an unpaid volunteer on a CAC and that such decision will be final and without the right of appeal. These CAC serve an important function and it is imperative that the CAC be strong in the code subject assigned to each CAC. The CBSC needs these regulations so that the process of staffing the CAC is less time consuming and burdensome at a time when a code adoption cycle is being administrated.

Section 1-211 (e)

This proposed subsection advises the applicant for appointment to a CAC the method by which they will learn whether they are selected for appointment or not. Additionally, because many applicants request consideration for more than one vacancy on more than one CAC, the applicant will be advised of the exact CAC and position they are appointed to.

Section 1-211(f).

This subsection is proposed in order to advise applicants that there is no application filing fee.

Section 1-411.

Problem, Rationale and Benefits:

Purpose: The proposed amendment to Section 1-411 is needed to correct an error. The proposal will correct the error and require state adopting agencies to gain the Commission's approval of a proposed hearing date, time and location consistent with Health and Safety Code Section 18935(b).

Problem: The current regulation applies the requirement to state proposing agencies while it should apply to only state adopting agencies that have authority to conduct public hearings separate from hearings by the California Building Standards Commission. State proposing agencies do not hold hearings for the adoption of building standards. The Commission holds the hearing to consider and building standards developed and proposed by state proposing agencies.

Rationale and Benefits: The proposal will correct the error and require state adopting agencies to gain the Commission's approval of a proposed hearing date, time and location consistent with Health and Safety Code Section 18935(b). The requirement for the Commission to approve a proposed hearing date, time and place is necessary so that there are no conflicts with hearings scheduled by multiple state agencies. This ensures maximum public participation in the process of adopting building standards for Title 24.

Section 1-421.

Problem, Rationale and Benefits:

Purpose: The California Building Standards Commission proposes to add new Section 1-421(f) in Chapter 1, Part 1, of Title 24, California Code of Regulations. Section 1-421(f) will establish an effective date for changes made to Title 24 which do not have regulatory effect. The effective date will be consistent with Health and Safety Code Section 18938(c).

Problem: Section 1-421 is silent on an effective date for "Changes without Regulatory Effect". Without an effective date for this type of code change, it is assumed to be effect 180-days after publication. Thus an error in Title 24 would continue to be effective 180-days after publication.

Rationale and Benefits: A "Change without Regulatory Effect" is defined in Section 1-421, but in short, it is an editorial change which does not create a new requirement. The authority is used to correct errors and omissions. However, Section 1-421 does not establish an effective date for adopted or approved changes which is sooner than regular adoptions for Title 24. Establishing an effective date for this type of change will ensure errors and omissions in the code will be effective in a more timely matter.

Article 5. The Article identification number is being changed from 1-5 to 5, as a means to coordinate format of the articles of the chapter.

Section 1-503. Definitions. Correct Article 1-5 at the end of the statement to read Article 5 for formatting constancy.

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

There were no formal studies or reports used as the basis for the proposed amendments of the California Administrative Code.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS:

(Government Code Section 11346.2(b)(4)) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required. Administrative regulations governing the o? of the Commission only.

CONSIDERATION OF REASONABLE ALTERNATIVES

CBSC could consider increasing the number of voting members for the committees to ten or eleven and simply add new positions to the two committees in question. An odd number is preferred to avoid ties in voting, hence the current nine. Increasing the number has been rejected as an alternative because:

- Ten members could result in ties
- Eleven members is unwieldy
- Only two committees are the subject of the Commission's request to add members, and if all committees were allowed ten or eleven, narrow special interest representatives could request positions on all committees. The CACs are made up of members interested in and broadly affected by the codes which are

their subjects, but they are not meant to represent businesses or individuals with a financial stake or other interest in the codes.

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

No alternatives were identified to lessen the adverse impact on small businesses, since no adverse impact is anticipated from these changes, intended to add additional clarity to CBSC's administrative regulations.

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

No facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business have been identified.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

There are no federal regulations related to this proposed action.

Authority: Health and Safety Code Section 18929.1, 18949.6 and 18931(f).

Reference: Health and Safety Code Sections 18927, 18929.1, 18931(f), 18934, 18936, and 18949.6.