

<b>DOCKETED</b>	
<b>Docket Number:</b>	16-JUR-01
<b>Project Title:</b>	Jurisdictional Determination
<b>TN #:</b>	237068
<b>Document Title:</b>	Steve Uhler Comments - JUR-16-01 Implementation of PRC 254011(g)(2) and (j)
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	Steve Uhler
<b>Submitter Role:</b>	Other Interested Person
<b>Submission Date:</b>	3/9/2021 2:52:14 PM
<b>Docketed Date:</b>	3/9/2021

*Comment Received From: Steve Uhler*  
*Submitted On: 3/9/2021*  
*Docket Number: 16-JUR-01*

## **JUR-16-01 Implementation of PRC 254011(g)(2) and (j)**

JUR-16-01 Implementation of PRC 25401.1(g)(2) and (j)

Pursuant to Title 20, Section 1234. Jurisdictional Determinations. (a), Any person engaged in an activity potentially regulated by the commission may request a jurisdictional determination by the executive director as to whether the commission has regulatory authority over a particular activity. To request a determination, information detailing the facts, issues and law relating to the activity shall be filed with the commission. For issues relating to power plant output, a person seeking a jurisdictional determination may also follow the process under section 2010.

Does the State Energy Resources Conservation and Development Commission have jurisdiction in the enforcement of city or county energy conservation or energy insulation standards, whenever adopted, but not submitted to the California Building Standards Commission for approval pursuant to Health and Safety Code - HSC 18949.4?

Pursuant to Public Resources Code - PRC 25402.1. (g) (2), Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

Pursuant to Public Resources Code - PRC 25402.1. (j), If a dispute arises between an applicant for a building permit, or the state pursuant to paragraph (5) of subdivision (g), and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

Pursuant to Government Code - GOV 11342.600., "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Pursuant to Health and Safety Code - HSC 18919., "Regulation" means any rule, regulation, ordinance, or order promulgated by a state or local agency, including rules, regulations, or orders relating to occupancy or the use of land. "Regulation" includes building standards.

Pursuant to Health and Safety Code - HSC 18905.5., "Adopting agency" means a state agency responsible for the adoption of building standards.

Pursuant to Health and Safety Code - HSC 18906., "Adoption" or "adopt" means, with

respect to the procedure for promulgation of a building standard, the final act of a state agency that has the legislative authority and responsibility to take proposed building standards to public hearing.

Pursuant to Health and Safety Code - HSC 18949.4., The State Energy Resources Conservation and Development Commission shall submit building standards to the commission for review and approval pursuant to Section 18930 in accordance with the time schedule established by the California Building Standards Commission.

Pursuant to Health and Safety Code - HSC 18907., "Approval" means, with respect to the procedure for promulgation of a building standard, the action of approval by the California Building Standards Commission. Until there is approval of the standard by the commission, it shall be a proposed building standard or regulation.

Pursuant to Public Resources Code - PRC 25402.1. (h) (2), The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

Pursuant to Government Code - GOV 11340.5. (a), No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

Steve Uhler  
sau@wwmpd.com