

CALIFORNIA BUILDING STANDARDS COMMISSION

MEETING MINUTES

December 4, 2018 – 10:00 a.m.

December 5, 2018 – 9:00 a.m.

Tuesday, December 4, 2018

1. CALL TO ORDER

Chair Marybel Batjer called the meeting of the California Building Standards Commission (CBSC) to order at 10:13 a.m. at the California Victim Compensation Board, 400 R Street, First Floor Hearing Room, Sacramento, 95811.

ROLL CALL:

CBSC staff member Pamela Maeda called the roll and Secretary Batjer stated we have a quorum.

Commissioners Present:	Secretary Marybel Batjer, Chair
	Steven Winkel, Vice Chair
	Elley Klausbruckner
	Erick Mikiten
	Rajesh Patel
	Peter Santillan
	Kent Sasaki

Commissioners Absent:	Juvilyn Alegre
	Larry Booth

Commissioner Sasaki led the Commission in the Pledge of Allegiance.

Chair Batjer gave the instructions regarding public comments and teleconferencing.

2. Review and Approval of July 17, 2018, Meeting Minutes

Chair Batjer entertained a motion to approve the July 17, 2018, meeting minutes.

Motion: Commissioner Sasaki moved approval of the July 17, 2018, California Building Standards Commission Meeting Minutes as presented. Commissioner Klausbruckner seconded. Motion carried 6 yes, 0 no, and 0 abstain. The vote was unanimous to accept the motion.

3. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

Tim Thimesch, Civil Rights Attorney, Disability Rights Bar Association, stated my goal is not to speak to things regarding access that are on the agenda tomorrow, so I'm going to carefully avoid that. He stated as an item not on the agenda, he brought up the fact that the state architect has not made building standard recommendations to the Commission as is mandated in Government Code section 4450(b). We've spoken to the commission many times about this and it seems to come up every code cycle. In 2000 the legislature was frustrated that our code was not moving quickly enough to get certified or to come in line with the federal standards adding anything or diminishing anything from our state codes and that's expressly stated in 4450. He stated having a rationale to change the code is not enough; it must be brought up to federal standards. He requested that the Commission ask the state architect how he is bringing the code up to federal standards.

HolLynn D'Lil, Disability Rights Advocate, stated she shared Mr. Thimesch's concerns about the access code-development process and the lack of appropriate and legal responses to those concerns. We have brought this up to you many times because we have lost considerable access since 2012, and we've also been endangered because of decreases in access standards.

The statement provided to the Commission was read into record.

Chair Batjer stated that has been distributed to each of the commissioners. Thank you.

HolLynn D'Lil stated in March 2016 attorney Patricia Barbosa filed a petition on behalf of 49 people to ask the Building Standards Commission to review the approved code changes that were challenged at the January hearing to comply with the law and intent of the statute and conduct meaningful public participation in the rulemaking process. The commission and DSA ignored Health and Safety Code 19957, which permits building owners to use alternate methods of providing access to public buildings only under the condition that they provide able persons "equivalent facilitation". The legislature authorized the promulgation of the building code that access standards to ensure that disabled persons are not denied "full and equal" access to public places.

Chair Batjer stated that "I think you're reading from the documents that we have before us.

HolLynn D'Lil stated yes I am reading from the document. I want this to go on the record.

Chair Batjer stated we have a time constraint

HolLynn D'Lil stated in October 2017 we just read a letter to you signed by 174 people addressing these concerns again. We received a response in the March 2019 stating that the commission was sending our concerns about the State Architect's actions to the State Architect to address. I do hope the commission reads the letter carefully.

Chair Batjer the Commissioners have read this and take this very seriously. Can I have you summarize please.

HolLynn D'Lil stated We ask the Commission to readdress the damage done to the disability community by restoring access that has illegally been removed taken away from us since 2012 and to seriously look at the proposed code changes at tomorrow's meeting; one in particular is dangerous to the disability community. Lowering the code to federal Americans with Disabilities Act (ADA) standards has had a negative effect, not only on community access, but on safety.

Chair Batjer that is an agenda item for tomorrow. You're to be addressing non agenda items, please.

HolLynn D'Lil stated You're correct. So I just want you to know that we have the word of the coalition of disability act as professionals (listing the names on the letter).

Chair Batjer We have that in the letter on page 4.

HolLynn D'Lil Thank you for your attention.

Chair Batjer Thank you so much for your comments HolLynn and thank you for your letter.

Natasha Reyes, Attorney, Disability Rights California, spoke in support of Tim Thimesch and HolLynn D'Lil the two previous speakers' comments. She stated several code change proposals that have gone through the access collaborative and the advisory code committee will not come before the Commission tomorrow. She stated there is a several clarifications, including one clarification to the definition of public housing that would have brought the code into compliance with long-standing federal mandates. She urged the Commission to direct the Division of the State Architect (DSA) and the Department of Housing and Community Development (HCD) to address these code items in the interim code cycle coming up in 2019 and DRC will be there tomorrow to comment on specific items that are before you, and we appreciate the chance to comment now. Thank you.

Chair Batjer thanked Natasha Reyes.

4. EXECUTIVE DIRECTOR REPORT

Chair Batjer stated Executive Director, Mia Marvelli, will provide an overview of the Commission's business.

Mia stated that Staff has been working with the Department of General Services (DGS) to complete an extensive website redesign, which is expected to launch shortly.

An information bulletin with instructions on how to navigate the new website will be issued.

The website redesign will not impact the current rulemaking web pages.

Three videos will be launched with the new website to provide information about the CBSC, Title 24, and the Title 24 rulemaking process.

Commissioners will hear 19 rulemakings at today's meeting and 26 rulemakings at the 2-day meeting in January.

Chair Batjer Thanked Mia Marvelli.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or Comments from the Public:

No questions or comments from the Public.

CERTIFY EMERGENCY RULEMAKING

5. The Department of Housing and Community Development (HCD EF 01/18)

Chair Batjer stated we will move on to item 5 and asked the representatives from Department of Housing and Community Development please come forward and present item 5.

HCD's request to approve certification of compliance and permanent approval of emergency building standards pertaining to emergency housing or shelter ordinances for inclusion in the 2016 edition of the California Building Code, Part 2 and California Residential Code, Part 2.5 of Title 24.

Emily Withers, Codes and Standards Administrator II, HCD, thanked the CBSC for providing an opportunity for the HCD to request permanent adoption of emergency regulation HCD EF (01/18) related to emergency housing. These regulations amend the 2016 California Building Code (CBC) by adding voluntary Appendix N and the California Residential Code (CRC) by adding voluntary Appendix X. Both appendices are similar and placed in both codes so jurisdictions can adopt either or both appendices.

Ms. Withers stated as summarized on HCD's findings of emergency these standards were developed for the following reasons:

- To address California's critical needs for emergency housing
- To assist local jurisdictions in ensuring that locally-approved emergency housing will meet minimum standards for health and safety

- To assist HCD's implementation of Assembly Bill (AB) 932 (Chapter 786. Statutes of 2017), which became effective January 1, 2018. This legislation directed HCD to review and approve draft emergency housing ordinances of seven jurisdictions; however, it did not provide specific building standards criteria for the HCD to use when reviewing and approving these ordinances.
- To provide recognition of different types of emergency housing and to identify minimum health and safety standards

Ms. Withers provided a bit of history of the timeline and stakeholder process to date. The emergency regulations were originally approved for adoption by the commission on April 17, 2018 and effective for 180-day period and readopted on July 17, 2018 for an additional 90-day period. HCD requested that the re-adoption period start October 16, 2018, which will keep the regulations effect until January 14, 2019. HCD has kept the public informed of the adoption and these publication dates. She stated in order to meet requirements for permanent adoption HCD conducted two public review periods, July 13th through August 27th, 2018 and also October 8 through 23rd, 2018 and a public hearing was held on August 16, 2018. She stated the two public comments were received during the 45-day public comment period and were addressed in the Final Statement of Reasons. These emergency regulations are also being incorporated into HCD's proposal for the 2019 CBC and 2019 CRC, which will be heard later today as Agenda Item 7. HCD introduced in a focus group meeting convened by HCD on April 5, also part of HCD's express terms for the CBC and CRC, presented at the July code advisory committee meeting.

Ms. Withers thanked the Commission for their review of the proposed request for permanent adoption and asked for approval.

Chair Batjer Thank you, Emily for that overview. Item 5 is now open for the Commissioners' comments and discussion.

Questions or Comments from the Commissioners:

Vice Chair Winkel asked how the proposal dovetails with the 2019 code. If I heard correctly this will go until June 20 something since it will expire prior to the adoption of the 2019 code.

Ms. Withers stated the emergency regulations went through a re-adoption process. HCD requested that the Building Standards Commission make the adoption date in October so then it would be effective for 90 days, so the actual expiration date is January of 2019.

Vice Chair Winkel stated different agencies have proposed different modes of adoption of single packages or whether they are individual pieces of proposals. He asked if the Commission has the ability to take exception as a commission to individual items within a proposal or do we have to vote on the entire proposal.

Executive Director Marvelli stated emergency regulations are different in that they do not go through the Code Advisory Committee process and do not have commission action tables where the items are individual. If there is a section of normalcy in the emergency that you feel it needs to be a different action other than approved, you could certainly select that item or definition and provide a different action. When you get into the proposed code changes for the 19 codes, they have the commission action tables and those can be acted on individually if it's necessary or grouped. For convenience, we provide the green commission action tables which there were no comments and the yellow have comments and so on.

Vice Chair Winkel referred to the exception under section N103.2.1 positions alterations and changes of occupation in the emergency, it's on page 4 of 19 of the final express terms. There is an exception, which states that existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code. When I see "may or may not" in the code, it looks wrong. He asked how local building officials are to interpret something that says may or may not need to apply something.

Stoyan Bumbalov, Codes and Standards Administrator I, HCD, stated that this is voluntary. The only reason these are here are to provide health and safety, which did include the Energy Code. He stated jurisdictions typically use appendices as minimum health and safety requirements and add additional measures to be enforced at the local level.

Motion: Chair Batjer entertained a motion to consider Department of Housing and Community Development's request to approve certification of compliance and permanent approval of emergency building standards pertaining to emergency housing or shelter ordinances for inclusion in the 2016 edition of the California Building Code, Part 2 and California Residential Code, Part 2.5 of Title 24. Commissioner Sasaki moved approval of the certification of compliance and permanent approval of emergency building standards as presented. Commissioner Mikiten seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

STATE PROPOSING AGENCY RULEMAKINGS

Chair Batjer stated, upon adoption, these building standards will be codified and published into the 2019 California Building Standards Code. Commission action will be guided by the nine-point criteria established in Health and Safety Code Section 18930. The Commission will consider each agency's proposed building standards and its justifications, Code Advisory Committee (CAC) recommendations, comments submitted during the public comment periods, and oral and/or written comment received at this

meeting. The public may comment on any challenges to the proposals or CAC recommendations submitted during the comment periods. She noted that no new issues or new information challenging the proposed code changes may be presented to the Commission in the adoption of the proposed regulations.

Chair Batjer stated the Commission will take action to approve, disapprove, further study required, or approve as amended. The Commission may take action on the entire package or, if necessary, take separate actions on individual items listed in the Commission Action Matrices. Will the representative from Department of Public Health please come forward and present item 6, the proposed adoption of amendments to the 2016 California Building Code, Part 2 of Title 24 for inclusion in the 2019 California Building Code, California Amendment Chapter 31B – Public Pools, Part 2 of Title 24.

6. California Department of Public Health (CDPH 01/18)

Eric Trevena, Environmental Health Services, Section Chief, CDPH

Chair Batjer stated would you like to introduce your colleague.

Alisha Johnson, Attorney with CDPH introduced herself.

Mr. Trevena stated the CDPH and the California Department and Business and Consumer Services have received correspondence from stakeholders raising concerns that the signs requirement included in Chapter 31B regarding public pools may subject owners and operators of public swimming pools to liability for unlawful discrimination based on the familial status. The proposal for no-life-guard signage and the warning signs for children using a spa is aimed to achieve greater alignment between the CBC signage requirements for public swimming pools and the CDPH's duty to protect the health and safety of persons using public swimming pools. No public comment was received during the 45-day comment period. He stated, per Code Advisory Committee's request in late July, the CDPH submitted a letter to the Commission explaining that the proposal does not require pool owners to replace current signage.

Questions or Comments from the Commissioners

Commissioner Mikiten stated he understood that this is to align with other standards that have been created, but was wondering about how the changing of the adult supervision with the previous terminology and the idea of a non-custodial relative, caretakers are mentioned, but changes to adult supervision is that really defined somewhere because it seems vague and wondered whether it would be assumed responsibility to an adult bystander not taking responsibility the way a parent, guardian and caretaker would. He asked if there is a precedent or definition of adult supervision.

Mr. Trevena stated there is no definition for adult supervision. He did not think it is the intent to have a person hanging out on the pool deck to be the default person to supervise kids in the pool. I see it as it I took a friend to a pool that wasn't a child, I can provide supervision because I'm an adult. It is how I interpret the language.

Alisha Johnson, Attorney, CDPH, stated that the main thing we are trying to deal with is the courts have come down on the part that it be a parent or legal guardian because parents and legal guardians are not the only adults that can provide supervision to children in order to ensure health and safety and we didn't want to restrict it to one kind of adult. So we provided the terminology that could be understood. Eric and I don't think there's any definition of adult supervision.

Questions or Comments from the Public:

No questions or comments from the Public.

Motion: Chair Batjer entertained a motion to consider the California Department of Public Health's request for adoption and approval of amendments to the 2019 California Building Code, part two of Title 24. Commissioner Patel moved adoption of amendments to the 2016 California Building Code, Part 2 of Title 24 for inclusion in the 2019 California Building Code, California Amendment Chapter 31B – Public Pools, Part 2 of Title 24, as presented. Commissioner Klausbruckner seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

A brief recess was taken.

7. Department of Housing and Community Development

Chair Batjer asked the representatives from the HCD to present this agenda item.

7a. Department of Housing and Community Development (HCD 03/18) Proposed adoption of the 2018 edition of the International Building Code with amendments for incorporation into the 2019 California Building Code, Part 2 of Title 24.

Ms. Withers thanked the Commission for providing an opportunity for the HCD to present proposed changes to the 2019 CBC, CRC, and California Existing Building Code (CEBC). She combined the introductory portions of the three proposed codes in the interest of time. She summarized the timeline and stakeholder process stating that an HCD focus meeting was held on April 25th, 2018. The proposals were presented to the California Building Standards Commission, building fire and other code advisory on July 21st, 2018, and the CEBC proposals were presented to the structural design lateral forces code advisory committee on August 8th, 2018. The express terms changes resulting from the code advisory committee meetings and recommendations were made available to the public for a 45-day public comment period on September 7th to October 22nd for the CBC and CRC and from September 14th through October 29th for the CEBC. There was an additional 15-day comment period for the CBC from October 30th to November 14th. HCD committed on the three codes for the purpose of updating. One public comment was received from the CDC and three public comments received from the CRC. No codes for the CRC and the CEBC as a result of no HCD public comments. The CBC proposal was revised to coordinate a shared definition with the Division of the

State Architect, commission report and the 2016 amendment related to table 16.07.1. HCD has acknowledged the public comments received were addressed in the Final Statement of Reasons and will be revisiting identified concerns in future rulemaking actions.

Ms. Withers requested approval and adoption of the Final Express Terms and rulemaking packages. She suggested discussing each code separately.

Questions or Comments from the Commissioners:

Vice Chair Winkel stated the definitions in Section 107.2.7, external balconies and elevated walking surfaces, were placed in the code as an emergency. He stated his understanding that the new language was then deleted because some of the same items were addressed in the model code.

Mr. Bumbalov agreed that the model code is already in place, so we get to repeal existing amendments and we worked in coordination with other state agencies so we can have our own.

Commissioner Patel asked if the definition of efficiency dwelling unit, the language that was struck refers to Section 1208.4, the new language refers to California Building Code 1207.4. I know in the current code 1208.4 is the interior noise level. I just want to make sure 1207.4 of the new code is actually an efficiency paragraph and not an incorrect reference.

Mr. Bumbalov agreed that it should be Section 1207.4.

Commissioner Patel asked for clarification for the table 1607.1, which is on page 36 of 60, for the live load in the table for balconies and decks you deleted the language you had for 1.5 times the live load for the area served. Did you do that because the models had the exact same language?

Mr. Bumbalov stated that's correct. We proposed it for the 15-day. We didn't do it on time, but we caught it later.

Commissioner Patel asked if the language basically stayed the same and Mr. Bumbalov agreed.

Commissioner Mikiten stated on page 18 of 60 in Section 419.7 it seems like something has been left out of the editing. The current code actually says "accessibility shall be designed in accordance with Chapter 11A and/or 11B, when applicable, for the function served." But that's neither stricken out nor indicated here as a change.

Mr. Bumbalov stated he believes DSA will make similar amendments that will refer specifically to 11B.

Commissioner Mikiten asked if it should have been presented as current language that has been changed.

Michael Nearman, Deputy Director, stated staff usually instructs agencies not to include information from other agencies in their proposals: It confuses the public because it looks like they are doing something on behalf of another agency. Information from other agencies are assembled when the rulemaking packages are completed.

Commissioner Mikiten suggested that staff create a format, similar to the one the DSA uses, that includes what is currently being proposed, what has been changed, and what the new code language will be. He stated this format adds clarity to the package presentation for better understanding.

Kyle Krause, Assistant Deputy Director, Codes and Standards, HCD, stated the presentation was consistent with Building Standards Commission staff formatting requirements. This is simply a reiteration of something we do every triennial cycle when we strike out some of the model code references, for this specific model code Chapter 11 for accessibility, which is not adopted, so this has been an ongoing style that has been required from the commission staff. He stated the HCD would be happy to submit materials to staff in whatever format is recommended.

Commissioner Mikiten commented. Ok. Thank you.

Vice Chair Winkel stated his concern on the same page 18 of 60 at the top, 406.4.1. I think there are several other sections where this has happened and I think I know where you're going but I'm a little worried about my fellow design professionals. The striking of the reference to accessibility in 11A in 406.4.1 I think is perfectly consistent and reasonable in the way we structured the code. I am really nervous about taking that reference out.

Mr. Bumbalov stated it has been relocated, not struck. The model code changed the formatting and provided different references. This is the language as it appears in 2016 CBC, making that accessibility compliance reference fit better in another location.

Commissioner Winkel asked if the addition occurs in another location.

Mr. Bumbalov stated Yes. In the ISOR it is outlined.

Commissioner Winkel stated I understood that. I didn't catch the second reference. So it will be in a different place, but the pointer will remain.

Mr. Bumbalov stated That's correct.

Questions or Comments from the Public:

No questions or comments from the Public.

Chair Batjer entertained a motion to consider 7a the Department of Housing and Community Development's request for adoption and approval of amendments to the 2019 California Building Code, Part 2 of Title 24.

Motion: Commissioner Sasaki moved to adopt and approve the 2018 edition of the International Building Code with amendments for incorporation into the 2019 California Building Code, Part 2 of Title 24, as presented. Commissioner Mikiten seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted “Yes”: Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

Chair Batjer asked the representatives from the HCD to present this agenda item.

7b. Department of Housing and Community Development (HCD 04/18) Proposed adoption of the 2018 edition of the International Residential Code with amendments for incorporation into the 2019 California Residential Code, Part 2.5 of Title 24.

Ms. Withers began by stating the introduction combined the three codes and asked if that was sufficient or if the Commission would like her to highlight the various changes.

Chair Batjer asked for a brief highlight.

Ms. Withers highlighted the proposed changes to the CRC, including the following:

- Adding components related to provisions that were put into the CBC for balconies and elevated walking surfaces, there will be amendments related to that
- Incorporating a definition for the work unit which is similar to the definition in the CRC
- Making some changes in the carbon monoxide detection device section relating to interconnectivity and interconnections
- Making changes to reference standards to stay updated with code instructions
- Adding a new appendix Q related to tiny houses in the 2018 model code and HCD is proposing to adopt that appendix.
- Carrying forward emergency housing and presenting it to staff for the California Residential Code

She added Tom Martin, District Representative II who actually worked on this code, was also available to answer questions.

Questions or Comments from the Commissioners:

Commissioner Mikiten asked if the phrase “significant portion,” referring to the definition of good work, is taken from the CRC.

Mr. Bumbalov stated the phrase is taken from the CBC into the CRC.

Mr. Mikiten asked if it was defined anywhere?

Mr. Bumbalov stated there is a specific section that describes what the unit is and we are using the same language to define.

Commissioner Mikiten asked how this reference about significant portion of a unit being used for work fits into the code elsewhere that mentions a maximum of 50 percent work.

Mr. Bumbalov stated it is up to 50 percent in the CBC, the same requirement that appears in Chapter 12 of the CBC. He stated HCD does not enforce anything, they are just trying to duplicate the CBC and follow stakeholder comments.

Ms. Withers stated AB 565 directed the HCD to look into their findings of the work unit provision in the CBC so we are kind of working ahead of that bill a little bit. She stated the definition in the CBC is the work unit, dwelling unit, or sleeping unit in which a significant portion of the space includes a nonresidential use that is operated by the tenant. The HCD's amendment to that definition in the CBC, we added "or building owner." That is the definition being used for the CRC.

Commissioner Sasaki asked where the Chapter 1 amendments direct users to the existing CEBC. He believed in the 2016 CRC there was one amendment that did that and he was looking for it. He referred to the top of page 10 of the final express terms under Section 1.8.3, local enforcing agency duties and powers, and stated the amendment says for additional requirements regarding additions, alterations or repairs to existing buildings and pertinent structures to see the CEBC. He asked where Chapter 1 amendments direct users to the CEBC because design professionals may have a tendency to skip the local enforcement agency section.

Mr. Bumbalov stated they are providing clarification where to find requirements for existing buildings and he believes the CBC also has a reference. He stated the CRC is regulations for new construction. It would be helpful to direct individuals to the CEBC in the future more from the standpoint of a user as opposed to a building official.

Mr. Sasaki added my experience is oftentimes building officials will rightly use the CRC for family dwellings to look at the code regulations and provisions. In the event a house is damaged by fire or earthquake they will sometimes then also go back to the CRC. So the problem with that is that the CRC is basically regulations for new construction. It is not really applicable, necessarily, to existing buildings per se. So having some sort of direct pointing to the California existing building code would be helpful in the future; again, more from the standpoint of a user, not necessarily a building official.

Mr. Krause stated the HCD is proposing a new California amendment in 1.8.3.1 to the CRC, which would give that pointer directly to the CEBC.

Mr. Sasaki stated I understand, it was just again that section was under local enforcement, which if I was a designer, I would probably skip that particular chapter.

Mr. Bumbalov stated this amendment follows an existing amendment referring to Title 25. So to avoid the confusion we want to clarify Title 25 to address maintenance most likely, but you also go to existing building code if you want to do something to an

existing building. Sections 1810 and 1810.1 contain other amendments related to existing structures to better align with the language used in other building codes and referenced page 12 of 92. He added we are replacing the language to align with the language used in other building codes. So this is the one that you are asking for, and the other one that you don't like is specifically related to the building department. So there is a reason for it.

Commissioner Sasaki stated it would add clarity to insert the language at the top of page 10 to Section 1.8.10.1, existing structures, on page 12. That provision section is entitled existing structures and the sentence that I want to add, which would go under that, would be for additional requirements regarding additions, alterations or repairs to existing building and appurtenant structures, see California existing building code. I just think from a user's standpoint that would be very clear.

Mr. Bumbalov added we can put it on our list for the next code adoption cycle, which I get the intent. Just I want you to keep in mind that we get hundreds of questions per week related to the building codes. We try to work it out without asking for additional clarification. But at the same time, the building codes became too heavy and too much and we received the direction from the governor's office just to try not to impose new requirements if it's covered somewhere else and repeal unnecessary requirements, so we are trying to balance it out. But we can discuss it when we start working on the next code cycle.

Vice Chair Winkel stated as a design professional he shared Mr. Sasaki's concern and asked if he could make the amendment that Commissioner Sasaki proposed of repeating the last line of 1.8.3.1 in 1.8.10.1. It should occur in the direction or the information for local building officials, but it should also occur in the spot where a design professional would be likely to look for this. Even I as an experienced practitioner who knows a fair amount about the code would never think to look in the local section for something designed for a design professional. I think this is an orphan provision in terms of the folks that are using that document. Mr. Sasaki agreed.

Chair Batjer deferred to Viana Barbu, Legal Counsel, DGS, to answer that question.

Ms. Barbu stated amendments can be made today as long as they are not material changes. She would have to defer to HCD to think about whether or not this would constitute a material change, because if you make a material change, you have to go back through the rule making process. That's something you may want to take a little bit of time to consider, and the commissioners, those of you who have the expertise, may want to think about whether this kind of amendment would constitute a material change or a clarification.

Mr. Krause stated this language is also repeated in the CBC, the CRC, and the CEBC. The proposed amendments to Chapter 1 Division 1 appear in all three codes so this would involve more than one part. We don't have any problem repeating this language. It is non-regulatory, it is simply guidance, so there is no mandate within the language.

Vice Chair Winkel withdrew his proposal. He added one thing is I would submit this is not a substantive change, it's really an information pointer. I don't think it adds any regulatory effect of expanding or contracting the provisions of the code. But having said that, I think this could be better said. But it's not worth doing a big deal over something which is just an information point. So I would withdraw the proposal.

Commissioner Sasaki made a motion to repeat the sentence under Section 1.8.1.1 in the CRC so it would also point design professionals to the CBC.

Commissioner Patel spoke in support of the change in all the codes, but was concerned that, by repeating language only in the CRC, it would cause individuals to make an interpretation of why the language is different.

Mr. Krause, agrees.

Mr. Bumbalov stated it is currently the same in all codes. If design professionals and users see a difference, it can be confusing.

Commissioner Sasaki withdrew his proposal.

Questions or Comments from the Public:

No comments or questions from the public.

Chair Batjer entertained a motion to consider 7b, the Department of Housing and Community Development's request for adoption and approval of amendments to the 2019 California Residential Code, Part 2.5 of Title 24.

Motion: Vice Chair Winkel moved adoption of the 2018 edition of the International Residential Code with amendments for incorporation into the 2019 California Residential Code, Part 2.5 of Title 24, as presented. Commissioner Mikiten seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

Chair Batjer stated we will move on to Item 7c and asked the representatives from HCD to present item 7c.

7c. Department of Housing and Community Development (HCD 05/18) Proposed adoption of the 2018 edition of the International Existing Building Code with amendments for incorporation into the 2019 California Existing Building Code, Part 10 of Title 24.

Ms. Withers provided a brief highlight to the proposed changes to the CRC, including the following:

- Include a repeal related to carbon monoxide related to the renumbering in the model code

- Include a repeal of the section that addresses replacement, retention, and extension of original materials and that will be the subject of the discussion today.
- Not adopt Chapters 6 through 13, which address the Work Area Method for rehabilitation of buildings
- Add a new California amendment to Chapter 14, which addresses relocated or moved buildings, to ensure the provisions would not define commercial modular, manufactured homes, mobile homes, multi-unit manufactured housing and special purpose commercial modular.
- Add a new California amendment to Chapter 14 related to conformance to clarify that buildings shall comply with the building code provisions in effect at the time of original construction

Mr. Bumbalov added we did develop those chapters from the 2015 residential and existing building codes during the 2015 triennial code production cycle. Due to time constraints with stakeholders and other state agencies we adopt it in the California existing building code. However, we promised at that time we will start immediately evaluating the 2018 international existing code, we will spend more time evaluating and we will adopt more sections and more chapters. So this is what we did this time. We spent more than a year. We were very careful what we are adopting. We had code advisory committee meeting and a 45-day public comment period, we did not receive any comment. We were able to introduce and discuss our proposals and it seems the building officials loved it. So this is in addition to Emily's statement.

Questions or Comments from the Commissioners:

Mr. Sasaki stated I thank you for HCD's hard work and all of your efforts. There were a lot of changes to the IEBC in this cycle, and given all those changes, it's hard sometimes to track them and to track the amendments that were in the previous code, the 2016 CEBC and get them in the right spot in the 2019 CEBC. We, myself and HCD, have discussed some issues. I have prepared a written statement.

First I want to apologize for bringing this forward at this time. There are a number of issues I want to bring up. And I know it's obviously last minute or last moment, we're voting on this package now, so anyway, I apologize in advance. That said, I think there are some very important key issues involved with the proposals for HCD's amendments to the CEBC. I know there are a number of printed copies of my statement. I will go ahead and read that and I have some amendments to that.

So that my comments are clear I'm going to go ahead and read my statement. Again, I ask for some patience. It is a little lengthy but again, I believe these issues are very important.

I have closely reviewed the HCD amendments and the statements of reasons for those amendments and have some significant concerns about certain changes that are being proposed. I hold the structural engineer position on the commission. As a structural

engineer I have worked on existing buildings for the last 29 years and as such I used the CEBC almost every day. A typical assignment for me is to prepare repair plans for buildings that have been damaged by fire, water, ground movement, vehicle impact or earthquake. I work on both residential and commercial structures.

Because of various code provisions and state law, there is a big difference between what is required to repair residential structures versus what is required to repair commercial structures. Current provisions in state law and in the 2016 CEBC allow damage to residential structures to be repaired using like materials and like construction. Essentially repairs do not need to conform to current code requirements for new buildings. For example, if you have a 1950s house, like I do, and it was damaged by fire, you could repair it with like materials and like construction, what we call repairing in kind.

Contrast that with repair requirements for commercial structures, which require an engineer to determine if there is substantial structural damage; and if there is substantial structural damage may require upgrading the entire building, including foundations, for wind or earthquake forces. The engineering cost to determine whether or not the triggers have been exceeded can be significant. The cost to upgrade a building can vary many times the cost of the repair-only scenario, and the delays associated with both the engineering studies and the increased cost of construction time associated with implementing the required upgrade can be lengthy.

The changes that HCD is proposing to remove provisions that allow residential structures to be repaired with like materials and like construction is in direct conflict with what I believe is state law and will result in large adverse fiscal impact to homeowners, apartment owners, building owners and the state of California. This is particularly important now with the recent wildfires where thousands of houses need to be repaired or reconstructed.

As far as the specific code amendments and state law, I want to look at page 18 of the final express terms. If we go there down at the bottom of the page we see item 6, which lists existing California amendments for chapter 4 of the 2016 CEBC that are proposed to be repealed. There are three code sections that allow in-kind repairs that HCD is proposing to repeal and not bring forward into the 2019 CEBC. The first section is at the top of page 19, section 401.2.1, existing materials, which is shown as the section with the strikeouts. The state law from which that amendment was based on is Health and Safety Code section 1795.8, which is very similar in wording to the amendment. Health and Safety Code 17922D contains a similar requirement.

The second occurrence of the repair in-kind provisions that is proposed to be repealed is section 403.1.1, replacement, retention and extension of original material. That's on the lower part of page 19.

And then finally, the third occurrence of the repair in-kind provisions to be repealed is section 404.1.1, which is at the top of page 20. All three of these sections are not being

brought forward into the 2019 CEBC, again, which will result in many buildings no longer being able to be repaired in kind. The repairs essentially will need to follow the repair chapter provisions with the same requirements as a commercial building.

In order to avoid these cost impacts and avoid the code being in direct conflict with state law, these three provisions need to be brought forward into the 2019 CEBC. In addition, the upgrade trigger in section 405 structural, as well as the definition of substantial structural damage, cannot be added/adopted by HCD without conflicting with state law. The matrix adoption tables will need to be modified so that it is clear these portions of the code are not adopted.

Review of the statement of reasons: On the bottom of page 14 of HCD's initial statement of reasons, HCD states that the local ordinance shall permit - and it's that language - permit the replacement, retention and extension and use of original material of construction if the building is not a substandard building. That is actually not what the law says. More importantly, that's not the intent of the law. The law says that -- the intent of the law is that in kind repairs are permitted if the building or accessory structure does not become or continue to be a substandard building. And again I emphasize the wording "does not become or continuing to be."

Based on my legislative research regarding HSC code section 17958.8, the plain language of the law allows any damaged residential building to be repaired with like material and methods of construction as long as it does not become or continue to be. I guess the issue is that phrasing means in future tense, meaning that once the repairs are actually installed and the building no longer is a substandard building, you can go ahead and use that provision, or if that building doesn't continue to be a substandard not building.

Since this is very important given the recent fires I would ask questions about the intent of the law, for HCD to do their own legislative research. The last time that particular law was amended was in 2003, Assembly Bill 1034. HCD's proposed interpretation of the law is also counter to some of my past conversations with HCD staff in the past. Similar comments apply to HCD's statements of reasons for section 405 structural, where HCD notes that the repair in-kind provisions do not apply where there is structural damage to a building.

However, state law, HSC 17958.8 makes no reference to structural damages. Anyway, put simply, in-kind repairs eliminate the substandard condition of structural damage since the repaired structure no longer would continue to be substandard after the repair, in-kind repairs must be permitted. That is our understanding of what the law says.

And there is a definition, a new definition in this proposal, which is a definition for substandard building. I think adding this will cause great confusion amongst design professionals and building officials because many of the items that cause a building to become a substandard building are ambiguous or vague. The substandard building definition is shown on page 12 in the final express terms. It's short, so I will read it: Any

building, structure or portion thereof which there exists any of the conditions listed in Health and Safety Code section 7920.3 shall be deemed substandard. A building structure or portion thereof declared as substandard shall be considered unsafe, as defined in this chapter. And in that definition, I want to point to the particular word “any.” That means, in that definition, any of the conditions listed in that Health and Safety Code section. That Health and Safety Code section lists over 40 conditions, including items like improper kitchen sink, lack of adequate heating, dampness of habitable rooms, general dilapidation. This long list of conditions does not provide any reference to building code provisions, any definitions or any guidance on the extent or severity of conditions. Based on the wording proposed by HCD, if any of these conditions exist, the building is deemed substandard and also unsafe.

This clearly does not make sense. For example, I have a family cabin up in Truckee. It has window trim that is currently weathering because we have not gotten it painted. I suppose under that definition; our cabin would be deemed a substandard building based on those definitions. Obviously, that doesn't make sense.

I have a number of motions but I will wait on those until I get a response from my lengthy discussion. I appreciate your patience, and thank you.

Chair Batjer asked the HCD representatives to respond.

Mr. Bumbalov stated the HCD never intended to repeal an existing amendment. Following the request from building officials, the goal was to add it into the CEBC due to enforcement issues. The best place for this existing amendment is Section 302.5, new and replacement materials. He suggested relocating the proposed amendment to Section 302.5.

Mr. Bumbalov stated the definition for substandard buildings was a direct reference to the Health and Safety Code. He stated the HCD unintentionally proposed additional language. He suggested modifying the definition to only provide the direct reference.

Mr. Krause stated he was uncomfortable making significant changes to the proposals due to the lack of stakeholder input this late into the formal rulemaking cycle.

Chair Batjer asked counsel if it was possible for HCD to withdraw and engage in a 15-day comment period and have the item agendaized for the January meeting.

Ms. Barbu stated it was an option.

Chair Batjer asked Commissioners for input on Commissioner Sasaki's comments.

Vice Chair Winkel stated the Health and Safety Code includes “listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building.” This is a critical point that is missing in the proposed definition of substandard building. The definition is much broader and also includes, as Commissioner Sasaki

pointed out, the word “any.” He stated, as a design professional, “any” and “all” are the same thing. This is a major difficulty.

Vice Chair Winkel stated local building officials do not like to wrestle with this problem because the language is unclear. The replacement of partially damaged buildings is a problem for building departments and insurance companies. Approximately one month ago, everything changed due to the fire because every building is substandard and does not meet the code. He asked if there was a relatively simple way to fix the language to avoid conflict with insurance companies.

Mr. Bumbalov stated the HCD wanted to point to the Health and Safety Code because many jurisdictions create similar interpretations instead of the using it. He agreed with Commissioner Sasaki’s suggested definition and stated, if the Commission believes the definition cannot be modified on the floor, the definition can be withdrawn and the rest of the proposal can be relocated where it belongs.

Chair Batjer stated that is two separate actions.

Commissioner Patel stated I appreciate HCD's willingness to work with the building officials to try to clarify the language. I would ask that, when the building officials are speaking to it I am going to assume that they are looking for some ability to say, I don't want to let you rebuild your building in-kind if it was a dangerous building to start with. I think you did your best to try to address that, but I do agree with Commissioners Winkel and Sasaki that it would help if this other language from the Health and Safety Code were included. What I hear is maybe you are suggesting removing the definition, which would then go back to the Health and Safety Code's definition in relation to using the word substandard.

Mr. Bumbalov stated again, if we can modify it here on the floor. If we just strike out the language that currently we're proposing and just directly to the Health and Safety Code. See section 71920.3, the Health and Safety Code. That's it. It's not the precedent we use. We have our definition of that and refer to the Health and Safety Code. So this will include the language that clarifies the health and safety.

Mr. Patel stated So I get the intent of what you're trying to do. It would not be best to clarify and put all the codes together but it at least it would get us to probably where the original intent was meant to be.

Chair Batjer asked if withdrawing the definition and then removing or relocating would satisfy Commissioners’ concerns.

Commissioner Sasaki stated it would, although he would like to see where the replacement retention clause or provision section is relocated. He added that the section should be in at least three locations: in Chapter 3 under existing materials, in Chapter 4 under repairs, and in Chapter 5 under alterations.

Commissioner Klausbruckner suggested moving this item to tomorrow’s meeting to give the HCD the opportunity to propose changes and refine the language.

Chair Batjer asked if this would require a motion.

Ms. Barbu stated the Commission would have to take a motion, reagendize, and offer the HCD the choice to withdraw or put forth the motions. She suggested that the HCD consult with counsel during that time.

Mr. Krause stated the HCD was reluctant to make significant modifications on the floor. The HCD was willing to withdraw but asked to move forward. This will likely be an issue with an at least 15-day comment period with sufficient modifications and future rulemaking activity.

Chair Batjer stated another option is to withdraw, go into another 15-day period, and agendize this for the January meeting.

Commissioner Sasaki stated the issue that the International Existing Building Code (IEBC) has changed the format. He asked that those sections be brought back to their appropriate locations so that users can understand the code.

Mr. Krause agreed with the encouragement to move sections where they have been in prior codes but stated stakeholders must have an opportunity to be involved in the discussion.

Vice Chair Winkel stated undoing the deletions seems simple but it is a substantive change. The definition and the provisions for replacement in-kind are separate and the deletion of the replacement in-kind language requires at least a 15-day comment period. Chair Batjer and Commissioner Klausbruckner agreed.

Commissioner Mikiten suggested making a motion for further study to bring this back for reconsideration.

Executive Director Marvelli stated the HCD could request a continuance to the January meeting and staff could work with the HCD to conduct a 15-day comment period before then. The other option is to continue to have this dialogue and determine the kind of motion to make on the HCD package.

A lunch break was taken.

Chair Batjer asked for a motion for continuance of Item 7c until the January meeting.

Vice Chair Winkel stated, based on the request for continuance by the HCD for item 7c, he would move that the Commission accept the request.

Vice Chair Winkel removed the motion he had tentatively placed on the table.

Questions or Comments from the Public:

- Robert Raymer, Senior Engineer/Technical Director, California Building Industry Association, spoke in support of the HCD taking this item under advisement and coming back in January. He offered to work with the HCD as they prepare the language.

- Gwenyth Searer, Structural Engineer, stated one of his specialties is code writing and code interpretation. She stated the proposed changes in sub items three, four, five, and seven of Item 7c are extremely problematic. The proposed changes violate state law and will result in significant costs that have not been studied or considered. She stated the reason for this has been covered fairly well by Commissioner Sasaki and Vice Chair Winkel. She stated he is strongly in favor of another 15-day or 45-day comment period. He offered to work with the HCD on developing the language.

Ms. Searer suggested that the HCD do the following:

- Define substandard building as a reference to the definition in Health and Safety Code Section 17920.3.
- Delete the sentence that equates substandard with unsafe. There is already a definition of unsafe in the code.
- Reinstate the language about repairs being permitted in the IEBC section regarding repairs and alterations – the like-kind and construction provisions.
- Do not adopt, i.e., exclude all of the upgrade triggers in the IEBC. It would violate state law to adopt them.
- Ensure that the Commission Action Matrices are clear that the definition of substantial structural damage and the upgrade triggers in the IEBC are not adopted.
- Change the Statement of Reasons so it does not state or imply that structural damage should not be repaired in-kind, otherwise it will create a nightmare of litigation and confusion.

Chair Batjer asked the HCD if they wanted to comment.

Mr. Krause stated, in light of the discussion from Commissioner Sasaki, Vice Chair Winkel, and members of the public, the HCD requests a continuance of Item 7c to the January meeting to allow the HCD to work on the language with stakeholders and other interested individuals and to engage in a 15-day comment period.

Motion: Chair Batjer entertained a motion to allow the commission to vote on HCD's request for continuance to the January meeting. Commissioner Sasaki moved approval of HCD's request for continuance of Agenda Item 7c to the January CBSC meeting. Vice Chair Winkel seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

8. Office of Statewide Health Planning and Development

Chair Batjer stated we will move on to item 8a and asked the representatives from the Office of Statewide Health Planning and Development (OSHPD) to present item 8a.

8a. Office of Statewide Health Planning and Development (OSHPD 01/18)

Proposed adoption of structural amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24.

Chris Tokas, Deputy Division Chief, Facilities Development Division, reviewed the proposed changes in Item 8a and summarized the timeline and stakeholder process to date. He stated of paramount importance to the success of a program is ongoing reevaluation. This is especially true for a difficult program like the seismic program for California hospitals. The proposed code changes realign the program within the boundaries of the law in order to facilitate compliance. He stated the alternative damage control Nonstructural Performance Category (NPC-4D) will allow hospitals to determine the services they intend to have functional immediately after a seismic event. The NPC-4D category will be shared with the CDPH and the California Office of Emergency Services (CalOES) to better plan for hospital patient relocation during times of emergency. Emergency conditions that may be expected and services that may be available at hospitals in the community after a seismic event and other information from the emergency plan will be posted on the OSHPD website.

Questions or Comments from the Commissioners:

Commissioner Klausbruckner asked about the differences between the words “shall” and “may” in sections such as on page 5, Section 1.5.2, delay in compliance, Exception 2, which uses the phrase “anchorage/bracing may be reinstalled as it preexisted prior to the NPC work” and on page 17, Section 11.2.3(f), nonstructural performance category 4D Operation Plan for Levels 1, 2, and 3 areas required for continuous operations, which uses the phrases “the facility must prepare an owner-approved Operation Plan” and “this plan may include any other units or departments.” She noted that other sections use the word “shall.” She asked if this was done intentionally and why.

Mr. Tokas stated it was done intentionally. He stated the word “shall” is a requirement and the word “may” is permissive.

Commissioner Klausbruckner stated the word “shall” is more often used in the model code and the word “may” less so.

Mr. Tokas stated the word “may” was changed in 1990 to the phrase shall be permitted. The use of this language is intentional and consistent with the law language for California.

Questions or Comments from the Public:

No questions or comments from the Public.

Motion: Chair Batjer entertained a motion to consider OSHPD's request for adoption and approval of the 2019 Administrative Code, Part 1 of Title 24. Commissioner Patel moved adoption of structural amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24, as presented. Vice Chair Winkel seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

8b. Office of Statewide Health Planning and Development (OSHPD 02/18)

Proposed adoption of non-structural amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24 and proposed adoption of the 2018 edition of the International Building Code with amendments for incorporation into Volume 1 of the 2019 California Building Code, Part 2 of Title 24.

Chair Batjer asked the OSHPD representatives to reintroduce themselves and give an overview.

Diana Scaturro, Supervisor, Building Standards Unit, reviewed the proposed changes in Item 8b and summarized the timeline and stakeholder process to date. She stated the California Primary Care Association (CPCA) requested further study and evaluation of the contiguous function requirements language for OSHPD free clinics. She stated the reason for the alignment of OSHPD 1 through 5 is that the oldest structures, sometimes the original hospitals, are reaching a sunset date to allow acute care services in them if the structures have not been upgraded. Buildings under the new OSHPD 1R banner are still OSHPD 1 buildings and are still technically part of the hospital, but they can perform acute care services. The OSHPD 1R banner adds clarity within the code about the functions that are permitted in OSHPD 1R buildings. The OSHPD 1R banner is one of the key changes being proposed.

Ms. Scaturro stated a new functional Section 1228 was created mid-cycle of 2016 to address the acute psych function but was not given an OSHPD banner designation. Another key change being proposed is to assign OSHPD 5 to Section 1228 for clarification purposes.

Ms. Scaturro introduced an Addendum to the Final Express Terms of minor corrections and clarifications:

- Section 1224.4.5.1, outpatient access. Strike to add clarity "provided for outpatients" so it would read "outpatient access to services shall not traverse a nursing unit."
- Section 1224.19.1.2, less than 100-bed exemption. Strike for redundancy "and provide the following pharmacy service space" so it would read "hospitals under a Hospital Pharmacy Permit Exemption, issued by the Board of Pharmacy,

associated with Business and Professions Code Section 4056 shall provide all basic pharmaceutical services in compliance with Section 1224.19.1.2.”

- Section 1226.4.3.5, connections. Correct an editing error. Replace the title “connections, refer to Section 1224.4.7.5” with the title “contiguous functions.”

Questions or Comments from the Commissioners:

Commissioner Klausbruckner suggested correcting “may located” to “may be located” on the 2nd line of Exception 1 under Section 1226.4.3.5, contiguous functions, on page 51.

Commissioner Santillan suggested correcting “le3ss” to “less” in Section 1224.39.2.1, operating rooms, on page 43.

Questions or Comments from the Public:

- Andy Barbusca, Branch Chief, Field Operations, CDPH, discussed the OSHPD 3, three-clinic proposal and the concerns about timeliness. He stated, while it is true that the CDPH had an application-processing backlog in prior years, with support from the Department of Finance (DOF) and the Legislature, the application processing for change of name, location, and other categories is now current. Applications submitted next quarter are expected to be processed immediately.

Mr. Barbusca stated the primary goal is improved service to the public. He spoke in support of clinics with contiguous functions and internal circulation.

Vice Chair Winkel stated he expected more discussion about Section 1226.4.3, corridors, due to the number of public comments received. He asked if the absence of discussion meant that the questions had been resolved.

Ms. Scaturro stated she, too, was surprised. She stated input received requested that no changes be made. Many building departments do not understand the OSHPD 3 requirements. A challenge is that clinics must either be licensed until improvements are completed or they must restrict services. The OSHPD tried to give latitude while still providing the appropriate protections.

Vice Chair Winkel asked if the California Building Officials (CALBO) is comfortable with the proposed regulations.

Ms. Scaturro stated OSHPD has not reached out to them, but there is a CALBO representative on the Hospital Building Safety Board. She stated the proposed regulations clarify an intent that was always there.

Motion: Chair Batjer entertained a motion to consider OSHPD’s request for adoption and approval of amendments to the 2019 Administrative Code Part 1 and adoption and approval of amendments for the 2019 California Building Code, two typos, two edits and the tab 8b addendum. Commissioner Sasaki moved adoption of non-

structural amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24 and proposed adoption of the 2018 edition of the International Building Code with amendments for incorporation into Volume 1 of the 2019 California Building Code, Part 2 of Title 24, as amended. Commissioner Mikiten seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted “Yes”: Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

8c. Office of Statewide Health Planning and Development (OSHPD 03/18)

Proposed adoption of the 2018 edition of the International Building Code with amendments for incorporation into Volume 2 of the 2019 California Building Code, Part 2 of Title 24.

Chair Batjer asked the OSHPD representatives to reintroduce themselves and give an overview.

Roy Lobo, Ph.D., Senior Principal Structural Engineer, reviewed the proposed changes in Item 8c. He stated the structural requirements for new OSHPD categories 1R, 2, and 5 have been moved to model code. He stated the substandard changes include new definitions for fixed, movable, and mobile equipment. These definitions were necessary to clarify the equipment that is required to be anchored and braced for proper function of hospital space.

Dr. Lobo stated there was a question about the assignment of the risk for OSHPD 2 and 5 buildings moved to model code risk categories based on the number of care recipients that they receive. He stated these are not new requirements; they have just been relocated.

Dr. Lobo stated another significant proposal was to implement alternative testing protocols for capacity determination of seismic sway bracing. Currently, only one testing protocol is permitted. The proposed language opens up other options.

Dr. Lobo introduced an Addendum to the Final Express Terms of minor corrections and clarifications:

- Section 2105.3, mortar and grout tests, OSHPD 1R, 2, and 5. Strike “TMS 402 Section 7.4.4.2.2 for mortar,” and add “mortar and” and “respectively” so it would read “they shall meet the minimum strength requirement given in ASTM C270 Table 1 and ASTM C476/TMS 602 Section 2.2 for mortar and grout respectively.”
- Section 2105.3, mortar and grout tests, OSHPD 1R, 2, and 5. Strike “in accordance with Section 2105.5” so it would read “When the prism test method is used during construction, the tests in this section are not required.”
- Section 2107A.4, maximum bar size. Strike the entire paragraph. This amendment is withdrawn.

Questions or Comments from the Commissioners:

No comments were offered.

A brief recess was taken.

Questions or Comments from the Public:

- John Chrysler, Executive Director, Masonry Institute of America (MIA), spoke in opposition to the proposed changes. He stated the MIA has not received a response from OSHPD to public comments that were submitted in a timely fashion. He asked the Commission to follow the regulations contained in Health and Safety Code Section 18928.1. He stated it is also a violation of the nine-point criteria to duplicate provisions contained in the National Masonry Reference Standards. He disagreed that the provisions are not duplications. He noted that they are marked as being new in the Commission Action Matrix. He highlighted portions of his public comment submitted to OHSPD. He offered to work with the OHSPD and the DSA on the proposed changes.
- Ed Houston, Civil Construction Engineer, agreed with the previous speaker that the proposed changes should not be approved today to give additional time to receive public comment. He stated he has submitted comments but has not heard back from the OHSPD. He stated the anchor bolt sizes listed in paragraph 4 under 2106.1.1, anchor bolts, are not duplicative of the TMS 402, which provides methodologies for calculating sizes of anchor bolts. He stated he was baffled by the fact that this language is underlined as new language.
- Mr. Houston stated Section 2106.1.1 is the same language that is in TMS 402. He stated Section 2107.4, maximum bar size, has been debated in the TMS 402 at length and resolved. He stated the proposed changes would put the regulations out of sync with the National Masonry Reference Standards.

Questions or Comments from the Commissioners:

Chair Batjer asked about the difference between the A chapter and the main chapter. Also, there are some codes that are being talked about, both Mr. Chrysler and the gentleman that just called in, that I'm not sure they're in the proposed code change, or the codes that you're proceeding to change, if you could clarify that.

Mr. Tokas stated the A chapters historically incorporate national requirements dealing with hospitals and skilled nursing facilities. Skilled nursing facility requirements have now been moved into the non-A chapters; however, amendments for skilled nursing facilities in non-A chapters continue to be recognized as OSHPD 2 facilities. Those changes apply only to those occupancies. He stated the reason the language was underlined in the non-A chapters were to designate that those provisions were moved intact with no new language added. He stated today the statutory requirements in the Seismic Safety Act are being utilized for those special occupancies, which are different

from the statutory requirements in the CBC. He stated OSHPD would be happy to work with Mr. Chrysler and Mr. Houston.

Commissioner Patel asked if OSHPD's intent was to line up with national standards or keep the prescriptive requirement in the code.

Dr. Lobo stated the intent is to line up with national standards, but, if one line is taken out or duplicated, designers will be unable to follow through. He stated the OSHPD will work with TMS on alignment. When it reads approximately the same, the amendments will be dropped.

Vice Chair Winkel stated the question is, the individuals who are testifying against the proposal are saying that the duplications in the main chapters or the A chapters are confusing in the sense that the OSHPD may not know what to do. He stated, if the proposal is rejected, there will be gaps where California standards vary from the national standards.

Dr. Lobo stated the claims made by the individuals who are testifying against the proposal are not exactly true. He stated the need for the entire paragraph to be consistent. The proposed language is consistent with OHSPD 1, 2, and 3.

Mr. Chrysler stated the public comments he submitted were clear on duplicative language and, although it is true that sometimes a sentence is duplicative in another section of the TMS 402 document, there is another sentence which covers the entire duplicity. Saying one sentence constitutes duplicity in the paragraph is misleading.

Chair Batjer asked Mr. Chrysler to provide an example.

Dr. Lobo asked if Mr. Chrysler could be specific about how the proposal makes confusion as opposed to what was already there.

Mr. Chrysler stated the sixth paragraph in Section 2104.2.1 duplicates the national reference standard and conflicts with the nine-point criteria. He stated OSHPD's response was provision is the same as approved community colleges in Section 2114 of the A chapter. He stated, if that is the case, he would suggest incorporating Section 2114 in the OSHPD provisions. It would be easier for OSHPD to encapsulate everything in Chapter 21 rather than intersperse changes throughout the chapter, making it confusing for design professionals and users.

Vice Chair Winkel asked if the same duplication exists for the TMS standard for the current IBC.

Mr. Chrysler stated duplication has existed in Chapter 21 for several code cycles. He stated the problem is, if it is not a new provision, it is not on the table for discussion.

Commissioner Sasaki urged the OSHPD to work closely with stakeholders to get closer alignment where possible.

Motion: Chair Batjer entertained a motion to consider OSHPD's request for adoption and approval of amendment of the 2019 California Building Code, Part 2 of Title 24. Commissioner Sasaki moved adoption of the 2018 edition of the International Building Code with amendments for incorporation into Volume 2 of the 2019 California Building Code, Part 2 of Title 24, as amended. Commissioner Patel seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, Santillan, and Sasaki.

A brief recess was taken.

8d. Office of Statewide Health Planning and Development (OSHPD 06/18)

Proposed adoption of the 2018 edition of the International Existing Building Code with amendments for incorporation into the 2019 California Existing Building Code, Part 10 of Title 24.

Chair Batjer asked the OSHPD representatives to reintroduce themselves and give an overview.

Ms. Scaturro reviewed the proposed changes in Item 8d and summarized the timeline and stakeholder process to date. She stated the 34A chapters were moved into Chapters 3A, 4A, and 5A to better align with the IBCC, a description of how to achieve being removed from acute care services was added, and a consideration to employ the 2001 standards as opposed to current standards was included.

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or Comments from the Public:

No questions or comments from the public.

Motion: Chair Batjer entertained a motion to consider OSHPD's request for adoption and approval of amendments to the 2019 California Existing Building Code part 10 of Title 24. Vice Chair Winkel moved adoption of the 2018 edition of the International Existing Building Code with amendments for incorporation into the 2019 California Existing Building Code, Part 10 of Title 24, as presented. Commissioner Klausbruckner seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, and Sasaki.

9. Division of the State Architect – Structural Safety/Community Colleges

Chair Batjer stated we will move on to item 9a and asked the representatives from the Division of the State Architect to present the item.

9a.Division of the State Architect – Structural Safety/ Community Colleges

(DSA-SS/CC 01/18) Proposed adoption of amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24.

Jim Hackett, Principal Structural Engineer, DSA, reviewed the proposed changes in Item 9a and summarized the timeline and stakeholder process to date. He stated the most significant amendments include alignment of the application fees for K12 projects with the 2017 budget bill, which became effective in July of 2017. He stated the project inspector pool is aging; more needs to be done to promote individuals into the profession. The DSA convened a task force of stakeholders, who revised the eligibility criteria for project inspector certification examinations.

Questions or Comments from the Commissioners:

Commissioner Sasaki asked if the CEBC points to Section 4-309, reconstruction or alteration projects in excess of \$25,000 in cost, which contains an exception for fire damage repair that many design professionals are not aware of.

Mr. Hackett stated the DSA does not adopt similar provisions in the CEBC at this time.

Commissioner Sasaki recommended including the exception in Chapter 3 or 4 of the CEBC. Mr. Hackett agreed and stated the DSA is considering following along the lines of what the HCD talked about and incorporating some of these provisions into the CEBC.

Questions or Comments from the Public:

No questions or Comments from the Public.

Motion: Chair Batjer entertained a motion to consider the DSA's request for adoption and approval of the amendments to the 2019 California Administrative Code, Part 1 of Title 24. Commissioner Sasaki moved adoption of amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24, as presented. Commissioner Klausbruckner seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, and Sasaki.

9b.Division of the State Architect – Structural Safety/ Community Colleges

(DSA-SS/CC 02/18) Proposed adoption of the 2018 edition of the International Building Code with amendments for incorporation into the 2019 California Building Code, Part 2 of Title 24.

Chair Batjer stated we will move on to item 9b and asked the representatives from the Division of the State Architect to reintroduce themselves present the item.

Diane Gould, Supervising Structural Engineer, DSA, reviewed the proposed changes in Item 9b and summarized the timeline and stakeholder process to date. She stated the proposal seeks to carry forward existing amendments to align engineering requirements in the building code with revisions to national standards; align engineering requirements in the building code with support and anchoring requirements; clarify the requirements for testing; and clarify design requirements for buildings within inundation zones. She stated the DSA's goal is to continue to align amendments with the National Masonry Reference Standards and increase the number of DSA and OSHPD co-adopted amendments to reduce the number of separate amendments in the A chapters in order to minimize confusion.

Ms. Gould stated Sections 2-8, 13-16, and 14-23 were withdrawn during the public comment period and should be changed on the yellow Commission Action Matrix:

Questions or Comments from the Commissioners:

No questions or comments from the Commissioners.

Questions or Comments from the Public:

No questions or comments from the public.

Motion: Commissioner Patel moved adoption of the 2018 edition of the International Building Code with amendments for incorporation into the 2019 California Building Code, Part 2 of Title 24, as presented. Vice Chair Winkel seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Klausbruckner, Mikiten, Patel, and Sasaki.

Chair Batjer recessed the meeting at 4:20 p.m. and invited everyone to join the Commission for Day 2 of the meeting tomorrow morning at 9:00 a.m.

Wednesday, December 5, 2018

RECONVENE

Chair Batjer reconvened the meeting of the California Building Standards Commission (CBSC) at 9:15 a.m. at the California Victim Compensation Board, 400 R Street, First Floor Hearing Room, Sacramento, 95811.

ROLL CALL:

CBSC staff member Pamela Maeda called the roll and Secretary Batjer stated we have a quorum.

Commissioners Present:	Secretary Marybel Batjer, Chair
	Steven Winkel, Vice Chair
	Juvilyn Alegre
	Elley Klausbruckner
	Erick Mikiten
	Raj Patel
	Kent Sasaki

Commissioners Absent:	Larry Booth
	Peter Santillan

Chair Batjer gave the instructions regarding public comments and teleconferencing.

9. Division of the State Architect – Structural Safety/Community Colleges

Chair Batjer asked the representatives from the Division of the State Architect to present this agenda item.

9c. Division of the State Architect – Structural Safety/ Community Colleges

(DSA-SS/CC 05/18) Proposed adoption of the 2018 edition of the International Existing Building Code with amendments for incorporation into the 2019 California Existing Building Code, Part 10 of Title 24.

Jim Hackett, the Principal Structural Engineer for the Division of the State Architect (DSA) presented an overview of the most significant issues for Part 10. These included:

Relocation of Chapter 4 with the prescriptive compliance method. That was moved by the model code, International Building Code, into Chapter 5, so our amendment is to align ourselves with Chapter 5. There were a few provisions for the protection of wood and the exterior exposed elements and so made the amendment to align with a code adoption with the Building Standards Commission and HCD.

I think the most significant issue that occurred in Part 10 was Washington's adoption of a new nonstructural performance level that was to align with the ASCE4117, which is the updated version which is referenced now in the 2018 IBC. The new category was added to establish a nonstructural performance level for items that were not previously represented. That posed a life safety hazard or risk to life. So the process that we went through in terms of outreach go, as we mentioned yesterday, we've been outreach go to IAI co committees and also out reached to special engineer's association, existing buildings committee. Reached out in March and received comments back prior to completion of our initial package. We received no substantive comments from them at that time. We then held our public meeting on April 16th at DSA headquarters where we had a teleconference at our regional offices and then live to the rest of America. No public comments were made at that time. So onto the code advisory committees from the commission and we received, accepted as submitted for all of our sections except for the following, which were identified as short term further study. In our initial package we had initially intended to amend the model code sections 106.2.5 and 109.3.6. These had to do with the extra elevated elements and some of the definitions that are provided within there. In response to the CAC's comment and in accordance with the HCD and the building standard commission, these comments were withdrawn so that provisions are now the model code provisions. The second item that the CAC recommended we look at for short term further study for Sections 317.5 and Table 317.5. Again, in response to the advisory committee's comments that adopted this new for nonstructural elements may cause designs to be at a greater level than that which would be for a new construction. So we took a look at that provision and looked back into the ASCE41 and we concurred with the advisory committee. In the ASCE41.17, there's actually provision which caps the effect of that nonstructural category not to meet or exceed that for new construction. So we agreed with the committee's assessment and went forward with adding a footnote to the table 317.5 to clarify that and to align with ASCE41. Through the 45-day comment period there were no public comments that were received. We have received a signed standard 399 from Department Agency and Department of Finance and we have provided also a nine point criteria letter from the State Fire Marshal, which would be in your packet. So with that we request approval for the 2019 package.

Questions or Comments from the Commissioners:

Commissioner Winkel stated he wanted people to understand that the non-adoption of the state amendments is because the language is now contained in the model building code. It's not a diminution of the standards that we developed along with you and the other agencies, that it's really we had taken the language from the draft model code, it then went into the California amendments early and can be withdrawn now that's it's continue in the model code. Is that an accurate statement?

Ms. Gould confirmed that was correct and the language pertaining to those exterior elements would be adopted in the 2019 CBC. They are bringing forward model code

with no amendments. At that time, and during the certifying rulemaking to make the emergency provisions permanent, we had 45-day comment period and we received comments. But at that time we did not have sufficient time to address those comments then, so we started to try to address them as part of the cycle. We did a significant amount of work, but the end result was we withdrew any proposed amendments to that model code. But yes, it is not a diminution; it is just alignment, the same requirement as the national code.

Commissioner Sasaki provided the same comments he did yesterday about putting a pointer in Chapter 4 of the CEBC to let design professionals and users know that there are specific repair allowances that were requirements for DSA in Chapter 1.

Questions or Comments from the Public:

No members of the public addressed the Commission.

Motion: Chair Batjer entertained a motion to consider approval of the Department of the State's Architect request for adoption and approval of amendments to the 2019 California Existing Building Code, Part 10 of Title. Commissioner Sasaki moved approval of the amendments as presented. Vice Chair Winkel seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Alegre, Klausbruckner, Mikiten, Patel, and Sasaki.

9d.Division of the State Architect – Structural Safety/ Community Colleges

(DSA-SS/CC 06/18) Proposed adoption of amendments to the 2016 California Reference Standards Code, Part 12 of Title 24 for incorporation into the 2019 California Reference Standards Code, Part 12 of Title 24.

Mr. Hackett reviewed the proposed changes in Item 9d and summarized the timeline and stakeholder process to date. He stated the DSA is proposing to carry forward 2016 amendments with updates to current industry standards for earthquake-actuated automatic gas shutoff valves and excess flow actuated automatic gas shutoff valves and updating those to the current industry standards.

Mr. Hackett stated a public meeting was held on April 16 and no comments were made relating to these reference standards. At the code advisory committee meetings, we had approved as submitted on all but one of the sections that was sent for short term further study and that was to verify that we were actually referencing the most current standard for the excess flow actuated automatic gas shut off valves. Upon further study we concurred that we were not, so we therefore we have updated that reference to the most current standard. During the 45-day comment period there were no public comments received and again we have received our standard 399 signed by Department Agency, Department of Finance, as well as the signed letter from the State Fire Marshal. So with that, DSA is requesting the Commission's approval of the 2019 CRSC package.

A brief recess was taken.

Questions or Comments from the Commissioners:

No comments were offered.

Questions or Comments from the Public:

No members of the public addressed the Commission.

Motion: Chair Batjer entertained a motion to consider adoption and approval of the Department of State Architect's amendments to the 2019 California Referenced Standards Code, Part 12 of Title 24. Vice Chair Winkel moved approval of the amendments as presented. Commissioner Klausbruckner seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Alegre, Klausbruckner, Mikiten, Patel, and Sasaki.

10. California Building Standards Commission

Chair Batjer asked the representatives from the CBSC to present this agenda item.

10a. California Building Standards Commission (BSC 01/18). Proposed adoption of amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24.

Michael Nearman, Deputy Executive Director, CBSC, reviewed the proposed changes in Item 10a and summarized the timeline and stakeholder process to date. He stated the proposed additions, amendments, and deletions in Chapter 1 are being made primarily for editorial movements, appeals, petitions, emergency building standards regulations, changes without regulatory effect, and various other minor editorial amendments.

Within Chapter 1, Article 1, Abbreviations and Definitions had some minor amendments and modifications. We also amended Article 2 for application for the code advisory committee appointments. We looked into article 3, which deals with receiving and processing appeals and petitions, and we looked at the emergency petitions process as they are submitted by proposing state agencies.

The provisions were prepared and submitted to the Code Advisory Committee which met on July 31 and August 1, which was the building, fire and other committee. We received approvals submitted for all of the items that BSC was proposing. Following the Code Advisory Committee review and recommendations, BSC sent their administrative provisions out for a 45-day comment period which began on September 7 and ended on October 22. During that comment period, no public comments were received.

Questions or Comments from the Commissioners:

No comments were offered.

Questions or Comments from the Public:

No members of the public addressed the Commission.

Motion: Chair Batjer entertained a motion to consider CBSC's request for adoption and approval of amendments to the 2019 California Administrative Code, Part 1 of Title 24. Commissioner Sasaki moved approval as presented. Commissioner Mikiten seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Alegre, Klausbruckner, Mikiten, Patel, and Sasaki.

10b. California Building Standards Commission (BSC 02/18) Proposed adoption of the 2018 edition of the International Building Code with amendments for incorporation into the 2019 California Building Code, Part 2 of Title 24.

Gary Fabian, Associate Architect, CBSC, reviewed the proposed changes in Item 10b and summarized the timeline and stakeholder process to date. He stated the objective is to repeal by reference of the 2015 IBC, the 2016 CBC, and incorporate and adopt by reference in their place the 2018 IBC, including the proposed deletions, carry forwards, and additions for application and effectiveness into the 2019 CBC. He reviewed the addendum of two items that should have been extracted and replaced with model code for the EEE provisions.

Questions or Comments from the Commissioners:

No comments were offered.

Questions or Comments from the Public:

No members of the public addressed the Commission.

Motion: Chair Batjer entertained a motion to consider the CBSC's request for adoption and approval of amendments to the 2019 California Building Code, Part 2 of Title 24. Commissioner Mikiten moved approval as presented. Vice Chair Winkel seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Alegre, Klausbruckner, Mikiten, Patel, and Sasaki.

10c. California Building Standards Commission (BSC 05/18) Proposed adoption of the 2018 edition of the International Existing Building Code with amendments for incorporation into the 2019 California Existing Building Code, Part 10 of Title 24.

Mr. Fabian reviewed the proposed changes in Item 10c and summarized the timeline and stakeholder process to date. He stated the objective is to repeal and adopt by reference of the 2015 IEBC and a repeal of the 2016 CEBC and to incorporate and

adopt by reference in its place the 2018 IEBC, including the proposed deletions, carry forwards, and/or additions of California amendments per this package, all for application and effectiveness into the 2019 CEBC.

Mr. Fabian identified the BSE authority in Chapter 1 for gray water systems and an effort to align with other parts of Title 24. Number two, the repeal of EEE provisions allowing model text to replace the certified emergency text.

Questions or Comments from the Commissioners:

No comments were offered.

Questions or Comments from the Public:

No members of the public addressed the Commission.

Motion: Chair Batjer entertained a motion to consider CBSC's request for adoption and approval of amendments to the 2019 California Existing Building Code, Part 10 of Title 24. Vice Chair Winkel moved approval as presented. Commissioner Patel seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Alegre, Klausbruckner, Mikiten, Patel, and Sasaki.

STATE ADOPTING AGENCY RULEMAKINGS

Chair Batjer stated the commission will take action to approve, disapprove, or return for amendment with recommended changes based upon the proceedings by which the California Energy Commission (CEC) adopted the listed building standards. The commission will consider the state adopting agency's written analysis justifying the approval pursuant to Health and Safety Code Section 18930, and oral and/or written comment relative to the analysis received at this meeting. Upon approval, these building standards will be codified and published into the 2019 California Building Standards Code, Title 24, California Code of Regulations.

Chair Batjer stated the CEC is requesting approval that the rulemaking process they administered meets the intent of the Administrative Procedures Act and the building standards law and may be published into the 2019 edition of Title 24.

11. State Adopting Agency: California Energy Commission (CEC 02/18) Proposed approval of amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24 and proposed approval of amendments to the 2016 California Energy Code, Part 6, Title 24 for incorporation into the 2019 California Energy Code, Part 6 of Title 24.

Chair Batjer asked the representative from the CEC to present this agenda item.

Drew Bohan, Executive Director, CEC, reviewed the proposed changes in Item 11 and summarized the timeline and stakeholder process to date. He stated the new standards presented today will guide the construction of buildings that will continue to keep costs down, better withstand the impacts of climate change, and reduce gas emissions. Key features of the proposed new standards are as follows:

- Require high performance attics, walls, and windows to improve building insulation
- Require better air filters to improve air quality within homes
- Encourage demand responsive technologies, including battery storage and heat-pump water heaters
- Require solar photovoltaics (PV) on new residential single-family homes and multifamily buildings up to three stories high. He stated this update represents an important step for consumers and helps to achieve California's energy and climate goals.

Questions or Comments from the Commissioners:

Vice Chair Winkel stated this agenda item is different in that the Commission will review the process to determine whether the administrative procedures were properly done by the CEC in adopting these amendments. He asked if there were items where anyone questioned the procedural parts that were done in getting this adopted. Mr. Bohan stated he is unaware of anything like that.

Commissioner Klausbruckner asked for clarification that the amendments apply to new multifamily homes. Mr. Bohan stated it applies to new single-family homes and new multifamily homes of three stories or less.

Chair Batjer asked if the information on the hotline and FAQs will be posted in a visible place on the website. With the recent fires, many individuals are searching for ways to obtain benefits. Mr. Bohan stated the CEC is in the planning stages of redesigning the website. One component was to examine traffic, and the building standards have high traffic. Currently, the visibility of the hotline and FAQ information is adequate, and it will be made even clearer in the redesign.

Chair Batjer asked for an example of flexibility in the code. Mr. Bohan stated there are two broad ways to comply with the standards: the prescriptive method, which involves checking off measures that must be performed to be in compliance; and the performance appendix, which involves a suite of options builders can choose from to suit the situation. By design, the code allows flexibility for the second option.

Chair Batjer asked if the code includes financial flexibility in case of financial hardship. Mr. Bohan estimated that the initial cost of compliance will be approximately \$9,500, which is dominated by the solar photovoltaic requirement. Many builders use

agreements that allow homeowners to lease and make monthly payments for solar panels. The CEC continues to look for opportunities to accommodate homeowners.

A brief recess was taken.

Chair Batjer reminded everyone that the Commission is approving the process that the CEC undertook, not the content of the regulations.

Questions or Comments from the Public:

- Pierre Delforge, Director, Building Decarbonization, Natural Resources Defense Council (NRDC), spoke in support of the proposed standards.
- Mr. Raymer spoke in support of the proposed standards.

Commissioner Patel asked which solar power option would be best for a homeowner looking to rebuild.

Mr. Raymer stated homeowners will have three options to comply with these regulations: a purchase power agreement, solar lease program, or community solar option.

- Devon McCluse (phonetic), Tesla Solar, spoke in support of 2019 code update.
- Susanna Churchill, California Director, Vote Solar, spoke in support of the solar home tool.
- Kelly Knutsen, Director of Technology Advancement, California Solar and Storage Association, spoke in support of the proposed standards.
- Evelyn Butler, Senior Director, Codes and Standards, Solar Energy Industries Association, spoke in support of the 2019 standards as proposed.
- Joe Cain, Director, Codes and Standards, Solar Energy Industries Association, spoke in support of the proposed amendments.

Motion: Chair Batjer entertained a motion to consider the Energy Commission's request for approval of amendments to the 2016 California Administrative Code, Part 1 of Title 24 for incorporation into the 2019 California Administrative Code, Part 1 of Title 24 and proposed approval of amendments to the 2016 California Energy Code, Part 6, Title 24 for incorporation into the 2019 California Energy Code, Part 6 of Title 24 as presented. Commissioner Mikiten moved approval as presented. Vice Chair Winkel seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Alegre, Klausbruckner, Mikiten, Patel, and Sasaki.

A brief recess was taken.

12. California Energy Commission (CEC 01/18) Proposed approval of amendments to the 2016 California Green Building Standards Code, Part 11 of Title 24 for incorporation into the 2019 California Green Building Standards Code, Part 11 of Title 24.

Chair Batjer asked the representatives from the CEC to present this agenda item.

Ingrid Neumann, Energy Specialist, Building Standards Development, CEC, reviewed the proposed changes in Item 12 and summarized the timeline and stakeholder process to date.

Questions or Comments from the Commissioners:

No comments offered.

Questions or Comments from the Public:

- Mr. Cain commended staff for a good process and clever approach.

Motion: Commission Sasaki moved approval of amendments to the 2016 California Green Building Standards Code, Part 11 of Title 24 for incorporation into the 2019 California Green Building Standards Code, Part 11 of Title 24, as presented. Commissioner Mikiten seconded. Motion carried 6 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted “Yes”: Vice Chair Winkel and Commissioners Alegre, Klausbruckner, Mikiten, Patel, and Sasaki.

A lunch break was taken.

STATE PROPOSING AGENCY RULEMAKING

13. Division of the State Architect – Access (DSA-AC 01/18) Proposed adoption of the 2018 edition of the International Building Code with access amendments for incorporation into the 2019 California Building Code, Part 2 of Title 24.

Chair Batjer asked the representatives from the DSA to present this agenda item.

Ida Clair, Principal Architect, DSA, reviewed the proposed changes in Item 13 and summarized the timeline and stakeholder process to date. She requested that the DSA be permitted to present and discuss each topic as a group of related amendments as follows:

- Semantic changes to the language associated with public housing requirements
- New proposals being introduced into code for requirements for transfer showers
- New scoping and technical requirements for adult changing facilities

Derek Shaw, Senior Architect, DSA, stated the DSA is withdrawing Item 11B.16. He submitted the Requested Order of Presentations document of related, grouped

elements and the Request to Approve as Amended document for Commission review. He stated the Request to Approve as Amended document addresses only one paragraph of Item 11B.06 – Item 11B.233.3.1.2.5, multi-story dwelling units in buildings with no elevator – where only striking the words “public housing” left a grammatically incorrect sentence, and instead requests striking “in public housing facilities.” He stated other changes to 11B.06 will be discussed later in the presentation.

First Group of Related Amendments

Susan Moe, Senior Architect, DSA, presented the first group of related amendments – semantic changes to the language associated with public housing requirements. She introduced the code change proposals for Items 1.01, 11B.01, 11B.05, 11B.06, 11B.08, 11B.09, and 11B.10. She stated the majority of the proposals remove redundant language and align terminology with the 2010 ADA Standards. She stated Item 11B.09 clarifies that only five percent of units require alterations for accessibility compliance.

Ms. Clair requested discussing Item 11B.09 separately.

Questions or Comments from the Commissioners:

Commissioner Mikiten asked about accessibility requirements under division four of 11A. Ms. Moe stated, if an existing unit cannot be modified for full compliance with division four, an alternate unit must be constructed. Partial compliance is not allowed.

Commissioner Mikiten asked for clarification on whether the accessibility modifications possible must be done for remodeled units. Ms. Moe stated, unless it is requested by the tenant as reasonable accommodation, only five percent of the units must be fully accessible.

Commissioner Mikiten asked how reasonable accommodation is determined for remodeling vacant units. Ms. Moe stated no adaptable features are required to be added until a tenant moves in.

Commissioner Mikiten asked about the rationale for not requiring accessibility features at the time of renovation. New construction requires adaptability in all units as an investment and it seems sensible to require that of older building remodels. He suggested that the DSA look for opportunities to make older buildings adaptable in future code cycles.

Mr. Shaw stated this conversation appeared to be about Item 11B.09.

Vice Chair Winkel stated the concern that deleting the cross-reference on public housing for redundancy will confuse the applicable scope of projects for design professionals. Ms. Moe stated the public housing piece will be where design professionals will find it.

Questions or Comments from the Public:

- Ms. Reyes spoke in opposition to the proposed items due to the withdrawal of clarifications on public housing to prevent confusion and bring the code into compliance with long-standing federal mandates.
- Ms. D'Lil asked the Commission to address why items approved in the DSA public process and important for bringing the code into federal compliance were taken off the agenda.

Chair Batjer asked how the DSA wanted to proceed. Ms. Clair stated the DSA is committed to working with the HCD on the definition of public housing in the next code cycle. The DSA requested voting on only the first six items at this time.

Chair Batjer determined to take only one vote as agendaized.

Commissioner Mikiten asked the DSA to address the concerns about the unclear definition. Ms. Moe stated the current language regarding public housing is redundant. Instead of addressing the definition, the DSA has expanded its advisory manual and is looking into recording its public housing training as a series of webinars.

Item 11B.09

Mr. Sasaki stated the definition of structural repair is confused with the definition for alterations and suggested that the DSA separate those definitions.

- Mr. Thimesch spoke in support of the proposed amendment as it would make alterations more cost-effective.
- Mr. Bumbalov spoke in support of the proposed code Section 11B.233.3.4.3, alterations to residential dwelling units with adaptable features, for its merit in reducing ambiguity of accessibility provisions for existing residential buildings.

Commissioner Mikiten asked Mr. Bumbalov to leave his comments with the DSA staff.

- Ms. Reyes spoke in opposition to the proposed amendment. Removing references to adaptable units will affect noncompliant buildings constructed after 1991, which already present barriers to reasonable accommodation. She stated Disability Rights California appreciated the DSA and the HCD committing to address these items and requested that they do so in the next interim cycle rather than waiting for the next three-year cycle.
- Connie Arnold agreed with previous speakers' comments and stated the process has felt like an exercise in futility that it is pointless to participate in.
- Ms. D'Lil agreed with previous speakers' comments and recommended further work and clarification before approval.
- Richard Halloran, Retired Building Inspector, City and County of San Francisco, and member of the San Mateo County Commission on Disability Access, agreed

with Mr. Reyes's comments but stated the belief that that is a code enforcement issue. He stated the clarification is long overdue as it has been a source of confusion for years.

Ms. Moe stated the code change proposal addresses units constructed after 1991 by requiring that they be maintained in compliance with the accessibility standards of the time of construction.

A brief recess was taken.

Second Group of Related Amendments

Chair Batjer stated the DSA will now provide an overview of Items 11B.04; 11B.17; related items 11B.17.01 and 11B.17.02; 11B.18; related item 11B.18.01; 11B.19; 11B.21, and 11B.22.

Ms. Moe presented the second group of related amendments – new proposals being introduced into code for requirements for transfer showers. She referred to page 3 of the Final Express Terms and provided an overview of Item 11B.04, and stated the DSA is proposing to adopt the 2010 ADA Standards for all technical provisions.

Questions or Comments from the Commissioners:

Vice Chair Winkel asked for clarification that a transfer shower is an alternative to a bathtub, not an alternative to a roll-in shower. Ms. Moe stated that is correct. The requirements for roll-in showers remain the same.

Questions or Comments from the Public:

- Ms. Reyes spoke in support of Items 11B.21, 11B.14, and 11B.02. She asked the DSA to address the access code collaborative comments about directional curb ramps. She also expressed concern about the lack of requirements for roll-in showers in single-guest rooms.

Executive Director Marvelli stated Mr. Bumbalov's letter spoke in support of the shower proposal.

- Ms. D'Lil spoke in opposition to the proposal for the transfer-type shower due to the concern that transfer showers are a decrease in accessibility and a violation of state code.
- Eugene Lozano, California Council for the Blind, asked to defer the transfer shower proposal for further study to design a more universally-accessible shower.
- Mr. Halloran spoke in support of the amendments.
- Mr. Thimesch asked that a footnote regarding the dispersion requirement be added at 11B.224.5 if the Commission decided to approve.

Ms. Moe stated that is covered in a different section of the code. She stated the transfer shower proposal is in compliance with the Fair Housing Act and the 2010 ADA Standards.

Commissioner Mikiten asked about the two-inch threshold in transfer showers. Ms. Moe stated two inches is an exception for existing buildings where a half inch would cause structural difficulties. Otherwise, the required threshold is a half-inch, consistent with ADA standards.

Commissioner Mikiten suggested incorporating the footnote requested by Mr. Thimesch into the main text.

Chair Batjer asked about the curb and the four-inch sphere. Mr. Shaw stated current code requires a minimum of a two-inch curb or alternative barrier.

Vice Chair Winkel stated the figure for the new proposal should have a four-inch minimum. Mr. Shaw stated the ADA standards state a curb or barrier must not allow a four-inch sphere to pass within four inches of the ground surface of the ramp. A two-inch curb alone would not satisfy the standards.

Vice Chair Winkel disagreed with the interpretation of the intent of the language and stated four-inch high curbs seem to be an unintended consequence because they will not be any safer than two-inch curbs. He asked whether a four-inch curb is safer without considering a four-inch sphere. Mr. Shaw stated the DSA presumes it is a safer condition. Also, the illustration in the appendix was taken from the U.S. Access Board.

Third Group of Related Amendments

Mr. Shaw presented the third and final group of related amendments – new scoping and technical requirements for adult changing facilities. He provided an overview of Items 11B.12 and related items 11B.12.02, 11B.12.02, and 11B.12.03 regarding adult changing facilities in places of public amusement. He stated the DSA is only proposing scoping for new construction at this time, since the trigger date in the legislation is within the lifespan of the upcoming 2019 CBC.

Ms. Clair stated comments addressed regulations for mirrors, doubling as a family restroom, larger turning spaces, table weight, capacity, table dimension terminology, shelves and coat hooks, latches, and signage.

A brief recess was taken.

Questions or Comments from the Public:

- Mr. Thimesch provided feedback for the following items:
 - Support the pedestrian crossings item but suggest adding a footnote or comment that the prior code cycle still had an obligation to provide curb ramps

- Oppose Item 11B.13, vision lights in detention facilities
- Support the edge protection item but agree with previous speakers that the language is problematic
- Oppose Item 11B.20, shower controls – it is missing words and does not limit the types of controls
- Oppose Item 11B.23, pedestrian crossings – this should be in the DSA’s jurisdiction rather than giving in and diminishing code standards
- Oppose the adult changing table item – the DSA should concentrate on federal standards

Mr. Thimesch stated voting on the entire DSA package was a mistake considering the jurisdictional concerns.

- Mr. Lozano spoke in support of the proposals regarding pedestrian crossings, curb ramps, adult changing facilities, and pedestrian push buttons. He asked that the DSA look into sharing authority with the California Department of Transportation (Caltrans) to prevent the loss of the yellow band on pedestrian push buttons for individuals with low vision.
- Ms. D’Lil agreed with the previous speakers’ comments, especially regarding the yellow band. She asked the Commission to seriously consider restoring curb ramps to compliance so they will direct users safely. She requested that the Commission direct the DSA to create an emergency proposal to provide directional curb ramps rather than hazardous diagonal ones that shuttle users into traffic.

Vice Chair Winkel asked if the language about curb heights is intended to repeat the ADA standards or if there is more to it. Mr. Shaw stated the language reflects the ADA standards for accessible design to align closely with federal standards.

Commissioner Mikiten stated the design flexibility is part of what causes the confusion. Ms. Clair stated there is an opportunity to address clarity in the advisory manual.

Commissioner Mikiten asked why the shower control proposal only addresses on/off controls. Mr. Shaw stated any control in an accessible shower required by Item 11B will also need to comply. At a minimum, users need to be able to open and close the water supply without danger of scalding. He stated the proposed additional language for transfer shower compartments includes regulations regarding all controls, as does existing language in the CBC for showers currently allowed under Item 11B.

Commissioner Mikiten agreed with Mr. Lozano about expanding the adult changing facilities into other building types. He suggested calling them adult changing rooms to be more inclusive.

Vice Chair Winkel stated, regarding the curb refinements, the language should be the same as is in the ADA. He felt the item should stay in the package. He asked for more information on the yellow band and the DSA purview.

Mr. Shaw stated this is a question of the DSA's authority under the California statute. He stated Government Code gives the DSA the authority to address building, structures, sidewalks, curbs, and related facilities. However, traffic control devices are regulated by Caltrans. Legal counsel advised that the authority belongs to Caltrans.

Vice Chair Winkel asked if removing the technical refinements from the code will create a safety problem for individuals with visual impairments. Mr. Shaw stated it should not be much different from the inconsistent provision currently. While the DSA believes the CBC has authority over elements related to right-of-way, push buttons are a traffic control device and belong under the purview of Caltrans.

Commissioner Patel moved to adopt the DSA package for Agenda Item 13, including amendments to Items 11B.06 and 11B.12.02. Commissioner Sasaki seconded.

Commissioner Mikiten made a friendly amendment to address clearance in adult changing rooms, and include table dimension terminology that is consistent with other parts of the code. Ms. Barbu recommended giving the DSA time to evaluate whether that is a material change.

Mr. Shaw stated the belief that it was deemed a substantive change earlier. He suggested that the Commission wait for additional study and revision.

Chair Batjer stated study includes correcting errors in the paragraph.

Mr. Shaw stated the belief that this language is not inconsistent. He stated the DSA would be willing to study the language for a future code cycle, but Commissioner Mikiten's amendment is currently a material change.

Commissioner Mikiten withdrew his friendly amendment.

Vice Chair Winkel asked whether amending a motion on the floor or making an amendment that remands part of the proposal are orders rather than substantive changes. Ms. Barbu stated removing an item from Agenda Item 13 and voting on it separately is permissible, but it must be on a different motion.

Vice Chair Winkel asked if remanding an item for further study would cause that item to be dropped. Mr. Shaw stated all currently adopted model code and amendments to the model code would be carried forward absent specific changes to some portion of those elements.

Vice Chair Winkel proposed an amendment to the motion to send Item 11B.23, pedestrian traffic control buttons, back for further study. Ms. Barbu stated an item returned for further study must have a finding in writing that one of the nine-point criteria was not met.

Vice Chair Winkel stated Item 11B.23 violates criteria number two.

Chair Batjer asked Commissioners Patel and Sasaki if they would agree to Vice Chair Winkel's friendly amendment.

Commissioner Sasaki asked if the legal opinion came from Caltrans' counsel. Mr. Shaw stated the legal opinion came from the DSA's counsel.

Commissioner Sasaki asked if the DSA had consulted with Caltrans to confirm agreement since that could be a source of confusion. Mr. Shaw stated Caltrans previously indicated they do not believe the CBC applies to elements within the public right-of-way, whereas the DSA believes it does. The DSA has offered assistance in transitioning to a regulation similar to the CBC. Caltrans has existing regulations for push buttons, which do not include yellow bands but do include other visibility features.

Ms. Barbu recommended withdrawing the original motion and extending a new motion.

Commissioner Patel withdrew his original motion and moved to approve DSA's Agenda Item 13, including amendments to Item 11B.06 and 11B.12.02, and sending 11B.23 for further study. Vice Chair Winkel seconded the new motion.

Executive Director Marvelli asked to disapprove Item 11B.13 based on criteria number four.

Ms. Barbu recommended making separate motions for approval, disapproval, and study.

Commissioner Patel withdrew his motion and moved to send Item 11B.23 back for further study.

Mr. Shaw asked for written clarification on the issues the DSA will be directed to study.

Chair Batjer announced she would entertain a motion to consider DSA's request for adoption and approval of amendments to the 2019 California Building Code, part two of Title 24, seeing that there were a couple courses of action that we could take. We could take certain items out of agenda item 13 and vote on them separately and then vote on what is left that we have not taken out and voted on separately or vote on item 13 as a whole. We've had some suggestions of different items, both from the public comment here, as well as on the phones during the course of the afternoon. So I've conferred with counsel and Mia and we can take separate items out and vote on them separately, from just the one agenda item if anyone has that appetite or desire.

Motion: Commissioner Patel moved to take Item 11B.23 from the DSA Agenda Item 13 based on criteria number two of the nine-point criteria and send it back for further study. Vice Chair Winkel seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted "Yes": Vice Chair Winkel and Commissioners Alegre, Mikiten, Patel, and Sasaki.

Motion: Commissioner Mikiten moved to disapprove Item 11B.13 of the DSA Agenda Item 13 based on criteria number four of the nine-point criteria. Vice Chair Winkel seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted “Yes”: Vice Chair Winkel and Commissioners Alegre, Mikiten, Patel, and Sasaki.

Motion: Commissioner Patel moved adoption of the 2018 edition of the International Building Code with access amendments for incorporation into the 2019 California Building Code, Part 2 of Title 24, including the request to amend Items 11B.06 and 11B.12.02. Commissioner Mikiten seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted “Yes”: Vice Chair Winkel and Commissioners Alegre, Mikiten, Patel, and Sasaki.

14. Future Agenda Items

No future agenda items were offered.

Motion: Commissioner Sasaki moved to end the discussion of future agenda items. Commissioner Mikiten seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted “Yes”: Vice Chair Winkel and Commissioners Alegre, Mikiten, Patel, and Sasaki.

The next meeting of the BSC is scheduled for January 15-16, 2019.

15. Adjourn

Motion: Commissioner Sasaki moved to adjourn the meeting. Commissioner Mikiten seconded. Motion carried 5 yes, 0 no, and 0 abstain, per roll call vote as follows:

The following Commissioners voted “Yes”: Vice Chair Winkel and Commissioners Alegre, Mikiten, Patel, and Sasaki.

Chair Batjer adjourned the meeting at approximately 4:10 p.m.