

CALIFORNIA BUILDING STANDARDS COMMISSION  
MEETING MINUTES

January 19, 2016

**1. CALL TO ORDER**

Chair Batjer called the meeting to order at approximately 9:50 a.m., 400 R Street, First Floor Hearing Room, California Victim Compensation and Government Claims Board, Sacramento, California.

**ROLL CALL:**

Commissioners Present:

Secretary Marybel Batjer, Chair  
Steven Winkel, Vice Chair  
James Barthman  
Larry Booth  
Elley Klausbruckner  
Cheryl Roberts  
Kent Sasaki  
Rajesh Patel  
Pedro Santillan  
Erick Mikiten

Commissioners Absent:

D. Malcolm Carson

Commissioner Klausbruckner led the Commission in the Pledge of Allegiance.

**2. REVIEW/APPROVAL MEETING MINUTES - OCTOBER 21, 2015**

**MOTION:** Secretary Batjer entertained a motion to consider approving the meeting minutes from October 21, 2015.

Commissioner Barthman made a motion to approve, and it was seconded by Commissioner Santillan. **The vote was unanimous to accept the motion.**

**3. ADOPTING STATE AGENCY RULEMAKING**

**a) California Energy Commission (CEC 02/15)** Proposed approval of amendments to the California Administrative Code for incorporation into the 2016 California Administrative Code (California Code of Regulations, Title 24, Part 1), and proposed approval of amendments to the Energy Efficiency Standards incorporated into the 2016 California Energy Code (California Code of Regulations, Title 24, Part 6. The California Energy Commission approved these regulations at their October 16, 2015 California Energy meeting. Building Standards Law, Health & Safety Code 18930(b) requires the Building Standards Commission review the process by which the Energy Commission adopt building standards in compliance with the

Administrative Procedures Act and the Building Standards Law. The California Energy Commission is now requesting the Building Standards Commission's approval that the rulemaking process that they administered meets the intent of the Administrative Procedures Act and is ready for publication into Title 24.

The representatives for California Energy Commission (CEC) are Mazi Shirakh, project manager; Peter Strait; and Rebecca Westmore, assistant chief counsel for CEC. Mr. Shirakh stated that for the 2016 Building and Energy Standards adopted by the Energy Commission there were four guiding principles: (1) make significant progress towards the governor's Zero Net Energy (ZNE) goal for residential buildings by the year 2020 and nonresidential buildings by 2030, with the primary focus on residential buildings; (2) clarify and simplify the code; (3) establish a close collaboration with various stakeholders, including California Building Industry Association (CIBA) and labor; and (4) maintain the effective date of the standards in line with the rest of the Building Code. The ZNE goals for this cycle included several energy efficiency measures, which included: high-performance attics, high-performance walls, inclusion of tankless or instantaneous water heaters as the basis for the prescriptive and performance standards, and also taking advantage of the LED lighting technology by including high efficiency lighting and controls throughout the house. These four measures resulted in an energy savings of up to 28 percent for residential buildings. They also incorporated renewables, particularly photovoltaics, as a measure for meeting the ZNE goals. The nonresidential measures generally included aligning with ASHRAE 90.1 in order to keep up with the national standards.

Mr. Shirakh stated these measures would reduce electricity demand and help the state through the critical peak periods. In the first year, there will be a savings of more than 600 kilowatt hours of electricity, and throughout the life of the standards we can avoid 12 new 500 megawatt power plants. Effort was made to streamline the nonresidential lighting alterations. Also, software tools and residential/nonresidential compliance manuals were approved by the CEC last November.

Mr. Shirakh read a letter from Bob Raymer, CBIA, dated January 12, 2016 where Mr. Raymer apologized for not being present; however, he stated there is strong support from the CBIA and the California Business Properties Association (CBPA) for the approval of the Energy Commission's adoption of part 1 Administrative Code and part 6 Building and Energy Efficiency Standards and wanted to recognize the efforts of specific members of the CEC.

### **Questions or Comments from the Commissioners:**

Vice Chair Winkel questioned whether the compliance software development was on track for the adoption, to have the entire Title 24 set of codes to be adopted on January 1st.

Mr. Shirakh stated the CBECC-Res, which is the public domain software, was approved by CEC on November 12 and is ready for both residential and nonresidential. They will be updating and adding more capabilities to it as time goes on.

Commissioner Klausbruckner had a question in regards to the economic and fiscal impact

statement and asked if there is an assumed increased energy cost over the years for the consumers which is factored in.

Mr. Shirakh stated an average building will cost an additional \$2,700 in additional costs, which results on a life cycle cost basis of \$12 extra in additional mortgage costs. The energy savings will be more than that because those measures will reduce energy consumption of the building by \$28 per month, so an actual net savings to the homeowner.

Commissioner Klausbruckner asked how those numbers were calculated.

Mr. Shirakh stated they worked closely with CBIA on the measures by researching material costs, used various resources to estimate labor costs, and they compared the numbers and came within a few percent of each other.

Commissioner Klausbruckner clarified her question and asked how much are the consumers saving in energy costs from the utility companies and how is that calculated.

Bill Pennington, Senior Technical Advisor to the Energy Efficiency Division at CEC, stated that they have a top-notch economical staff that forecasts increases in electricity and natural gas costs. The costs are projected out in the future based on population increases, climatic changes, increase in production activity, and other economic parameters. It is reduced to a present value and compared to the cost of the measures.

Commissioner Klausbruckner asked if that information is available to the public.

Mr. Pennington confirmed that it was available and documented thoroughly in the docket for the Building Standards.

Commissioner Patel asked whether the utility costs are projected out for gas and electric costs increasing and decreasing or just generally.

Mr. Pennington stated the cost of natural gas is flat at the present time, so there is a limited growth projected currently.

Commissioner Patel asked whether the projected costs would be considered conservative.

Mr. Pennington stated CEC believes the costs would be correct rather than conservative; however, if there were unforeseen critical events that happen, it is expected there would be increases in the future.

Commissioner Mikiten asked whether the mechanical system shut-off controls are included for elevators and if there are any exceptions for BART elevators or public elevators that might have homeless people in it that might need the fan on continuously.

Mr. Pennington stated the language of the regulation specifies when the elevator is unoccupied, so if there was an occupant sensor that sensed there was someone in the elevator, then the lights and fan would remain on.

Commissioner Mikiten clarified his question to include when the elevator is used as a "restroom" and the elevator has no ventilation, then it becomes an unpleasant place for people wanting to use that elevator thereafter.

Mr. Pennington stated the elevator as installed has to have certain capabilities. If there was a need by the building owner to make modifications, they would be able to make those decisions after installation and during operation of the building.

Vice Chair Winkel asked whether the CD of standards provided to the Commissioners will include a table of contents and index when they are published.

Mr. Pennington stated the final version of the regulations will have a table of contents, but not an index.

Vice Chair Winkel suggested that the other codes have both a table of contents and an index to make it more user friendly.

#### **Questions or Comments from the Public:**

Jon McHugh, from McHugh Energy, stated he has been in support of the statewide utility codes and standards program during this proceeding and in support of Title 24, parts 1 and 6 amendments.

**MOTION:** Secretary Batjer entertained a motion to consider the Energy Commission's request for approval of their rulemaking proceedings. Commissioner Booth made a motion to approve, and it was seconded by Vice Chair Winkel. **The vote was unanimous to accept the motion.**

**b) California Energy Commission (CEC 01/15)** Proposed approval of amendments to the California Green Building Standards Code for incorporation into the 2016 California Green Building Standards Code (California Code of Regulations, Title 24, Part 11). As an adopting agency the California Energy Commission approved these regulations at their October 16, 2015 meeting. Building Standards Law, Health & Safety Code 18930(b), requires the Building Standards Commission review the process by which the Energy Commission adopt building standards in compliance with the Administrative Procedures Act and the Building Standards Law.

The California Energy Commission is now requesting the Building Standards Commission's approval that the rulemaking process that they administered meets the intent of the Administrative Procedures Act and is ready for publication into Title 24.

The representatives are Peter Strait, CEC supervisor; Mazi Shirakh; and Rebecca Westmore. Mr. Strait presented the adopted changes to Title 24, Part 11, specifically Appendices A4 and A5. He stated CEC had two goals in adopting changes to these appendices: (1) establish a voluntary energy design specification for local jurisdictions considering energy efficiency ordinances. They have added an option to use an energy design rating to show that the residential energy efficiency tiers have been met and added a new designation that local jurisdictions can use for ZNE design for residential buildings; (2) include Part 11 in the Commission's overall effort to improve the clarity language of the sections in the Building Code that the Energy Commission is responsible for. Both the residential and nonresidential appendices have been edited to improve the clarity and to achieve consistency with updates to the requirements of Part 6, including adding clarification of the statutory requirements for Energy Commission approval of local ordinances, removing obsolete prerequisites relating to residential lighting, and making minor corrections to improve the language.

Mr. Strait read a letter from Bob Raymer, CBIA, who stated in his absence he would respectfully request that CEC indicate the strong support of CBIA and CBPA for the approval of the Energy Commission's adoption of the Part 11 California Green Building Standards Code. Mr. Raymer continued that over the past three years, CEC staff has worked with industry and has addressed all of the raised issues and thanked CEC staff for their efforts on this project. Of significant interest to industry and other stakeholders during this update was the inclusion of the new ZNE proposal and the development of compliance software. Staff has provided interested parties with a timeline of the release of these compliance tools.

Vice Chair Winkel wanted confirmation that the compliance software is the same as the rest of the Part 6 software.

Mr. Strait confirmed that it is, and the compliance software development was on track for the adoption.

Commissioner Mikiten asked a question whether there are federal regulations that might be used as a model regarding 9 point criteria, number 7.

Mr. Strait stated that because these are voluntary appendices, there is no overlap with state and federal regulations, and they meet the criteria.

Commissioner Mikiten asked why alterations were removed from Section A4.204 and additions were left, specifically where it discussed possible preemptions for small projects and possible upcoming federal regulations.

Mr. Strait stated they found issues that arise if you attempt to apply Part 11 as a template to a local ordinance that would apply to alteration projects, because many alteration projects are appliance changeouts. There is a much higher chance that the ordinance would actually be preempted by a federal appliance regulation. Additions were retained because they are like new construction. Alterations were left out of these sections so as to not inadvertently lead local jurisdictions down an incorrect path, and feedback suggested the language was confusing.

Commissioner Sasaki asked whether the Energy Commission views repairs differently than alterations and additions.

Mr. Strait confirmed fundamentally they look at repairs differently in that a repair is an effort to return a system to an existing state rather than to improve that system.

Commissioner Sasaki asked whether in the Energy Code there is a definition of "repairs" in there.

Mr. Strait confirmed that there is.

Mr. Shirakh added that repairs do not trigger code; alterations do.

### **Questions or Comments from the Public:**

Jon McHugh, from McHugh Energy, stated he is in support of the changes that CEC has adopted for CALGreen, the ZNE tier; that it is well aligned with the State policy of all new homes being ZNE by the year 2020; and the inclusion of this ZNE tier in CALGreen allows, for the first time, a clear definition of what a ZNE home is.

**MOTION:** Secretary Batjer entertained a motion to consider the Energy Commission's request for approval of their rulemaking proceedings. Commissioner Mikiten made a motion to approve, and it was seconded by Commissioner Sasaki. **The vote was unanimous to accept the motion.**

**c) State Historical Building Safety Board (SHBSB 01/15)** Proposed approval of amendments to the California Historical Building Code for incorporation into the 2016 California Historical Building Code (California Code of Regulations, Title 24, Part 8). As an adopting agency the State Historical Building Safety Board approved these regulations at their January 7, 2016 board meeting. The Building Standards Law, Health & Safety Code 18930(b), requires the Building Standards Commission review the process by which the State Historical Building Safety Board adopt building standards for the compliance with the Administrative Procedures Act and the Building Standards Law. The State Historical Building Safety Board is now requesting the Building Standards Commission's approval that the rulemaking process that they administered meets the intent of the Administrative Procedures Act and is ready for publication into Title 24.

The representatives of the State Historical Building Safety Board (SHBSB) are Derek Shaw, Executive Director; and Dennis Corelis, Deputy State Architect. Mr. Shaw thanked the efforts of the SHBSB board for their voluntary service in the preservation and restoration of historical buildings in California. He stated the code change package carries forward the existing provisions of the California Historical Building Code with additional amendments. These amendments address safety issues and performance of historic structures and also make other nonsubstantive changes. The proposed amendments were discussed during SHBSB public meetings in 2014 and 2015 and were recently approved by the board. One public comment was received, and responsive changes were incorporated into the proposed amendments. During the 45-day public comment period, there were no comments received. The State Fire Marshal has approved these changes.

**Questions or Comments from the Commissioners:**

Vice Chair Winkel asked for language clarification dealing with the nonfire retardant finish materials in Item 6 in the Final Express Terms, "surfaced with an approved fire retardant," and whether that means gyp board or spray-on.

Mr. Shaw stated the finish could be applied in a few different ways, sprayed on or rolled on.

Commissioner Sasaki asked whether there has been any consideration to provide more outreach or information to local jurisdictions about when the State Historical Building Code is applicable and, if applicable, what can be done.

Mr. Shaw stated the issue of increasing outreach has not been addressed; however, if people have questions regarding the application of the Historical Code, he would serve as a conduit for connecting the questioner with the knowledgeable party for assistance.

Richard Conrad, former principal architect with DSA, stated the California Building Officials has published a commentary on the California Historical Building Code, which could be utilized as a tool to assist local jurisdictions in the appropriate application of the code.

Secretary Batjer asked whether it was a tool that was widely known.

Mr. Conrad stated the California Building Officials has advertised that it is available since last year.

**Questions or Comments from the Public:**

No questions or comments from the public.

**MOTION:** Secretary Batjer entertained a motion to consider the State Historical Building Safety Board's request for adoption of their proposed regulations for Part 8, 2016 California Historical Building Code. Commissioner Sasaki made a motion to approve, and it was seconded by Commissioner Booth. Commissioner Mikiten stated there was no 399 form in the packet; however, it was confirmed that it is now available. **The vote was unanimous to accept the motion.**

**4. DIVISION OF THE STATE ARCHITECT - STRUCTURAL SAFETY**

**a.) Division of the State Architect - Structural Safety (DSA-SS 01/14)** Proposed adoption of the 2014 edition of the National Electrical Code with amendments for incorporation into the 2016 California Electrical Code (California Code of Regulations, Title 24, Part 3). As a proposing agency, the Division of the State Architect - Structural Safety is requesting the Building Standards Commission approve the proposed regulation for publication into Title 24.

The representatives for Division of the State Architect (DSA) are James Hackett, Principal

Structural Engineer for the Codes and Standards Unit; and Jim Gibbons, Construction Supervisor.

Mr. Hackett stated DSA proposes to repeal the 2011 National Electric Code and adopt the 2014 National Electric Code as the 2016 California Electric Code, Part 3, Title 24. Their regulations are applicable to public elementary and secondary schools, community colleges, and to state-owned and state-leased buildings. The primary changes to the Electrical Code are as a result of the model code changes, and DSA has not created any new amendments to the 2014 edition of the National Electric Code; however, they are maintaining and rolling over administrative amendments that have been contained in previous versions, particularly Article 89. The Plumbing, Electrical, Mechanical and Energy Code Advisory Committee (CAC) recommended/approved as submitted last September. There were no public comments, objections, or recommendations received during the 45-day period. There is a signed Form 399 from the DGS fiscal officer, agency secretary, and Department of Finance, which should be available today. There is no fiscal impact to the state of California.

**Questions or Comments from the Commissioners:**

No questions or comments from the Commissioners.

**Questions or Comments from the Public:**

Tim McClintock, Regional Electrical Code Specialist at the National Fire Protection Association (NFPA), stated on behalf of NFPA, he is in support of updating the National Electrical Code to the 2014 edition and moving forward to provide California citizens with the appropriate level of safety. Furthermore, he stated NFPA does support the adoption of the 2014 NEC for all five state agencies.

**MOTION:** Secretary Batjer entertained a motion to consider the Division of the State Architect - Structural Safety's request for adoption of their proposed regulations for Part 3, 2016 California Electrical Code. Unidentified commissioner made a motion to approve, and it was seconded by Unidentified Commissioner. **The vote was unanimous to accept the motion.**

**b) Division of the State Architect - Structural Safety (DSA-SS 06/15)** Proposed adoption of the 2015 edition of the Uniform Mechanical Code with amendments for incorporation into the 2016 California Mechanical Code (California Code of Regulations, Title 24, Part 4). As a proposing agency, the Division of the State Architect - Structural Safety is requesting the Building Standards Commission approve the proposed regulation for publication into Title 24.

The representatives for DSA are James Hackett, Principal Structural Engineer for the Codes and Standards Unit; and Jim Gibbons, Construction Supervisor. Mr. Hackett stated DSA proposes to repeal the 2012 Uniform Mechanical Code (UMC) and adopt the 2015 Uniform Mechanical Code as the 2016 California Mechanical Code, Part 4, Title 24, of the California Code of Regulations. These regulations would be applicable to public elementary and secondary schools, community colleges, and the state-owned and state-leased essential service buildings. Model code had changes to them, but DSA is making note of amendments to the 2015 UMC; therefore, DSA is proposing to move forward with the 2015 UMC for the California Mechanical Code. They are carrying forward state amendments from the previous versions, Chapter 1, in particular, for the administrative regulations.



There are several amendments being carried forward through the material component chapters of the code as well. The Plumbing, Electrical, Mechanical and Energy Code Advisory Committee recommended/approved as submitted last September. There were no public comments, objections, or recommendations received during the 45-day period. There is a Form 399 submitted and signed by all parties. There is no fiscal impact to the state of California.

**Questions or Comments from the Commissioners:**

Secretary Batjer asked what a state-leased essential service building is.

Mr. Hackett explained that essential service facilities that under the DSA jurisdiction, such as Cal Fire and CHP, are state organizations that are under the direction of DSA from the building perspective.

Secretary Batjer asked whether they were listed as to who they are.

Mr. Hackett stated the essential service facilities usually know that they are under DSA's jurisdiction, that includes any buildings that are part of the emergency communications network and emergency response within California.

Vice Chair Winkel asked whether the lateral bracing requirements under the Mechanical Code and the essential services facilities are enforced under ASCE 7 or other structural provisions rather than the Mechanical Code.

Mr. Hackett confirmed that is correct.

**Questions or Comments from the Public:**

Mr. McClintock has the same comments of support as previously stated.

**MOTION:** Secretary Batjer entertained a motion to consider the Division of the State Architect - Structural Safety's request for adoption of their proposed regulations for Part 4, 2016 California Mechanical Code. Commissioner Klausbruckner made a motion to approve, and it was seconded by Commissioner Barthman. **The vote was unanimous to accept the motion.**

**c) Division of the State Architect - Structural Safety (DSA-SS 05/15)** Proposed adoption of the 2015 edition of the Uniform Plumbing Code with amendments for incorporation into the 2016 California Plumbing Code (California Code of Regulations, Title 24, Part 5). As a proposing agency, the Division of the State Architect - Structural Safety is requesting the Building Standards Commission approve the proposed regulations for publication into Title 24.

The representatives for DSA are Jim Gibbons, Construction Supervisor; and James Hackett, Principal Structural Engineer for the Codes and Standards Unit. Jim Gibbons stated DSA proposes to repeal the 2012 Uniform Plumbing Code and adopt the 2015 Uniform Plumbing Code as the 2016 California Plumbing Code, Part 5, Title 24, of the California Code of Regulations. These codes are applicable and DSA's function in supervising and also applying these codes are applicable to public elementary and secondary schools, community colleges, and state-owned or state-leased essential services buildings. The primary changes are the model code itself. DSA

has adopted several new amendments to the 2015 edition of the Uniform Plumbing Code relating to water conserving plumbing fixtures and fittings. In order to align the 2016 California Plumbing Code with the California Energy Commission, Title 224 of CCR, appliance efficiency regulations, and the CALGreen code and are being proposed by DSA - Structural Safety, including modifying metering faucets, shower heads, water closet flushometer valves, wash fountains, and kitchen faucets. The state administrative amendments contained in California Plumbing Code Chapter 1 and other previously adopted amendments within the code chapters are being carried forward, including some minor editorial changes. The Plumbing, Electrical, Mechanical and Energy Code Advisory Committee recommended approval as submitted September 2015. There were no public comments, objections, or recommendations received during the 45-day review period ending in November. There is a Form 399 submitted and signed by all parties. There is no fiscal impact to the state of California.

**Questions or Comments from the Commissioners:**

Vice Chair Winkel needed clarification on language in Note 7 and asked whether there was ever a time when DSA did not have authority over jurisdictions. He suggested improving the language to make it less confusing.

Mr. Hackett stated DSA is obligated to provide regulations for essential service facilities that are not DSA jurisdiction as well. For example, a local police and fire station must be under the same regulations; however, they're not regulated by DSA.

Vice Chair Winkel commented that the language probably needs to stay in.

Ms. Marvelli clarified the footnote is co-adopted by several agencies.

**Questions or Comments from the Public:**

Mr. McClintock has the same comments of support as previously stated.

**MOTION:** Secretary Batjer entertained a motion to consider the Division of the State Architect - Structural Safety's request for adoption of their proposed regulations for Part 5, 2016 California Plumbing Code. Commissioner Mikiten made a motion to approve, and it was seconded by Commissioner Roberts. **The vote was unanimous to accept the motion.**

**d) Division of the State Architect - Structural Safety (DSA-SS 07/15)** Proposed adoption of amendments to the California Green Building Standards Code for incorporation into the 2016 California Green Building Standards Code (California Code of Regulations, Title 24, Part 11). As a proposing agency, the Division of the State Architect - Structural Safety is requesting the Building Standards Commission approve the proposed regulation for publication into Title 24.

The representative for DSA is Dennis Corelis, Deputy State Architect; and Teresa Townsend, Senior Architect. Ms. Townsend stated the code change packets before them carries forward the existing provisions of the California Green Building Standards Code with additional amendments. These amendments are mostly editorial with one notable substantial change, which is to the section having to do with the construction waste management, which modifies the percentage from 50 percent to 65 percent for construction waste to be recycled or salvaged for reuse. The

proposed amendments were discussed and developed through the leadership of California Building Standards Commission at two public meetings, which included DSA stakeholders. There were no public comments received during the 45-day review period. The State Fire Marshal approved these changes. There is a Form 399 submitted and signed by all parties.

**Questions or Comments from the Commissioners:**

Commissioner Klausbruckner asked whether they will add a definition of "universal waste" to this section.

Ms. Townsend confirmed that is correct.

Commissioner Klausbruckner asked whether there has been a review of any conflicts between some of the definitions or examples of universal waste and compared it to hazardous material waste, such as aerosol and mercury.

Ms. Townsend stated this question was received last time before the 45-day period. Cal Recycle was present and provided their support, and it was resolved as no problem.

Enrique Rodriguez, California Building Standards Commission, clarified that in CALGreen there is a definition of what "universal waste" is comprised of.

Commissioner Klausbruckner wanted clarification that there were no conflicts between the disposal and the handling of this universal waste when compared to hazardous waste in any of the other health and safety codes.

Mr. Rodriguez confirmed that is his understanding.

**Questions or Comments from the Public:**

No questions or comments from the public outside of Mr. McClintock's standing comment of NFPA support.

**MOTION:** Secretary Batjer entertained a motion to consider the Division of the State Architect - Structural Safety's request for adoption of their proposed regulations for Part 11, 2016 California Green Standards Building Code. Commissioner Santillan made a motion to approve, and it was seconded by Commissioner Barthman. **The vote was unanimous to accept the motion.**

**6. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

**a) Department of Housing and Community Development (HCD 01/14)** Proposed adoption of the 2014 edition of the National Electrical Code with amendments for incorporation into the 2016 California Electrical Code (California Code of Regulations, Title 24, Part 3). As a proposing agency, the Department of Housing and Community Development staff is requesting the Building Standards Commission approve the proposed regulation for publication into Title 24.

The representatives for Department of Housing and Community Development (HCD) are Kyle

Krause, State Housing Law Program Manager, Division of Codes and Standards; Tom Martin, District Representative II, Division of Codes and Standards. Mr. Krause thanked the Commissioners, Commission staff, the Code Advisory Committee (CAC), stakeholders, and HCD staff for their efforts. HCD has received a letter of approval from the State Fire Marshal for all of HCD proposals presented today. Mr. Martin presented an overview of the 2016 California Electrical code package. He stated HCD's proposals are a result of review of the 2014 NEC, email requests for comments from stakeholders, and the September 9, 2015 CAC meeting. The proposal package has no significant changes. Their intent was to bring forth existing California amendments, evaluate and repeal any existing California amendments which are no longer necessary, and evaluate the four new articles to the 2014 NEC. The highlights of the package include: propose adoption of the 2014 NEC by reference into the 2016 Electrical Code; repeal the 2013 California Electrical Code. HCD conducted a 45-day public comment period from October 9, 2015 to November 23, 2015, and no public comments were received.

**Questions or Comments from the Commissioners:**

No questions or comments from the Commissioners.

**Questions or Comments from the Public:**

Mike Stone, West Coast representative for the National Electrical Manufacturers Association (NEMA) and the Vice Chair of the Plumbing, Electrical, Mechanical and Energy Code Advisory Committee for this code cycle. He stated he is speaking in support of the state agency's proposals and the Code Advisory Committee's recommendations to the BSC for adoption of the 2014 NEC and also the 2015 Uniform Plumbing Code and Uniform Mechanical Code. He thanked and commended the agency staff members who prepared the adoption package. He gave kudos to the BSC and state agency staff for keeping the amendments to the NEC to a minimum and appreciated the willingness to keep uniformity in model code adoption. He stated his testimony would be the same on agenda items 4, 6, 7, 8, 9 and asked that his support for these items be noted in the record.

**MOTION:** Secretary Batjer entertained a motion to consider the Department of Housing and Community Development's request for adoption of their proposed regulations for Part 3, 2016 California Electrical Code. Commissioner Patel made a motion to approve, and it was seconded by Commissioner Mikiten. **The vote was unanimous to accept the motion.**

**b) Department of Housing and Community Development (HCD 05/15)** Proposed adoption of the 2015 edition of the Uniform Mechanical Code with amendments for incorporation into the 2016 California Mechanical Code (California Code of Regulations, Title 24, Part 4). As a proposing agency, the Department of Housing and Community Development staff is requesting the Building Standards Commission approve the proposed regulations for publication into Title 24.

The representatives for Department of Housing and Community Development (HCD) are Kyle Krause, State Housing Law Program Manager, Division of Codes and Standards; Mark Foley, District Representative I, Division of Codes and Standards. Mr. Foley presented an overview of the 2016 California Mechanical Code proposal. He stated HCD's proposals are a result of review of the 2015 Uniform Mechanical Code (UMC), email requests for comments from stakeholders,

and the September 9, 2015 commission meeting. The proposal package has no significant changes. Their intent was to bring forward existing California amendments and evaluate and repeal any existing California amendments which are no longer necessary. The highlights of the package include: propose adoption of the 2015 UMC by reference into the 2016 California Mechanical Code and repeal the 2013 California Mechanical Code. HCD conducted a 45-day public comment period from October 9, 2015 to November 23, 2015, and no public comments were received.

**Questions or Comments from the Commissioners:**

No questions or comments from the Commissioners.

**Questions or Comments from the Public:**

Mr. McClintock and Mr. Stone have the same comments of support as previously stated.

**MOTION:** Secretary Batjer entertained a motion to consider the Department of Housing and Community Development's request for adoption of their proposed regulations for Part 4, 2016 California Mechanical Code. Commissioner Roberts made a motion to approve, and it was seconded by Commissioner Santillan. **The vote was unanimous to accept the motion.**

**c) Department of Housing and Community Development (HCD 06/15)** Proposed adoption of the 2015 edition of the Uniform Plumbing Code with amendments for incorporation into the 2016 California Plumbing Code (California Code of Regulations, Title 24, Part 5). As a proposing agency, the Department of Housing and Community Development is requesting the Building Standards Commission approve the proposed regulation for publication into Title 24.

The representatives for Department of Housing and Community Development (HCD) are Kyle Krause, State Housing Law Program Manager, Division of Codes and Standards; Beth Maynard, District Representative II, Division of Codes and Standards. Ms. Maynard presented an overview of the 2016 California Plumbing Code proposal. She stated HCD's proposals are a result of review of the 2015 Uniform Plumbing Code, two focus group meetings with stakeholders, and stakeholder comments. The proposal package has no significant changes. Their intent was to carry forward the California amendments and to repeal any existing unnecessary California amendments. Important changes of the package include: adopt the 2015 Uniform Plumbing Code, repeal the 2013 California Plumbing Code, clarifications for any existing amendments, editorial modifications, repeal of unnecessary existing amendments, and details for any new amendments. No comments were received from the 45-day public comment period; however, HCD's internal review of Table 610.3 and 702.1 determined that current amendments are unclear and confusing. HCD made necessary changes to these tables to provide consistency with the Mobilehome Parks Act and the regulations adopted by HCD governing mobile home parks and installations into the California Code of Regulations, Title 25. HCD then conducted a 15-day comment period, and no comments were received at that time. This information was omitted from the Commission's matrix.

**Questions or Comments from the Commissioners:**

No questions or comments from the Commissioners.

**Questions or Comments from the Public:**

Mr. McClintock and Mr. Stone have the same comments of support as previously stated.

**MOTION:** Secretary Batjer entertained a motion to consider the Department of Housing and Community Development's request for adoption of their proposed regulations for Part 5, 2016 California Plumbing Code. Commissioner Booth made a motion to approve, and it was seconded by Commissioner Patel. **The vote was unanimous to accept the motion.**

**d) Department of Housing and Community Development (HCD 07/15)** Proposed adoption of amendments to the California Green Building Standards Code for incorporation into the 2016 California Green Building Standards Code (California Code of Regulations, Title 24, Part 11). As a proposing agency, the Department of Housing and Community Development is requesting the Building Standards Commission approve the proposed regulations for publication into Title 24.

The representatives for Department of Housing and Community Development (HCD) are Kyle Krause, State Housing Law Program Manager, Division of Codes and Standards; Stoyan Bumbalov, District Representative II, Division of Codes and Standards.

Mr. Bumbalov presented an overview of the 2016 California Green Code proposal. He stated HCD's proposals are a result of review of the existing situations in the 2013 CALGreen, review and evaluation of CALGreen building standards and guidelines, two focus group meetings, supervisory meeting, stakeholders' comments, and recommendations. HCD also took into consideration two emergency standards adopted by the California Building Standard Commission as part of the 2013 CALGreen. HCD conducted a 45-day public comment period from October 9, 2015 to November 23, 2015, and one public comment in support of HCD's proposal was received during that time. There was no subsequent 15-day public comment period. The proposal package has no significant changes. It contains mostly clarifications and editorial modifications for consistency with other codes and regulations, adoption of new definitions for terms used in newly proposed language, a proposal to increase the percentage of low housing construction from 50 percent to 65 percent, moving the existing voluntary measure to mandatory, and a proposal to adopt Section 4.410.2 and Section A-4303.5.

**Questions or Comments from the Commissioners:**

No questions or comments from the Commissioners.

**Questions or Comments from the Public:**

Mr. McClintock and Mr. Stone have the same comments of support as previously stated.

**MOTION:** Secretary Batjer entertained a motion to consider the Department of Housing and Community Development's request for adoption of their proposed regulations for Part 11, 2016 California Green Building Standards Code. Commissioner Mikiten made a motion to approve, and it was seconded by Commissioner Klausbruckner. **The vote was unanimous to accept the motion.**

**e) Department of Housing and Community Development (HCD 04/15)** Proposed adoption of the 2015 edition of the International Existing Building Code with amendments for incorporation into the 2016 California Existing Building Code (California Code of Regulations, Title 24, Part 10). As a proposing agency, the Department of Housing and Community Development is requesting the Building Standards Commission approve the proposed regulation for publication into Title 24.

The representatives for Department of Housing and Community Development (HCD) are Kyle Krause, State Housing Law Program Manager, Division of Codes and Standards; Tom Martin, District Representative II, Division of Codes and Standards. Mr. Martin presented an overview of the 2016 California Existing Building Code proposal. He stated HCD's proposals are a result of review of the 2015 IEBC, a February 19, 2015 focus group meeting, requests for comments from stakeholders, and an August 12 and 13, 2015 CAC meeting. The proposal package has no significant regulatory changes. Their intent was to evaluate the 2015 IEBC, to bring forward existing California amendments from the 2013 CBC Chapter 34, evaluate and repeal any existing California amendments which are no longer necessary. The basic highlights of the package include: propose adoption of the 2015 IEBC by reference into the 2016 California Existing Building Code and bring forward existing California amendments from the CBC Chapter 34. HCD conducted a 45-day public comment period from September 11, 2015 to October 26, 2015, and no public comments were received during or after that period. HCD conducted a subsequent 15-day public comment period from December 10, 2015 to December 28, 2015 in which no comments were received during or after that period.

**Questions or Comments from the Commissioners:**

Commissioner Sasaki asked whether HCD considered providing some outreach or information to local agencies or jurisdictions about some of the HCD amendments, for example, Section 404.1.1 under the Repairs section, that when they are doing amendments to HCD amendments, that they consider whether or not they are contradicting state housing law.

Mr. Krause stated HCD is currently in the process of preparing an information bulletin that will be sent out to all jurisdictions and also give periodic code updates and code change presentations to various ICC chapters and other interested organizations. He stated he will add that information to their presentations.

Commissioner Klausbruckner stated in Section 1.1.7.3 there is a section on conflicts where it says you have to apply the most restrictive requirement. She asked for clarification on their website whether Section 1.1.7.3.1 should be an exception to avoid a conflict with Section 1.1.7.3

Mr. Krause stated this amendment is also proposed in other parts of Title 24 under HCD authority. It allows single-family dwellings to be constructed in accordance with either California residential code or the building code. It is up to the designer or builder to make that determination.

**Questions or Comments from the Public:**

Mr. McClintock and Mr. Stone have the same comments of support as previously stated.

**MOTION:** Secretary Batjer entertained a motion to consider the Department of Housing and Community Development's request for adoption of their proposed regulations for Part 10, 2016 California Existing Building Code. Commissioner Sasaki made a motion to approve, and it was seconded by Commissioner Barthman. **The vote was unanimous to accept the motion.**

### **13. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA**

Richard Skaff, Executive Director of Designing Accessible Communities, thanked the Commission for allowing the public comment period for items not on the agenda. He stated there are a number of items that occurred in previous adoptions by this body that relate to today that need to be addressed.

Patricia Barbosa, civil rights attorney, formally deputy attorney general and counsel to the BSC as well as the DSA. She is very familiar with how the process works. The issue of how DSA is proposing regulations that affect the ability of persons with disabilities to move in the public areas is of great importance. She stated that she believes the DSA has forgotten an important mandate, Government Code 4450, which states that we as a state want to ensure that buildings, sidewalks, public facilities, and other public accommodations were made "readily accessible to and useable by" persons with disabilities. Section 4450, the legislature said that DSA was mandated to propose regulations to ensure that 4450 would be accomplished. The beginning of that was with Title 24-2. The issue is that the disability community is hearing of the proposals after the fact. Under Government Code, any agency that is proposing regulations that will impact a certain portion of the population must notify them. It also has a requirement that if the regulations are complex, then they are required to meet with the affected population or persons of interest prior to the rulemaking, because by the time the proposed regulations go out, all you can do is object; you can't help form those issues and regulations. One of the important issues is this body as a commission is supposed to send back regulations that have not had meaningful participation by the persons of interest. If you change the definition of access, it is important to speak to the people who are affected by it. She implored the Commission to send back all of the regulations that DSA has put forward as not having meaningful participation by the persons most affected by these regulations.

HolLynn D'Lil, advocate for disability rights for 40 years. She stated she assisted in putting together the very first accessible standards in California for public accommodations, also for housing and historic buildings. She worked for the Department of Rehabilitation at that time and put together a coalition of 36 individuals and organizations to provide coordinated input on the development of those standards, and she has been working on preserving and improving them. She worked with HCD and worked to bring the housing code up to compliance with the 1988 Fair Housing Amendments Act, and she has worked with DSA on bringing our standards up to complying with what is required by the Americans with Disabilities Act. However, she stated she has been shut out from providing input since the current State Architect took office. Government Code 4450 states the State Architect must consult with organizations comprised of and representative of people with disabilities as he develops his access standards and access code changes also. There is also Government Code Section 11346.45, which says when you have a large and complex body of code, you must consult with those that are most impacted before publication. She stated many people are at this commission meeting today in protest because they have been shut out of the process. There was a meeting in May where Secretary Batjer and other department heads and directors were present, and it was discussed that they were not allowed to participate.



The group suggested that they could form a volunteer organization with people with disabilities selected from all over the state to be trained in reading and understanding the code and code adoption process so that the State Architect could go to this body to consult with before he puts out anything for publication. Also discussed at a meeting, while the State Architect was in the room, were concerns about the California Certified Access Specialist Program. They were not informed by the State Architect that regulation changes for CASP were going through right then that initiated in December 2014. Very few people were allowed to speak at that meeting for a brief time. Costs should not be a deciding factor on whether to make code changes. She stated the process should start over again, and this time include people with disabilities and have a dialogue with the State Architect and the director of HCD and other stakeholders so the problems can be worked out before we get to public hearing. This hearing is the last chance to stop the State Architect from shutting them out and violating Government Code 4450.

Mr. Skaff stated he was one of the people who briefly participated via phone at the meeting. There was an independent chair who was brought in to manage the meeting. Near the end of the meeting, there was a discussion on the electrical vehicle charging station requirements, he made the comment that DSA was mandated to create code that created an accessible-built environment. Mr. Skaff stated the State Architect responded that the state has a high mandate on environmental issues, and this was going to respond to environmental issues and we would have to take a secondary position on that. He agreed that persons of interest are being shut out. Logistically hearings are difficult to attend. There was 150 pages of code changes in 2013, and each of the hearings that DSA had in Sacramento, Oakland, and Los Angeles didn't discuss the same items. People have not been given the opportunity to become educated in this whole issue. He does not support this package.

Joseph Barry stated he is in firm opposition to the plan that does not include input for reasons stated previously, no lawsuits and no issues with accessibility. He questioned how a significant portion of the population is valued by not giving them access to places and making them feel excluded and unwelcome in society.

Connie Arnold, disability rights advocate for over 30 years and has been in a wheelchair since she was 6 years old. She stated she appreciates the efforts of the previous speakers who represent the interests of people with disabilities because of their extensive knowledge of disabled access codes in California. Access codes in California are stronger than the Americans with Disabilities Act. She has been participating in this process for many years, and she has never felt so much discrimination as in the past few years with the current State Architect, and she is watching the strong California access codes become broken down that decreases her ability to function in the community. She was also present in the meeting where the speaking time was limited to 1 minute and speakers were not allowed to finish. She relayed her discussion with the State Architect after the meeting where tempers flared. She stated she believes some of the state advisory committees are required to have input by persons with disabilities. They are there just to take input and then discount it. She agreed providing access to everybody costs money, but it is the right thing to do. There will not be full integration into the workplace unless there is an accessible environment. She would like to see the rejection of this complete package of code changes and go back and provide meaningful access to the process and teach people how to read the codes. She wants to see people with disabilities have access to everything everybody else in society has in terms of the built environment and in terms of civil rights.

Pam Scoggins stated she is in support of not taking access away from people with disabilities. She suggested someone with a disability who has experience in these matters be included in hearings.

Peter Mendoza stated he has been involved in disability rights for over 35 years. He stated he would like to see a seat at the table available for persons with disabilities, because lately it has been difficult to have opinions represented when it comes to the development of Title 24. He also was at the meeting regarding the proposed changes to the CASP program and wanted to give input, but he was never given the opportunity to speak. It is important when you develop code that you listen to the affected people. The proposed changes to restaurant seating, the accessible charging stations, and path of travel are very troubling. Leaving the path of travel to a building official causes two issues: (1) no consistent standard; (2) every person with a disability who travels needs to know what to expect and know code well enough to know how best to navigate and get around. The advisory committee needs to be reinstated, and the process needs to be opened up enough so, whether or not you are a code expert, you have the ability to fully participate. Also, the various methods that people participate in these meetings has to be truly accessible. He stated he would like an equal seat at the table available so that persons with disabilities can feel valued and respected. He asked for the Commission's feedback on what steps can be taken to open up the process to make it accessible for people with disabilities.

Fiona Hinze stated she will yield her time to another speaker.

Russell Rawlings, originally from Texas now residing in Sacramento, stated he understands the regional differences in access that exists in this country. He stated California has created a gold standard here on what it means for citizens with disabilities to be able to live and participate equitably in their communities; however, what is happening is an eroding of that, a destruction of it. He stated he does not want civil rights of people with disabilities to be taken away, so he suggested the State Architect and the commissioners take this matter very seriously. If the process continues to exclude people with disabilities, he encourages all of his allies here to go to their legislature and demand that the State Architect be recalled.

(Whereupon, a recess was taken.)

Chandra Livingston Blanks said she has brain aneurysms. She said she was disappointed to learn the DSA has eliminated the accessibility advisory committee. She said the program should be put back into effect so there is a board to listen to the disabled community. She's also disappointed the people in planning and development and code and enforcement don't have the knowledge to go in and say this is the definition of accessibility and to make hotels accessible to disabled people.

Vanessa Proe: "I'm disappointed that you're going against the ADA. I have water pills. I need to use the public bathroom wherever I go. You are going to get older and be in a wheelchair. We should have our say-so with somebody with a disability on the board."

Public Speaker says she agrees with everything that is being said by the folks in the audience. She said universal design is common sense.

Christy Rudder asked why the board is putting lobbyists before the people.

Public Speaker said the bottom line is, if you don't have access, you are excluded from society. He said his disappointment is profound. He said the State Architect is mandated to know the details of what is required in the code, and it's not going to be enforced. If you look at the history of accessibility, you notice one thing, 1969 California passed accessibility laws and there was six pages of regulations; they didn't get enforced. In 1982, there were 120 pages of regulations; they didn't get enforced. By then the feds had passed some federal regulations, and they didn't get enforced. So Section 504 of the Rehab Act got passed, and it wasn't enforced. Section 4459(a) says you can't reduce accessibility in the state of California. He said the latest group of regulations may be the tipping point. He said the laws are eroding disabled people's civil rights, and they won't continue to tolerate it forever. He asked them to reverse the trend and make meaningful changes.

Jim Cox said the handicapped parking spaces are quite a ways from buildings now and are frequently obstructed. He said his experience with the architects is they have no clue about ADA access and what is accessible. An example would be putting in ramps where flat access would have been sufficient. He said they want safe access.

Kristen Fitzgerald said she wishes they would appeal what is before the commission because it rolls back everything. She asked them to work with the disabled and not against them.

Nicole Sikes said the proposed accessibility measures are absurd. She said what would happen if she's unable to see her doctor because his office is not accessible. She asked them to consider the proposed measures before making a decision.

Ted Jackson, Community Organizing Director at California Foundation. They are a member organization. He has a program that helped a lot of the people get there. He believes they should reactivate the accessibility advisory committee. He said he's there to help organize, develop, and build that advisory committee.

Kristen Ansel was there to represent the youth that are disabled. She said she would like the commissioners to put themselves in their shoes and sit in a wheelchair for 24 hours and go around Sacramento and seeing the obstacles that the disabled face.

Tim Thimesch, civil rights attorney. He represents people with disabilities in court. He said today they are hearing from users of the product. He thinks it's important to hear what the disabled have to say. He stated the code needs to be certified by the Department of Justice. He asked them to send the regulations back.

Dolores Tejada, Community Resources for Independent Living. She feels it's an injustice that the disabled are having to fight for so many years. She feels it's the job of the State Architect to uphold standards and to be progressive in that work, and it doesn't speak well of the work he's doing. A lack of accessibility discriminates and decreases community participation. She is asking to reinstate the accessibility advisory committee and requiring that the standards be approved by the commission before they move forward to being passed. She's also asking that they not move forward with the proposed plan.

(Whereupon, a recess was taken.)

Craig Yates said he agrees with everyone at the meeting. He said nothing should be changed. Everything should be kept in place.

Dawn Anderson, architect, on the Access Advisory Committee for the Building Standards Commission. She said more public interaction should have been manifested to create the regulations. She also said she does not believe the vehicle charging system was fully vetted. Knowing that California is moving forward with new language that may be interpreted as superseding model code, which is ADA standards, she feels that the issue should be properly vetted so there is no ambiguity or confusion by landowners, by jurisdictions that enforce these regulations, and by architects that need to interpret these regulations. She encouraged the commission to disapprove accessibility amendments, especially electrical vehicle charging stations.

Evan LeVang, director of Disability Action Center. They are a nonprofit that provides services and advocacies for people with disabilities. They brought a busload of citizens to the meeting. They speak for a great many people that couldn't make it. He asked the commission to reject the amendments and reinstate a disability advisory committee and do their utmost to make sure access is not reduced and is expanded.

Teresa Oliver, volunteer at the Disability Action Center. She said she backs up what Ted Jackson said.

Ana Acton, Executive Director, at FREED Center for Independent Living. She would like to extend the offer of working with them in putting together a viable, strong disability action commission. She believes if they work together, including all disabled people with a variety of disabilities, they would have much stronger outcomes and proposals for regulations that will be more meaningful.

Chair Batjer said they will start on 5 a) tomorrow.

**MOTION:** Chair Batjer asked for a motion to continue the meeting to tomorrow, and it was seconded by an unidentified person.