

**EXPRESS TERMS
FOR
PROPOSED ADMINISTRATIVE REGULATIONS OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION (CBSC)
IN CHAPTER 1, OF PART 1, THE CALIFORNIA ADMINISTRATIVE CODE,
OF TITLE 24, CALIFORNIA CODE OF REGULATIONS (CCR)**

Legend for Express Terms:

- 1. Proposed New Code Language:** Proposed new code language and amendments to the current code language will appear underlined.
- 2. Proposed Code Language Deletions:** Current code language proposed for deletion will appear in ~~strikeout~~.
3. Preceding each section a statement is provided to clarification the proposed action, such as the renumbering or relocating of sections and subsections. These statements are non-regulatory and will not appear in the adopted regulations. Example: *[Relocate Section 1-900 and renumber as Section 1-103, and amend as follows.]*

ARTICLE 1-4

GENERAL

[Amend existing Section 1-101 to read as follows.]

1-101. Abbreviations. The following abbreviations shall apply to Title 24, California Code of Regulations. Abbreviations may also be provided in each of the other eleven Parts of Title 24. Whenever an abbreviation provided in this section conflicts with an abbreviation provided within another Part of Title 24, the abbreviation meaning provided in the other Part shall prevail within that Part.

AGR	Department of Food and Agriculture (<u>see Note</u>)
BSC	<u>Identifies code provisions by the Building Standards Commission (see Note)</u>
CA	Department of Consumer Affairs (<u>see Note</u>)
CBC	California Building Code (<u>Part 2 of Title 24</u>)
CCR	California Code of Regulations
CEC	California Electrical Code (<u>Part 3 of Title 24</u>)
CEC	California Energy Commission (<u>see Note</u>)
CMC	California Mechanical Code (<u>Part 4 of Title 24</u>)
CPC	California Plumbing Code (<u>Part 5 of Title 24</u>)
COMMISSION	California Building Standards Commission
<u>CRC</u>	<u>California Residential Code (Part 2.5 of Title 24)</u>
<u>CRSC</u>	<u>California Reference Standards Code (Part 12 of Title 24)</u>
CSA	<u>Identifies code provisions by the Corrections Standards Authority (see Note)</u>
DHS	Department of Health Services
<u>DPH</u>	<u>Identifies code provisions by the Department of Public Health (see Note)</u>

<u>DWR</u>	<u>Identifies code provisions by the Department of Water Resources (see Note)</u>
<u>DSA</u>	<u>Division of the State Architect, a division within the Department of General Services</u>
<u>DSA/ _SS</u>	<u>Identifies code provisions by the Division of the State Architect- Structural Safety (see Note)</u>
<u>DSA/ -SS/CC</u>	<u>Identifies provisions by the Division of the State Architect- Structural Safety, applicable to community colleges as specified.</u>
<u>DSA/ _AC</u>	<u>Identifies code provisions by the Division of the State Architect- Access Compliance (see Note)</u>
DOE	Department of Education
DOT	Department of Transportation
ENFORCING AGENCY—The designated agency, board, commission, department, division, office or individual responsible for the enforcing of building standards	
HCD	Department of Housing and Community Development
<u>HCD 1</u>	<u>Identifies code provisions by the HCD (see Note)</u>
<u>HCD 2</u>	<u>Identifies code provisions by the HCD (see Note)</u>
<u>HCD 1AC</u>	<u>Identifies code provisions by the HCD (see Note)</u>
<u>IBC</u>	<u>International Building Code</u>
<u>IFC</u>	<u>International Fire Code</u>
<u>IEBC</u>	<u>International Existing Building Code</u>
<u>IRC</u>	<u>International Residential Code</u>
<u>NEC@—</u>	<u>National Electrical Code</u>
NFPA	National Fire Protection Association
OHP	Office of Historical Preservation
OSHPD	Office of Statewide Health Planning and Development
<u>OSHPD 1</u>	<u>Identifies code provisions by OSHPD (see Note)</u>
<u>OSHPD 2</u>	<u>Identifies code provisions by OSHPD (see Note)</u>
<u>OSHPD 3</u>	<u>Identifies code provisions by OSHPD (see Note)</u>
<u>OSHPD 4</u>	<u>Identifies code provisions by OSHPD (see Note)</u>
PUBLIC UTILILITY—California Public Utilities Commission (PUC); or which would otherwise be regulated by the PUC but are exempted by municipal charter.	
SBR—	State Building Regulations
SFM	<u>Identifies code provisions by the Office of the State Fire Marshal</u> <u>(see Note)</u>

SHB	State Historical <u>Building Safety</u> Board
SL	<u>Identifies code provisions by the State Library (see Note)</u>
SLC	<u>Identifies code provisions by the State Land Commission (see Note)</u>
SRSC	State Reference Standards Code
UBC™	Uniform Building Code ®; <u>the UBC is no longer published or adopted in the current edition of Title 24.</u>
UBC STDS	Uniform Building Code Standards; <u>the UBC STDS is no longer published or adopted in the current edition of Title 24.</u>
UFC	Uniform Fire Code; <u>the UFC is no longer published or adopted in the current edition of Title 24.</u>
UHC	Uniform Housing Code; <u>adopted by HCD in Chapter 1 of Title 25.</u>
UMC	Uniform Mechanical Code
UPC	Uniform Plumbing Code
YA	Department of Youth Authority

Note: For information regarding the code provisions adopted by this state agency and the application of such adoptions, see Chapter 1 of the California Building Code in Part 2 of Title 24, California Code of Regulations.

[Relocate Section 1-900 into new Section 1-103, and amend as follows.]

1-900-103. Definitions. ~~The following definitions govern the interpretation of this article shall apply to this Chapter 1, of Part 1, of Title 24, California Code of Regulations. Definitions may also be provided in each of the other eleven Parts of Title 24. Whenever a definition provided in this section conflicts with a definition provided within another Part of Title 24, the definition provided in the other Part shall prevail within that Part. Additional definitions are provided in Article 5 of this chapter.~~

(a) **ADOPTING AGENCY** (or state adopting agency). An agency of state government with authority in law to develop and adopt building standards for approval and publication in Title 24, California Code of Regulations, by the Commission. An adopting agency has authority to conduct public hearings aside from the public hearings conducted by the Commission. See Proposing Agency.

(b) **APPEAL.** An appeal to the Commission, as provided and limited by Health and Safety Code Sections 18945 through 19849, by any person adversely affected by the application of an existing building standard or administrative regulation in Title 24, by a state agency or local agency. See Petition.

(c) **CALGreen.** The California Green Building Standards in Part 11 of Title 24, California Code of Regulations.

(d) **"CHALLENGE"**. ~~means a~~ A written public comment received during a written public comment period and directed at a proposed change or a code advisory committee recommendation or the procedures followed by the Commission in proposing or adopting the action.

~~(b) (e)~~ **"CODE advisory committee ADVISORY COMMITTEE"**. ~~means an~~ An advisory panel or body appointed to advise the Commission with respect to building standards as authorized by Health and Safety Code Section 18927.

~~(e) (f)~~ **"CODE change" CHANGE.** ~~means a~~ A proposed change to, or addition of, a building standard as defined in Health and Safety Code Section 18909, or administrative regulation of Title 24.

~~(d)~~ (g) "~~CODE change submittal~~" **CHANGE SUBMITTAL**. means a A proposed code change for Title 24 and its justification submitted to the Commission by a proposing agency.

~~(e)~~ (h) "**COMMISSION**". means ~~the~~ The California Building Standards Commission established under Health and Safety Code, Division 13, Part 2.5, commencing with Section 18901.

(i) **ENFORCING AGENCY** (or Enforcement Agency). An agency, board, commission, department, division, office or individual assigned by law or ordinance as being responsible for the enforcement of building standards.

~~(f)~~ (j) "**EXECUTIVE DIRECTOR**". means ~~the~~ The Chief Executive appointed by the California Building Standards Commission pursuant to Health and Safety Code Section 18925, to carry out the duties assigned by the California Building Standards Commission as designated in Health and Safety Code, Division 13, Part 2.5, commencing with Section 18901.

~~(g)~~ (k) "**JUSTIFICATION**". means ~~an~~ An initial statement of reason and the information needed to complete a notice of proposed action, including a determination as to the effect of the code change on housing costs.

(l) **PETITION**. A written submittal to the Commission by any person for the purpose of proposing a new building standard or administrative regulation in Title 24, or the amendment or repeal of an existing building standard or administrative regulation in Title 24.

~~(h)~~(m) "**PROPOSING agency**" **AGENCY** (or state proposing agency). means a A state agency having authority and responsibility to propose a building standard for adoption by the Commission and publication in Title 24, California Code of Regulations. A proposing agency does not have authority to conduct public hearings for the adoption of building standards. See Adopting Agency.

(n) **PUBLIC UTILITY**. The California Public Utilities Commission (PUC); or which would otherwise be regulated by the PUC but are exempted by municipal charter.

~~(i)~~ (o) "~~SPECIAL code advisory committee~~" **CODE ADVISORY COMMITTEE**. means ~~an~~ An ad hoc committee established by the Commission under the authority of Health and Safety Code Section 18927, when necessary, to advise the Commission on a subject in the code needing extensive revision or on a complex subject which needs to be regulated or to perform a review of a proposed code change that warrants special technical review.

~~(j)~~(p) "**TECHNICAL review REVIEW**". means a A review of a proposed code change and its justification conducted pursuant to Health and Safety Code Section 18930(c), (d), (e), (f) to ensure that a code change is justified in terms of the nine-point criteria of Health and Safety Code Section 18930(a), the nine-point criteria.

(q) **TITLE 24**. The 24th title within the California Code of Regulations. Title 24 is reserved for building standards and administrative regulations to implement building standards approved and published by the California Building Standards Commission.

Authority: Government Code 11000, and Health and Safety Code ~~Section~~ Sections 18929.1, 18931(f), and 18949.6.

Reference: Government Code 11000, and Health and Safety Code ~~Section 18934(d)~~ Sections 18927, 18929-18932, 18934, 18935, 18936, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6.

[Renumber Article 1-2 as Article 2, and amend the title as follows.]

ARTICLE 1-2

DUTIES AND RESPONSIBILITIES OF THE BUILDING STANDARDS COMMISSION, AND THE EXECUTIVE DIRECTOR, COMMISSION PERSONNEL AND RESOURCES

[Amend Section 1-201 as follows.]

1-201.

(a) **Commission Duties.** The Commission shall perform all functions relating to the adoption and publication of the California Building Standards Code in Title 24 of the California Code of Regulations prescribed by the California Building Standards Law in Health and Safety Code, Division 13, Part 2.5, commencing with Section 18901 ~~may hear argument(s), based upon the record of the Proceedings of the Adopting Agency.~~

(b) **Executive Director Duties and responsibilities of the executive director.** The Executive Director, ~~shall be the Chief Executive of the State Building Standards Commission,~~ and shall be the primary individual responsible for implementing the will of the Commission, and shall have the authority to:

1. Recommend to the Commission, policies under which the office of the Commission will operate.
2. Interpret and implement the policies of the Commission.
3. Provide the administrative direction for the day-to-day work of the Commission.
4. Manage the technical and support staff of the Commission.
5. Represent the Commission to the Legislature.
6. Review and approve or disapprove agencies' public notices ~~of hearings~~ for proposed building standards per Sections 11346.4 and 11346.5 of the ~~government~~ Government Code.
7. Ensure that ~~Agencies state~~ agencies comply with Section 18930 of the Health and Safety Code and Sections 11342 through 11446 (as required) of the ~~government~~ Government Code, when adopting building standards, prior to submission to the Commission.
8. Negotiate and execute contractual agreements necessary to carry out the mission of the Commission.
9. Manage the Commission's ~~appeals appeal and petition process~~ processes.
10. Represent the Commission to all levels of state and local government, and with the private sector.
11. Perform other duties as required by the Commission and state statutes(s).

Authority: Health and Safety Code Section 18931

Reference: Health and Safety Code Sections 18925 and 18931

[Add new Section 1-203 as follows.]

1-203. Development of Standards

The commission shall adopt, approve, codify, update, and publish green building standards for occupancies that are not under the explicit authority of another state agency. The commission also may review and comment on proposals and proposed standards developed by other agencies in order to reduce or eliminate ambiguities or conflicts.

A list of agencies with specific authority to adopt or propose building standards to the commission includes the list of agencies identified in Title 24, Part 2, the California Building Code, Chapter 1, Division 1, Section 1.1 et al. The commission shall work with these agencies to coordinate the adoption of green building standards for residential and non-residential occupancies.

(a) In developing green building standards, the commission shall consult with the state entities it finds to be appropriate for specific standards including but not limited to the following State agencies:

1. Department of Resources Recycling and Recovery.
2. The California Energy Resources Conservation and Development Commission.
3. The California Air Resources Board.
4. The California Department of Water Resources.
5. The California Department of Transportation.
6. The California Department of General Services.
7. The California Department of Public Health.
8. Office of State Fire Marshal

(b) The Commission also shall consult with representatives from each of the following:

1. Environmental advocacy groups.

2. Interested local government and code enforcement entities.
3. The building construction and design industry.
4. Interested public parties.

(c) The commission may consult with and seek input from the entities and representatives identified in subsections (c) and (d) either by written comment or in a meeting format and shall consider all input provided during the development of the green building standards which is relevant to specific standards. The commission shall provide written responses to formal comments received during the public comment period for any proposed green building standards.

Authority: Health and Safety Code §§18909(c), 18929, 18930.5, 18931.6 and 18931.7

Reference(s): Health and Safety Code §§ 18930.5, 18931.6, and 18931.7

[Repeal the number and title for Article 1-7.]

ARTICLE 1-7

CONFLICT OF INTEREST CODE

[Relocate Section 1-701 into new Section 1-205, and amend as follows.]

1-701-1-205. Conflict of Interest Disclosure.

(a) The Political Reform Act, specifically Government Code Section 87306, requires state and local governmental agencies to promulgate and adopt Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, Title 2, California Code of Regulations, Section 18730, containing the terms of standard Conflict of Interest Code, that can be incorporated by reference, and that may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of Title 2, California Code of Regulations, Section 18730, and amendments thereto, duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Building Standards Commission.

Designated employees shall file statements of economic interest with the Commission. Upon receipt of the statements of the Commission members, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements of other designated employees are retained by the agency; no copies are forwarded to the Fair Political Practices Commission.

(b) Designated Employee and Disclosure Category

Designated Positions	Disclosure Category
Chair of the Commission	1
Commissioners	1
Executive Director	1

Deputy Executive Director	1
Staff Services Manager I	2, 3
Senior Architect	1
Associate Architect	1
Architectural Associate	1
Codes and Standards Administrator III	1
Associate Construction Analyst	1
Associate Governmental Program Analyst	3
Contracts Analyst (Administrative Staff Services Analyst)	2
Consultants	*

* Consultants shall be included in the list of designated positions and shall disclose pursuant to the disclosure requirements in this conflict-of-interest code subject to the following limitation:

The Executive director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of interest code.

[Relocate Section 1-702 into new Section 1-207.]

1-~~702~~ 207 Disclosure Categories

(a) Disclosure Category 1:

Individuals holding positions assigned to Disclosure Category 1 must report interests in real property located with the State of California; all investments and business positions in business entities, and income, including gifts, loans, and travel payments, from all sources.

(b) Disclosure Category 2:

Individuals holding positions assigned to Disclosure Category 2 must report investments and business positions in business entities, and income, including gifts, loans, and travel payments, from sources, of the type that are required to adhere to architectural and structural construction and building standards reviewed and approved by the Commission.

(c) Disclosure Category 3:

Individuals holding positions assigned to Disclosure Category 3 must report investments and business positions in business entities, and income, including gifts, loans, and travel payments, from sources, of the type to provide services and goods used by the Commission.

Authority: Health & Safety Code §18909(f) and Government Code §§82019 and 87306.

Reference: Health and Safety Code §18909(f) and Government Code §§82019 and 87306.

[Relocate Section 1-902 into new Section 1-209, and amend as follows.]

1-~~902~~ 209. Code advisory committee(s).

(a) **Standing code advisory committees.** The Commission shall establish the following standing code advisory committees.

1. Accessibility
2. Plumbing, Electrical, Mechanical, and Energy
3. Building, Fire, and Other Regulations
4. Structural Design/Lateral Forces
5. Health Facilities
6. Green Building

(b) **Special code advisory committee.** The Commission may establish one or more special code advisory committees when it determines that a subject in the code needs to be extensively revised or that a complex subject needs to be regulated is not covered or that the content of a proposed code change warrants special technical review.

(c) **Quorum.** A majority of the members of the "code advisory committee(s)" shall constitute a quorum for the transaction of business. A majority of the members present shall constitute a quorum for determining the outcome of a vote.

(d) **Members.** The code advisory committees shall be limited to nine voting members, appointed by the Commission for one triennial code adoption cycle (three years). The Commission can extend the term beyond three years if deemed necessary and members shall hold appointments at the pleasure of the Commission. The appointments shall be made from organizations, individuals specifically knowledgeable in the building standards being proposed or general subjects assigned to the specific committee.

Members shall be ~~selected~~ solicited by the Commission based on the following representations listed in this section. However, when there are no volunteers for a specific representation following a 30-day advertisement of an available committee position, the Commission may make other appointments as deemed necessary to maintain the expertise and balance of a committee:

1. **Accessibility.** The Commission shall solicit nominations from:

A. Ex-Officio Members(s)

(1) State Agency Representative(s)

B. Voting Member(s)

(1) Disability Access Advocate Knowledgeable in Visually Impaired

(2) Disability Access Advocate Knowledgeable in Hearing Impaired

(3) Disability Access Advocate Knowledgeable in Mobility Impaired

(4) Disability Access Advocate Knowledgeable in Environmental Health Network or Other Cognitively Impaired

(5) Local Government Building Official

- (6) Construction Industry
- (7) Architect
- (8) Fire Official
- (9) Public Member

2. Plumbing, electrical ,mechanical and energy. The Commission shall solicit nominations from:

- A. Ex-Officio Members(s)
 - (1) State Agency Representative(s)
- B. Voting Member(s)
 - (1) Local Government Building Official
 - (2) Environmental/Energy Organization
 - (3) Construction Industry
 - (4) Architect
 - (5) Fire Official
 - (6) Public Member
 - (7) ~~Energy Consultant~~ Local Water Supply Official
 - (8) Mechanical Engineer
 - (9) Electrical Engineer

3. Building, fire and other. The Commission shall solicit nominations from:

- A. Ex-Officio Members(s)
 - (1) State Agency Representative(s)
- B. Voting Member(s)
 - (1) Local Government Building Official
 - (2) Registered Fire Protection Engineer
 - (3) Construction Industry
 - (4) Architect
 - (5) Commercial Building Industry
 - (6) Fire Official
 - (7) Disability Access Advocate
 - (8) Public Member

4. Structural design/lateral forces. The Commission shall solicit nominations from:

- A. Ex-Officio Members(s)
 - (1) State Agency Representative(s)

- B. Voting Member(s)
 - (1) Three (3) Structural Engineers
 - (2) Architect
 - (3) General Contractor
 - (4) Local Government Building Official
 - (5) Public Member

5. Health facilities. The Commission shall solicit nominations from:

- A. Ex-Officio Members(s)
 - (1) State Agency Representative(s)

- B. Voting Member(s)
 - (1) Acute Care Hospital Representative
 - (2) Skilled Nursing Facility Representative
 - (3) Architect
 - (4) General Contractor
 - (5) Mechanical Engineer
 - (6) Electrical Engineer
 - (7) Fire Protection Engineer
 - (8) Local Government Building Official
 - (9) Primary Care or Specialty Clinic Representative

6. Green Building. The Commission shall solicit nominations from:

- A. Ex-Officio Members(s)
 - (1) State Agency Representative(s)
- B. Voting Member(s)
 - (1) Residential Construction Industry Representative
 - (2) Commercial Building Industry Representative
 - (3) Architect
 - (4) Environmental Organization Representative
 - (5) Local Building Official

(6) Public Member/Local Water Supply Official

(7) Fire Official

(8) Mechanical Engineer

(9) Electrical Engineer

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

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

[Relocate and renumber Article 1-6 as Article 3, and amend the title as follows.]

ARTICLE 4-6 3

APPEALS AND PETITION PROCEDURES

[Add new Section 1-301 as follows.]

1-301. Appeals and Petitions. The public may submit appeals and petitions to the Commission as prescribed in this Article.

[Relocate Section 1-601 into new Section 1-303, and amend as follows.]

1-601 303. Scope of appeals and types of appellants. Appeals to the Commission and the matters which can be appealed are described in Health and Safety Code Section 18945. as follows.

(a) An appeal may be submitted by any person adversely affected by the administration of building standards or administrative regulations of Title 24, or the enforcement or the lack of enforcement of Title 24, by any state agency as prescribed in Health and Safety Code Section 18945(a) and this article.

(b) An appeal may be submitted by any person adversely affected by the enforcement of Title 24 by a local enforcement agency, in the company of the local enforcement agency, as prescribed in Health and Safety Code Section 18945(b) and this article. Such joint appeals must have statewide significance.

[Repeal the title and section number for Section 1-602, and incorporate the regulatory text from Subsection 1-602 (a) as subsection (c) within new Section 1-303]

1-602 Filing of appeals.

(a) (c) An appeal may be filed by any person, including a state or local agency. ~~Affected individuals, local and/or state agencies may act as appellants and may file appeals relating to~~ adversely affected by an apparent conflict, duplication or overlap of any current ~~state code~~ Title 24 provision or any other matter of statewide significance relating to the application of Title 24.

(d) The Commission may accept appeals relating to actions and decisions by state and local agencies to enforce building standards, but may only make recommendations for reconsideration. The Commission has no authority to overturn a decision by a state or local agency when the matter is within the jurisdiction of that state or local agency.

[Relocate Subsection 1-602(f) and incorporate the regulatory text within new Section 1-303, and amend as follows.]

~~(f)(e)~~ **Appeals procedures of other state agencies.** Commission policy requires that an When the basis of an appeal is the action of a state agency other than the Commission, the appellant must obtain a final determination from the state agency in question relating to the issue under appeal before the Commission will hear the appeal.

Exception: Only where there existed a An apparent conflict, duplication or overlap in other available state appeals procedures or within the regulations or code will the appeal be heard by the Commission without requiring that a final determination be obtained from the state agency.

Authority: Health and Safety Code Sections 18931, 18945, 18946 and 18949.
Reference: Health and Safety Code Sections 18931, 18945, 18946 and 18949.

[Relocate Subsection 1-602(g) into new Section 1-305, and amend as follows.]

1-305. ~~(g)~~ (a) Statute of limitations Time limitations for appeals. Appeals will be accepted by the Commission only within:

1. Six months of when the act, interpretation, decision or practice complained of occurred, or
2. As determined by the Commission if specific circumstances are found to exist.

Exception: Appeals regarding any act, interpretation decision or practice of any State adopting or enforcing agency prior to the adoption of this article will be accepted by the Commission if submitted within the first year following the effective date of this article.

[Relocate Subsections 1-602 (b)(c)(d) into new Section 1-307, and amend as follows.]

1-307. Appeal form and filing fee.

~~(b)~~(a) The appeal shall be in writing and shall specifically set forth:

1. The specific regulation, rules, interpretation or decision of any state agency respecting the administration of any building standard being appealed.
2. The dates of any act, interpretation or decision of any state agency related to the complaint.
3. The nature of any act, interpretation or decision of any state agency related to the complaint.
4. The reasons for the appeal.
5. Documentation of the official action of the applicable state agency with respect to the agency's final determination on the issue.
6. Identification of witnesses, experts and other representatives of the appellant.

~~(e)~~(b) The appeal or complaint shall be filed with the Executive Director at: California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833. The address should be confirmed at the Commission's website.

~~(d)~~(c) **Filing Fee:** Health and Safety Code Section 18949 requires the Commission to recover the cost of administering appeals. Accordingly, A a nonrefundable fee of \$450.00 shall be submitted with the initial request for appeal. In addition, any and all costs for an administrative law judge or costs related to a hearing before the appeals subcommittee will be the responsibility of the appellants.

[Repeal Subsection 1-602(e)]

~~(e)~~ **Appeals by affected individuals and local jurisdictions jointly.** When the enforcement of a state building standard is the responsibility of a local jurisdictional authority, the Commission will hear an appeal only with the concurrence of both the affected individual and the responsible local jurisdictional authority.

Authority: Health and Safety Code Sections 18931 and 18945.

Reference: Health and Safety Code Sections 18931 and 18945.

[Relocate Section 1-603 and renumber as Section 1-309, and amend as follows.]

1-~~603~~ 309. Receipt and processing appeals.

(a) Receipt of any appeal shall be acknowledged in writing by the Executive Director within 30 days of receipt advising the appellant and the state agency of the acceptance or rejection of the appeal as filed. The reply shall also set forth the planned action of the Commission in response to the application together with reasons for the proposed actions.

(b) If the Executive Director determines that additional information is needed in order to ~~decide the matter~~ process the appeal, the Executive Director may request such additional information and defer action on the ~~matter~~ appeal until such additional information is received. If the Executive Director requests additional information, the appellant shall have 30 days from the date of the Executive Director's request within which to submit the information. If the requested information is not received within 30 days, the Executive Director may treat the appeal as having been abandoned or may, upon written notice to the appellant and ~~the any~~ state agency a part of the appeal, process the appeal on such information as is available. Upon written request the Executive Director may, for good cause, extend the 30-day period by one additional 30-day period.

(c) The Executive Director and the Chair of the three-member Appeals Committee, appointed by the Chair of the Commission, shall, acting together, recommend to the Commission whether the appeal should be heard by the Appeals Committee or the full Commission. Suggested schedules for such hearings shall also be submitted. The recommendations shall be contained in the consent calendar of the next Commission meeting. The Executive Director shall advise the appellant and ~~the any~~ state agency a part of the appeal, in writing within 15 days of the Commission's determination and the procedures and schedules to be followed for the hearing.

Authority: Health and Safety Code Section 18945.

Reference: Health and Safety Code Sections 18931 and 18946.

[Relocate Section 1-604, and renumber as Section 1-311, and amend as follows.]

1-~~604~~ 311. Hearings for appeals.

(a) If it is determined by the Commission that the appeal shall be heard by the Appeals Committee, the following provisions shall apply:

1. Time and place of hearing as determined by the Commission shall be noticed to the appellant and ~~the any~~ state agency a part of the appeal, within 15 days of its determination; date of said hearing shall be within 60 days of said notice.
2. The Executive Director shall ~~publish~~ provide written notice of the date, time and location of hearing to interested parties and may invite experts or other witnesses as necessary for the hearing.
3. The Appeals Committee shall not be bound by the rules of evidence or procedures applicable in the courts. Appellant, appellant's witnesses, and any other interested persons may present testimony, argument and/or documentary material concerning the matter(s) under consideration.
4. The Appeals Committee shall prepare its finding(s) and decision within 30 days after the appeal hearing.
5. The Executive Director shall, in writing, advise the appellant, and ~~the any~~ state agency a part of the appeal, of the decision within 15 days and shall advise the Commission of the decision by memorandum at the next Commission meeting.
6. If an appeal is heard by the Appeals Committee, either party may request a reconsideration by the Commission. Said request must be submitted to the Executive Director no less than 30 days after the

determination by the Appeals Committee and shall be acted upon by the Commission no later than 60 days after said request is received. Reconsideration by the Commission shall be based upon the record of the appeal hearing and additional information or testimony that is specifically requested by the Commission. Notice of the determination of the Commission upon reconsideration shall be sent to all parties involved within 15 days of the action by the Commission.

(b) If an appeal is not delegated, or if the Commission elects to conduct the hearing, or if the appellant appeals a decision of the Appeals Committee to the Commission, the following procedure will be used:

1. Time and place of hearing as determined by the Commission shall be noticed to the appellant and ~~the any state agency a part of the appeal~~ within 15 days; ~~The date of said the hearing shall be within 60 days of date of notice.~~
2. The Executive Director shall ~~publish~~ provide written notice of the time, date and location of the hearing to interested parties and invite expert or other witnesses as necessary for the hearing.
3. The hearing shall be conducted at a regularly scheduled or specially designated Commission meeting, under its own rules, accepting evidence as it requires, and chaired by its regular Chairperson. Appellant and other interested parties may present relevant testimony, argument or documentary materials as acceptable to the Commission consistent with the requirements of Section 1-~~602(b)~~ 306(a).
4. The Commission shall make a decision on the appeal at an open meeting thereof, provided that the matter may be continued or taken under advisement for decision at a later meeting of the Commission, or re-referred to the Appeals Committee for further consideration and report to the Commission. No Commissioner may cast a vote on the determination of ~~a hearing an appeal unless he the Commissioner was present at the hearing held for the appeal and heard the testimony and evidence presented.~~
5. Notwithstanding the foregoing, the appeal may be withdrawn at any time by the appellant upon written notice to the Executive Director. Upon withdrawal, no further proceedings as specified above shall take place. The withdrawal of the appeal shall be accepted with or without prejudice, as determined by the Commission.
6. The Executive Director shall, in writing, advise the appellant, ~~and the any state agency a part of the appeal,~~ of the decision of the Commission within 15 days from the date of the official Commission decision in the ~~matter~~ appeal.

(c) The Commission may elect to refer the appealing parties to a hearing officer appointed by the Office of Administrative Hearings as described in Health and Safety Code Section 18946.

(d) Action by the Commission on the appeal of a building standards issue within the authority of the Commission shall exhaust the administrative relief of the appellant.

Authority: Health and Safety Code Section 18945.

Reference: Health and Safety Code Sections 18931 and 18946.

[Repeal the number and title for Article 1-8]

ARTICLE 1-8

PUBLIC PETITION REGULATIONS

[Relocate Section 1-801 and renumber as Section 1-313, and amend as follows.]

1-~~801~~ 313. Public ~~petition~~ Petitions.

(a) Any local governmental agency, firm or member of the public may petition either the Commission, the proposing agency or the adopting agency for the proposal, adoption, amendment or repeal of any state building standard or administrative standard regulation appearing in Title 24 of the California Code of Regulations.

(b) The Commission may refer received petitions to the state agency, or multiple agencies, having specific jurisdiction for the subject of the adopted building standard or for the subject of the proposed building standard as proposed by

the petitioner. A state agency receiving a petition referred by the Commission shall process the petition as required by this Article, including the reporting of actions and decisions by the agency to the Commission.

(c) Petitions are not to be used to address matters relating to currently proposed buildings standards. Any concerns relating to currently proposed building standards should be brought forward during the public comment period designated for the proposed building standard.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1999~~ Government Code Section 11340.6.

Reference: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1999~~ Government Code Section 11340.6.

[Relocate Section 1-805 and renumber as Section 1-315, and amend as follows.]

1-802 315. Criteria for public petition. A public petition for the proposal, adoption, amendment or repeal of a building standard must meet the following criteria:

(a) The subject issue must have statewide significance and must have implications for a whole category of projects or a broad range of project types, and:-

(b) The rationale for the petition must take the form of at least one of the following criteria:

1. ~~The subject regulation~~ A current building standard conflicts with pertinent statute(s). To substantiate this criterion, the petitioner must cite the subject ~~regulation~~ building standard and the conflicting statute(s), and provide a clear written description of why the two are inconsistent.

2. Compliance with ~~the subject regulation~~ a current building standard is routinely impossible or onerous. To substantiate this criterion, the petitioner must cite the ~~subject regulations~~ current building standard, present written or photographic evidence of the difficulty in complying with it, and clearly show that the problem is common or potentially common to many different projects or project types in many different circumstances. This criterion shall not be used to justify a petition for the repeal or amendment of a ~~regulation~~ current building standard that poses difficulty to a single project.

3. ~~The regulation~~ A current building standard is inefficient or ineffective. To substantiate this criterion, the petitioner must cite the subject ~~regulation~~ building standard, provide clear and concise written or photographic evidence of its ineffectiveness or inefficiency, describe a proposed alternative, and provide clear and convincing written or photographic evidence that it is more efficient or effective.

4. ~~The subject regulation~~ A current building standard is obsolete. To substantiate this criterion, the petitioner must show at least one of the following facts:

A. That a material or product specified in the ~~regulations~~ building standards is not available, or

B. That there is no statute authorizing the subject ~~regulation~~ building standard, or

C. That significant developments in procedures, materials or other issues ~~affecting subject to the regulation~~ building standard have created a need for amendment or deletion of the ~~regulation~~ building standard; that current state statutes permit amendment or deletion of the ~~regulations~~ building standard; and that the ~~regulation~~ building standard has the effect of prohibiting the use of a material or procedure that ~~is has~~ is demonstrated ~~to the satisfaction of the submitting agency to accomplish the purpose of the regulation~~ satisfactory performance and meets the intended purpose of building standards.

5. There is a need for a new ~~regulation~~ building standard. To substantiate this criterion, the petitioner must provide a clear written description of the proposed ~~regulation~~ building standard, explain why it is necessary, and cite the statute(s) that require or authorize the new ~~regulation~~ building standard.

Note: The California Building Standards Commission provides a petition form available at the website <http://www.bsc.ca.gov/>.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

[Relocate Section 1-803 into new Section 1-317, and amend as follows.]

1-803 317. Emergency clause Petition.

(a) A petitioner may assert that ~~his or her~~ the petition requires immediate action because there is imminent danger to the public health, safety or welfare. To substantiate the existence of a potential danger, the petitioner must include in the petition a written description of the specific facts showing the need for immediate action.

(b) If the emergency clause petition is approved by the Commission and if the petition is accepted pursuant to ~~Section 1-805 [Agency Duties]~~ this Article, the proposing agency or adopting agency shall develop and/or adopt ~~proposed changes~~ new or amended building standards necessary to satisfy the cause for the petition. The new or amended building standards shall be proposed and adopted as emergency regulations as permitted by Health and Safety Code Sections 18934.8 and 18937.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

[Relocate Section 1-804 into new Section 1-319, and amend as follows.]

1-804 319. Petition submittal processing by the Commission and agencies. Public petitions shall be submitted by the petitioner to either the Commission, the proposing agency or the adopting agency.

(a) ~~When submitted to the Commission, within~~ Within fourteen (14) 45 business days after receiving a petition, the Commission shall determine whether the petition ~~is properly compiled and complete~~ meets the requirements of this Article for petitions and provide the petitioner written notification. ~~For the purposes of this section, "properly compiled and complete" means the petition meets the requirement set forth in Sections 1-802 [Criteria for Public Petition] and 1-803 [Emergency Clause].~~

(b) ~~When submitted to the Commission, within fourteen (14) days business days after receiving a petition,~~ If the Commission determines that the petition does not meet the requirements of this Article for petitions, ~~shall return incomplete~~ the petitions shall be returned to the petitioner without action but with written notification ~~an~~ including itemization of the missing or incomplete items.

(c) ~~When submitted to the Commission, within fourteen (14) days business days after receiving a petition,~~ If the Commission determines that the petition meets the requirements of this Article for petitions, the Commission shall provide the petitioner notification of the acceptance of the petition and planned action.

(d) The Commission shall act on the accepted petition by commencing a rulemaking process, or shall forward complete petitions to the appropriate proposing agency or adopting agency having specific jurisdiction for the subject of the petition.

(e) The proposing agency or adopting agency shall have ~~five (5) 45 business~~ days following receipt of the petition from the Commission to dispute the determination of completeness and/or the Commission's determination of jurisdiction. If the agency determines that the petition is incomplete, it shall, by the close of business on the ~~fifth~~ 45th ~~business~~ day following receipt of the petition, return the petition to the Commission, with an itemization of the missing

or incomplete items, and the Commission shall return the petition to the petitioner within ~~twenty-five (25)~~ 30 business days of ~~having originally received~~ receiving the returned petition without action in accordance with the procedures provided in subparagraph (b) above.

~~(d) The Commission shall provide written notification to the petitioner that the petition is complete and undergoing proposing agency or adopting agency review, if the five (5) day period described in subparagraph (c) above expires without proposing agency or adopting agency action. This notification must be sent to the petitioner no more than twenty (20) business days after having first received the petition.~~

~~(e) (f) The Commission shall maintain records relating to the submittal and disposition of petitions received by the Commission. The Commission shall have no authority to rule on the contents of petitions except to determine whether sufficient information has been provided by the petitioner, unless specifically requested to do so by the proposing agency or adopting agency.~~

Authority: Health and Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1999 Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 18949.6 and Assembly Bill 4082, Chapter 1289, Statutes of 1999 Government Code Sections 11340.6 and 11340.7.

[Relocate Section 1-805 into new Section 1-321, and amend as follows.]

1-805 321. Agency duties Petition processing by agencies. ~~When the agency whose adoption responsibilities relating to building standards are transferred to the Commission receives a petition, that agency shall submit the petition to the Commission for compliance with Section 1-804 [Submittal]. After Upon receiving a completed petition from referred by the Commission, or a petition received directly from a petitioner, the proposing agency or adopting agency shall be responsible for the following duties in addition to the requirements of Government Code Section 11340.7:~~

~~(a) The proposing agency or adopting agency may reject a petition, if~~ If the proposing agency or adopting agency disagrees with the Commission's determination that a petition is complete, or if the proposing agency or adopting agency believes the petition is in the jurisdiction of a different agency, the proposing agency or adopting agency shall notify the Commission no more than ~~five (5)~~ 45 business days after receiving a petition.

~~(b) If the proposing agency or adopting agency determines that a petition received directly from the public does not meet the requirements of this Article for petitions, the agency shall provide the petitioner written notification of the determination with itemization of the missing or incomplete items. The agency shall provide the Commission a copy of the notification.~~

~~(c) If the proposing agency or adopting agency agrees determines that it has jurisdiction and that ~~the~~ a received petition is complete, it shall take one of the following actions, communicating with the petitioner and Commission, within the noted time lines:~~

1. The agency may reject, accept or approve a petition in part and may grant such other relief or take such other action as it may determine to be warranted by the petition and shall notice the petitioner and Commission in writing of such action.

2. If the agency denies the petition for cause pursuant to Section 1-806 323 of this Article ~~[Criteria for Denying a Public Petition for Cause]~~, it shall do so in writing within ~~thirty (30)~~ 45 business days after the date of receiving the petition from the petitioner, or the written notification provided referral by the Commission pursuant to Subsection 1-804 ~~(d)~~.

3. If the agency accepts the petition, it shall notify the petitioner and Commission in writing within ~~thirty (30)~~ 45 business days after the date of ~~the written notification provided by the Commission pursuant to Subsection 1-804(d)~~ receiving the petition. For the purposes of this section, accepting the petition indicates that the agency believes the

issue(s) merit proceeding to the code development as prescribed in this Chapter. ~~Code development shall include the public participation criteria in Article 1-5, Part 1, Title 24, California Code of Regulations.~~

4. If the approved petition contains an emergency clause, the agency shall also rule on the ~~reasons posed in the clause~~ existence of an emergency, and if it concurs that an emergency exists, shall schedule code development and adoption procedures on an emergency basis.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

[Relocate Section 1-806 into new Section 1-323, and amend as follows.]

1-806 323. Criteria for denying a public petition for cause.

The Commission, proposing agency or adopting agency, whichever is processing a petition, may deny a public petition ~~pursuant to Section 1-805 [Agency Duties]~~ for cause using at least one of the following criteria:

(a) The subject ~~regulation~~ building standard is already scheduled for review at the next regular triennial or other scheduled adoption. To substantiate this criterion, the Commission or agency shall include in its written denial a schedule for the planned review. Alternatively, the agency may approve a petition but defer its implementation until the next scheduled adoption.

(b) The issues cited by the petitioner are factually incorrect. To substantiate this criterion, the Commission or agency shall identify in its written denial the incorrect facts.

(c) The issues cited by the petitioner are not within the State's jurisdiction. To substantiate this criterion, the Commission or agency shall show in its written denial why the issues are outside its jurisdiction.

(d) The issues cited by the petitioner have been raised and answered through another petition or during the previous rulemaking. To substantiate this criterion, the Commission or agency shall include with its written denial a copy of the previous petition and its response or the pertinent rulemaking file information.

NOTE: If the new facts or substantiating data, pertinent to a petition, are provided, this criterion shall not be grounds for denying a petition.

(e) Resolving the issues raised by the petitioner would compromise the agency's ability to carry out its legal mandate. To substantiate this criterion, the Commission or agency shall include with its denial the specific ways in which its legal mandate would be compromised.

(f) The proposed building standard would create unnecessary hardship, expense, or requirements inappropriately to exclude materials, equipment or brands; or include only specific brands; or conflict with federal or state laws or regulations or existing building standards; or is otherwise without merit and public benefit.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

[Relocate Section 1-807 into new Section 1-325, and amend as follows.]

1-807 325. Appeal-Reconsideration of Denied Petition

~~Any person~~ A petitioner may request reconsideration of any part or all of a decision of any proposing or adopting agency or the Commission on any denied petition ~~submitted~~. Any such request shall be submitted in accordance with

these public petition procedures and shall include the reason or reasons why ~~an agency~~ the decision to deny the petition should be ~~reconsider its previous decision~~ reconsidered. Such request for reconsideration must be submitted no later than ~~sixty (60)-days~~ after the date of the decision involved. The agency's ~~or Commission's~~ reconsideration of any matter relating to a petition shall be subject to the provisions of ~~Section 1-806~~ {Criteria for Denying a Public Petition for Cause} ~~this Article~~.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

[Relocate Section 1-808 into new Section 1-327, and amend as follows.]

1-808 327. Appeal to Reconsideration by the commission.

(a) ~~A petitioner may appeal, to the Commission, the final decision of a state agency when reconsideration is denied pursuant to Section 1-807 [Appeal]. When the petitioner appeals the decision of a state agency, it shall not only be based on the criteria that petition does not meet the requirements of Section 1-806 [Criteria for Denying a Public Petition for Cause]. The Commission shall have no authority to reevaluate or reverse the decisions on petitions made by a proposing agency or adopting agency when the subject of the petition is within the specific jurisdiction of the proposing agency or adopting agency.~~

(b) ~~Appeals to Requests for the reconsideration of a decision by the commission~~ Commission shall meet the same requirements of ~~Section 1-807 [Appeal]~~ 325 of this Article.

(c) ~~Should the commission determine that the appeal does not meet the requirements of Section 1-806 [Criteria for Denying a Public Petition for Cause], the commission shall direct agency to accept and approve the petition~~ Commission reverse its previous decision made on a petition, the petition shall be considered accepted and a rulemaking process shall begin as provided in this Chapter.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

[Relocate Section 1-809 into new Section 1-329, and amend as follows.]

1-809 329. Substitution of or supplementation by agency procedures.

(a) ~~These regulations~~ The provisions of this Article pertaining to petitions shall not apply when an agency notifies the Commission that petition process is mandated by specific statutes in addition to ~~Government Code Section 11347.4 Sections 11340.6 and 11340.7,~~ and/or that has adopted its own regulations or procedures complying with ~~Government Code Section 11347.4 Sections 11340.6 and 11340.7,~~ and that it has notified the public of the existence of these statutes, regulations or procedures. Notification to the commission shall consist of a written copy of such statutes, regulations or procedures and a description of the methods used to make the public aware of their existence. Upon such notifications, the Commission shall exclude the agency from compliance with ~~these regulations~~ this Article pertaining to Petitions. If the Commission receives a petition pertaining to an excluded agency's jurisdiction, the Commission shall forward the petition without undertaking any of the duties ~~contained in Sections 1-803 [Emergency Clause] and 1-804 [Submittal]~~ prescribed by this Article pertaining to petitions directly to the agency and shall notify the petitioner of that fact.

When an agency notifies the Commission of existing public petitions regulations or statutes, those public petitions regulations or process must be at least as effective as the public petition regulations in Article 1-8.

(b) These regulations are not intended to be the sole means by which the proposing agency or adopting agencies and the interested public can raise, discuss and resolve issues pertaining to building standards. Agency procedures such as public participation meetings, advisory committees, written and verbal correspondence between members of the public and agency personnel, and other methods are considered alternatives that may be chosen by a member of the public instead of or in addition to the ~~public~~ petition procedures described in ~~these regulations~~ this Article.

Authority: Health and Safety Code Sections 18931 and 18949.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

Reference: Health and Safety Code Sections 18931 and 1894 9.6 and ~~Assembly Bill 4082, Chapter 1289, Statutes of 1990~~ Government Code Sections 11340.6 and 11340.7.

[ReNUMBER Article 1-3 as Article 4, and amend the title as follows.]

ARTICLE ~~1-3~~ 4

PUBLIC NOTICES AND HEARING DATES ~~RULEMAKING FOR THE ADOPTION OF BUILDING STANDARDS BY PROPOSING AGENCIES~~

[Repeal the Article 1-9 number and title as follows]

ARTICLE 1-9

CODE ADOPTION PROCESS

[Relocate Section 1-901 and renumber as Section 1-401, and amend as follows.]

1-901. Procedure for code adoption process 401. (a) Purpose. This article establishes basic minimum procedural requirements for ~~an annual~~ a code adoption cycle for proposing agencies to ensure adequate public participation in the development of building standards, to ensure adequate technical review and adequate time for technical review by code advisory committees and to ensure adequate notice to the public of compiled code change submittals prior to adoption by the Commission.

[Repeal the Article 1-5 number and title. Relocate the regulatory text into proposed Article 4.]

ARTICLE 1-5

PUBLIC PARTICIPATION

[Relocate Section 1-501 into new Section 1-403, and amend as follows.]

1-501 403. Public participation. Every state agency with authority to propose or adopt building standards shall ~~adopt regulations~~ develop proposed building standards in a manner to ensure public participation in the development of building standards by July 1, 1995. State agencies' regulations shall establish methods to: Methods for ensuring public participation may include but are not limited to the following:

(a) Identify and maintain a listing of all interested groups or persons affected by agency building standards of the type within the jurisdiction of the agency.

(b) Prior to commencing the development of proposed building standards, Notify notify all interested groups and persons that building standards are to be developed, and maintain a listing of such groups or persons, should the Commission request it solicit suggestions and a means for participation.

(c) Conduct workshops to solicit input on the language for proposed building standards.

(d) Make available draft proposals to interested groups or persons expressing interest.

~~(d) (e)~~ Establish a procedure to provide interested groups or ~~person~~ persons the opportunity to advise the adopting agency of the impact of the proposed building standards. ~~The adopting agency shall submit to the Commission their regulations to provide public participation prior to public hearing.~~

Authority: Health and Safety Code Section 18934

Reference: Health and Safety Code Sections 18934

[Relocate Subsection 1-901(b) into new Section 1-405, and amend as follows.]

~~(b) 1-405. Code change submittal proposing agency~~ **Commencement of Rulemaking.** The Commission shall notify a proposing agency of the deadline for acceptance of code change submittals a minimum of 180 days prior to the deadline. A proposing agency shall submit a code change submittal for the Commission's adoption on or before the deadline for acceptance specified in the notice.

Authority: Health and Safety Code Section 18929.1, 18930

Reference: Health and Safety Code Sections 18930, 18931, 18933

[Relocate Section 1-301 into new Section 1-407, and amend as follows.]

1-301 407. Rulemaking file approval.

(a) ~~Public notices~~ Proposing Agencies agencies, developing to adopt building standards, or administrative regulations to support building standards, to be published in Title 24, shall prepare a public notice rulemaking file for submittal to the office of the Commission, which shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The proposed Notice of Proposed Action required by this Section shall be approved by the Commission prior to any official notice to conduct a hearing or comment period regarding the proposed rulemaking.

(b) File content. The rulemaking file submitted to the Commission shall include the following:

(1). A Building Standards Face Sheet (BSC-1), with original signature of a person authorized to certify documents on behalf of the submitting agency shall accompany all submittals to the Commission pursuant to this section.

(2) ~~Six~~ Two printed copies and one electronic file of the public notices proposed Notice of Proposed Action for proposed building standards shall be forwarded to the Building Standards Commission for review and approval. A Building Standards Face Sheet (BSC-1), with original signature shall be submitted with the notices. The electronic file shall be suitable for immediate placement on the webpage of the Commission for public viewing.

(3). One electronic file of the Express Terms showing the proposed building standards or amendments to existing building standards in strikeout/underline format. The file shall be in a form suitable for immediate placement on the webpage of the Commission for public viewing. The language, including numbering and punctuation, of proposed new building standards or amendments to existing building standards shall be shown underlined. Proposed deletions of existing building standards shall be shown in strikeout type. Existing building standards to remain without amendment shall be shown without underlining or strikeout or other highlighting.

(4). One electronic file of the Initial Statement of Reasons suitable for immediate placement on the webpage of the Commission for public viewing.

~~A Building Standards Face Sheet (BSC-1), with original signature shall be submitted with the notices.~~

(c) Upon approval of the ~~proposed notice of hearing~~ Notice of Proposed Action for proposed building standards the Executive Director will forward the ~~approved proposed notice~~ Notice of Proposed Action, ~~within five working days, to the Office of Administrative Law for the sole purpose of publication in the California Administrative Regulatory Notice Register before the start of the public comment period, and return an approved copy to the submitting proposing agency. If a proposed notice Notice of Proposed Action is found to be incomplete or incorrect by Commission staff,~~

the Executive Director shall return it to the ~~submitting~~ proposing agency within ~~five-10~~ working days with ~~comment a~~ written listing of the found deficiencies to enable the proposing agency to make corrections for resubmittal to the office of the Commission.

(d) Any ~~public notice~~ Notice of Proposed Action not acted upon within ~~five (5)~~ 20 working days shall be considered automatically approved and may be published.

Authority: Health and Safety Code Section 18931 and 18935

Reference: Health and Safety Code Sections 18925 and 18935

[Relocate Subsection 1-901(c) and renumber as Section 1-409, and amend as follows.]

~~(e)~~ **1-409 Prenotice technical review Code Advisory Committee Review.**

(a) Prior to conducting any hearing or public comment period as part of the rulemaking proceeding required by the Administrative Procedure Act, the Commission shall assign a code change submittal received on or before the deadline established under Section 405 of this Article, to one or more code advisory committees specifically knowledgeable in the building standard being proposed for change and schedule the submittal for a noticed public hearing to ensure adequate opportunity for public participation and technical review.

~~1-~~ **(b) Code advisory committee reviews.** A code advisory committee shall conduct a public hearing to perform a technical review of all code change submittals assigned to it by the Commission. A code advisory committee meeting shall be scheduled by the Commission and shall be open to the public.

~~2-~~ **(c) Code advisory committee meetings.** The location and date of a code advisory committee meeting shall be noticed by the Commission in accordance with Government Code Sections 11120 through 11132, the Bagley-Keene Open Meeting Act.

~~3-~~ **(d) Code advisory committee recommendations.** A code advisory committee shall make a recommendation on each code change submittal. A recommendation other than "approve" shall include a substantiating reason based on Health and Safety Code Section 18930. The recommendations to the Commission shall be based on one of the following and shall become part of the rulemaking file:

A. 1. Approve. Approval of a proposed code change as submitted. The proposed code change is justified in terms of criteria of Health and Safety Code Section 18930.

B. 2. Disapprove. A proposed code change ~~has merit but~~ does not meet one or more specified criteria of Health and Safety Code Section 18930.

C. 3. Further study required. A proposed code change has merit but does not meet one or more specified criteria of Health and Safety Code Section 18930. The proposed code change requires further study by the proposing agency in order to remove conflict with other building standards; or the impact of the proposal is not clearly identified; or the proposal does not address all known situations to be impacted by the proposed building standard. The proposing agency should submit the proposed code change in the next code adoption cycle after further study.

D. 4. Approve as if amended. Approval ~~as modified by the proposing agency director or written authorized representative. Modifications are justified in terms of Health and Safety Code Section 18930. An amended justification consistent with the approval as amended recommendation shall be submitted to the Commission by the proposing agency within 10 working days of the date of the committee's recommendation. The failure to submit an amended justification consistent with the approval recommendation within the time is cause for disapproval if amended as suggested for organization, cross-referencing, clarity and editorial improvements.~~

E. Withdrawal. A proposed code change is out of the code adoption cycle. Only the proposing agency may ~~withdraw a proposed code change.~~

~~4-~~ **(e). Code advisory committee reports.** ~~After the deadline for acceptance of code change submittals and following the The code advisory committee meetings report of recommendations to,~~ the Commission shall ~~prepare an~~ itemized monograph, including the code change submittals, the code advisory committee recommendations and the reasons for the recommendations. This monograph of code change submittals shall be made available to the public

for review and comment as the and be included in the Commission's proposed-rulemaking action-file in accordance with Article 1-3 of this part.

[Relocate Section 1-302 into new Section 1-411, and amend as follows.]

1-302 411. Hearing dates approval. ~~Agencies~~ Proposing agencies planning to conduct hearings relative to building standards shall, prior to giving public notice, acquire the written approval of the Commission as to the date, time and place of the hearing(s). Such approval may be in the form of the Commission's approval of the proposed Notice of Proposed Action submitted by a proposing agency, when the date, time and place for the hearing is included in the proposed Notice of Proposed Action.

Authority: Health and Safety Code Section 18931 and 18935

Reference: Health and Safety Code Sections 18925 and 18935

[Relocate Subsection 1-901(d) into new Section 1-413, and amend as follows.]

~~(d)~~ **1-413. Public written comment period and related actions.** Anyone wishing to contest a recommendation of the code advisory committee(s) and/or comment on a proposed code change ~~in the monograph~~ may submit a challenge comment to the Commission during the written comment period established by the notice of proposed action. Upon written request received, no later than 15 days prior to the close of the comment period, a public hearing pursuant to Government Code Section 11346.8 shall be held by the Commission on the proposed code changes, its justification and code advisory recommendations at which time statements, arguments, or comments, either oral or in writing, or both, shall be permitted.

1. A challenge shall refer to a specific objection or recommendation ~~or to a~~ proposed code change and clearly indicate what is being contested. The challenge shall specify the action desired: approve, disapprove, return for further study or approve as amended. A challenge shall specify a concise substantiating reason for the challenge.
2. Following the close of the comment period and/or public hearing, the Commission shall make available to the public upon request a monograph record of challenges comments received at the Commission office by the close of the written comment period and/or comment received at the public hearing.
3. The Commission or proposing agency, whichever is appropriate, shall consider the challenges contained in the monograph comments received from the public pursuant to this section. Amendments and determinations shall be provided in the Final Statement of Reasons.
4. No new issues will be raised before the Commission that were not ~~printed~~ included in the monograph record of challenges comments.
5. Items not challenged but affected as a result of an action on another item may also be considered at the Commission meeting to eliminate conflict, duplication or overlap.

[Relocate Subsection 1- 901(d)(6) into new Section 1-415, and amend as follows.]

~~(d)~~ **1-415. Final Actions by the Commission and Proposing Agency.**

~~6. Commission action.~~ (a) Following the close of the public comment period, and any public hearing, The the Commission shall take one of the following actions on each item of the rulemaking to adopt new, repeal, or amend building standards. All amendments to code change submittals as submitted require the approval of the proposing agency. Proposing agencies may withdraw their code change submittals at any time.

A. Challenges.

~~(1) The Commission approves a challenge. The challenge includes a substantiating reason.~~

~~(2) The Commission disapproves a challenge. The Commission explains a reason for disapproval.~~

~~B. Code advisory committee recommendations.~~

~~(1) The Commission approves a recommendation. The recommendation includes a substantiating reason.~~

~~(2) The Commission disapproves a recommendation. The Commission explains a reason for disapproval.~~

~~C. Code change submittal.~~

(1) **Approve.** The Commission approves a proposed code change as submitted. The change is justified in terms of Health and Safety Code Section 18930.

(2) **Disapproval.** The Commission disapproves a proposed code change as not justified in terms of Health and Safety Code Section 18930.

(3) **Further study required.** The Commission finds that a proposed code change has merit but does not meet specified criteria of Health and Safety Code Section 18930. The change requires further study and justification by the proposing agency. The proposed code change may be submitted in ~~the next~~ a future code adoption cycle with further study and justification.

(4) **Approval as amended.** The Commission approves a proposed code change as modified by the proposing agency director or written authorized representative. No modification shall be made that materially alters a requirement, right, responsibility, condition or prescription in the text made available to the public for comment in accordance with ~~Article 1-3 of this part chapter.~~ The proposing agency shall justify the modification pursuant to Health and Safety Code Section 18930 in an amended justification consistent with the approval action submitted to the Commission within ~~40~~ 15 days. Failure to submit the amended justification within that time is cause for disapproval.

~~(5b) Withdrawal. The proposed code change is out of the code adoption cycle. Only the~~ A proposing agency may withdraw a proposed code change as determined appropriate.

(c) The proposing agencies shall complete their respective documents for the rulemaking file as specified in Section 419.

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

Reference: Health and Safety Code Sections 18927, 18929 through 18932, 18934, 18935, 18936, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6.

[Renumber Section 1-402 as Section 1-417, and amend as follows.]

1-402 417. Emergency Building Standards

(a) **Emergency regulations.** Emergency building standards may be developed as provided in the California Building Standards Law, Part 2.5, Division 13, Section 18930, et seq., of the Health and Safety Code, and shall not be effective until approved by the Building Standards Commission and filed with the Secretary of State.

(b) Rulemaking files for Emergency emergency building standard(s) packages submitted to the Commission prior to public hearing shall include:

1. An original signed Building Standards Face Sheet (BSC-1)
2. The Finding of Emergency.
3. The analysis which shall justify the approval of the building standard(s) in terms of the criteria as set forth in the State Building Standards Law, Part 2.5, Division 13, Section 18930, et seq., of the Health and Safety Code.
4. The Express Terms illustrating the proposed emergency building standards.
5. A delegation order if the Face Sheet (BSC-1) is signed by other than the agency Director/Chief.
6. Any supporting documentation as determined by the Executive Director.

(c) The number of copies of proposed emergency building standards packages will be determined by the Executive Director.

(ed) Following the filing with the Secretary of State, the Commission shall notify the affected Agency in writing of the filing date of the building standard.

(de) Agencies adopting emergency building standards following an Agency public hearing shall submit a rulemaking file as prescribed in ~~Section 401(a)~~ this Article.

(f) The Commission shall forward the required number of copies of the filing order to the Office of Administrative Law for the sole purpose of publication in the California Administrative Notice Register.

Authority: Government Code Sections 11346.1 and 11346.5 and Health and Safety Code Section 18937.

Reference: Government Code Sections 11346.1 and 11346.5 and Health and Safety Code Sections 18913 and 18937.

[Repeal the Article 1-4 number and title]

ARTICLE 1-4

SUBMISSION OF NONEMERGENCY AND EMERGENCY PROPOSED BUILDING STANDARDS TO THE COMMISSION

[Renumber Section 1-401 as Section 1-419, and amend as follows.]

1-401 419. Final rulemaking file

(a) After hearing or close of comment period ~~by the adopting agency, all building standards~~ a final rulemaking file shall be submitted ~~as proposed building standards~~ to the Commission for approval, in a format as prescribed by the Commission. Each ~~proposed building standards package~~ final rulemaking file shall include:

1. Building Standards Face Sheet (BSC-1) with the original signature of the a person authorized to certify documents on behalf of the submitting agency.
2. Copies of the Public Notice, Informative Digest, Initial Statement of Reasons and Express Terms to illustrate the proposed building standards.
3. Finding of Emergency Statement (submitted only with Emergency Regulations).
4. Copies of Department of Finance Fiscal Impact Statement (Std. 399) together with fiscal analysis prepared by the submitting agency.
5. Copies of the written transcript or recorded minutes of the public hearing.
6. Copies of exhibits submitted at the public hearing.
7. Copies of correspondence received during public comment period.
8. Copies of the Updated Informative Digest and Final Statement of Reasons.
9. Copies of the proposed standard with any post hearing changes indicated, and a memo attesting to the 15-day public availability period.
10. Agencies shall certify when the public comment period was closed, and that the submitted rulemaking is complete.
11. An analysis which shall justify the approval of the building standard(s) in terms of the criteria as set forth in the State Building Standards Law, Part 2.5, Division 13, Section 18930, et.seq., of the Health and Safety Code.
12. Any referenced documentation relevant to the hearing as determined by the Executive Director of the Building Standards Commission.
13. The number of copies of the proposed building standards packages to be forwarded to the Commission shall be determined by the Executive Director of the Building Standards Commission.

14. All proposed building standards packages shall be indexed.
15. If other than the Agency Director/Chief signs a Face Sheet (BSC-1), a delegation order shall be attached to the Face Sheet.
16. If the building standards were filed as an emergency, a certification that the requirements of Government Code Section 11346.1 have been complied with.

(b) The proposed building standards shall be submitted in the strikeout/underline format. If the proposed building standards amend existing building standards, all deletions must be shown in strikeout type and all additions, including punctuation, must be underlined. The provisions of this section may be waived by the Executive Director through written notification to the adopting agency.

Authority: Health and Safety Code Section 18931(f)

Reference: Health and Safety Code Sections 18931(f)

[Add new Section 1-421 to read as follows]

1-421. Change without Regulatory Effect

(a) Notwithstanding the rulemaking procedures specified in Sections 407 and 415 of this Chapter, a state adopting agency or state proposing agency may add to, revise or delete text published in Title 24 of the California Code of Regulations, with the approval of the Commission, when the change has no regulatory effect as provided in this section.

(b) A state adopting agency or state proposing agency acting pursuant to this section on provisions of Title 24 that are also adopted by other state agencies, shall obtain the written concurrence of the other agencies in regard to the change without regulatory effect.

(c) A "Change without Regulatory Effect" is a change to the provisions of Title 24 that does not impose any new requirement for the design or construction of buildings and associated structures and equipment. A Change without Regulatory Effect may include, but is not limited to:

(1) renumbering, reordering, or relocating a regulatory provision;

(2) deleting a regulatory provision for which all statutory or constitutional authority has been repealed;

(3) deleting a regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a United States District Court located in the State of California, the United States Court of Appeals for the Ninth Circuit, or the United States Supreme Court; however, the Commission shall not approve any proposed change without regulatory effect if the change is based on a superior court decision which invalidated the regulatory provision solely on the grounds that the underlying statute was unconstitutional;

(4) revising structure, syntax, cross-reference, grammar, or punctuation;

(5) changing an "authority" or "reference" citation for a regulation; and,

(6) making a regulatory provision consistent with a changed California statute if both of the following conditions are met:

(A) the regulatory provision is inconsistent with and superseded by the changed statute, and

(B) the state adopting agency or state proposing agency has no discretion to adopt a change which differs in substance from the one chosen.

(d) The rulemaking file for a change without regulatory effect to be submitted to the Commission for adoption or approval, and publication in Title 24 shall include the following:

(1) A completed Building Standards Face Sheet (BSC-1) as required by Section 1-419 of this chapter; and

(2) Express Terms illustrating the change in the form required by section 1-419 of this chapter; and

(3) A written statement for each section explaining how the change meets the requirements of Subsection (c) above; and

(4) Pursuant to Subsection (b) above, a written statement by each state agency that has adopted the provision being changed, concurring with the regulatory change. All such statements shall be signed by a duly authorized representative of the agency.

(e) The Commission shall make a determination regarding a change submitted pursuant this section within thirty (30) days of its receipt. Within ten (10) days of making a determination, the Commission shall send written notification of the determination to the agency that submitted the change.

(1) When the Commission determines that the submitted change meets the requirements of this section for a regulatory change without effect, the regulatory change shall be filed with the Secretary of State and the Commission shall publish the change in Title 24, California Code of Regulations.

(2) When the Commission determines that the submitted change does not meet the requirements of this section for a regulatory change without effect, or does not comply with the rulemaking requirements of this section, the written determination by the Commission shall provide sufficient itemization of the deficiencies. The agency may correct the rulemaking file for reconsideration by the Commission, or begin proceeding with a regulatory action pursuant to Section 407 of this chapter.

Note: Authority cited: Sections 18909, 18930, and 18931(f), Health and Safety Code.
Reference: Sections 18909, 18930, and 18931(f), Health and Safety Code.

[Renumber Article 1-10 title as Article 1-5.]

ARTICLE 1-40-5 CITY, COUNTY, AND CITY AND COUNTY BUILDING PERMIT FEES

[Renumber Section 1-1000 as Section 501, and amend as follows.]

1-4000 501. Purpose. This article establishes regulations for implementation of ~~Senate Bill 1473 (Stats. 2008, c. 749), effective on January 1, 2009.~~ The bill added Health and Safety Code §§18931.6 and 18931.7, to require a surcharge on building permits in order to provide funds, upon appropriation, for the California Building Standards Commission, Department of Housing and Community Development and Office of the State Fire Marshal to use in carrying out the provisions of California Building Standards Law and of State Housing Law relating to building standards, with emphasis placed on the adoption, publication and educational efforts associated with green building standards. The fees are to be collected by cities, counties, and cities and counties and transmitted to the California Building Standards Commission. The fees are based on building permit valuation.

[Renumber Section 1-1001 as Section 503, and amend as follows.]

1-4004 503. Definitions. The words defined in this article shall have the meaning stated therein throughout California Code of Regulations, Title 24, Part 1, Chapter 1, Article 1-40 5.

(a) Building Standards Administration Special Revolving Fund (the Fund). ~~the~~ The fund established in the State Treasury to receive funds submitted by the Commission pursuant to the provisions of Health and Safety Code Section 18931.6 and this article.

~~the Commission~~ means the California Building Standards Commission.

(b) the Department. ~~means the~~ The Department of Housing and Community Development.

(c) Fees, appropriate fractions thereof. ~~mean fee~~ Fee increments for permit values less than one-hundred thousand dollars (\$100,000) as described in ~~§1-4002~~ 505.

(d) the Office. ~~means the~~ The Office of the State Fire Marshal.

[Renumber Section 1-1002 as Section 505.]

1-4002 505. Fee assessment.

(a) Fees shall be levied on building permits required for all disciplines covered by Title 24, including, but not limited to, building, electrical, mechanical, and plumbing, and for which a valuation is made.

(b) Fees are assessed at a rate of \$4 per \$100,000 of permit valuation, but not less than one dollar, with appropriate fractions thereof shown in the following table:

Permit Valuation	Fee
\$1 – 25,000	\$1
\$25,001 – 50,000	\$2
\$50,001 – 75,000	\$3
\$75,001 – 100,000	\$4
Every \$25,000 or fraction thereof above \$100,000	Add \$1

1. Cities, counties, and cities and counties may retain up to ten percent (10%) of the fees for related administrative costs, code enforcement, and education as permitted by Health and Safety Code §18931.6.
2. Cities, counties, and cities and counties may exempt from fee assessment permits for which no valuation is made.

(c) The Commission may reduce the rate of the fee by regulation upon determination that a lesser fee is sufficient to carry out the programs of the Commission, the Department, and the Office. The Commission may establish a termination date or duration for the fee reduction period.

[Renumber Section 1-1003, and amend as follows.]

1-4003 507 Fee collection.

(a) Cities, counties, and cities and counties shall submit fees each quarter, commencing with the quarter beginning January 1 and ending March 31, 2009, due on the fifteenth day of the following month.

1. Each quarter, a city, county, and city and county shall submit a Fee Report Form (BSC-2), Contact Information Form (BSC-3), and a check made payable to the California Building Standards Commission, with the fees collected for that quarter.
2. The form templates are available for downloading at the Commission's website at http://www.bsc.ca.gov/proc_rsltn/pr_tmplts.html.

(b) The Commission shall deposit the moneys collected into the Building Standards Administration Special Fund for use, upon appropriation, by the Commission, the Department, and the Office for use as specified in §1-4000 501.

Authority: Health and Safety Code §§18909(c), 18929, 18930.5, 18931.6 and 18931.7

Reference: Health and Safety Code §§18930.5, 18931.6 and 18931.7