

INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
BUILDING STANDARDS COMMISSION
REGARDING THE CALIFORNIA ADMINISTRATIVE CODE IN CHAPTER 1, OF PART 1, OF TITLE 24, OF THE
CALIFORNIA CODE OF REGULATIONS, KNOWN AS THE REGULATIONS OF THE CALIFORNIA BUILDING
STANDARDS COMMISSION

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when a rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE:

Government Code Section 11346.2 requires a statement of specific purpose of each adoption, amendment, or repeal and the rationale of the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose for which it is proposed.

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

- Reduction of the number of articles within the chapter from 10 to 5 by rearranging matters of like subject.
- Rearranging provisions so that like subject are in just one area.
- Eliminating requirements for the Commission to compile and always provide the public with printed documents pertaining to proposed building standards when electronic files may be used to save printing cost and paper.
- Simplifying and clarify the provisions relating to the Commission's handling of petitions and appeals, and by the other state agencies involved with the development of Title 24 building standards.
- Simplifying the numbering of the individual Articles within the Chapter.
- Replacing titles, words and terms that have created conflict and confusion.

The chapter contains regulations allowing the public to understand the various functions of the Commission as it works to develop, adopt, and publish the building standards in Title 24, California Code of Regulations. Additionally, it contains requirements for the proposing agencies and adopting agencies, involved in the development of the building standards. There are fourteen state agencies that develop the building standards that are published in Title 24 by the Commission. Each agency has specific authority in state law for the types of building standards it develops. Some have authority to develop, hold hearings and adopt building standards aside from the hearings and actions of the Commission. These agencies are called adopting agencies. When they adopt building standards, the Commission must approve of the rulemaking process taken by the adopting agency and then publish the approved building standard in Title 24. The other type of state agency involved in the development of the building standards is the proposing agency. A proposing agency develops building standards to be submitted to the Commission and the Commission conducts the rulemaking procedure to include public hearings, public comment periods, and decision on adoption and publication. Accordingly, the Commission's regulations in this chapter must address these various functions by the two types of agencies separately and specifically, as well as its own functions. This proposal is to improve the language of the chapter so that it is clear as to the requirements that apply to an adopting agency and to a proposing agency.

In regard to appeals and petitions, the existing language of this change has caused confusion and is amended to eliminate such confusion. For example, the word "appeal" has been used in two different ways. The proposed amendments will use the word "appeals" consistently with the state law that requires the Commission to accept and consider appeals regarding the enforcement and administration of the building standards in Title 24.

Petitions are different from appeals and the proposed amendments will improve the distinction. A petition is a request to have new building standards developed or to have existing building standards amended. In order to make the improvements, some existing provisions must be relocated and combined with other similar provisions. Such relocations created the need for editorial changes to the language for improve clarity and flow of the processes.

In some sections of this chapter amendments are proposed merely to improve the clarity and sequential flow of a

process and do not eliminate any public right or impose new requirements.

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

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

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

BSC: Amended for improved clarity

Commission: Repeal is proposed in order to relocate this word from the abbreviations and into the definitions of terms in Section 1-103.

CRC: Added because of new Part 2.5 of Title 24, known as the California Residential Code, will be abbreviated as CRC.

CRSC: Added because Part 12 of Title 24, known as the California Reference Standards Code, will be abbreviated as CRSC.

DHS: Repealed because the Department of Health Services is now known as the Department of Public Health.

DPH: Added because the Department of Health Services is now known as the Department of Public Health, and is abbreviated as DPH.

DWR: Amended for clarity.

DSA: Added for clarity and to have an abbreviation other than DSA/AC, DSA/SS, and DSA/SS/CC, used within Title 24 to identify code provisions by DSA for specified application.

DSA/SS: Amended for improved clarity.

DSA/SS/CC: Added because this abbreviation is new and used in other Parts of Title 24 to identify code provisions applicable to community colleges.

DSA/AC: Amended for improved clarity.

Enforcing Agency: Repeal is proposed in order to relocate this word from the abbreviations and into the definitions of terms in Section 103.

HCD 1: Added because this is an abbreviation used in Title 24 to identify code provisions by HCD that apply to housing structures.

HCD 2: Added because this is an abbreviation used in Title 24 to identify code provisions by HCD that apply to permanent buildings in mobilehome parks.

HCD 1/AC: Added because this is an abbreviation used in Title 24 to identify code provisions by HCD that establish accessibility requirements in multifamily dwellings.

IBC: Added because this abbreviation for the International Building Code is in common use. The IBC is used as the basis for Part 2 of Title 24.

IFC: Added because this abbreviation for the International Fire Code is in common use. The IFC is used as the basis for Part 9 of Title 24.

IEBC: Added because this abbreviation for the International Existing Building Code is in common use. The IEBC is used as the basis for Part 10 of Title 24.

IRC: Added because this abbreviation for the International Residential Code is in common use. The IRC is used as

the basis for Part 2.5 of Title 24.

NEC: The copyright symbol is removed because the commission's inclusion of the NEC abbreviation in the regulations is not an infringement of any copyright protection. The symbol has no regulatory purpose.

OSHPD 1: Added because this abbreviation is used within Title 24 to identify code provisions by the California Office of Statewide Health Planning and Development, with application to specific medical service buildings.

OSHPD 2: Added because this abbreviation is used within Title 24 to identify code provisions by the California Office of Statewide Health Planning and Development, with application to specific medical service buildings.

OSHPD 3: Added because this abbreviation is used within Title 24 to identify code provisions by the California Office of Statewide Health Planning and Development, with application to specific medical service buildings.

OSHPD 4: Added because this abbreviation is used within Title 24 to identify code provisions by the California Office of Statewide Health Planning and Development, with application to specific medical service buildings.

Public Utility: Repeal is proposed in order to relocate this word from the abbreviations and into the definitions of terms in Section 103.

SBR: Repeal is proposed because the abbreviation is not used within the provisions of Title 24.

SFM: Amended for improved clarity.

SHB: Amended for improved clarity.

SL: Added because this abbreviation is used within Title 24 to identify code provisions by the State Library that apply to publicly funded libraries.

SLC: Amended for improved clarity.

SRSC: Repealed because this abbreviation is not used within Title 24.

UBC: The copyright symbol is removed because the commission's inclusion of the NEC abbreviation in the regulations is not an infringement of any copyright protection. The symbol has no regulatory purpose. The proposed new language is to clarify that the UBC is no longer used as a base code in Title 24.

UBC STDS: The proposed new language is to clarify that the UBC is no longer used as a base code in Title 24.

UHC: The proposed new language is to identify the use of the Uniform Housing Code.

YA: The abbreviation is not used within Title 24.

Note: The proposed language is to clarify how the reader of this section may find information about what the state agencies (identified within the abbreviations) adopt, and how those adopted provisions apply.

Section 1-103. The proposal is to relocate Section 1-900 of Article 1-9 to Article 1 and renumbering it as Section 1-103. Section 1-900 provides definitions of many terms used within this chapter and other Parts of Title 24. Such definitions will be more useful when located near the beginning of this chapter and not near the end of the chapter. Have definitions near the beginning of a code document is a common practice and is the expectation of most readers.

The opening paragraph is amended to provide improved clarity as to the application of the definitions provided within this section.

Subsection (a). The proposed definition is to provide a distinction, introduced above, between adopting agency and proposing agency. A proposing agency must bring proposed building standards to the Commission for hearing, approval and publication in Title 24. An adopting agency has authority in state law to conduct their own hearings and adopt building standards for publication in Title 24 by the Commission. This distinction is needed in order that the regulations in this chapter may address both types of agencies separately and differently.

Subsection (b). The definition of the word "appeal" is needed in order to distinguish it from other terms used in the chapter such as the word "petition". The California Building Standards Law in the Health and Safety Code establishes how the Commission is to handle an appeal and thus the regulations of this chapter must clarify how the public is to file and how appeals will be administered, which is different than for petitions.

Subsection (c). Part 11 of Title 24 is named the California Green Building Standards Code, which is also known as CALGreen in short. Thus, the regulations should include a definition of the name CALGreen for clarity.

Subsection (d). The proposed amendment is for editorial format only.

Subsection (e). The proposed amendments are for improved clarity. The sentence structure is amended for format consistency. The addition of the reference to the state law establishing the Code Advisory Committees is added for improved clarity.

Subsection (f). The identification change (c) to (f) is necessary because of the addition of new definitions within the section. All other proposed amendments are for improved clarity and consistency.

Subsection (g). The identification change (d) to (g) is necessary because of the addition of new definitions within the section. All other amendments are for format consistency or clarity.

Subsection (h). The identification change (e) to (h) is necessary because of the addition of new definitions within the section. Reference to the state law is for improved clarity.

Subsection (i). A definition is added in order to clearly define the term "enforcement agency", which is used within this chapter and other Parts of Title 24.

Subsection (j). The identification change (f) to (j) is necessary because of the addition of new definitions within the section. Proposed amendments are for improved clarity as to who the Executive Director is and by what authority is the person appointed and for what purpose.

Subsection (k). The identification change (g) to (k) is necessary because of the addition of new definitions within the section. Other amendments are for format consistency.

Subsection (l). The definition of the word "petition" is needed to distinguish it from other words used in the chapter such as the word "appeal", that may be seen as being the same. The California Building Standards Law in the Health and Safety Code establishes how the Commission is to handle a petition and thus the regulations of this chapter must clarify how the public is to file and how petitions will be administered.

Subsection (m). The identification change (h) to (m) is necessary because of the addition of new definitions within the section. As discussed above, an adoption agency and a proposing agency in state government have different authority in regard to the provisions of Title 24. Thus it is necessary to provide definitions for the two different agencies. Other amendments are for improved clarity.

Subsection (n). This definition has been relocated from the abbreviations in Section 1-101 because the name "public utility" is not an abbreviation.

Subsection (o). The identification change (i) to (o) is necessary because of the addition of new definitions within the section. All other amendments are for format consistency.

Subsection (p). The identification change (j) to (p) is necessary because of the addition of new definitions within the section. All other amendments are editorial in nature.

Subsection (q). The proposed addition of the term "Title 24" is needed by the general public. The Commission's office is very often asked by the public for an explanation of what Title 24 is. Thus, the definition is proposed in order to clarify the term.

Authority: Additional references to state laws are added for accuracy and to assist the public researching the authority granted the Commission.

Reference: The listed sections of law are those laws being implemented, clarified, interpreted and carried out by the building standards of Title 24 and this section. The addition of new references is for accuracy and

to assist the public researching the state laws being implemented by the chapter and other Parts of Title 24.

Article 2 number and title. The Article identification number is being changed from 1-2 to 2, as a means of simplifying the numbering of the articles of the chapter. The article's name is expanded for consistency with the contents of the article.

Section 1-201(a). The existing language provides little usefulness. The proposed language sets up the balance of the section and provides the reading public references to state laws establishing the duties and responsibilities of the Commission.

Subsection (b). Amendments are editorial in nature for improved clarity.

Article 1-7 Title. The existing Article 1-7 number and title is to be repealed as being unnecessary because its provisions are proposed for relocation to Article 2.

Section 1-203. Existing section 1-1004 is proposed for relocation into new Section 1-203 without amendment in order to clarify and implement the provisions of Health and Safety Code Section 18930.5. Said California law establishes the authority for Commission to develop, adopt, and publish green building standards and this section implements a program to ensure full public participation during the development of these standards. Existing regulations of this chapter in this proposal establish the process for the adoption and publication of the building standards.

Section 1-205. Existing Section 1-701 is proposed for relocation into Article 2 with only amendment to the section numbers. The subject of this section applies to the Commission members and staff and should be located in Article 2 along with other regulations pertaining to the Commission's personnel and operation. These provisions do not apply to the public or to buildings.

Section 1-207. Existing Section 1-702 is proposed for relocation into Article 2 with only amendment to the section numbers. The subject of this section applies to the Commission members and staff and should be located in Article 2 along with other regulations pertaining to the Commission's personnel and operation. These provisions do not apply to the public or to buildings.

Section 1-209(a)(b)(c). Existing Section 1-902 is proposed for relocation into Article 2 with only amendment to the section number. The subject of this section applies to the Code Advisory Committees appointed by and to assist the Commission in carrying out its duties regarding the development and adoption of building standards in Title 24. These provisions should be located in Article 2 along with other regulations pertaining to the Commission's personnel and operation.

Subsection (d). Amendments are for improved clarity and consistency with the desired practice of the Commission seeking and appointing people to the Code Advisory Committees with expertise relating to the subjects of proposed building standards. At times, the Commission has had no volunteers to serve on the Code Advisory Committees, thus an amendment is proposed that will allow the Commission more flexibility needed to make appointments and holdup the quality of the committees.

Subsection (d)(2)(B)(7) (Plumbing, electrical, mechanical and energy committee). The amendment proposes to allow the Commission to appoint a person from a local water supply entity in place of an energy consultant. The subject of this committee is not energy conservation.

Subsection (d)(3)(B)(8) (Building, fire and other committee). The proposal is to allow the Commission to appoint a person from the general public, which is consistent with other committees, and provides for a view point other than from design professionals, builders, and code enforcement agencies.

Subsection (d)(6)(B)(6) (Green building committee). The amendment proposes to allow the Commission to appoint a person from a local water supply as a public member. The California Green Building Standards Code contains provisions for water conservation and voluntary measures for energy conservation.

Article 3 number and title. The Article identification number is being changed from 1-6 to 3, as a means of simplifying the numbering of the articles of the chapter. The article's name is expanded for consistency with the contents of the article caused by the elimination of Article 1-8, and its provisions regarding petitions relocated into this Article 3.

The proposed Article 3 is to include existing language from existing Article 1-3 regarding appeals and Article 1-6 regarding petitions. There has been confusion about the differences between an appeal and a petition, because of the existing language and lack of clear definitions. Accordingly, new definitions are proposed in Section 1-103, and it

is proposed that a new Article 3 be created with both appeal procedures and petition procedures. The proposal necessitates editorial amendments to carry out this improvement.

Section 1-301. This new section is proposed in order to provide clarification as to the purpose and content of the article and to alert the reader that the article establishes requirements to follow when submitting an appeal or petition.

Section 1-303. This section is expanded for improved clarity. The addition of paragraphs "a" and "b" are proposed in order to identify the type of appeal and appellant, instead of merely providing reference to the state law and expecting the reader to go read the state law and determine eligibility.

Subsection (a) and (b). The subsections are proposed in order to clarify the type of appeals that may be administered by the Commission.

Subsection (c). The subsection is relocated from existing Section 1-602(a) to become subsection 1-303(c) because the subject relates to appeals. This effort is to locate all regulatory language regarding appeals in one article and in the proper sequential order. The amendments to the language of this subsection are editorial in nature and do not impose new requirements or eliminate a right to file an appeal and are consistent with the state law in Health and Safety Code provisions cited in the Authority and Reference at the end of the section.

Subsection (d). This new subsection is added to clarify the limits of the Commission's ability to handle appeals as established in the Health and Safety Code. Otherwise an appellant may have unrealistic expectations.

Exception. This existing language is from current Section 1-602(f) and is relocated with the balance of the section. The language is best made an exception to the other provisions of the subsection.

Section 1-305. This is current language of Section 1-602(g) being relocated to become Section 1-305(a). The relocation improves the flow of regulatory information and process. The section title is amended for clarity and because the section's provisions are regulations and not "statutes". The exception is being repealed because it only applied for appeals occurring within one year of the original adoption of the current Section 1-602(g) (over ten years ago). At this time the exception has no purpose.

Section 1-307. The provisions of current Subsections 1-602(b)(c) and (d) are being relocated to form new Section 1-307. The relocation helps to have all matters relating to appeals in one location and in the sequential order of the process.

Subsection (d). The addition of new language is to assist the public seeking the current address of the Commission, should the Commission office be relocated in the future.

Subsection (c). The addition of the reference to the state law is to clarify the justification for the filing fee.

Repeal of current Subsection 1-602(e). The provisions being repealed are unnecessary as the state law and new Section 1-303 will allow for the filing of an appeal without the need for this language.

Section 1-309. The provisions of current Section 1-603 are relocated to become new Section 1-309. This relocation is made to have all regulatory requirements relating to appeals in only location. The relocation improves the flow of regulatory information and process. No new requirements are imposed and no loss of rights is made by the edits to this section.

Subsection (b). Amendments are minor editorial changes for improved clarity and process.

Subsection (c). Amendments are minor editorial changes for improved clarity and process.

Section 1-311. The provisions of current Section 1-604 are relocated to become new Section 1-311. This relocation is made to have all regulatory requirements relating to appeals in only location. The relocation improves the flow of regulatory information and process. No new requirements are imposed and no loss of rights is made by the edits to this section.

Subsection (a). Amendments are minor editorial changes for improved clarity and process.

Subsection (b). Amendments are minor editorial changes for improved clarity and process. Cross-

references are amended in keeping with the relocation of sections and subsections.

Repeal of Article 1-8 number and title. The existing sections within existing Article 1-8 pertaining to petitions are being relocated to new Article 3 with appeals. While appeals and petitions are different, both are filings with the Commission or other state agencies requiring administration. Accordingly, it is appropriate to have the related regulations located within one article. Additionally, the public's understanding of an appeal and of a petition will be improved with the related regulations governing the filing and administration located in close proximity to each other.

Section 1-313 title. The section title is being shortened to "Petitions" because a petition may be filed by a local governmental agency in addition to the general public. The existing title seems to exclude local government agencies.

Subsection (a). Editorial changes are made for improved clarity. The repeal of "proposing agency or the adopting agency" is necessary because petitions are not appropriate during a code adoption cycle. The purpose of a petition is to request that a new building standard be adopted in Title 24, or that an existing building standard in Title 24 be amended. A petition to request new building standards or amendments to existing building standards may be filed at any time with the Commission or with the agency in authority, except that a petition is not the appropriate means of commenting on proposed building standards. The public's opportunity to comment on proposed building standards is during the designated public review periods. All public comments regarding proposed building standards become part of the rulemaking file and must be addressed by the adopting or proposing agencies before adoptions and publication. Accordingly, the Commission does not want the public to file petitions as a means of providing comment on proposed building standards. Instead the public should submit written comment on proposed building standard during the public review periods, or make oral comment at the public hearings. The two processes are incompatible. This matter is addressed by the proposed Subsection (c).

Subsection (b). This new language is proposed because it is necessary for the Commission to refer petitions to those proposing or adopting agencies when the building standard subject to the petition is not a building standard developed by the Commission. Title 24 contains building standards developed by up to 14 different state agencies. If a building standard subject to a petition is received by the Commission that was originally developed by the Office of the State Fire Marshal, for example, the Commission wants to forward that petition to that agency with the expertise to evaluate the petition and make a determination. The agency receiving a petition referral from the Commission is being required to handle it as required by this Article and report back to the Commission on decisions made.

Subsection (c). See the discussion above for Subsection (a). The proposed language in this subsection is to clarify that a petition is not the appropriate means of commenting on proposed building standards.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-315. Existing Section 1-805 is being relocated to Article 3 as new Section 1-315 in order to locate all matters regarding petitions and appeals together in one article. See the related discussion above regarding the relocation of Article 1-8 sections. Also, the repeal of the word "public" was discussed above for Section 1-313.

Subsection (a). Editorial amendment needed because the petition must comply with the requirements of both Subsection (a) and (b).

Subsection (b)(1)(2)(3)(4). The words "subject regulations" is being replaced by "current building standard", as a means of alerting the reader that petitions are for proposing new or amended building standards, and not for addressing proposed building standards that are currently in a code adoption cycle. The discussion above for Section 1-313(a) explained this matter. This proposed change is in keeping with that intent to separate the petition process from the process of commenting on proposed building standards during a code adoption cycle.

Subsection (b)(4)(C). In addition to the amendments discussed above for this subsection, amendments are proposed in order to broaden the scope of this subsection by stating "*that a building standard has the effect of prohibiting the use of a material or procedure that has demonstrated satisfactory performance and meets the intended purpose of the building standard*", instead of restricting the matter to the satisfaction of a submitting agency, such as a local enforcement agency. The proposal will make it possible for any person, firm or agency that is aware of a material or process that is excluded by the building standards to file a

petition for change to the exclusionary building standard.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-317. Existing Section 1-803 is being relocated to new Section 1-317 in order to locate all matters regarding petitions and appeals together in one article. The title is being amended for editorial improvement.

Subsection (b). This subsection is amended in order to create a process appropriate for an emergency situation and have new or amended building standards developed and adoptions as quickly as possible. All other amendments are for editorial improvement and consistency with the intent of the subsection.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-319. Existing Section 1-804 is being relocated to new Section 1-319 in order to locate all matters regarding petitions and appeals together in one article. The title is being amended to better reflect the contents of the section. Throughout the section the number of days for various steps in the handling a petition is amended to allow for more time, and to account for non-business days such as weekends, holidays, and furloughs.

Many of the state agencies involved with building standards are experiencing vacancies, a hiring freeze, and staffing reductions making for longer processing times. Also, instead of stating business days, the time frames have just been expanded and are based on calendar days. The opening sentence is proposed for repeals because it is unnecessary and the matter has already been stated adequately in Section 1-313. Plus, state law regarding this matter provides that any state agency may be petitioned for a regulatory action to adopt or amend a regulation.

Subsection (a). Amendments are editorial in nature in keeping with the relocation and clarification of the petition processing. The purpose of this subsection is to establish that the petition will be reviewed for compliance with petition requirement. Unnecessary language is repealed. See the discussion above for Section 1-319 regarding the change in the time frames.

Subsection (b). The amendments make this subsection state the action taken when a petition is deemed not to comply with the requirements for petitions and that the petitioner will be notified of the deficiencies. Unnecessary language is repealed. The time frames are repealed as being unnecessary given the amendments to Subsection (a).

Subsection (c). The amendments make this subsection state the action taken when a petition is deemed to comply with the requirements for petitions and that the petitioner will be notified of the determination and planned action. Unnecessary language is repealed. The time frames are repealed as being unnecessary given the amendments to Subsection (a).

Subsection (d). The subsection is new but the contents are from the existing Section 1-804 being relocated to this new Section 1-319. Amendments are consistent with the editing of this section to clarify the processing steps for petitions and no right or new requirements are imposed. The added phrase "*having specific jurisdiction for the subject of the petition*", is needed to clarify what agency may receive the petition referral. See the discussion above for Section 1-319 regarding the expansion of the time frames for administering petitions.

Repeal of existing Subsection (d). This existing subsection is no longer necessary because the written notification requirements have been incorporated into Subsections (a), (b) and (c).

Subsection (e). The added statement "*received by the Commission*" is necessary to limit the required record keeping by the Commission to only those petitions received by the Commission. The sentence to be repealed is deemed inappropriate because the Commission adopts provisions within Title 24, such as the Green Building Standards of Part 11, and building standards applicable to state owned university buildings. Thus, the Commission is required to act on a petition when the subject of the petition relates to those building standard adopted by the Commission.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-321. Existing Section 1-805 is being relocated to new Section 1-321 in order to locate all matters regarding petitions and appeals together in one article. The title is being amended to better reflect the contents of the section.

Throughout the section the number of days for various steps in the handling a petition is amended to allow for more time, and to account for non-business days such as weekends, holidays, and furloughs. Many of the state agencies involved with building standards are experiencing vacancies, a hiring freeze, and staffing reductions making for longer processing times. Also, instead of stating business days, the time frames have just been expanded and are based on calendar days.

The opening sentence is proposed for repeals because it is unnecessary given the edits to following within the paragraph. Plus, the repeal eliminates the need for other agencies to refer petitions to the Commission when it is that agency that is responsible for the building standard subject to the petition. The addition of the reference to the Government Code is needed as a reminder that there is state law on the matter of handling petitions as well.

In subsections of this section, it is required that the Commission is provided copies of any written determinations and actions by other agencies pursuant to a petition. This is necessary so the Commission that is responsible for the publication of Title 24 is aware of petitions and the action taken by other agencies.

Subsection (a). See the discussion above regarding the change to the time frames.

Subsection (b). This new subsection is needed to continue the logical sequence of events when administering petitions. It requires the agency to make a determination of the appropriateness of the petition and when the determination is the petitions is not in compliance with this Article, the agency is to advise the petitioner in writing for the determination with the deficiencies itemized.

Subsection (c). Amendments are editorial in nature and are consistent with the flow of the process for handling petitions.

Subsection (c)(1). Amendments are editorial in nature for clarity.

Subsection(c)(2). Amendments are editorial in nature and are consistent with the flow of the process for handling petitions. See the discussion above for Section 1-321 regarding the change to the time frames.

Subsection(c)(3). Amendments are editorial in nature and are consistent with the flow of the process for handling petitions.

Subsection(c)(4). Amendments are editorial in nature and are consistent with the flow of the process for handling petitions.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-323. Existing Section 1-806 is being relocated to new Section 1-323 in order to locate all matters regarding petitions and appeals together in one article. The section title is being amended by the repeal of the word "*public*" because a petition may be filed by a local governmental agency in addition to the general public. The existing title seems to exclude local government agencies.

Subsections (a)(b)(c)(d)(e). Amendments are editorial in nature and are consistent with the flow of the process for handling petitions.

Subsection (f). This new subsection is purposed in order to establish that a petition may be rejected when the purpose is to require a specific brand of material or device, or would create conflict with federal or state laws or regulations, or is otherwise without merit. Not all petitions will be ethical and based on sound

principles. The Commission and other agencies need this subsection in order to deny such petitions.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-325. Existing Section 1-807 is being relocated to new Section 1-325 in order to locate all matters regarding petitions and appeals together in one article. The existing title is to be repealed because the use of the word "appeal" here has a different meaning and creates confusion and conflict with the sections within this Article 3 regarding appeals. The proposed title is reflective of the purpose and content of the section.

Additions amendments are editorial in nature for clarity and are consistent with the flow of the process for handling petitions.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-327. Existing Section 1-808 is being relocated to new Section 1-327 in order to locate all matters regarding petitions and appeals together in one article. The existing title is to be repealed because the use of the word "appeal" here has a different meaning and creates confusion and conflict with the sections within this Article 3 regarding appeals. The proposed title is reflective of the purpose and content of the section, which is about how a denied petition may be reconsidered.

Subsection (a). The existing language is being repealed because the Commission has no authority in state law to overrule a decision on a petition by an proposing agency or adopting agency when that agency has specific authority in law for the subject of the petition. For example, the Division of the State Architect (DSA) has specific authority in state law to develop and enforced building standards for the design and construction of public school buildings. Should a petition regarding those building standards be denied by DSA for cause, the Commission has no authority to overrule that decision. The proposed language for this subsection is to clarify this matter so the petitioner will understand that the Commission has no authority to reevaluate or reverse the decisions of the other agencies when the subject is within that other agency's jurisdiction.

Subsection (b). As discussed previously, the word "appeal" is being repealed because of the action here is not an appeal as specified in state law and the definitions (with amendments) of this chapter. The other amendments are in keeping with the need for editorial improvement.

Subsection (c). As discussed previously, the Commission has no authority in state law to overrule a decision made by an adopting agency or proposing agency on a petition relating to a subject within that agency's jurisdiction. Accordingly, the existing language is being repealed. The proposed new language is to establish that the Commission will process to take a rulemaking action when it has determined that a previous decision by the Commission regarding a petition was in error. The language will complete the sequential flow in the process established in this section.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Section 1-329. The proposed amendments to this section are for consistency with the relocation of sections within this Article 3, or are editorial in nature for improved clarity. The Government Code references are updated. None of the changes eliminates any right of the public or imposes new requirements.

Authority and Reference. Amendments are to update the references to the specific provisions of state law enacted by the currently referenced legislative bill. The reference to the legislation bill of 1990 is being repealed because such an old reference is no longer helpful. It is the practice to reference the specific state law instead of a legislative bill that enacted the state law.

Article 4 and title. The proposed Article 4 is to include existing regulations from Articles 1-3, 1-4, 1-5 and 1-9. The relocations of existing regulations is needed in order to locate all regulations regarding the process of developing and adopting building standards for Title 24, California Code of Regulations, in one article instead of spread out through the chapter. The new Article 4 should be easier to use and understand. It will combine the functions of the Commission and other state agencies developing and adopting building standards.

The article's title is being amended and expanded for consistency with the contents of the new article.

Repeal of Article 1-9 number and title. The proposal is to relocate Section 1-900 of Article 1-9 to Article 1 and renumbering it as Section 1-103. Section 1-900 provides definitions of many terms used within this chapter and other Parts of Title 24. Such definitions will be more useful when located near the beginning of this chapter and not near the end of the chapter. Have definitions near the beginning of a code document is a common practice and is the expectation of most readers. The balance of existing Article 1-9 is combined with other articles to form new Article 4 addressing all requirements relating to the action (call rulemaking) to propose new or amended building standards.

Section 1-401. Existing Section 1-901 is relocated to become Section 1-401. The repeal of the word "annual" in regard to code adoption cycles is necessary because of the recent change to state law eliminating the requirement for an annual code adoption cycle. Now state law requires an intervening code adoption cycle is to occur once between the triennial code adoption cycles.

Repeal of Article 1-5 number and title. As discussed above existing Article 1-5 is being relocated into new Article 3. The title is no longer needed for the Article but it is to become the title for Section 1-403.

Section 1-403. Existing Section 1-501 is becoming new Section 1-403. The title of the existing Article 1-5 is to become the title for Section 1-403. The opening paragraph is amended to repeal the requirement by the Commission for other state agencies to adopt regulations regarding public participation in the code adoption process. While the section is appropriate, and a means of suggesting a method for assuring public participation in appropriate, the Commission has no authority to mandate that other state agencies adoption such a regulation. Accordingly, the amendments are needed to setup the structure of the section and suggest ways of involving the public in the development of building standards. No public right is repealed or new requirement is imposed.

Subsections (a) and (b). Amendments are editorial and necessary to carry out the purpose of the section.

Subsection (c). This new language suggests that workshops involving the regulated public and industry are a good means of involving the public in the development of building standards.

Subsection (d). Only the subsection identification as (d) is proposed.

Subsection (e). The sentence proposed for repeal requires adopting agencies, who have authority to conduct their hearings and adoption rulings separate from the Commission's hearings and adoption rulings, to submit their public participation regulation prior to public hearing. As discussed above for Section 1-403, the Commission has no authority to require other state agencies to adopt public participation regulations. Thus, the sentence should be repealed.

Section 1-405. Existing Subsection 1-901(b) is being relocated to become new Section 1-405. The existing title for the subsection 1-901 is to become the title for new Section 1-405.

Authority and Reference. As required by the Administrative Procedures Act in the California Government Code, the state law authorizing the Commission to adoption this section of regulations is provided, and the sections of state law that are being implemented by the adoption of this section are listed as required.

Section 1-407. Existing Section 1-301 is being relocated to be new Section 1-407. The title for new Section 1-407 reflects the content of the section. This section is to establish an orderly process for state agencies to follow while developing proposed building standards for submittal to the Commission. The Commission must coordinate the proposals coming from multiple agencies into a discernible rulemaking file for public review. Without this requirements of this section the process may be disorderly causing an unnecessary expenditure of staff time and delays.

Subsection (a). The proposed amendments are necessary for improved clarity and to advise the other state agencies to seek the Commission's approval of the Notice of Proposed Action before making the document public. This goes along with the need for the Commission to coordinate the rulemaking process involving multiple state agencies.

Subsection (b). The proposed amendments and new language are necessary to clarify what is required in the rulemaking file to be submitted to the Commission.

Subsection (b)(1). The proposed new language is necessary so the Commission will receive a face sheet, which is currently in use and already required by the existing regulations of this chapter, to identify the agency, the basics of the proposal, and related documents accompanying the face sheet. The signature of the head official of the submitting agency is necessary to document that the submittal is bona fide. It would be inappropriate for the Commission to receive and commence work on a rulemaking file from another agencies that was not approved by the top officials of that agency.

Subsection (b)(2). The existing language requires six copies of the proposed Notice of Proposed Action (announcing the regulatory proposal). This is being reduced to two copies and an electronic file, most often in MS Word. The electronic form enabled the Commission to place the rulemaking document on the Commission's website for public access and review, and to print additional copies when necessary for public review.

Subsection (b)(3). This new language is necessary to state the required format for the Express Term document showing the proposed regulatory text. The specified format is consistent with the requirements of the Administrative Procedures Act (APA) in the California Government Code. The California Building Standards Law in the Health and Safety Code requires that documents associated with proposing building standards comply with the APA requirements. The ~~strikeout and underlining~~ is a means of illustrating the proposed building standards or amendments to existing building standards. Requiring this document in electronic form is a savings to both the Commission and the state agency developing the regulatory document. Plus, it makes it possible for the Commission to place the document on the Commission's website for public viewing, which reduces printing cost and speeds the process of adopting building standards.

Subsection (b)(4). The Initial Statement of Reasons is a document required by the APA and is part of the rulemaking file. It is to explain the rationale and purpose for the proposed building standards. Requiring the document in electronic form instead of printed on paper is a savings to both the Commission and the state agency developing the regulatory document. Plus, it makes it possible for the Commission to place the document on the Commission's website for public viewing, which reduces printing cost and speeds the process of adopting building standards.

Subsection (c). Amendments are necessary to identify the rulemaking document in this subsection by its proper name.

Notice in the California Administrative Notice Register (similar to the federal government's Federal Register) is for the purpose of making the announcement to the public that adoption of new or amended regulations is planned. The announcement should occur before the public comment period begins. The public comment period allows the public 45-days for review and comment on the proposed action. The Notice Register may be the only way some in the public will be made aware of the proposal. Thus it is important to have the Notice of Proposed Action approved and in the Notice Register well before starting the public comment period. Amendments are made to affect this desire.

The stated five working day time frame within this subsection is being changed to 10 calendar days. As discussed previously for Article 3 amendments, instead of stating working days, the time frames are proposed for expansion and based on calendar days in consideration of vacancies, furloughs, a hiring freeze, and staffing reductions.

Subsection (d). Amendments are to use the proper name of the rulemaking document which is the subject to this subsection, and to extend the time frame for returning an approved Notice to the agency that developed the Notice. As discussed previously for Article 3 amendments, instead of stating working days, the time frames are proposed for expanded and based on calendar days in consideration of vacancies, furloughs, a hiring freeze, and staffing reductions.

Section 1-409. Existing Subsection 1-901(c) is being relocated to form new Section 1-409. The relocation puts the existing language in the proper sequence of the rulemaking process.

The proposed new language in the opening paragraph is for added clarity. As it is the reader must know what the

APA rulemaking proceeding is. The amendment makes it clear that the action required by this paragraph must occur before any hearing or public comment period. The added cross-reference is for greater clarity. The subsections are renumbered in a format consistent with the balance of the change.

Subsection (d). Amendments are editorial in nature for addition clarity.

Subsection (d)(2). The phrase "*has merit but*" is proposed for repeal because it restricts and limits the disapproval decision to just those proposal for building standards that have merit. With the existing language a proposal that has no merit cannot be disapproved.

Subsection (d)(3). The language proposed for repeal has the affect of limiting the cause for deciding that a proposed building standard needs further study to only those requirements of Health and Safety Code Section 18930. The proposed amendments are necessary to provide the code advisory committees basis for deciding that a proposed building standard needs further study and development before being considered for adoption.

Subsection (d)(4). This subsection is dysfunctional and needs to be replaced. The existing language suggests that the code advisory committees will amend the language of a proposed building standard. This does not occur. The code advisory committees are to make recommendations to the Commission regarding a proposed building standard. The proposed amendments are to allow the committees to recommend amendments to the proposed building standard to be considered by the Commission and the state agency that developed the proposed building standard.

Repeal of existing Subsection (a)(3)(E). The existing language is not necessary at this location and is not related to the required recommendations by the code advisory committees and should be repealed. The withdrawal of proposed building standards is addressed in new Section 1-415. It is common that code advisory committee recommendations and public comments received during the public comment period reveals matters to be considered and cause for amendment to the proposal building standard language. New Section 1-415 establishing actions to be taken following the close of a public comment period includes withdrawing the proposal.

Subsection (3). The proposed amendments are necessary to update the language consistent with current practices. The Commission no longer develops monographs during the code adoption cycle because of cost. The cost is considerable in staff time and printing. In the past, monographs have resembled large city telephone books. Today, the documents are made available at the Commission's website or on a electronic devise available to the public. The public has adapted well to using the Commission's website documents.

The proposed new language is to establish that a final report of the code advisory committees' recommendations is developed and made part of the rulemaking file and available to the public for review.

Section 1-411. Existing Section 1-302 is being relocated to become new Section 1-411. This puts the language in the proper order with the sequential events of the rulemaking process.

The title is amendment to reflect the content and purpose of the section.

Proposed new language is to simplify the process and allow the information regarding a hearing stated in the Notice of Proposed Action suffice for advising the Commission of the planned date, time and location of a public hearing.

Section 1-413. Existing Subsection 1-901(d) is being relocated to new section 1-413. This relocation is to place the regulatory language into the proper sequential flow of a rulemaking process within the new Article 4. In general only minor amendments were needed as explained below. The section title is expanded to reflect the section's content and purpose. As discussed previous above regarding Section 1-411, a monograph is no longer developed and is therefore the word "monograph" is being repealed throughout this section.

Subsection (3). Amendments are needed in order to carry out the rulemaking process. The APA requires all public comments to be address, explained in the Final Statement of Reasons, and recorded as part of the rulemaking file available for public review. These provisions apply to the Commission as well as the proposing agencies so amendments are made to include both.

Section 1-415. Existing Section 1-901(d)(6) is being relocated to become new Section 1-415. The proposed title is reflective of the section purpose and content.

Subsection (a). Amendments are needed to setup the purpose of the section which is to address the required actions following the close of a public comment period or hearing, and move the rulemaking file to completion. The sentences to be repealed are unnecessary for the purpose of the section.

Repeal of Subsection (A). Challenges. This language is unnecessary given that all public comments become part of the rulemaking file and are addressed in the Final Statement of Reasons. New Sections 1-413 and 1-419 requires the Final Statement of Reasons to be part of the rulemaking file.

Repeal of Subsection (B). Code advisory committee recommendations. This language is unnecessary given that all code advisory committee recommendations become part of the rulemaking file and are addressed in the Final Statement of Reasons. New Section 1-419 requires the Final Statement of Reasons to be part of the rulemaking file.

Repeal of title "C. Code change submittal". This is unnecessary because the language to follow becomes a part of new Subsection "a" within this section.

Subsection (3) Future study required. The amendment is to eliminate the requirement for a disapproved proposed to be brought by in only the "next" code adoption cycle. Instead, "a future" code adoption cycle is proposed. There should be no requirement that the proposal must be brought back in only the "next" code adoption cycle.

Subsection (4) Approval as amended. The stated 10 day time frame within this subsection is being changed to 15 calendar days. As discussed previously for this Article and Article 3 amendments, instead of stating working days, the time frames are proposed for expansion and based on calendar days in consideration of vacancies, furloughs, a hiring freeze, and staffing reductions.

Other amendments are for improved clarity.

Subsection (b). Amended for clarity and flow with the balance of the section.

Subsection (c). The proposed language is necessary to alert the reader to go to Section 1-419 for the requirements for completing the rulemaking file and proposed regulatory action.

Section 1-417. Existing Section 1-402 is renumbered to fit into the reorganizations of this Article 4. The Proposed title of the section reflects the contents and purpose. All other amendments are editorial in nature for improve clarity.

Section 1-419. Existing Section 1-401 is becoming new Section 1-419. Amendments to the existing language are editorial in nature for improved clarity. The name "*final rulemaking file*" is proposed to replace "*proposed building standards package*". The name "rulemaking file" is the more appropriate name for the file containing all the documents associated with the proposal of new or amended building standards.

Section 1-421. Change without Regulatory Effect. CBSC proposes the addition of a new article for regulations for editorial and other non-regulatory changes to building standards. Having authority for building standards parallel to the Office of Administrative Law's (OAL) for non-building regulations, CBSC currently does not have a mechanism in law or regulation for making these minor changes to California Code of Regulations, Title 24. OAL has regulations in Title 1, Section 100, Publication of "Changes Without Regulatory Effect", upon which CBSC has modeled its new section and subsections.

The Commission does have a procedure for changes without regulatory effect which basically follows Title 1, Section 100, but this new article provides legitimacy in regulation and provides clarity to agencies and code users for dealing with non-regulatory changes to the state's building codes.

Subsection (a) is a general statement as to the scope of the new provisions.

Subsection (b) requires that agencies proposing such changes do so with concurrence of agencies which also adopt affected provisions of the code.

Subsection (c) defines a change with regulatory effect using the terminology from OAL's "Rule 100" paragraph (a), and provides the same listing of examples of such changes.

Subsection (d) outlines the documents that agencies shall submit to CBSC for these changes, similar to an OAL submittal, but requiring the BSC-1 Face Sheet instead of the Form 400 and requiring written

concurrence on changes co-adopted by more than one agency.

Subsection (e) uses "Rule 100" language to indicate CBSC acceptance and filing of a change without regulatory effect with Secretary of State, but also adds a subsection for actions to be taken by CBSC and an agency if CBSC finds that an agency's submittal does not meet the requirements of this article.

Article 5. The Article identification number is being changed from 1-10 to 5, as a means of simplifying the numbering of the articles of the chapter.

Section 1-501. Abbreviations. Existing Section 1-1000 is proposed for relocation into Article 5 with amendment only to the name of the statute referenced, from a chaptered legislative bill to the Health and Safety Code sections it modified.

Section 1-503. Definitions. Existing Section 1-1001 is proposed for relocation into Article 5 with amendment to reference the applicable Health and Safety Code section with which it complies and to align definitions for consistency with Article 1-2.

Sections 1-505 Fee Assessment and 1-507 Fee Collection. Existing Section 1-1002 and 1-1003 are proposed for relocation into Article 5 with amendment only to the section numbers.

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

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

CONSIDERATION OF REASONABLE ALTERNATIVES

CBSC has not identified reasonable alternatives to this proposed action. Updating and clarifying CBSC's administrative regulations is long overdue.

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

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

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

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

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

There are no federal regulations related to this proposed action.