

III CURRENT ENVIRONMENT AND FUNCTIONS

A. OVERVIEW OF THE BUILDING STANDARDS COMMISSION

The California Building Standards Commission (CBSC) is within the State and Consumer Services Agency. It was created to review, approve, codify and publish the California Building Standards Code (Title 24 of the California Code of Regulations) as adopted by various State agencies.

The present CBSC was established in 1980 by SB 331. It was established to correct the problems created by the confusion resulting from the uncoordinated proliferation of conflicting, duplicated, and overlapping State regulations. It was not the first time the problem was recognized, nor was it the first time that an attempt was made to correct the situation.

The initial State Building Standards Law was enacted in 1953 (Chapter 1500, Statutes of 1953). As originally enacted, the law established a California Building Standards Commission with limited powers to control the building standards regulatory process. The Commission could not question the substantive provisions of the code if it found technical defects or that the provisions would have a negative impact on the public. Also, the Commission had no control over the filing of a building standard with the Secretary of State and no appellant powers. Because of its limited powers to control the building standard regulatory process, the Commission was unsuccessful in its attempts to resolve long-standing problems that made it almost impossible for users of the code to understand and comply with its requirements.

Building standards continued to be buried in different titles of the California Administrative Code: OSHA in Title 8, Health in Title 17, Fire Marshal in Title 19, Hospitals in Title 22, etc. There was no codification or indexing with the standards scattered through the 30,000 plus pages of the California Administrative Code. Enforcement was complicated, costly, and in some cases, nonexistent.

In 1973 SB 331 (Robbins) (Chapter 1152, Statutes of 1979), effective January 1, 1980, provided broader powers to the Commission. As a result of this legislation, all proposed building regulations produced by the various State agencies and departments must be reviewed and approved by the Commission before they have any force or effect. Further, the legislation called for all building standards to be removed from other titles of the California Code of Regulations and put into a separate title - Title 24 - which the Commission was made responsible for codifying, printing and publishing. In addition, since January 1980, the Commission is charged with reviewing proposed regulations to be sure they meet the following criteria - commonly called the nine-point criteria – as found in Health and Safety Code Section 18930(a):

1. The regulation does not conflict, overlap, or duplicate other regulations.
2. The regulation is within parameters of enabling legislation.
3. It is in the public interest that the regulation be adopted.
4. The regulation is not unreasonable, arbitrary, unfair, or capricious.
5. The cost to the public is reasonable, based on the overall benefit to be derived from the regulation.
6. The regulation is not ambiguous or vague
7. Applicable national standards, published standards, and model codes have been incorporated.
8. The format is consistent with that adopted by the Commission.
9. The regulation, if intended to promote fire and panic safety, has the written approval of the State Fire Marshal.

In addition, the Administrative Procedure Act (APA) requirements, with respect to the process for adoption of regulations (Government Code Section 11346 et al.), must be satisfied.

AB 4616 (Lancaster), effective January 1, 1989, provided that administrative regulations adopted by State agencies which apply to the implementation or enforcement of building standards must be submitted to the Commission for approval.

SB 2871 (Marks) provided that amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county, pursuant to provisions enacted by the bill - together with all applicable portions of the California Building Standards Code - shall become effective 180 days after its publication by the Commission. The bill also required that the building standards contained in specified codes (model codes) published by the Commission apply, with certain exceptions, to all occupancies throughout the State.

AB 47 (Eastin) transferred the adoption authority of four State agencies to the Commission: the Department of Housing and Community Development (HCD), the Office of the State Fire Marshal (SFM), the Office of Statewide Health Planning and Development (OSHPD), and the Office of the State Architect (OSA) – now the Division of the State Architect (DSA).

AB 204 (Cortese) and several other bills were introduced at the same time in response to the Loma Prieta Earthquake. In particular AB 204 increased the regulatory authority of the Commission to include, in general, existing buildings having at least one unreinforced masonry bearing wall. Specifically, it required the Commission to adopt and publish by reference the Appendix Chapter I of the Uniform Code for Building Conservation (UCBC) to provide standards for buildings specified in that appendix.

SB 1588 (Kopp) required that the publication date established by the Commission for the California Building Standards Code – Title 24 – be no earlier than the date that the Code is available for purchase by the public.

B. BUILDING STANDARDS COMMISSION FUNCTIONS

A primary function of the Commission, as established in Health and Safety Code (H&SC) §18901 *et seq.*, is to process California's proposed building standards and publish the complete California Building Standards Code, Title 24, every three years. This process is referred to as the Triennial Code Adoption Cycle (TCAC). Title 24 is one of 26 titles of the California Code of Regulations.

For the TCAC, State agencies review and consider the new editions of the model codes for adoption, along with their State amendments. The model codes considered by the State agencies are independently and privately developed and written. Where and when possible, the State agencies participate in that development process.

The next step is to begin approving those model codes believed to best meet California's needs and amending them as required by statute or the State agency objectives. State agencies must give notice to the public affected by the new model code language and agency-proposed changes to that language. The agency must also complete a fiscal impact assessment of the proposed language or changes.

The Commission is charged with coordinating the process of adoption, amendment and/or repeal of Title 24 language. Because more than one agency may have jurisdiction over specific provisions, the Commission encourages the resolution of any issues of conflict or overlap through a consensus effort before the provisions are brought into the formal adoption process. Whenever there is such an issue of conflict or overlap that the proposing agencies cannot resolve, the Commission is to convene the Coordinating Council.

H&SC §18926 created the Coordinating Council which is comprised of:

- the Building Standards Commission's Executive Director
- the following or their appointed representatives:
 - the State Director of the Department of Health Services (DHS)
 - the Director of the Office of Statewide Health Planning and Development (OSHPD)
 - the Director of the Department of Housing and Community Development (HCD)
 - the Director of the Department of Industrial Relations (DIR)
 - the State Fire Marshal (SFM)
 - the Executive Director of the State Energy Resources Conservation & Development Commission [The California Energy Commission (CEC)]
 - the Director of the Department of General Services (DGS)

To be considered, all model code change proposals must be fully coordinated and any problems between the agencies resolved with the assistance of Commission staff, if needed. It is inappropriate to bring forward any proposals to the Commission or the Code Advisory groups which contain conflicts.

The proposals are then published in a widely distributed monograph thereby affording the opportunity for the public and all interested parties to comment at the Commission's Code Advisory Committee (CAC) meetings. The proposals are assigned to the appropriate CAC for review. The CAC meetings are noticed and open to the public. The Code Advisory Committees are:

- Accessibility
- Plumbing, Electrical, Mechanical and Energy
- Building, Fire and Other
- Structural Design/Lateral Forces
- Health Facilities

Members of the CAC are appointed by the Commission following an advertising and applicant review process. They represent the general public, design professions, construction industry and government. Each CAC reviews the proposed code changes and makes its recommendation to the Commission.

The Title 24 is published in accordance with a publication agreement. Because of copyright issues, most parts of Title 24 must be purchased – they cannot be made available on the Internet. Those parts written by the State are required to be placed on the internet.

In the years between the TCAC, the Commission conducts an Annual Code Adoption Cycle (ACAC) to adopt amendments deemed appropriate. These amendments may be needed to clarify situations or add language or remove language in the current regulations which may result from new technology, or that mandated by legislation which should be implemented without waiting until the next TCAC. Such modifications are then published as supplements and sent to the purchasers of the original document who have, without additional cost, subscribed to such modifications.

The rulemaking process followed during the TCAC is repeated for the ACAC with the same actions, hearings, publications and time limitations.

In addition to the TCAC and ACAC there are provisions for emergency adoption or repeal of regulations. If a state agency makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of the public peace, health and safety or general welfare, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal. A super majority of the CBSC must concur with the emergency finding. The emergency regulation or order of repeal shall become effective upon filing with the Secretary of State or upon any later date specified by the State agency in a written instrument filed with, or as a part of, the regulation or order of repeal. Those emergency actions are then published and distributed to the subscribers on an as needed basis.

C. CURRENT TECHNOLOGY AND INFRASTRUCTURE

The CBSC computer system operates on the Windows 2000 or higher PC platform with all machines connected to a file server. Each computer is equipped with a CD Drive and a 3.5” Floppy Disk drive and has e-mail and MS Word 2000 or higher, Excel, Access, PowerPoint and Adobe Acrobat. There is no capacity to convert from other platforms. CBSC has the capacity to “burn” and copy CD’s.

D. OVERVIEW OF THE CALIFORNINA BUILDING STANDARDS CODE

The California Building Standards Code, Title 24 of the California Code Of Regulations, consists of eleven parts:

- Part 1: Building Standards Administrative Code – Contains administrative regulations of the California Building Standards Commission and regulations of all State agencies that implement or enforce building standards.
- Part 2: California Building Code – Contains general construction standards and incorporates the model building code.
- Part 3: California Electrical Code – Contains electrical standards and incorporates the model electrical code.
- Part 4: California Mechanical Code – Contains mechanical standards and incorporates the model mechanical code.
- Part 5: California Plumbing Code – Contains plumbing standards and incorporates the model plumbing code.
- Part 6: California Energy Code – Contains energy conservation standards.
- Part 7: California Elevator Safety Construction Code – Contains elevator construction standards.
- Part 8: California Historical Building Code – Contains alternative construction standards for qualified historical buildings.
- Part 9: California Fire Code – Contains only fire safety maintenance standards and incorporates the model fire code.
- Part 10: California Code For Building Conservation – Contains building conservation standards and incorporates the model code for building conservation.
- Part 12: California Reference Standards Code – Contains construction testing standards.

Title 24 has historically been published in 10 binders – not numerically identified:

- 1: Part 1 – Administrative Code
- 2: Part 2 – General Building Code
- 3: Part 2 – Structural Provisions of the Building Code
- 4: Part 2-B – Structural Provisions for Hospitals
- 5: Part 3 – Electrical Code
- 6: Part 4 – Mechanical code
- 7: Part 5 – Plumbing Code
- 8: Part 6 – Energy Code
- 9: Part 9 – Fire Code
- 10: Parts 7 – Elevator Code
- Part 8 – Historical Building Code
- Part 10 – Code For Building Conservation
- Part 12 – Reference Standards Code

For convenience and ease of use by the industry, Title 24 has been fully integrated with the State amendments incorporated into the model codes. A series of matrix and formatting of italics, underlining, cross-out and margin notations informs the reader just which parts have been adopted by the various State agencies and which portions have been amended and how.

Historically, the fully integrated Title 24 parts are each shrink-wrapped and placed into 8 ½” x 11” design coordinated, seven-ring loose-leaf notebooks. That shrink-wrapping provides insurance of delivery of a complete document and the loose-leaf binding allows for easy insertion of any errata or subsequent amendments or supplements. The paper density and weight prevents print bleed through and strength for repeated use. The seven rings provide more structural reliability of the document.

Each Part is equipped with a postage-paid return card for individual purchasers to apply for automatic receipt of errata and supplement sheets at no additional cost. The publisher maintains the list and distributes any errata and supplements to all those who return the subscription cards except for the depositories and libraries which are automatically sent the errata and supplements.

E. CURRENT CONTRACT FOR PUBLICATION OF THE 1998 TITLE 24

The CBSC had six agreements with three entities to publish the 1988 Title 24. The model code authors granted CBSC a non-exclusive license to use and copy all or any portion of their model code, errata supplements, revisions, etc. for the purpose of creating Title 24 and the CBSC then granted them the exclusive worldwide license to copy, print and distribute that particular Part of Title 24 along with the fully integrated CBSC copyrighted amendments and supplements which they then sold

The CBSC determined and controlled the size, format, color, paper weight and all other issues surrounding publication of the 1998 Title 24 to ensure a consistent quality and unified format and appearance.

F. CURRENT PROCESS

The CBSC enters into publication agreements with the model code authors who hold the copyrights and have historically been the publishers. Those agreements contain the provisions necessary to provide the services required to publish, deliver, distribute and sell that part of Title 24 including the provisions for the publication, delivery and distribution of any supplements, supplements produced in response to emergency regulations and any related errata.

To accomplish this task, the CBSC provides the publisher with the supplements, supplements produced in response to emergency regulations and any related errata language. The publisher then returns a draft of the documents which are proofed and marked with any necessary corrections by the CBSC in concert with the State agency proposing the modifications. The publisher then produces a final draft prior to publication. This is a critical time in which the CBSC and the Publishers work very closely together towards the goal of an accurate and timely publication of entire Title 24.