

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE DIVISION OF THE STATE ARCHITECT (DSA-SS AND DSA-SS/CC)
REGARDING THE 2022 CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1
(DSA-SS/CC 04/21)**

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

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS

Government Code Section 11346.2(b)(1) requires a statement of specific purpose of each adoption, amendment, or repeal and the problem the agency intends to address and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.

Item 1

Chapter 4 ADMINISTRATIVE REGULATIONS FOR THE DIVISION OF THE STATE ARCHITECT—STRUCTURAL SAFETY (DSA-SS), GROUP 1: SAFETY OF CONSTRUCTION OF PUBLIC SCHOOLS, ARTICLE 1: GENERAL PROVISIONS

Section 4-309(c).2 – Editorial revision of the word “modifications” to “work” to provide consistent and accurate use of terms in Part 1 and the California Existing Building Code (Part 10). Though not defined in section 4-314, “modifications” can more easily be misunderstood to mean “alteration”, whereas the regulation applies also to addition and reconstruction as stated in the preceding parent sections.

Section 4-309(c).2.B Exception – Exception is repealed because it does not add value to the regulations, is inconsistent with the definition of “rehabilitation” in the regulations, and has resulted in confusion among stakeholders. Rehabilitation as defined in Section 4-314 includes “the evaluation and resulting retrofit”. The condition described in the exception is when the evaluation component of the rehabilitation demonstrates that the retrofit component is not required. In this case, the rehabilitation is still required to produce the evaluation that substantiates the retrofit is not needed.

The SD/LF CAC recommended further study for 4-309(c).2.B to not repeal the exception, and to replace the word “**rehabilitation**” with “**retrofit**”. After further study, DSA disagrees with the SD/LF CAC recommendation for the following reasons:

A **rehabilitation** for DSA-SS and DSA-SS/CC, as defined in 4-314, includes as a first step an **evaluation**. An evaluation does not always lead to mandatory **retrofit**.

The current exception notes that a rehabilitation “...*will not be required if the elements of the lateral force resisting system...comply with Section 319.1 or 317.7, Part 10 and Section 1609A Part 2.*”

This statement is in direct conflict with the requirements of Part 10, Section 317. Section 317.1 notes that the “...*provisions of Sections 317 through 323 establish minimum standards for earthquake evaluation and design for rehabilitation of...*”

existing buildings under the jurisdiction of BSC (317.1.1), DSA-SS (317.1.2) and DSA-SS/CC (317.1.3). Section 317.4 requires that an evaluation "...to determine the seismic performance of the building..." be performed if triggered by the criteria of 317.3, and notes that if the "...structure's seismic performance as required by Section 317.5 is evaluated as satisfactory...then no structural retrofit is required." Section 317.5 (and Table 317.5) define minimum seismic design performance requirements for **both** structural **and** non-structural components.

The current exception (which first appeared in the 2016 CBC) implies that only the "...elements of the lateral force resisting system" need be evaluated. That has led to confusion among our stakeholders because DSA's and BSC's Seismic Performance Requirements per Table 317.5 explicitly require that the evaluation include assessment of non-structural components. It has been demonstrated during past seismic events that insufficiently or improperly secured non-structural components can result in life-safety hazards. The assessment of non-structural components to determine whether hazards or deficiencies exist has been required to be included in the evaluation of structures within BSC's and DSA's jurisdiction per Table 317.5 (and its preceding versions) since at least the 2001 CBC.

Even if the exception wasn't in conflict with 317, retaining the exception and changing the word "**rehabilitation**" to "**retrofit**" would be superfluous because 317.4 already defines the conditions when a retrofit is not required.

DSA proposes to strike this exception in order to satisfy Health and Safety Code 18930(a)(1) by eliminating the conflict with Part 10, Section 317.5.

The last sentence of the exception, which notes that the evaluation of capacity can include past strengthening that was approved and certified by DSA, is proposed to be retained and relocated as the last sentence of 4-309(c).2.B.

Section 4-309(e) – Withdrawn. Initial proposal was to add a title to this section for consistency with other alphabetic subsections in this section, and to add a reference pointer to coordinate with proposed adoption on repair regulations in the California Existing Building Code (Part 10).

The SD/LF CAC recommended Further Study for 4-309(e). After further study, DSA decided to withdraw this proposal; as we are withdrawing our proposal to adopt portion of Part 10 Chapter 4 (Repairs).

CAC Recommendation:

Approve CAM sub-item DSA-SS/CC 04/21-1-1 (Section 4-309(c).2).

Further Study for sub-items DSA-SS/CC 04/21-1-2 (Section 4-309(c).2.B Exception) and DSA-SS/CC 04/21-1-3 (Section 4-309(e))

Agency Response:

Accept approval of Section 4-309(c).2.

Disagree with Further Study for Section 4-309(c).2.B Exception

Withdraw proposal for Section 4-309(e).

See the applicable sections above for discussion of DSA's response to Further Study items.

Item 2

Chapter 4 ADMINISTRATIVE REGULATIONS FOR THE DIVISION OF THE STATE ARCHITECT—STRUCTURAL SAFETY (DSA-SS), GROUP 1: SAFETY OF CONSTRUCTION OF PUBLIC SCHOOLS, ARTICLE 3: APPROVAL OF DRAWINGS AND SPECIFICATIONS

Section 4-316 - Proposal clarifies the intent of the provision that plans, specifications and observation of the work of construction may be under the responsible charge of a professional engineer qualified to perform services and registered in that branch of engineering applicable to the work, whether that is a new project, addition, alteration or repair, so long as that work doesn't involve architectural or structural work or changes.

CAC Recommendation:

Approve.

Agency Response:

Accept.

Item 3

Chapter 4 ADMINISTRATIVE REGULATIONS FOR THE DIVISION OF THE STATE ARCHITECT—STRUCTURAL SAFETY (DSA-SS), GROUP 1: SAFETY OF CONSTRUCTION OF PUBLIC SCHOOLS, ARTICLE 5: CERTIFICATION OF CONSTRUCTION

Section 4-330 - Proposal clarifies the intent of the provision that construction must commence on all school buildings within an approved project within four years or else the approval is void for those school buildings which have not yet commenced construction. Given this proposed four-year rule, extensions no longer apply, which also alleviates an unnecessary administrative burden. With the removal of extensions, it is necessary to add an exception permitting DSA to withdraw approval or institute post-approval requirements as necessary to address life-safety concerns in response to information received after approval of plans and before commencement of construction.

Section 4-335(d)5 – Clarifying requirements to provide DSA with test reports when requested.

Section 4-335(f)4 – Clarifying requirements to provide DSA with daily special inspection reports when requested.

Section 4-335.1(b)1 – Correct term for AASHTO's laboratory assessment program is provided due to name change.

Section 4-335.1(b)2 – Clarifying a laboratory engineering manager is required for each facility providing services on DSA regulated projects.

CAC Recommendation:

Approve.

Agency Response:

Accept.

Item 4

Chapter 4 ADMINISTRATIVE REGULATIONS FOR THE DIVISION OF THE STATE ARCHITECT—STRUCTURAL SAFETY (DSA-SS), GROUP 3: SUSTAINABLE CONSTRUCTION OF PUBLIC SCHOOLS AND COMMUNITY COLLEGES OUTDOOR WATER USE

Section 4-508 – Plans, specifications and other data.

Repeal language requiring fee payment; DSA has eliminated the fee requirement related to the submission of the required landscape documentation.

Section 4-509 – Application for self-certified drawings and specification.

In 2019, DSA revised its procedure regarding submission of landscape plans for modifications, rehabilitations and new construction of landscape areas at public K-12 schools and community colleges. The revisions include the elimination of a fee for review of landscape plans and revisions to the self-certification form to include a provision that periodic site observations during construction will occur to ensure the landscape planting and irrigation work is completed in accordance with the requirements of the CALGreen Section 5.304 requirements for outdoor water use adopted by DSA-SS. This singular form is in lieu of two separate self-certification documents; one for certification that the design complies, and one for certification that the construction complies. DSA determined that the self-certification forms that were to be submitted at the close of construction were difficult to track for projects and determined that streamlining the process was necessary to combine both certifications into one document which is required at plan submittal.

Section 4-510 – Fees.

Section is repealed; DSA has eliminated the fee requirement related to the submission of the required landscape documentation.

CAC Recommendation:

Approve.

Agency Response:

Accept.

Item 5

Chapter 5 ACCESS TO PUBLIC BUILDINGS BY PERSONS WITH DISABILITIES, ARTICLE 1: COMPLIANCE PROCEDURES

Section 5-103 – Deleting various DSA Regional Office addresses and providing language for consistency with California Administrative Code (Part 1) Section 4-352(a).

CAC Recommendation:

Approve.

Agency Response:

Accept.

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

Government Code Section 11346.2(b)(3) requires an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the regulation(s).

These administrative regulations are applicable to Parts 2, 3, 4, 5, 8, 10, 11 and 12 of Title 24, California Code of Regulations. The 2021 International Existing Building Code was used in the evaluation and development of Item 1. No other technical reports or studies were used in the development of these proposed amendments.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS

Government Code Section 11346.2(b)(1) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.

The proposed amendments do not contain any mandates for specific technologies or equipment or prescriptive standards.

CONSIDERATION OF REASONABLE ALTERNATIVES

Government Code Section 11346.2(b)(4)(A) requires a description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific action or procedures, the imposition of performance standards shall be considered as an alternate. It is not the intent of this paragraph to require the agency to artificially construct alternatives or describe unreasonable alternatives.

The Division of the State Architect did not identify nor determine any reasonable alternatives to the proposed administrative regulations.

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

Government Code Section 11346.2(b)(4)(B) requires a description of any reasonable alternatives that have been identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business. There will be no adverse impact on small business.

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

Government Code Section 11346.2(b)(5)(A) requires the facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

No significant adverse impact on business was determined and no other documents or evidence was determined applicable to the proposed provisions.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Government Code Sections 11346.3(b)(1) and 11346.5(a)(10)

The Division of the State Architect has assessed whether or not and to what extent this proposal will affect the following:

- A.** The creation or elimination of jobs within the State of California.
The Division of the State Architect did not identify any amended regulation that would lead to the creation or elimination of jobs within the State of California.
- B.** The creation of new businesses or the elimination of existing businesses within the State of California.
The Division of the State Architect did not identify any amended regulation that would lead to the creation of new businesses or the elimination of existing businesses within the State of California.
- C.** The expansion of businesses currently doing business within the State of California.
The Division of the State Architect did not identify any amended regulation that would lead to the expansion of businesses currently doing business within the State of California.
- D.** The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.
Part 1, California Administrative Code (CAC) is the administrative regulations for application of the California Building code, implementation of construction testing and inspection programs, and certification of construction for the safety and protection of life and property of public K-14 school buildings in compliance with the California Education Code and state-owned or state-leased essential service buildings in compliance with the California Health and Safety Code. The benefits of the regulations provide clarity to the CAC.

ESTIMATED COST OF COMPLIANCE, ESTIMATED POTENTIAL BENEFITS, AND RELATED ASSUMPTIONS USED FOR BUILDING STANDARDS

Government Code Section 11346.2(b)(5)(B)(i) states if a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.

The proposed changes to the regulations are primarily editorial to provide clarity or to align with statutory changes, and do not result in an increase to the cost of compliance in the application and implementation of the California Administrative Code or California Building Code.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Government Code Section 11346.2(b)(6) requires a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal to describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from these federal regulations upon a finding of one or more of the following justifications: (A) The differing state regulations are authorized by law and/or (B) The cost of differing state regulations is justified by the benefit to human health, public

safety, public welfare, or the environment.

These proposed administrative regulations do not duplicate or conflict with federal regulations.