

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE DIVISION OF THE STATE ARCHITECT
REGARDING THE 2022 CALIFORNIA BUILDING CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
(DSA-AC 01/22)**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a Final Statement of Reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS:

Government Code Section 11346.9(a)(1) requires an update of the information contained in the Initial Statement of Reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the Initial Statement of Reasons, the state agency shall comply with Government Code Section 11347.1.

The Division of the State Architect has not added any data (including technical, theoretical, or empirical studies, reports, or similar documents relied upon) that would necessitate an update of the information contained in the Initial Statement of Reasons.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Pursuant to Government Code Section 11346.9(a)(2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s).

The Division of the State Architect has determined that the proposed regulatory action **WOULD NOT** impose a mandate on local agencies or school districts.

The proposed amendments clarify existing accessibility requirements of the California Building Code, provide minimum requirements for urinal compartments should a school district opt to provide all-gender multi-user restroom facilities, and identifies space requirements in E occupancies at safe dispersal areas.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S).

Government Code Section 11346.9(a)(3) requires a summary of EACH objection or recommendation regarding the specific adoption, amendment, or repeal proposed, and an explanation of how the proposed action was changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action, or reasons for making no change. Irrelevant or repetitive comments may be aggregated and summarized as a group.

Item 1

Chapter Chapter 2 DEFINITIONS, Section(s) 202 BLENDED TRANSITION

DSA-AC proposes to amend the definition of BLENDED TRANSITION to state the slope in ratio terms, rather than percentage, to align with terminology used in other code sections.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, supports DRC comments, and Recommendation to approve proposal

Agency Response:

DSA-AC thanks the commenters for the support of the proposed amendment. DSA is proposing no further changes to this section in response to these comments.

Item 2

Chapter Chapter 2 DEFINITIONS, Section(s) 202 ELEVATOR BUILDING

A proposal to add a definition of the term “elevator building”. Item withdrawn.

Commenter(s) and Recommendation (if applicable):

Not applicable

Agency Response:

DSA-AC has withdrawn, at its discretion, after, and at the recommendation of the Code Advisory Committee for further study that occurred on February 2, 2023.

Item 3

Chapter 4 SPECIAL DETAILED REQUIREMENTS BASED ON OCCUPANCY AND USE, Section(s) 406 MOTOR-VEHICLE RELATED OCCUPANCIES, Subsection 406.2.3 Accessible parking spaces.

DSA-AC proposes to add a courtesy reference to Chapter 11B, as applicable, in addition to the existing reference to Chapter 11A.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA is proposing no further changes to this section in response to these comments.

Item 4

Chapter Chapter 10 MEANS OF EGRESS, Section(s) 1009.2

DSA-AC proposes to add safe dispersal areas as a component of accessible means of egress.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA is proposing no further changes to this section in response to these comments.

Item 5

Chapter 10 MEANS OF EGRESS, Section(s) 1009.8.2

DSA-AC proposes to add a cross reference to Chapter 11B requirements.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA is proposing no further changes to this section in response to these comments

Item 6

Chapter 10 MEANS OF EGRESS, Section(s) 1010.1.4

DSA-AC proposes to amend exception 5 to include a reference to Chapter 11B, as applicable.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. supported the proposal but commented that a specific section in Chapter 11B should also be referenced.

Connie Arnold, Advocate, opposes if reduces access for persons with disabilities.

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Agency Response:

DSA-AC thanks the commenters but respectfully declines to amend its proposal in response to these comments. The design professional of record is responsible for

determining the specific code sections that may apply to a specific design. The amendment sends code users to all applicable sections of Chapter 11B and does not reduce access.

Item 7

Chapter 10 MEANS OF EGRESS, Section(s) 1028.5

DSA-AC proposes to amend the section to provide technical requirements for accessible safe dispersal areas.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve but requests an increase from 2% to 5% of facility occupants.

Connie Arnold, Advocate, Recommendation to approve but requests an increase from 2% to 5% of facility occupants.

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA is proposing no further changes to this section in response to these comments. The 5 square feet per occupant already required by the model code allows for standing persons, wheelchairs, and stretchers. Additionally, an area of refuge may not serve all exits of a building, but the space for wheelchair users is based on all occupants, not just those using the exits served by the area of refuge. DSA may consider an increase to scoping in future rulemaking cycles.

Item 8

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 1150A

DSA proposes to rescind adoption of this section.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve

Agency Response:

DSA-AC Architect thanks the commenters for their support of this proposed amendment. DSA is proposing no further changes to this section in response to these comments

Item 9

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-213

DSA proposes to amend the section to provide scoping requirements for toilet facilities that are provided for multiple users of any gender.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc noted that subsection 11B-213.3.1.2 was indented relative to subsection 11B-213.3.1.1. Recommendation to approve as amended.

Agency Response:

DSA-AC thanks the commenter. DSA-AC has corrected the typographical error and aligned the two sections.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc commented that the proposed language of 11B-213.3.1 is overly complicated, repetitive, and mandates technical requirements.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to this comment. The subsections 11B-213.3.1.1 and 11B-213.3.1.2 are intended to be read separately from each other and must stand on their own, therefore some complexity and repetition is necessary. In developing this proposal, DSA-AC heard from visually impaired stakeholders that safety in a large busy restroom was best achieved by in-swinging doors and compartment fixture identification. DSA-AC is proposing no further changes to this section in response to these comments.

Commenter(s) and Recommendation (if applicable):

Tim Thimesch, thanked DSA for this proposal, Recommendation to approve

Richard Skaff, Recommendation to approve, but requests that operable parts be usable by people without hands or with limited finger dexterity.

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve and requested clarification that privacy latches are subject to operable parts requirements.

Connie Arnold, Advocate, Recommendation to approve, similar comment to Richard Skaff.

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. The proposal as written aligns with minimum federal standards. Operation for persons without hands would be an enhancement to federal law. Enhancing federal requirements

is not within DSA's authority. DSA is proposing no further changes to this section in response to these comments.

Item 10

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-216.5

DSA-AC proposes to add requirements for signs at accessible electric vehicle charging spaces.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, neutral
Connie Arnold, Advocate, neutral

Agency Response:

DSA-AC is proposing no further changes to this section in response to this comment.

Item 11

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-233.3.1.2

DSA-AC proposes to amend sections to clarify when a residential public housing building is required to provide adaptable units.

Commenter(s) and Recommendation (if applicable):

Summary of Comment on 45-Day Item: Susan Moe, Architect and CASp, noted that the language proposed for Section 11B-233.3.1.2 (Elevator buildings) conflicted with the Fair Housing Act Accessibility Guidelines and did not use terminology consistent with current code language.

Agency Response:

DSA-AC thanks the commenter and has amended this section to include only primary dwelling unit entrances and to use the term "common use areas".

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve, and agrees with suggested changes from Susan Moe above.

Connie Arnold, Advocate, Recommendation to approve

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA-AC is proposing no further changes except as noted above in the agency response to Sue Moe's comment.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc requested that DSA adopt the HCD-1 definition of “NEWLY CONSTRUCTED” or define the term “first occupancy” for clarity in projects where a change of use or occupancy occurs.

Agency Response:

DSA-AC thanks the commenter. DSA-AC notes that requirements for new construction of public housing are found in Section 11B-233.3.1, and that the requirements for additions to public housing are found at Section 11B-233.3.3, and alterations are provided at 11B-233.3.4. These sections together negate the need for additional definitions. DSA-AC is proposing no further changes to this section in response to these comments.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. requested that DSA reword the exception to Section 11B-233.3.1.1.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to this comment. No changes to the exception were initially proposed, and DSA considers this to be a substantiative change. DSA may consider for a proposal in a future code cycle.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. requested that DSA modify the text to Section 11B-233.3.1.2.1 to clarify if a single elevator must serve each floor.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to this comment. DSA-AC notes that if a building is designed to have some elevators serve a portion of the floors, and another elevator serve other floors, then both sets of elevators are required to comply with the requirements for elevators found at Sections 11B-206.6 and 11B-407.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. suggested that the language for which entrances must be on an accessible route be modified and provided FHA guidance on the matter.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to this comment. The code language differentiates between a building entrance and a residential unit entrance. No additional changes are necessary.

Commenter(s) and Recommendation (if applicable):

Kerwin Lee, Architect commented that the proposal Item #11, Section 11B-233, conflicts with Section 206.2.3 of the ADA Standards and Section 11B-206.2.3 of the CBC, but aligns with the Fair Housing Act guidelines. Mr. Lee further stated that the goal is to comply with the ADA.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to this comment. The language proposed in this item aligns with California law, Government Code Title 2, Division 3, Part 2.8, Chapter 6, Article 2, Section 12955.1.

Item 12

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-249.1

DSA-AC proposes to add statutory language requiring adult changing facilities at existing commercial places of public amusement.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve body of proposal but opposed to exception.

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment. The exception excepts a facility having compliant adult changing facilities from having to install additional adult changing facilities in excess of code required minimums and aligns with statute.

Item 13

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-406.3.2, Figure

Modifies the illustrative figure to show the allowed setback of the detectable warnings.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve and wants detectable warnings to be yellow.

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. Section 11B-705.1.1.3.1 requires new detectable warnings to be yellow and approximate 33538 of SAE AMSSTD-595A. DSA-AC is proposing no further changes to this section in response to this comment.

Item 14

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-604.8

Amends technical requirements for accessible toilet compartments to require a privacy latch.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve

Jennifer Mahato asked if there was a specific distance required between the door pull and the latching device

Richard Skaff proposed taking out the language in the operable parts section to remove the one hand requirement.

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Item 15

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-605

This item add technical requirements for urinal fixtures located within compartments.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. commented that the proposed language of Section 11B-605 could be simplified; that the requirement for flush control operation at Section 11B-605.4 could be read as requiring hand operated flush controls; suggested that a centered fixture could be more usable; noted that the clearance requirements for maneuvering and turning at 11B-605.5.2 are redundant; suggested that toe clearance may be provided under one wall; asked that the requirement for urinal compartment doors to be 4 inches from the side wall at 11B-605.5.3 be removed; and noted a conflict in door swing language.

Agency Response:

DSA-AC thanks the commenters and has amended Section 11B-605.5.1 to clarify that hand operated flush controls are permitted. DSA further amended Section 11B-605.5.4

to eliminate toe clearance language to align with the Part 5 California Plumbing Code proposal currently under consideration which does not allow for toe clearance. These changes were included in the items in the 15-day comment period, which ended May 25, 2023. DSA-AC has removed the language for in-swinging doors from the final proposal via addendum, as it remained in error.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve, including proposed clarification to allow hand operated flush controls on the wide side of the fixture. Nubyaan additionally suggests that the maneuvering clearance be required to be centered on the fixture.

Connie Arnold, Advocate, Recommendation to approve, supports DRC's comments, and suggests power assist or automatic door openers be provided on stall doors.

Agency Response:

DSA-AC thanks the commenters and has amended Section 11B-605.5.1 to clarify that hand operated flush controls are permitted. Requiring automatic door operators would be an enhancement to federal law. Enhancing federal requirements is not within DSA's authority. DSA-AC is proposing no further changes to this section in response to this comment.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott, Dara Schur, Marissa Shaw, Connie Arnold, and Roy Arnold oppose the exception to allow a reduced stall size where toe clearance below the partition is provided.

Agency Response:

DSA-AC has amended Section 11B-605.5.4 to eliminate the toe clearance exception to align with the Plumbing Code proposal also under consideration.

Commenter(s) and Recommendation (if applicable):

Connie Arnold, Advocate, Recommendation to approve the remainder of the proposal

Agency Response:

DSA-AC is proposing no further changes to this section in response to this comment.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. commented that the language of 11B-605.4 contained in the additional 15-day proposal was still awkward and could be read as applying to all urinals.

Agency Response:

DSA-AC thanks the commenter and respectfully declines to amend its proposal in response to this comment. The entirety of Section 11B-605 applies only to urinals

required to be accessible. DSA-AC is proposing no further changes to this section in response to this comment.

Item 16

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-809.10.6

Removes a cross reference to Section 11B-608.1.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. had multiple suggestions for additionally modifying the language for transfer showers in adaptable dwelling units.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to these comments. The commenter's suggestions may be considered in a future code cycle. DSA-AC is proposing no further changes to this section in response to this comment at this time.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott, Dara Schur, Marissa Shaw, Connie Arnold, Tim Thimesch, Richard Skaff, and Roy Arnold oppose the removal of the cross reference to Section 11B-608.1.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to these comments. The proposal eliminates existing conflicting requirements in chapter 11B. DSA-AC is proposing no further changes to this section in response to this comment.

Item 17

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-216.8

Adds permanent room identification signs and gender symbols to all-gender, multi-user toilet rooms.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc. suggested removing requirements for toilet room identification signage from Section 11B-216.8.2 and merging the language into other, existing sections; and opposed the prohibition of pictograms.

Agency Response:

DSA-AC thanks the commenter but respectfully declines to amend its proposal in response to these comments. Some duplication in these requirements is necessary to insure consistency in application. DSA-AC is proposing no further changes to this section in response to this comment.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve, but requests future study to allow universally accepted pictograms.

Connie Arnold, Advocate, Recommendation to approve

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment and notes that no universally accepted pictograms for urinal or toilet fixtures currently exist.

Item 18

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-226.4

Amends section to prohibit baby changing stations in accessible urinal compartments.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott and Dara Schur, Disability Rights California, Recommendation to approve

Connie Arnold, Advocate, Recommendation to approve

Agency Response:

DSA-AC thanks the commenters for their support of this proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Miscellaneous comments not specifically related to a proposed item

Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) N/A

Commenter(s) and Recommendation (if applicable):

Commenter D. B. Neyhart requested that all facilities be wheelchair accessible, with braille signs on toilet rooms and elevators, and geometric symbols on toilet room doors. The Commenter requested that modest penalties be imposed on facilities that do not comply.

Agency Response:

DSA-AC thanks the commenter for their input but notes that this comment is not responsive to a particular proposed item. The failure to remove barriers that are readily achievable is already illegal under federal law and is enforced through the legal system. DSA-AC does not have authority to pass regulations which impose penalties on building owners for failing to comply with the building regulations.

Commenter(s) and Recommendation (if applicable):

Connie Arnold, Advocate has a concern about dirt parking lots not providing adequate accessible parking spaces.

Agency Response:

DSA-AC notes that existing Section 11B-201.3 requires temporary facilities to comply with Chapter 11B. No additional changes are proposed in response to this comment.

Commenter(s) and Recommendation (if applicable):

Richard Skaff requests that DSA create industry standardization for baby changing table operable parts as they are not currently all accessible. Richard also commented that the standardization and research could be conducted similar to the Evaluation of Detectable Warnings Committee (EDWAC).

Richard Skaff requests that DSA develop an advisory group to not only discuss and propose code changes but to also test elements of accessible environments.

Connie Arnold, agreed with Richard's request.

Agency Response:

DSA does not currently review individual components for compliance with accessibility provisions and does not have the authority to do so. Compliance for individual installations are reviewed by the local authority having jurisdiction. The EDWAC was created to evaluate detectable warnings and directional surfaces. This committee and related evaluation of detectable warnings is mandated by statute.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

Government Code Section 11346.9(a)(4) requires a determination with supporting information that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Division of the State Architect has not identified any reasonable alternative to the proposed action and no adverse impact to affected private persons or small business due to these proposed changes is expected.

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:

Government Code Section 11346.9(a)(5) requires an explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses, including the benefits of the proposed regulation per 11346.5(a)(3).

N/A