

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT
REGARDING THE 2022 CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1
(OSHPD 01/22)**

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 6 SEISMIC EVALUATION PROCEDURES FOR HOSPITAL BUILDINGS
ARTICLE 1 DEFINITIONS AND REQUIREMENTS**

Section 1.2 Definitions.

Section 1.4 Compliance plans.

Section 1.9 State Grant Programs.

Section 1.10 Integrated Review for Seismic Compliance Projects.

This item incorporates Senate Bill 395 (Chapter 489, Statutes of 2021) into regulations. The statute established the Small and Rural Hospital Relief Program for the purpose of funding seismic safety compliance with respect to small hospitals, rural hospitals, and critical access hospitals in the state.

CAC Recommendation:

Further Study Required under 9-Point Criteria #3, 6, and 8.

Section 1.2 Definitions.

INTEGRATED REVIEW. Recommended to replace “may” to “shall be permitted to”.

SMALL AND RURAL HOSPITAL RELIEF PROGRAM. Recommended to remove requirements from the definition.

STATE GRANT PROGRAM. Recommended to remove requirements and commentary information from the definition.

Section 1.4.5 Compliance plan update/change notification. Recommended to replace “must” & “will” to “shall” and to clarify item number 5.

Section 1.9 State Grant Programs. Recommended to remove commentary information and clarify the last two sentences.

Section 1.9.1 The Small and Rural Hospital Relief Program. Recommended to remove commentary information and replace “may” to “shall”.

Section 1.10 Integrated Review for Seismic Compliance Projects. Recommended to change “integrated seismic retrofit review” to “Integrated Review of a seismic retrofit” or something similar, change “may” to “is permitted to” and capitalize the first letter in the words “integrated” and “review” as necessary.

Agency Response:

Accept the recommendation for all items, except for Disagree with Further Study for the recommended word changes to the following items:

- **1.2 Definitions. INTEGRATED REVIEW.** Replace "may" to "shall be permitted to".
- **Section 1.9.1 The Small and Rural Hospital Relief Program.** Replace "may" to "shall".
- **Section 1.10 Integrated Review for Seismic Compliance Projects.** Change "may" to "is permitted to".

OSHPD respectfully recognizes the need to change the word "may" to "shall" for code writing purposes; however, in the context of the statute for The Small and Rural Hospital Relief Program, "may" is the more appropriate word as there is discretion as to whether the action should be taken.

ITEM 2

**CHAPTER 6 SEISMIC EVALUATION PROCEDURES FOR HOSPITAL BUILDINGS
ARTICLE 1 DEFINITIONS AND REQUIREMENTS**

Section 1.11 Public Notices.

Section 1.12 Annual Status Update Reporting.

This item incorporates Assembly Bill 1882 (Chapter 584, Statutes of 2022) into regulations. The statute raises public awareness of the current seismic compliance status of hospital facilities in California by requiring posting of public notices for hospital buildings in jeopardy of becoming nonfunctional with a major seismic event and by requiring annual status updates on efforts to bring hospital buildings into compliance with seismic safety standards.

CAC Recommendation:

Further Study Required under 9-Point Criteria #3, 6, and 8.

Section 1.11 Public Notices. Recommended to revise the language to clarify the intent and requirements. Suggested to add definition for “Earthquake Resilient Building” to clarify what Type E Notice means.

Section 1.12 Annual Status Update Reporting. Recommended to revise the language to clarify the intent and requirements.

Agency Response:

Accept Further Study for **Section 1.11 Public Notices.** During the CAC meeting, an explanation was given that a definition for Earthquake Resilient Building was not needed as it is statutory language and is based on SPC classifications. Note that the CAC voted further study of the proposal and HCAI was offered written editorial suggestions which were considered and incorporated into the code change proposal.

Disagree with Further Study for **Section 1.12 Annual Status Update Reporting** as no changes were made to the code change proposal because the specific reporting requirements are as outlined by law.

ITEM 3

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 2 DEFINITIONS

Section 7-111. Definitions.

MANAGED PROJECT only applies to a project in plan review. Construction is being deleted from definition. The **START OF CONSTRUCTION** banner is updated to include OSHPD 6 for Chemical dependency recovery hospital buildings as added in Part 2, Volume 1, and the word “placement” is redundant and is being deleted.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 4

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS

Section 7-113 Application for plan, report or seismic compliance extension review.

Paper submittals are no longer submitted for plan review, so references to requirements of a paper submittal are being deleted from several sections. The word architectural is being added to distinguish between an architectural building and a seismically separated building.

Associated Items: 5, 6, 14

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 5

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS

Section 7-115. Preparation of construction documents and reports.

Section 7-116. Reserved.

Paper submittals are no longer submitted for plan review so references to requirements of a paper submittal are being deleted from several sections.

A statement is being added to clarify that architects are allowed to prepare construction documents as their license permits. This has not been clear in the past and added confusion to authority.

To fix numbering and eliminate confusion, Section 7-116. Reserved. was added.

Associated Items: 4, 6, 14

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 6

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS

Section 7-117. Site data.

Paper submittals are no longer submitted for plan review so references to requirements of a paper submittal are being deleted from several sections.

Associated Items: 4, 5, 14

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 7

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS

Section 7-119. Functional program.

Section 7-120. Reserved.

Section 7-122. Reserved.

Section 7-124. Reserved.

Corrections to the distribution sources and titles of reference documents are being revised. To fix numbering and eliminate confusion, reserved sections were added.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 8
CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES
ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS
Section 7-125. Final review of construction documents.

Adding language to clarify that once a project application has been submitted, final construction documents must be uploaded within 10 days of application. This is needed to maintain the continuity of projects in the Accela system. Language is being deleted that previously allowed response to comments to be added directly to drawings as with electronic submittals this is no longer possible.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 9
CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES
ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS
Section 7-129. Time limitations.

Projects can remain open in the Accela system for years after construction has concluded causing delays in processing and receiving final payment or adjustments. The language being added will require that a project be closed out within 90 days of the issuance of the final Certificate of Compliance at the end of a project.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 10
CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES
ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS
Section 7-131. Incremental design, bidding and construction.

The word “and” is being added to clarify that an estimated cost is required for each increment of an incremental project.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 11
CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES
ARTICLE 3 APPROVAL OF CONSTRUCTION DOCUMENTS
Section 7-133. Fees.

Geotechnical reviews are submitted prior to project submittals. The fees are nonrefundable as in all cases the geotechnical review and effort has been provided prior to cancellation of a project. For projects with a change in scope resulting in a reduction of cost it shall be charge \$500 and the actual cost to OSHPD in time and material to complete the review. This is required as the scope of work that was originally approved must be reviewed again to remove or revise scope. Projects with no construction but needing plan review to verify conformance and verify compliance for licensing will be charged \$250 and the actual cost to OSHPD in time and material to complete the conforming review.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 12
CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES
ARTICLE 4 CONSTRUCTION
Section 7-135. Time of beginning of construction.
Section 7-136. Reserved.
Section 7-138. Reserved.
Section 7-140. Reserved.
Section 7-142. Reserved.

OSHPD does not approve testing, inspection and observation programs, it only reviews them to make sure they may be accepted for the project they are assigned. Approval is being revised to acceptance. To fix numbering and eliminate confusion, reserved sections were added.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 13
CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES
ARTICLE 4 CONSTRUCTION
Section 7-144. Inspection.
Section 7-146. Reserved.

Section 7-148. Reserved.

Section 7-150. Reserved.

There has been an increase in confusion over the responsibilities and ethics of an Inspector of Record (IOR). The additions to Section 7-144 align with DSA requirements for an inspector of record and will clarify that (a) IOR must be employed independently from any entity that has a relation to the project to avoid any conflict of interest. (b) The IOR may not direct construction nor perform construction. (c) An IOR must be capable of performing all essential inspection functions of the job or should not be on the project. (d) Defines the role of the lead IOR being onsite and active in the project and not just an administrator. To fix numbering and eliminate confusion, reserved sections were added.

CAC Recommendation:

Approve as Amended under 9-Point Criteria #2

Editorial correction to replace "inspector of record" in part (a). Add the word "inspection between "essential" and "functions" in part (c). In parts (b), (c), and (d), replace "Project Inspector" with "Inspector of Record" to clarify the intent. In part (c) add "inspection" between "essential" and "functions".

Agency Response:

Accept

ITEM 14

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 4 CONSTRUCTION

Section 7-153. Changes to approved work.

Section 7-154. Reserved.

Paper submittals are no longer submitted for plan review so references to requirements of a paper submittal are being deleted from several sections. For paragraph (b), item 4 is being revised to clarify confusing language as to when a detail is considered as not materially altering the work of a project. The intent is the only details that are based on reference standards or preapproved detail are to be considered non-materially altering the work. To fix numbering and eliminate confusion, Section 7-154. Reserved. was added.

Associated Items: 4, 5, 6

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 15

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 4 CONSTRUCTION

Section 7-155. Final approval of the work.

Section 7-158. Reserved.

OSHPD does not inspect projects, they only review them to make sure they are substantially complete. Inspection is being revised to review. To fix numbering and eliminate confusion, Section 7-158. Reserved. was added.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 16

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 19 CERTIFICATION AND APPROVAL OF HOSPITAL INSPECTORS

Section 7-201. Contact with office.

Section 7-206. Fees.

Section 7-211. Renewal of a hospital inspector certificate.

Section 7-212. Approval of hospital inspector of record for construction projects.

7-201 OSHPD has become a department. Contact information is being revised.

7-206 Fees for IOR certification are being revised to add a late fee, recertification retest fee and rescheduling fee to cover effort by OSHPD staff.

7-211 Language being revised to clarify that a recertification “application” exam fee is required, and not an exam fee.

7-212 Adding language to align with DSA’s inspector requirements that an IOR must be able to fulfill all inspection responsibilities and that they may be withdrawn from the project if they are unable to comply with the requirements of Section 7-145.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 17

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 19 CERTIFICATION AND APPROVAL OF HOSPITAL INSPECTORS

Section 7-215. Conduct relative to performance.

Adding requirements for IOR conduct relative to performance so that it is clear what their expectations are for a project.

CAC Recommendation:

Approve

Agency Response:

Accept

ITEM 18

CHAPTER 7 SAFETY STANDARDS FOR HEALTH FACILITIES

ARTICLE 20 REPAIR OF DAMAGE AFTER AN EMERGENCY

Section 7-300. Plan review and approval.

Adding language to clarify that for emergency projects, plans must be submitted within 10 business days of a temporary authorization of a project and any comments responded to within 10 business days of receiving those comments. This is to ensure continued progress of a project which has been temporarily authorized with possible lesser requirements due to it being temporary and that it is systematically brought to a permanent conclusion.

CAC Recommendation:

Approve as Amended under 9-Point Criteria #4

Add the word "business" to clarify that 10 business and not calendar days should be used.

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).

There are no formal studies, reports, or documents to be identified as the basis for the 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 changes do not mandate any specific technologies or equipment and do not require any 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.

There were no alternatives for consideration by the Office. The proposed amendments will provide clarification and consistency within the code and are in alignment with national standards.

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.

Small businesses will not be adversely impacted by the proposed adoption, amendments, or repeal of code requirements.

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.

The Office has identified that there will be no adverse economic impact on businesses on the basis that the provisions proposed are optional and are being proposed to allow facilities to provide services that better match their needs.

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)

OSHPD has assessed whether and to what extent this proposal will affect the following:

- A. The creation or elimination of jobs within the State of California.**
The proposed regulations will not create or eliminate jobs within the State of California.
- B. The creation of new businesses or the elimination of existing businesses within the State of California.**
The proposed regulations will not create new businesses or eliminate existing businesses with the State of California.
- C. The expansion of businesses currently doing business within the State of California.**
The proposed regulations will not cause expansion of businesses currently doing business with 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.**
The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety or the state's environment.

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.

OSHPD finds that the proposed building standards will result in no cost, cost savings, and/or cost that is reasonable if the facility chooses to incorporate a specific building standard into the project design.

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.

The proposed regulations do not duplicate or conflict with Federal regulations.