INITIAL STATEMENT OF REASONS FOR PROPOSED BUILDING STANDARDS OF THE DIVISION OF THE STATE ARCHITECT (DSA) REGARDING THE 2025 BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2 (DSA-AC 01/25)

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 1A
Chapter 2 DEFINITIONS, Section(s) 202, EDUCATION ENTITY IN RECEIPT OF PUBLIC FUNDS

DSA proposes to add this definition to distinguish between educational entities that meet this definition and those that do not to further clarify scoping requirements in the CBC. Entities meeting this proposed definition are required to meet the minimum standards in the Uniform Federal Accessibility Standards (UFAS) which does not permit the use of some portions of the 2010 Americans with Disabilities Act Standards (ADAS).

The United States Department Of Justice (DOJ) analysis of 28 CFR Part 36, Section 36.406(e) in the Guidance on the Standards for housing at a place of education (beginning at page 58) indicates the Departments of Justice and Education share responsibility for regulation and enforcement of the ADA in educational settings. The analysis additionally notes that residential housing, including housing in an educational setting, is also covered by the Fair Housing Act (FHAct), which requires newly constructed covered multifamily housing to include certain features of accessible and adaptable design.

Because the DOJ states that all facilities provided by the educational institution are public accommodations which requires compliance with the most restrictive requirements of the ADA, and FHAct, DSA authority for public accommodations in GOV 4450, and by reference in HSC 19955, is more specific to housing at a place of education than HCD authority for residential occupancies, which is less restrictive and applies only to covered multifamily dwellings provided by private entities. Existing CBC Chapter 11B regulations already address compliance with the ADA and FHAct.

Additionally, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program or activity in receipt of federal financial assistance, including funding received directly or indirectly through states, political subdivisions, or instrumentalities of the same, and includes any successor, assignee, or transferee of a

recipient. Federal financial assistance is defined broadly and includes grants, loans, contracts, or any other arrangements in the form of funds, services, or property interest. Court rulings have upheld that educational entities in receipt of federal funds are recipients of federal financial assistance and must comply with Section 504 regulations. See Bennett-Nelson v. Louisiana Board of Regents, 431 F.3d. 448 (5th Cir. 2005) and Grove City College v. Bell, 465 U.S. 555, 104 S.Ct. 1211 (1984); a private college receiving federal Basic Educational Opportunity Grants was considered a recipient of federal financial assistance. Compliance is a condition of receiving federal funds.

The Department of Housing and Urban Development (HUD) adopts UFAS as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01.

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 1B
Chapter 2 DEFINITIONS, Section(s) 202, HOUSING AT A PLACE OF EDUCATION

DSA is proposing this amendment to clarify that Housing at a Place of Education may be further categorized as either Public Housing or a Place of Public Accommodation. DSA is proposing additional language in this rulemaking cycle that clarifies the requirements for each. This proposal is necessary to clarify existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 2
Chapter 2 DEFINITIONS, Section(s) 202, PLACE OF PUBLIC ACCOMMODATION

DSA is proposing to amend the definition of PLACE OF PUBLIC ACCOMMODATION to include housing facilities that are provided by private educational entities. Housing offered by private educational entities is a public accommodation under the Americans with Disabilities Act (ADA) and is subject to the requirements for residential facilities found in the ADA Standards (ADAS). Amending the language in the CBC to specifically include

housing facilities provided by educational entities is needed to clarify the scoping requirements for such facilities in CBC Chapter 11B.

The United States Department of Justice (DOJ) analysis of 28 CFR Part 36, Section 36.406(e) in the Guidance on the Standards for housing at a place of education (beginning at page 58) indicates the Departments of Justice and Education share responsibility for regulation and enforcement of the ADA in educational settings. The analysis additionally notes that residential housing, including housing in an educational setting, is also covered by the Fair Housing Act (FHAct), which requires newly constructed covered multifamily housing to include certain features of accessible and adaptable design.

Because the DOJ states that all facilities provided by the educational institution are public accommodations which requires compliance with the most restrictive requirements of the ADA, and FHAct, DSA authority for public accommodations in GOV 4450, and by reference in HSC 19955, is more specific to housing at a place of education than HCD authority for residential occupancies, which is less restrictive and applies only to covered multifamily dwellings provided by private entities. Existing CBC Chapter 11B regulations already address compliance with the ADA and FHAct.

This proposal is necessary to conform with 28 CFR part 36, subpart D, Section 36.406(e) and provide clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 3A
Chapter 2 DEFINITIONS, Section(s) 202, PUBLIC HOUSING

DSA is proposing to amend item number 3A in the listed examples to use the same terminology as proposed for the definition of SOCIAL SERVICE CENTER ESTABLISHMENT for consistency. This is consistent with federal regulations at 28 CFR Part 35, Section 35.151(e) and Part 36, Section 36.406(d).

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 3B
Chapter 2 DEFINITIONS, Section(s) 202, PUBLIC HOUSING

DSA proposes to remove the language regarding transient lodging facilities from the definition of public housing. While public entities may operate facilities that are transient lodging, those facilities must meet the building standards for transient lodging and not for

public housing. As definitions in the CBC are provided to facilitate code compliance with applicable regulations, and due to the clarifications adopted in the 2024 Triennial Code Cycle clarifying the requirements for transient lodging and public housing, removing transient lodging from the definition of public housing will lead to less confusion and greater compliance.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 3C
Chapter 2 DEFINITIONS, Section(s) 202, PUBLIC HOUSING

DSA is proposing to amend this definition to clarify that housing facilities that are provided by public entities for the use of employees, or for the use of the employee and their family, is public housing. DSA is asked about facilities such as fire station dormitories, which are not expressly scoped but meet the definition of public housing, and providing this addition will lead to greater code compliance.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 3D
Chapter 2 DEFINITIONS, Section(s) 202, PUBLIC HOUSING

DSA is proposing to amend this definition to clarify that housing facilities that are provided by educational entities in receipt of public funds are also public housing.

The Department of Housing and Urban Development (HUD) adopts UFAS as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program or activity in receipt of federal financial assistance, including funding received directly or indirectly through states, political subdivisions, or instrumentalities of the same, and includes any successor, assignee, or transferee of a

recipient. Federal financial assistance is defined broadly and includes grants, loans, contracts, or any other arrangements in the form of funds, services, or property interest. Court rulings have upheld that educational entities in receipt of federal funds are recipients of federal financial assistance and must comply with Section 504 regulations. See Bennett-Nelson v. Louisiana Board of Regents, 431 F.3d. 448 (5th Cir. 2005) and Grove City College v. Bell, 465 U.S. 555, 104 S.Ct. 1211 (1984); a private college receiving federal Basic Educational Opportunity Grants was considered a recipient of federal financial assistance.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 4
Chapter 2 DEFINITIONS, Section(s) 202, SOCIAL SERVICE CENTER ESTABLISHMENT

DSA has received requests from multiple code users and stakeholders asking for clarity between transient lodging, public housing, certain long-term licensed care facilities, and social service center establishments. While a brief definition of social service center establishments is presently provided in CBC Section 11B-224.8, removing text from that section, moving it to a new definition in Chapter 2, and providing more descriptive text in the definition supported in federal ADA and HUD regulations, will further clarify application of the requirements of Chapter 11B to these types of facilities.

The proposed definition clarifies that social service center establishments provide additional resources beyond housing, which may include either short-term or long-term stays or a combination of both. Social service center establishments may be provided by municipal entities, by charitable organizations, or by commercial entities. Any such social service center establishment is required to comply with the Americans with Disabilities Act (ADA) as either public housing or as a place of public accommodation, as applicable.

This proposal aligns with the requirements of the Americans with Disabilities Act (ADA) 28 CFR Part 35.151(e) and 28 CFR Part 36 Subpart D, Section 36.406(d), and the requirements found in HUD's federal regulations at Title 24, Section 982.4.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 5
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-202.4

Presently, CBC 11B-202.4 is materially different than what is provided in the 2010 ADAS 202.4 because California has more restrictive requirements for path of travel improvements. Under the 2010 ADAS, alterations and additions to residential facilities have specific requirements in Section 233.3.3. and Section 233.3.4. In a previous rulemaking, to bring the requirements of the Fair Housing Act (FHAct) into CBC Chapter 11B regulations, DSA only made reference in the exception to Section 11B-233.3.4.2 covering requirements for residential dwelling units with adaptable features. With this rulemaking, DSA is providing reference to Section 11B-233.3.3 and Section 11B-233.3.4 which are existing requirements for additions and alterations to public housing facilities. Furthermore, DSA is proposing additional amendments in Sections 11B-233.3.3 and 11B-233.3.4 to comply with HUD Section 504 in Item 16.

Even if Item 16 is not adopted, this proposal is necessary for clarity of existing regulations because it is correcting to an appropriate reference in the CBC and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 6
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-203.8

Per California Government Code Section 12955.1(c), DSA's CBC regulations in Section 11B-233 for public housing facilities that are also covered multifamily dwellings must comply with existing federal regulations, specifically the Fair Housing Act (FHAct) and Section 504 of the Rehabilitation Act of 1973 (Section 504). The FHAct requires all common use facilities to be on an accessible route, except for non-elevator buildings, and permits common use facilities on levels that are not on an accessible route to not comply when equivalent common use areas are provided on an accessible route.

For public housing facilities which are not also covered multifamily dwellings under the FHAct, Section 504 requires all common use areas to be accessible.

Under Section 504 of the Rehabilitation Act, any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity itself but also for any services or programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that "…*a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other*

arrangements,…" and that "*Section 504 requires that individuals with disabilities be provided with meaningful access to the benefit that the grantee offers.*" California receives federal funds for public housing, which is redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of receiving federal funds.

The Department of Housing and Urban Development (HUD) adopts the Uniform Federal Accessibility Standards (UFAS) as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Section 203.8 is not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice):

> "*Common Use Areas in Residential Facilities—Section 203.8 of the 2010 Standards*
>
> *Section 203.8 of the 2010 Standards provides that, in residential facilities, common use areas that do not serve residential dwelling units required to provide mobility features are not required to be accessible or on an accessible route. By contrast, common use areas in residential facilities subject to the new construction requirements of the FHAct must comply with FHAct accessibility requirements, including the requirement to be on an accessible route, regardless of whether or not the common use areas serve units required to have mobility features pursuant to the ADA or Section 504. The only exception would be common use areas provided on upper stories of a non-elevator building provided the same common use areas are provided on the ground floor. In addition, this general exception for common use areas may result in less accessibility than is currently required under HUD's Section 504 regulation and UFAS. Accordingly, HUD is not permitting use of Section 203.8 under this document."*

DSA proposes to align CBC Chapter 11B regulations with these specific federal laws, to provide conformity with federal UFAS and FHAct requirements. This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 7
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-205.1

DSA is proposing to relocate the technical requirements for electrical receptacles at corner work surfaces in residential dwelling units with mobility features from scoping Section 11B-

205.1, Exception 9 to the more appropriate technical Section 11B-308, adjacent to the reach range requirements for electrical switches and electrical receptacle outlets.

Locating the requirements in the appropriate code section will prevent potential confusion and misinterpretation by design professionals and code users.

This proposed relocation is intended to avoid duplicative building standards per Health and Safety Code 18930(a)(1). This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 8
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-206.2.1 and 11B-206.2.2

The language of the exception unamended in the CBC comes directly from the ADAS and is applicable to public accommodations and commercial facilities. CBC Chapter 11B includes regulations for public housing facilities, per DSA authority under Government Code 12955.1(c), and includes additional requirements from the Fair Housing Act (FHAct) for covered multifamily dwellings. Additionally, public housing may include other facilities subject to Section 504 of the Rehabilitation Act of 1973 and its adopted standards, UFAS. Neither the FHAct nor UFAS permits the use of the vehicular entrance exception for residential facilities.

Housing at a place of education that is privately funded is a public accommodation, and if the facilities include covered multifamily dwellings, must comply with the FHAct. The exception is not permitted under the FHAct for residential facilities. Public housing facilities that are covered multifamily dwellings must also comply with the FHAct, and therefore may not use the exceptions. The FHAct Guidelines require each covered building on a site to provide at least one accessible entrance on an accessible route (Fair Housing Act Design Manual, p. 1.3 and 24 CFR Subtitle B, Chapter 1, Sections 100.201 and 100.205(c)).

For public housing facilities which are not also covered multifamily dwellings, Section 504 also does not permit these exceptions for residential facilities. Under Section 504 of the Rehabilitation Act, any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity itself but also for any services or programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that "…*a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other arrangements,…*" and that

"*Section 504 requires that individuals with disabilities be provided with meaningful access to the benefit that the grantee offers.*" California receives federal funds for public housing, which are redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of receiving federal funds.

The Department of Housing and Urban Development (HUD) adopts the Uniform Federal Accessibility Standards (UFAS) as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Sections 206.2.1 exc. 2 and 206.2.2 exc. are not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice). The Deeming Notice states that neither exceptions to ADAS Sections 206.2.1 and 206.2.2 are found in UFAS, and direct readers to UFAS Sections 4.1.1(1), 4.1.1(2), and 4.3, which conflict with the ADAS language:

> "… *both conflict with HUD's Section 504 regulation, which requires that all programs and activities receiving Federal funds be readily accessible to and usable by persons with disabilities, as well as the requirements of the FHAct and HUD's Fair Housing Accessibility Guidelines. Accordingly, HUD is not permitting the use of Exception 2 to Section 206.2.1 Site Arrival Points, and the Exception to Section 206.2.2 Within a Site.*"

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 9
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-206.2.3, Exception 4

DSA is proposing to clarify that the requirements in this amendment only apply to those housing facilities required to comply with CBC Section 11B-233, because the ADA references to residential dwelling units that are required to comply with the technical requirements at Section11B-809, bypass the scoping requirements necessary to get to the technical sections.

Housing at a place of education, both private and public, requires dwelling units in compliance with transient lodging requirements in 11B-224, and as a public accommodation under the ADA, the elevator exception does not apply (28 CFR Part 35 Section 35.151(f) and 28 CFR Part 36 Section 36.406(e)), therefore the accessible route

requirements are different for these facilities.

In the Guidance on 2010 Standards, the Department of Justice (DOJ) discusses the requirements for educational housing and related facilities and states: “The ability to move between rooms - both accessible rooms and standard rooms - in order to socialize, to study, and to use all public and common use areas is an essential part of having access to these educational programs and activities.” (Guidance p. 21)

DSA is proposing minor changes to clarify the existing requirements. Public use areas, as public accommodations, must be on an accessible route according to this code.

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 10A
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-206.2.8

DSA proposes to include a reference to Section 11B-248 for additional clarity as previous rulemaking added Section 11B-248 to Chapter 11B. This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 10B
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-206.2.8

DSA proposes to clarify that exceptions 2 and 3 are allowed only in buildings or facilities that are not public housing.

Under Section 504 of the Rehabilitation Act of 1973 (Section 504), any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity itself but also for any services or programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that “*…a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other arrangements,…'*” and that “*Section 504 requires that individuals with*

disabilities be provided with meaningful access to the benefit that the grantee offers." California receives federal funds for public housing, which is redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of receiving federal funds.

Section 504 prohibits discrimination on the basis of disability by entities receiving federal financial assistance, including subgrantees and contractors. The Department of Housing and Urban Development (HUD) adopts the Uniform Federal Accessibility Standards (UFAS) as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Sections 203.9, 206.2.8, 403.5 exc., and 405.8 exc. are not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice):

> "*The 2010 Standards require a more limited level of access within employee work areas in ADA-covered facilities than UFAS, which requires employee work areas to be fully accessible. As stated above, the Department has no authority to allow the use of an alternative standard that may reduce accessibility for individuals with disabilities without notice and comment rulemaking. For this reason, HUD is not permitting use of the aforementioned sections of the 2010 Standards for employee work areas*."

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 11
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-214

DSA proposes to amend the scoping requirements for clothes washers and dryers in public housing facilities to align with the more stringent federal requirements found in the Uniform Federal Accessibility Standards (UFAS).

Under Section 504 of the Rehabilitation Act of 1973 (Section 504), any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity itself but also for any services or

programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that "…*a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other arrangements,…'*" and that "*Section 504 requires that individuals with disabilities be provided with meaningful access to the benefit that the grantee offers.*" California receives federal funds for public housing, which is redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of receiving federal funds.

The Department of Housing and Urban Development (HUD) adopts UFAS as the standard for public housing projects and programs in receipt of federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain UFAS provisions providing greater accessibility are met. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Section 203.8 is not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice):

> "*Washing Machines; Clothes Dryers - Sections 214.2 and 214.3 of the 2010 Standards. UFAS requires front loading washing machines and clothes dryers in common use laundry rooms in facilities serving accessible residential dwelling units [UFAS, Section 4.34.7.2]. UFAS' requirements for front-loading machines reflect the fact that not all persons with disabilities will be able to use top loading machines. The 2010 Standards, however, permit either top loading or front loading machines in such facilities (Section 214.2 Washing Machines; Section 214.3 Clothes Dryers). Consequently, HUD is not permitting application of the scoping requirements for washing and drying machines found at sections 214.2 and 214.3 of the 2010 Standards. Recipients must continue to comply with section 4.34.7 of UFAS. These requirements apply to each laundry room except that HUD's Section 504 regulation and UFAS would not require a laundry room on an upper story of a non-elevator building to be accessible provided that there is an accessible laundry room serving that same building on the ground floor*."

This proposal is necessary to conform with existing minimum federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 12
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-215.1

DSA proposes to amend this section to limit its application to only commercial facilities and

public accommodations.

Under Section 504 of the Rehabilitation Act of 1973 (Section 504), any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity itself but also for any services or programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that "…*a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other arrangements,…*'" and that "*Section 504 requires that individuals with disabilities be provided with meaningful access to the benefit that the grantee offers.*" California receives federal funds for public housing, which is redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of receiving federal funds.

The Department of Housing and Urban Development (HUD) adopts the Uniform Federal Accessibility Standards (UFAS) as the standard for public housing projects and programs in receipt of federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain UFAS provisions providing greater accessibility are met. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Section 215.1 is not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice):

> "*Section 215.1 includes a new exception for visible alarms in the alteration of existing facilities, providing that visible alarms must be installed only when an existing fire alarm system is upgraded or replaced, or a new fire alarm system is installed. Under this exception, visible alarms would not be required as part of alterations unless the alarm system is upgraded, replaced, or newly installed. HUD is not permitting use of this exception because its application may result in less accessibility than is currently required under HUD's Section 504 regulation*."

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 13
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-223.2.3

DSA proposes this change to provide conformity with the federal requirements for medical care facilities at the request of the California Department of Health Care Access and Information (HCAI).

Medical care facilities, which include sleeping rooms used only by on-call staff, are specifically excluded from the definitions of transient lodging provided at Chapter 1, Section 106 of the 2010 Americans with Disabilities Act Standards (ADAS) and Chapter 2, Section 202 of the CBC. This proposal removes the reference to Sections 11B-806.2.3, 11B-806.2.4, and 11B-806.2.6 which are transient lodging requirements, and adds a reference to Section 11B-805.2, the technical requirements applicable to medical care facilities. The current reference to Sections 11B-806 were an error in previous rulemaking and implied that hospitals were to meet transient lodging requirements even though they are not transient lodging facilities by definition in Chapter 2. This proposal also removes the requirements for transient lodging facilities for a personal lift device clear floor space found at Section 11B-806.2.3.1 and for vanity counter space at Section 11B-806.2.4.1, which are applicable only to transient lodging facilities and not to medical care facilities.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 14
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-224.7

DSA proposes to amend this section to clarify the appropriate CBC citations and remove references to transient lodging facilities. While housing at a place of education must meet transient lodging standards, it is housing and is included in the definition of PUBLIC HOUSING in Chapter 2, Section 202, where provided by a public entity.

Housing offered by private educational entities is a public accommodation under the Americans with Disabilities Act and is included in the definition of place of public accommodation.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 15
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-224.8

While a brief definition of social service center establishments is presently provided in Section 11B-224.8, removing text from scoping and relocating it to a new definition in Chapter 2 is more appropriate. See DSA proposal Item 4.

This proposal is necessary to clarify application of existing state regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 16A
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-233.3

The requirements for additions to public accommodations and commercial facilities in CBC Section 11B-202.4 are not applicable to public housing. Section 11B-202.4, exception 1 is currently based on the ADAS language which exempts residential dwelling units from path of travel improvements.

In past rulemaking, DSA incorporated the requirements for additions to public housing facilities from the Fair Housing Act (FHAct); however, the FHAct requirements are not as specific as the requirements for additions to housing facilities subject to Section 504 of the Rehabilitation Act of 1973 (Section 504), and additional requirements specific to additions under those regulations were not provided.

Under Section 504, any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity itself but also for any services or programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that "…*a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other arrangements,…'*" and that "*Section 504 requires that individuals with disabilities be provided with meaningful access to the benefit that the grantee offers.*" California receives federal funds for public housing, which is redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of federal funding.

The Department of Housing and Urban Development (HUD) adopts the Uniform Federal Accessibility Standards (UFAS) as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS

that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Section 202.4 is not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice):

> *"Additions – Section 202.2 of the 2010 Standards*
>
> *Section 202.2 of the 2010 Standards contains scoping requirements which may, in certain situations, afford less accessibility for individuals with disabilities than is currently provided by HUD's rules at 24 CFR part 8 and UFAS. Because the Department is precluded from permitting the use of an alternative standard that might reduce accessibility for individuals with disabilities in housing settings without notice and comment rulemaking, HUD is not permitting use of the scoping requirements for additions at section 202.4 because this may conflict with HUD's Section 504 regulation*."

DSA proposes to amend the CBC requirements to align with the HUD adopted UFAS requirements specific to residential dwelling units and common use areas in public housing facilities by expanding upon the information already provided at Section 11B-233.3.3.

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 16B
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-233.3

The requirements for alterations to public accommodations and commercial facilities in the CBC in Section 11B-202.4 are not applicable to public housing. Section 11B-202.4, exception 1 is currently based on the ADAS language which exempts residential dwelling units from path of travel improvements.

In past rulemaking, DSA incorporated the requirements for alterations to public housing facilities from the Fair Housing Act (FHAct); however, the FHAct requirements are not as specific as the requirements for alterations to housing facilities subject to Section 504 of the Rehabilitation Act of 1973 (Section 504), and additional requirements specific to alterations was not provided.

Under Section 504, any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity

itself but also for any services or programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that "…*a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other arrangements,…'*" and that "*Section 504 requires that individuals with disabilities be provided with meaningful access to the benefit that the grantee offers.*" California receives federal funds for public housing, which is redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of federal funding.

The Department of Housing and Urban Development (HUD) adopts the Uniform Federal Accessibility Standards (UFAS) as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Section 202.4 is not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice):

> *"Alterations – 28 CFR 35.151*
>
> *The 2010 Standards at 28 CFR 35.151(b) and section 202 contain criteria detailing when alterations of facilities must be made accessible. In certain situations, application of the 2010 Standards may result in fewer units containing accessibility features. Because HUD cannot use this document to permit the use of a lesser requirement than that required by its Section 504 regulation, HUD is not permitting use of* <Section> *35.151(b). Therefore, multifamily housing projects must continue to utilize the terms "substantial alterations" and "other alterations" as defined in HUD's Section 504 regulation to determine accessibility requirements.*<24 CFR part 8, subpart C.> *This does not preclude HUD from considering changes to its alterations criteria for residential dwelling units when it revises its regulation to adopt a new accessibility standard."*

DSA proposes to amend the CBC requirements to align with the HUD adopted UFAS requirements specific to residential dwelling units and common use areas in public housing facilities by expanding upon the information already provided at Sections 11B-233.3.3 and 11B-233.3.4.

DSA is proposing, at Section 11B-233.3.4.4 to use an alteration value of fifty percent (50%) of three defined valuations: replacement value, fair market value, or assessed value; because the implementing regulations of UFAS use fifty percent of the full and fair cash value, which is additionally defined in that document. See UFAS Section 4.1.6 Alterations at subsection (3)(d) and definition of "full and fair cash value" at Section 3.5.

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 17
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-233.3.1.2.6

DSA is proposing to repeal Section 11B-233.3.1.2.6 in its entirety. As a place of public accommodation, housing at a place of private education is subject to the site accessibility requirements of ADAS Section 206.2, and the requirements of CBC Section 11B-206.2 as amended. As a place of public accommodation, housing at a place of private education must meet the more restrictive requirements of the 2010 ADAS rather than the requirements provided in the FHAct.

The site impracticality provisions of the FHAct do not apply to place of public accommodation under the 2010 ADAS. The site impracticality provisions are proposed for repeal because they fail to meet minimum federal requirements and conflict with other Chapter 11B requirements.

DSA proposes this change to avoid conflicting building standards per Health and Safety Code, Section 18930(a)(1).

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 18
Withdrawn

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 19
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-308.1.2

DSA is proposing to relocate the existing technical requirements for corner receptacles at kitchen work surfaces in residential dwelling units with mobility features, and the existing technical requirements for corner receptacles at kitchen work surfaces in residential dwelling units with adaptable features from the scoping Section 11B-205.1, Exception 9,

and Section 11B-809.12, respectively, to the more appropriate Section 11B-308 for consistency with existing accessibility regulations thereby collocating both requirements.

The relocation of these requirements to Section 11B-308 provides an adjacency to the reach range requirements for electrical switches and electrical receptacle outlets thereby providing clarity to design professionals and code users.

DSA proposes this change for consistency with existing accessibility regulations in the interest of the public per Health and Safety Code, Section 18930(a)(3).

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 20
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-403.5

DSA proposes to clarify that the exception to Section 11B-403.5 is allowed only in buildings or facilities that are not public housing required to comply with Section 11B-233.

Under Section 504 of the Rehabilitation Act of 1973 (Section 504), any entity receiving federal financial assistance is required to ensure that all its programs and activities are accessible, regardless of how those funds are allocated or through whom they are administered. Federal financial assistance has been broadly defined by the courts to encompass grants, loans, contracts, services, and property interests. Federal funding triggers compliance obligations not only for the entity itself but also for any services or programs provided through subgrantees or contractual relationships. As confirmed in Access Living of Metropolitan Chicago, Inc. v. City of Chicago (2024), the United States District Court, N. D. Illinois, Eastern Division emphasized that "…*a public entity may not discriminate on the basis of disability, directly or indirectly, such as 'through contractual, licensing, or other arrangements,…*" and that "*Section 504 requires that individuals with disabilities be provided with meaningful access to the benefit that the grantee offers.*" California receives federal funds for public housing, which is redistributed to local municipalities and specific projects, requiring compliance with Section 504. Compliance is a condition of federal funding.

Section 504 prohibits discrimination on the basis of disability by entities receiving federal financial assistance, including subgrantees and contractors. The Department of Housing and Urban Development (HUD) adopts the Uniform Federal Accessibility Standards (UFAS) as the standard for public housing projects and programs receiving federal funds. HUD's authority to adopt regulations for housing extends to all housing funded with federal funds, not just housing funded through HUD itself. (Civil Rights Act of 1968, P.L. 90-284, Section 808 (a) and (d)). HUD has allowed the use of the Americans with Disabilities Act Standards (ADAS) as long as certain provisions in UFAS that provide greater accessibility are maintained. These specific provisions were noticed in the Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and

Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01: The 2010 Americans with Disabilities Act Standards (ADAS) Sections 203.9, 206.2.8, 403.5 exc., and 405.8 exc. are not deemed as equivalent to the Uniform Federal Accessibility Standards (Deeming Notice):

> "*The 2010 Standards require a more limited level of access within employee work areas in ADA-covered facilities than UFAS, which requires employee work areas to be fully accessible. As stated above, the Department has no authority to allow the use of an alternative standard that may reduce accessibility for individuals with disabilities without notice and comment rulemaking. ….. For this reason, HUD is not permitting use of the aforementioned sections of the 2010 Standards for employee work areas*."

This proposal is necessary to conform with minimum existing federal accessibility laws, standards, and regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 21
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-805.2

DSA proposes this change to provide conformity with the federal requirements for medical care facilities at the request of the California Department of Health Care Access and Information (HCAI).

Medical care facilities, which include sleeping rooms used only by on-call staff, are specifically excluded from the definitions of transient lodging provided at Chapter 1, Section 106 of the 2010 Americans with Disabilities Act Standards (ADAS) and Chapter 2, Section 202 of the CBC.

This proposal provides the appropriate reference for staff on-call rooms to Section 11B-805.2. (See Item 13), which are the technical requirements applicable to medical care facilities.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 22
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-809.12

DSA is proposing to clarify the provisions of 11B-809.12 by making reference to existing

provisions in Chapter 11B and removing duplicative text.

DSA is proposing to remove item 4 in the technical requirements of 11B-809.12 for electrical receptacles at corner work surfaces in residential dwelling units with adaptable features, and to remove the applicable figure, and provide reference to Section 11B-308 (See Item 7). Reference to the appropriate code section will prevent potential confusion and misinterpretation by design professionals and code users. Additionally, DSA proposes to remove exceptions b and e, which are duplicative of language in Section 11B-205.1.

These amendments are proposed to remove duplicative building standards per Health and Safety Code 18930(a)(1).

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 23
Chapter 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING, Section(s) 11B-812.4

DSA is proposing clarification that the vertical clearance exception allowed for parking spaces in existing parking facilities per Section 11B-502.5 also applies to electrical vehicle charging stations (EVCS) when installed in existing parking facilities.

Vertical clearance requirements at EVCS in existing parking facilities are often determined to be technically infeasible, per Section 11B-202.3, Exception 2, by local jurisdictions. Since this proposed exception for EVCS vertical clearance is equivalent to the existing exception for vertical clearance currently granted to existing parking spaces within existing parking facilities, it may also be applied to EVCS since it mirrors an existing building standard. This proposed code language provides clarity of existing regulations since the vertical clearance at existing parking spaces and existing EVCS were intended to be equivalent.

DSA proposes this exception for EVCS vertical clearance in existing parking facilities for consistency with accessibility regulations currently adopted for parking spaces in existing parking facilities per Health and Safety Code 18930(a)(3).

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of the existing regulations.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 24
Chapter 35 REFERENCED STANDARDS, Section(s) ASME

DSA proposes to correct the American Society of Mechanical Engineers (ASME) referenced standard edition listed in CBC Chapter 35 with the edition adopted during DSA's 2015 triennial rulemaking cycle to provide clarity and eliminate confusion for design professionals and code users.

As part of their standard process, the International Code Council (ICC) cites the current release of every referenced standard listed in CBC Chapter 35 during each printing cycle. In accordance with the authority granted under Government Code 4450, DSA adopted ASME A17.1-13/CSA B44-2013 and A18.1-2008 during the 2012 triennial rulemaking cycle to conform with minimum accessibility standards per the 2010 Americans with Disabilities Act Standards (ADAS). Every subsequent edition of the specified referenced standard provides options that DSA has determined are not in compliance with the 2010 ADAS and the regulations in CBC Chapter 11B.

DSA adopted the amendments to Part 2 Chapter 35 in the 2015 triennial rulemaking cycle. In the 2018 triennial code adoption, BSC established a process to carry forward all California amendments in Part 2 on behalf of state agencies where amendments in the model code are enforced by the local jurisdiction. DSA did not specifically address amendments in Part 2 Chapter 35 in the 2018 triennial code adoption, because all California amendments were carried forward in this process.

Both BSC and DSA may amend specific sections in Part 2 Chapter 35 under their respective statutory authority. In its rulemaking documents from 2015 forward BSC has indicated that Part 2 Chapter 35 is adopted without amendment; however, this applies only to provisions in the currently referenced standards within BSC's authority to adopt. DSA has not further amended the referenced standards in Part 2 Chapter 35 since the 2015 rulemaking and maintains that the amendments made in 2015 are still in effect because they have been carried over to subsequent triennial editions when BSC carried forward all California amendments previously approved by the Commission.

In its proofing of documents prior to publication, DSA did not catch this publication error which cites current editions of referenced standards instead of previously adopted DSA amended references. DSA also identified that this discrepancy that was not caught in editions of the CBC from 2015 forward, even though the amended citations remain in effect because DSA has not proposed amendments in its rulemaking specifically adopting current editions of referenced standards.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of adopted regulations.

BSC has requested that we include this change in present rulemaking for transparency purposes even though this item is a change without regulatory effect.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

ITEM 25
Chapter 35 REFERENCED STANDARDS, Section(s) BHMA

DSA proposes to correct the DSA proposes to correct the Builders Hardware Manufacturers' Association (BHMA) referenced standard edition listed in CBC Chapter 35 with the edition adopted during DSA's 2015 triennial rulemaking cycle to provide clarity and eliminate confusion for design professionals and code users.

As part of their standard process, the International Code Council (ICC) cites the current release of every referenced standard listed in CBC Chapter 35 during each printing cycle. In accordance with the authority granted under Government Code 4450, DSA adopted ASME BHMA A 156.10-2011 and A 156.19-2013 during the 2012 triennial rulemaking cycle to conform with minimum accessibility standards per the 2010 Americans with Disabilities Act Standards (ADAS). DSA has not undertaken a study to determine if subsequent editions of the specified referenced standard maintain equivalent protections for accessibility.

DSA adopted the amendments to Part 2 Chapter 35 in the 2015 triennial rulemaking cycle. In the 2018 triennial code adoption, BSC established a process to carry forward all California amendments in Part 2 on behalf of state agencies where amendments in the model code are enforced by the local jurisdiction. DSA did not specifically address amendments in Part 2 Chapter 35 in the 2018 triennial code adoption, because all California amendments were carried forward in this process.

Both BSC and DSA may amend specific sections in Part 2 Chapter 35 under their respective statutory authority. In its rulemaking documents from 2015 forward BSC has indicated that Part 2 Chapter 35 is adopted without amendment; however, this applies only to provisions in the currently referenced standards within BSC's authority to adopt. DSA has not further amended the referenced standards in Part 2 Chapter 35 since the 2015 rulemaking and maintains that the amendments made in 2015 are still in effect because they have been carried over to subsequent triennial editions when BSC carried forward all California amendments previously approved by the Commission.

In its proofing of documents prior to publication, DSA did not catch this publication error which cites current editions of referenced standards instead of previously adopted DSA amended references. DSA also identified that this discrepancy that was not caught in editions of the CBC from 2015 forward, even though the amended citations remain in effect because DSA has not proposed amendments in its rulemaking specifically adopting current editions of referenced standards.

This proposal is necessary for clarity of existing regulations and does not materially alter the substance or intent of adopted regulations.

BSC has requested that we include this change in present rulemaking for transparency purposes even though this item is a change without regulatory effect.

CAC Recommendation:

[Enter CAC recommendation(s), if any]

Agency Response:

[Enter the agency's response to CAC recommendation(s)]

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 building standards clarify accessibility provisions contained in the 2025 California Building Code. Accessibility is required by the federal Americans with Disabilities Act, Fair Housing Amendments Act of 1988, Uniform Federal Accessibility Standards, Section 504 of the Rehabilitation Act of 1973, and corresponding California statutes and regulations; lack of consistent scoping and technical requirements creates confusion for code users, building officials, and building and facility owners.

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

Government Code Sections 11346.2(b)(2) and 11346.3(b)(1)

The Division of the State Architect 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 Division of the State Architect has determined that the proposed action has no effect.

B. The creation of new businesses or the elimination of existing businesses within the State of California.
The Division of the State Architect has determined that the proposed action has no effect.

C. The expansion of businesses currently doing business within the State of California.
The Division of the State Architect has determined that the proposed action has no effect.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.
The Division of the State Architect has determined that the proposal clarifies the minimum requirements to safeguard the public health, safety, and general welfare through access to persons with disabilities.

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).

DSA has relied on the following documents:

- Federal Register; Vol. 79, No. 100; Friday, May 23, 2014; Rules and Regulations; 29671; Department of Housing and Urban Development; 24 CFR Part 8; Docket No. FR-5784-N-01, also known as the HUD Deeming Notice.
- Uniform Federal Accessibility Standards (UFAS)

- Bennett-Nelson v. Louisiana Board of Regents, 431 F.3d. 448 (5th Cir. 2005)
- Grove City College v. Bell, 465 U.S. 555, 104 S.Ct. 1211 (1984)
- Access Living of Metropolitan Chicago, Inc. v. City of Chicago, 752 F.Supp.3d 922 United States District Court, N. D. Illinois, Eastern Division (2024)
- 2010 ADA Standards for Accessible Design; US Department of Justice, September 15, 2010
- Guidance on the 2010 ADA Standards for Accessible Design, US Department of Justice, September 15, 2010
- The Fair Housing Act Design Manual, US Department of Housing and Urban Development (1998)

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.

DSA-AC has not identified any reasonable alternatives to the proposed action.

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.

DSA-AC has not identified any reasonable alternatives to the proposed action, and no adverse impact to small business due to these proposed changes is expected.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE ECONOMIC 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.

DSA-AC has no evidence indicating any potential significant adverse impact on business with regard to this proposed action. Aligning CBC Chapter 11B requirements with existing federal regulations is anticipated to make compliance easier for affected businesses.

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.

DSA-AC estimates that there will be no additional cost of compliance with these proposed regulations. The proposed amendments for public housing and educational entities in receipt of public funds are existing through the Department of Housing and Urban Development (HUD) adopted regulations, UFAS and the FHAct Design Manual, and are already required. Including these same requirements in the California Building Code will provide clarity and consistency with federal and state law. The proposed amendments remove conflicts or provide greater clarity in the requirements and will not have any additional associated costs beyond those already required by the existing federal regulations. Clear and consistent scoping and technical requirements benefit code users, building officials, and building and facility owners.

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 regulations proposed for adoption align with federal regulations as required by Government Code Sections 4459 and 12955.1(c). The regulations proposed for adoption do not conflict with federal regulations.