

**FINDING OF EMERGENCY
OF THE OFFICE OF STATEWIDE HEALTH PLANNING & DEVELOPMENT
REGARDING THE 2016 CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1
(OSHPD EF 01/18)**

The adoption of these regulations(s) or order of repeal is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as follows:

FINDING OF EMERGENCY

In response to Assembly Bill (AB) 2190, Chaptered as 673 adding Sections 130062 and 130066 to the California Health and Safety Code, associated provisions and allowances are required in the California Building Standards Code. Current regulations in the 2016 California Administrative Code do not allow for the compliance extensions granted under AB 2190. As these provisions require actions by hospitals to meet legislated deadlines of April 19, 2019 and June 1, 2019, affecting extensions beyond the current January 1, 2020 deadline to comply with existing seismic safety requirements, the bill authorizes the office to promulgate emergency regulations as necessary to implement these provisions.

BACKGROUND

Existing law, the Alfred E. Alquist Hospital Facilities Seismic Safety Act (HFSSA) of 1983, establishes, under the jurisdiction of the Office of Statewide Health Planning and Development, a program of seismic safety building standards for certain hospitals constructed on and after March 7, 1973. A violation of any provision of the act is a misdemeanor.

Existing law provides that, after January 1, 2008, a general acute care hospital that is determined to be a potential risk of collapse or pose significant loss of life in the event of seismic activity be used only for nonacute care hospital purposes, except that the office may grant extensions to the HFSSA seismic compliance requirements to no later than January 1, 2020, under prescribed circumstances.

AB 2190 permits all hospitals with buildings subject to the January 1, 2020, deadline described above that are seeking an additional extension for their buildings to submit an application to the Office of Statewide Health Planning and Development by April 1, 2019, that specifies the seismic compliance method each building will use. The office is required to grant an additional extension of time to the owner who is subject to the January 1, 2020 deadline if specified conditions are met. The bill authorizes the additional extension to be until July 1, 2022, if the compliance plan is based upon replacement or retrofit, as defined, or up to 5 years if the compliance plan is for a rebuild, as defined. The bill requires the office, before June 1, 2019, to provide the Legislature with a specified inventory of the hospital buildings. The bill authorizes the office to promulgate emergency regulations as necessary to implement these provisions.

Furthermore, existing law requires that, no later than January 1, 2030, the owner of an acute care inpatient hospital to either demolish, replace, or change to nonacute care use a hospital building that is not in substantial compliance with certain seismic safety

regulations and standards developed by the office, or to seismically retrofit the building so that it is in substantial compliance.

AB 2190 provides that, before January 1, 2020, the owner of an acute care inpatient hospital whose building does not substantially comply with the above-mentioned seismic safety regulations or standards to submit to the office an attestation that the board of directors of that hospital is aware that the hospital building is required to meet the January 1, 2030 deadline for substantial compliance with those regulations and standards.

The Office of Statewide Health Planning and Development has developed the following emergency regulations that amend the 2016 edition of the California Administrative Code (CAC; Part 1, Title 24, California Code of Regulations) as follows:

- The addition of defined terms: Rebuild plan; Removal plan; Replacement plan; and Retrofit plan;
- Additional compliance deadline added to existing Section 1.5.1 “Compliance deadlines;”
- Provisions for an additional extension beyond January 1, 2020 under existing Section 1.5.2 “Delay in compliance;” and
- Inclusion of statutory notification deadlines under existing Section 1.7 “Notification from OSHPD.”

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2)

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18934.8 and 18937. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 130062 and 130066. The Office of Statewide Health Planning and Development is proposing this regulatory action based on Health and Safety Code Sections 129850 and 130062(m).

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3)

Summary of Existing Laws

Health and Safety Code, Section 129850 authorizes the Office to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. The office is also authorized to submit to the California Building Standards Commission for approval and adoption of building standards related to the seismic safety of hospital buildings.

Health and Safety Code, Section 18934.8 allows the California Building Standards Commission, in conjunction with OSHPD, to adopt emergency regulations. Health and Safety Code Section 130062 mandates OSHPD to promulgate emergency regulations associated with AB 2190.

Summary of Existing Regulations

OSHPD currently enforces the California Code of Regulations, Title 24, Part 1, 2016 California Administrative Code (CAC). OSHPD enforces requirements related to the

construction of hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Volumes 1 & 2 of the 2016 CBC.

Summary of Effect

The purpose of this proposed action is to implement Assembly Bill 2190, Chaptered as 673, adding Sections 130062 and 130066 to the California Health and Safety Code. By imposing requirements under the Hospital Facilities Seismic Safety Act for owners of hospitals with regard to extension applications, the statute expands the scope of a crime, thereby imposing a state-mandated local program. The emergency regulations implement the related standards into the California Building Standards Code.

Comparable Federal Statute or Regulations

There are no comparable federal statute or regulations related to this proposed action.

Policy Statement Overview

The intent of this proposal is to amend the administrative regulations, as necessary, for health facility construction, pursuant to Health and Safety Code Section 18928. OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers.

Evaluation of consistency

The proposed regulation is consistent and compatible with existing state regulations.

MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4)

There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5)

The legislature has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

FISCAL IMPACT STATEMENT

Reference: Government Code Section 11346.5(a)(6). An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or savings to any state agency: **No**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No**
- E. Cost or savings in federal funding to the state: **No**

Estimate: None