

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT (DSA-AC)

REGARDING PROPOSED CHANGES TO
THE CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2

2016 CALIFORNIA BUILDING CODE
TRIENNIAL CODE CYCLE**

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

UPDATES TO THE INITIAL STATEMENT OF REASONS

The Division of the State Architect - Access Compliance (DSA-AC) is relying on the Initial Statement of Reasons regarding specific adoptions, amendments, or repeals to CCR, Title 24, Part 2, except as follows:

- DSA-AC has withdrawn, at its discretion and for further study, the following items after the Code Advisory Committee review that occurred on July 14-16, 2015: 2.06, 11B.04, 11B.04.01, 11B.06.01, 11B.06.02, 11B.06.03, 11B.14, 11B.24, 11B.24.01, 11B.24.02, 11B.24.03, 11B.24.04, 11B.24.05, 11B.35, 11B.40, 11B.48, and 11B.50.
- DSA-AC has withdrawn, at its discretion and for further study, the following items after the First 45-Day Public Comment Period that ended on September 28, 2015: 11B.20 and 11B.22.
- DSA-AC made modifications or editorial corrections to the following items after the First 45-Day Public Comment Period that ended on September 28, 2015: 11B.16, 11B.21, 11B.33, 11B.51, and 11B.51.01. These changes and their rationale are reflected in the Second 45-Day Express Terms.
- DSA-AC made modifications or editorial corrections to the following items after the Second 45-Day Public Comment Period that ended on November 23, 2015: 11B.12.01 and 11B.51. These changes and their rationale are reflected in the 15-Day Express Terms.

NOTE: In the Express Terms document, a non-substantive editorial change was made in nine locations, to add the word “Section” or “Sections” before a Chapter 11B section number or string of section numbers, to conform to model code format.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The DSA-AC has determined that the proposed regulatory action WOULD NOT impose a new mandate on local agencies or school districts.

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

Name: Afshan Afshar, AA Architecture, Interior Planning & Design

Item: 2.01

Section: Chapter 2 definition of ASSEMBLY AREA

Summary of Comment on First 45-Day Item: Within the definition of ASSEMBLY AREA, commenter requests a clarification for the term “public meeting rooms”. Specifically, are public meeting rooms considered public use areas for use by the general public versus employee meeting rooms or team rooms?

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this definition during this rulemaking cycle. DSA-AC is carrying forward the existing 2013 CA Building Code definition of ASSEMBLY AREA. DSA-AC will retain this comment for consideration during a future rulemaking cycle.

Name: HolLynn D’Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D’Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O’Mara, and Tom Harrington

Item: 2.03

Section: Chapter 2 definition of ACCESSIBLE ROUTE

Summary of Comment on First 45-Day Item: Commenter requests proposed code language be denied or returned for further study for clarification of how the term “negotiable” is defined. Commenter suggests original definition, “A continuous unobstructed path that complies with Chapter 11,” should be retained. Commenter suggests the next paragraph be amended to strike “...and can be negotiated by a person with a disability using a wheelchair, and that is also safe for and usable by persons with other disabilities.” Commenter also suggests amending the same paragraph to add, “Where applicable, an accessible route shall not pass behind parking spaces other than to pass behind the parking space in which the user parked.”

DSA-AC Change to Accommodate: The commenter mischaracterizes DSA’s proposal as a code change. In fact, DSA’s proposal strikes the 2015 International Building Code (IBC) model code definition of ACCESSIBLE ROUTE and carries forward (retains) the previously-adopted definition from the 2013 CBC. The essential language in the definition was first adopted in the CBC circa 1992; language indicating nonexclusive list of elements which may be included in interior and exterior accessible routes was added to the 2007 CBC. Prior to Ms. D’Lil’s comments submitted on behalf of the Coalition of Disability Access Professionals, DSA-AC was unaware of any concerns with this 30+ year-old definition. Ms. D’Lil’s proposed amendments significantly depart from the existing adopted definition; were DSA-AC to incorporate Ms. D’Lil’s proposed amendments at this point in the current rulemaking cycle, interested parties would not have adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its proposal in response to this comment, but will retain this comment for consideration during a future rulemaking cycle.

Name: HolLynn D'Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D'Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O'Mara, and Tom Harrington

Item: 2.10

Section: Chapter 2 definition of TECHNICALLY INFEASIBLE

Summary of Comment on First 45-Day Item: Commenter requests proposed code language be sent back for further study and asserts DSA's factual determinations were arbitrary and capricious and the determinations were substantially unsupported by the evidence considered by the adopting agency. Further, commenter asserts the phrase "other existing physical or site constraints" is vague, without clear definitions, and requires subjective interpretation.

DSA-AC Change to Accommodate: The commenter mischaracterizes DSA's proposal as a code change. In fact, DSA's proposal carries forward (retains) the previously-adopted definition from the 2013 CBC. The definition of TECHNICALLY INFEASIBLE was first adopted in the CBC circa 1994 and is substantially identical to the definition of the same term in the 1991 ADA Standards for Accessible Design (ADAS) and the 2010 ADAS. Prior to Ms. D'Lil's comments submitted on behalf of the Coalition of Disability Access Professionals, DSA-AC was unaware of any concerns with this 30+ year-old definition.

DSA-AC respectfully declines to amend its proposal in response to this comment but will retain this comment for consideration during a future rulemaking cycle.

Name: HolLynn D'Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D'Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O'Mara, and Tom Harrington

Item: 9.01

Section: Chapter 9, Section 907.4.2.2

Summary of Comment on First 45-Day Item: Commenter requests proposed code language be denied and asserts the proposal is a violation of Title III of the ADA which requires barrier removal where it is readily achievable to do so in existing construction and a violation of Title II of the ADA which requires access to programs of local and state governments.

DSA-AC Change to Accommodate: The commenter mischaracterizes DSA's proposal as a code change. In fact, DSA's proposal carries forward (retains) the previously-adopted requirement from the 2013 CBC.

The Code Advisory Committee recommended further short term study of this item to determine if fire alarm pull boxes should comply with the requirements of Section 11B-309.4 only, or with the entirety of Section 11B-309. After discussions with Office of the State Fire Marshal staff, DSA-AC has confirmed fire alarm pull boxes are required to be accessible as required by the provisions of

Chapter 11B, including clear floor space, accessible route, and operable parts requirements as Section 907.4.2.6 contains the requirement for fire alarm pull boxes to be accessible. DSA-AC is carrying forward the provisions of the 2013 CBC unchanged, as proposed, and will more extensively study the need for additional amendments during the upcoming code cycle.

Name: Terry McLean, Architect, CASp, TJ McLean Associates, Inc.

Item: 11B.01

Section: 11B-202.4 Path of travel requirements, Exception 2

Summary of Comment on First 45-Day Item: Currently 2013 CBC Section 11B-202.4, Exception 2 allows for not upgrading path of travel elements if they were built per the preceding edition of the code. This language is proposed to be carried over to the 2016 CBC. Commenter states that if the 2016 allows for the preceding edition, and then the 2013 allows for the preceding edition, and the 2010 allows for items in the 2007, then in effect, the 2016 code would allow going back to those items noted in the 2007 CBC. The commenter does not believe this was the intent of the original code language, and that it may make sense to modify the language of 2016 CBC 11B-202.4, Exception 2, to exclude Section 11B-202.4, Exception 2 of the 2013 CBC.

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to Section 11B-202.4, Exception 2 in this rulemaking cycle other than an editorial amendment to correct the spelling of the word “preceding”.

In response to direction from the California Building Standards Commission (CBSC) at their January 24, 2013 meeting, DSA-AC’s proposed reference to the 2010 California Building Code was further amended to instead reference the “immediately preceding edition of the California Building Code”. The CBSC requested amendment establishes the baseline for elements of a path of travel which are not required to be retrofitted to reflect the incremental changes to the accessibility provisions solely because of an alteration to an area served by those elements of the path of travel.

DSA-AC will consider adding an advisory statement to DSA’s on-line Advisory Manual to clarify the intent of this section for code users.

Name: John Caprarelli, PE, CASp, Interim Senior Engineer
City of Santa Clarita, Building & Safety Division

Item: 11B.01

Section: 11B-202.4 Path of travel requirements, Exception 2

Summary of Comment on First 45-Day Item: The commenter noted that Section 11B-202.4, Exception 2 will no longer exempt existing path of travel elements which were constructed in compliance with the 2010 CBC. In the 2016 CBC, the exception will still read “immediately preceding edition” but now refer to the 2013 CBC. Mr. Caprarelli states this will create a conflict with existing angled parking spaces and the requirements of Section 11B-502.3.2. A code change proposal creating a new exception to Section 11B-502.3.2 for existing angled parking spaces was submitted.

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to Section 11B-202.4, Exception 2 other than an editorial amendment to correct the spelling of the word “preceding”. DSA-AC has not proposed any amendment to CBC Section 11B-502.3.2 in this rulemaking cycle. Incorporating Mr. Caprarelli’s proposed amendments at this point in the current rulemaking cycle, would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its proposal in response to this comment, but will retain this comment for consideration during a future rulemaking cycle.

Name: Theodore C. Zsutty

Professor Emeritus, Structural Engineering at San Jose State University
Retired Consulting Professor, Earthquake Engineering at Stanford University

Item: 11B.02

Section: 11B-202.4 Path of travel requirements, Exception 10

Summary of Comment on First 45-Day Item: Mr. Zsutty submitted a comment in “strong support” of the proposal to add a new Exception 10 to CBC Section 11B-202.4 for seismic mitigation projects. He believes this change will result in a release of the back-log of seismic mitigation projects, with a win-win result for both seismic safety and accessibility. Mr. Zsutty’s performance of design peer review services for seismic mitigation projects within the City and County of San Francisco has made him directly aware of the type and extent of seismic resistance deficiencies existing in building stock. Age, deterioration, non-permitted modifications, and poor construction details can result in severe life hazard in the event of a strong earthquake. He stated, “The correction of these deficiencies is most urgent for the high seismic risk regions of California.”

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: HolLynn D’Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)

Ms. D’Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq

The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O’Mara, and Tom Harrington

Item: 11B.02

Section: 11B-202.4 Path of travel requirements, Exception 10

Summary of Comment on First 45-Day Item: Commenter disagrees with this code change and requests the commission deny this code change proposal. Commenter indicates only alteration projects which exceed the current valuation threshold and where there is a determination of “unreasonable hardship” may the cost for accessibility in the area of remodel or the path of travel requirements be limited to 20% of the construction cost. Commenter also proposes amended language for Section 11B-202.4.

DSA-AC Change to Accommodate: To clarify that alteration projects above and below the valuation threshold are not exempted from the cost of providing accessibility in the area of alteration under the current CBC. It is only the cost of path of travel features which may be limited – alterations below the valuation threshold are required to provide upgrades to the path of travel up to a limit of 20 percent of the adjusted construction cost of the alteration; and alterations above the valuation threshold are required to provide upgrades to the path of travel to the greatest extent possible without creating an unreasonable hardship, in no case less than 20 percent of the adjusted construction cost of the alteration.

Building owners and structural engineers are reporting that needed seismic mitigation projects are not proceeding due to the disproportionate costs of path of travel upgrades, especially for

projects where the entire building is considered the area of alteration. This perpetuates both seismic life safety hazards and lack of accessibility in existing facilities. The proposed new exception will continue to require path of travel upgrades of 20 percent of the adjusted construction cost for seismic mitigation projects, consistent with the 2010 ADA Standards. DSA-AC believes this approach strikes an appropriate balance between ensuring buildings and facilities are accessible and mitigating potential financial burdens on the owners and operators of existing facilities in need of seismic upgrades. This provision will provide greater accessibility and enable seismic mitigation projects to move forward, reducing the risk of death or injury to all users of existing facilities in need of seismic upgrade.

DSA-AC respectfully declines to amend this proposal in response to this comment.

Name: Eugene Lozano, Jr., California Council of the Blind

Item: 11B.12.01

Section: 11B-703.7.2.6.1, 11B-703.7.2.6.2, and 11B-703.7.2.6.3 (Toilet and bathing room geometric symbols)

Summary of Comment on First 45-Day Item: The California Council of the Blind is in opposition to the proposed changes to Section 11B-703.7.2.6.3 and requests retaining the existing language for the following reasons:

- 1) The text for “Unisex Toilet and Bathing Facilities” has been part of the California Building Code since its inception in 1982. There have been no problems for sign fabricators to provide compliant signs based on the text we are requesting to be retained.
- 2) The exact measurements of ¼ inch for material thickness, and 12 inches for the symbol sizes allow for reasonable material and manufacturing tolerances. The materials used to manufacture these symbols come in ¼ inch thickness, and any variation is slight. Computerized routers cut the shapes, so achieving very close to exact 12 inch measurements is not a problem. If molds are used, they can be precisely sized. Therefore, there is no need to require “The vertices of the triangle shall be located no further than a ¼ inch (6.4 mm) maximum from the circumference of the circle”, which will only result in confusion for sign users who are blind or have low vision, and have been using these symbols since 1982 to identify restrooms. What will occur are designers who will decide that it might be “nice” or “better for the blind people” to have the triangle vertices set back a maximum of ¼ inch from the circumference of the circle.
- 3) In the proposed language, the word “inscribed” is used and does not capture the intent of this section. Refer to the internet where the definition of “inscribe” is found: “draw (a figure) within another so that their boundaries touch but do not intersect”. However, the original term “superimposed” fully captures the correct intent of 11B-703.7.2.6.3. Refer to the internet where the definition of “superimpose” is: “place or lay (one thing) over another, typically so that both are still evident”.

DSA-AC Change to Accommodate:

Regarding Comment #2, DSA-AC believes the proposed amendments will add dimensional specificity to Section 11B-703.7.2.6.3. The provision that the triangle vertices shall be located no further than 1/4 inch maximum from the circumference of the circle takes into account the rounding or chamfering of the edges of the triangle required by Section 11B-703.7.2.6.4, and will provide greater consistency in the manufacture of the geometric symbols. DSA-AC respectfully declines to amend this proposal in response to this comment.

Regarding Comment #3, DSA-AC agrees with the commenter that use of the term “inscribed” in place of the term “superimposed” does not fully capture the intent of this section. DSA-AC is proposing to further amend this section by making several non-substantive changes in terminology to clarify the intent of this section. The language “geometrically inscribed on” is being replaced with “superimposed on and geometrically inscribed within”, the language “located no further than ¼ inch maximum” is being replaced with “located ¼ inch maximum”, the term “circumference” is being replaced with the term “edge”. These changes in no way change the regulatory intent of this section, but will provide additional clarity and consistency for code users. These changes were reflected in the 15-Day Express Terms. See the Final Express Terms document for the full text of the resulting regulation.

Name: Eugene Lozano, Jr., California Council of the Blind

Item: 11B.12.01

Section: 11B-703.7.2.6.1, 11B-703.7.2.6.2, and 11B-703.7.2.6.3 (Toilet and bathing room geometric symbols)

Summary of Comment on First 45-Day Item: The California Council of the Blind recommends that the following be language be substituted for the proposed text of Section 11B-703.7.2.6.4:

11B-703.7.2.6.4 Edges and vertices of geometric symbols. *Edges shall be eased, rounded or chamfered to a maximum of 1/16 inch (1.59 mm). Vertices shall be blunt with a maximum radius of 1/8 inch (3.2 mm).*

The reasons for the substitution are as follows:

- 1) The purpose of the text is to ease the edges and corners of the symbols so that someone touching the edge of the sign or the vertex of a triangle cannot get a finger cut or pricked.
- 2) The ¼ inch thickness of the symbol and the vertices of the triangle serve a specific purpose in allowing the person who is blind to quickly identify by touch the shape of the symbol, with either a straight or curved edge denoting either a male or female gender-specific facility. If both the inner and outer edges of the ¼ inch thick material are chamfered by 1/8 inch, the material is no longer ¼ inch thick at the edge where it is felt. Therefore, we believe that the DSA-AC proposed text is counter-productive to the purpose of the symbol.
- 3) It is not necessary to use a ¼ inch radius for the points of the triangle to make them safe to touch. Blunting them by 1/8 inch is more than adequate and they cannot then be mistaken as curved edges by a quick touch.

DSA-AC Change to Accommodate: Proposed Section 11B-703.7.2.6.4 contains requirements for geometric symbols to prevent sharp edges or vertices which may cut or prick the fingers of persons touching the symbols. DSA-AC is concerned that the commenter’s proposed change to require edges to be eased, rounded or chamfered to a “*maximum of 1/16 inch*” would not provide adequate blunting of sharp edges as manufacturer’s could ease, round or chamfer edges at very small dimensions. Likewise, the commenter’s proposed change to require vertices of triangles to be blunted with a “*maximum radius of 1/8 inch*” could be problematic. DSA-AC’s proposal to provide a range for the easing, rounding or chamfering of edges and a range for the radius at vertices will provide greater consistency in the manufacture of geometric symbols.

DSA-AC respectfully declines to amend this proposal in response to this comment.

Name: Afshan Afshar, AA Architecture, Interior Planning & Design

Item: 11B.12.01

Section: 11B-703.7.2.6.1, 11B-703.7.2.6.2, and 11B-703.7.2.6.3 (Toilet and bathing room geometric symbols)

Summary of Comment on First 45-Day Item: Sections 11B-703.7.2.6.1, 11B-703.7.2.6.2, and 11B-703.7.2.6.3 indicate that geometric symbols “shall contrast with the door”. Since not every entrance to toilet or bathing rooms has a door, shouldn’t these sections indicate contrast with the surface the geometric symbols are being installed on, instead of the door?

DSA-AC Change to Accommodate: DSA-AC agrees that the proposed code change may have merit and will retain this comment for consideration during the next rulemaking cycle to assure adequate public review and opportunity to comment.

Name: John Paul Scott, AIA CASp, Disability Access Coordinator

Item: 11B.12.01

Section: 11B-703.7.2.6.3 (Geometric symbols) Unisex toilet and bathing facilities

Summary of Comment on 15-Day Item: Mr. Scott submitted a comment recommending the proposed amendments to Section 11B-703.7.2.6.3 be approved and accepted.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Susan Molloy, M.A., Rehab Assistance for Environmental Illness/Intolerance

Item: 11B.13

Section: 11B-216.13 Cleaner Air Symbol

Summary of Comment on First 45-Day Item: Ms. Molloy “strongly opposes” the proposed removal of the requirements for providing the Cleaner Air Symbol from the code. She would consider working together with DSA-AC in the next cycle to retain use of the Cleaner Air language and pictogram on buildings constructed in compliance with California’s new Green Building Code.

Several Health and Safety Code Section 18930 criteria would be violated by removal of the Cleaner Air language and pictogram. The Cleaner Air language and pictogram do not conflict with, overlap or duplicate other building standards; the public interest DOES require retaining the Cleaner Air language and pictogram in the building standards; retaining the Cleaner Air language and pictogram is reasonable and fair whereas its removal is capricious and arbitrary; retaining the Cleaner Air language and pictogram in the code is of no cost whatsoever; and the Cleaner Air language and pictogram are in no way ambiguous or vague.

In conclusion, DSA-AC violated Government Codes 4450, 11346.45 and 11346.5 by not providing public consideration of this code change prior to publication, and Government Code 4459 by proposing a code change that decreases accessibility standards in California. By not meeting the CBSC criteria it should be concluded by the Commission that DSA’s factual determinations were arbitrary and capricious and the determinations were substantially unsupported by the evidence considered by the adopting agency, as specified in CA Health and Safety Code 18930(d).

DSA-AC Change to Accommodate: The *Cleaner Air Symbol* was incorporated into the CBC in an effort to encourage safe and healthy environments for people with chemical, particulate, and

electrical sensitivities. CBC provisions regarding the *Cleaner Air Symbol* are voluntary and strictly limited in use to publicly funded facilities or any facilities leased or rented by the State of California. Permitted use of the *Cleaner Air Symbol* in these facilities is conditioned on meeting several construction, maintenance, operational and documentation requirements. DSA-AC has conducted interviews with building and property managers for State of California facilities; these managers report no known use of the *Cleaner Air Symbol* as provided in the CBC.

Advances in building code requirements and recent governmental directives directly address issues of environmental health in a manner integral to the construction and maintenance of governmental facilities. The California Green Building Code and Leadership in Energy & Environmental Design (LEED) have been adopted as state and national standards. Governor Brown's Executive Order B-18-12 requires buildings owned or leased by the state to meet LEED Silver Certification and addresses environmental air quality and the use of environmentally preferable products that have a reduced effect on human health and the environment. These mandatory requirements apply broadly to the entire building rather than the limited applicability of the *Cleaner Air Symbol* provisions of the CBC. These issues were presented and discussed at public meetings prior to submittal of this proposal to the California Building Standards Commission.

DSA-AC recognizes the importance of promoting safe and healthy environments as well as the need for usable and enforceable building code regulations. DSA-AC also recognizes the admirable intent behind the original proposal and adoption of the *Cleaner Air Symbol*. However, given the lack of evidence of use of the *Cleaner Air Symbol*, DSA-AC is not persuaded of the public benefit of this existing voluntary provision and respectfully declines to amend its proposal in response to this comment.

Name: Eugene Lozano, Jr., California Council of the Blind

Item: 11B.13

Section: 11B-216.13 Cleaner Air Symbol

Summary of Comment on First 45-Day Item: The California Council of the Blind (CCB) is not in full agreement with the Division of the State Architect (DSA) that at this time there is a need to eliminate the "Cleaner Air Symbol" requirements. The organization believes there needs to be a long-term study of this item, which would include focus group meetings with persons who have Multiple Chemical Sensitivity disorders. Part of the purpose of these focus group meetings would be reviewing newer regulations including but not limited to the "Green Building Code" or "LEED" requirements to determine if the access needs of persons with Multiple Chemical Sensitivity disorders are actually and fully being addressed. Also, the focus group meetings would determine if research needs to be implemented and/or new regulations must be adopted to address these access issues.

The CCB knows of little use of this Symbol, but removing it means the loss of all hope of providing meaningful access in Title 24, particularly in crucial government facilities, for persons who have Multiple Chemical Sensitivity disorders.

The latest environmental standards for buildings, via "Green Building Standards", are admirable, but they do not require the stripping of a room from furniture, as an example, that may be outgassing from adhesives. They don't cover the use of perfumed products by users of the room, or every kind of cleaning material used in the room. The purpose of the Symbol, and of the possibility of providing such a room, which would be virtually stripped bare of all decoration and much of the normal furnishings, is that of a sort of "safe room" where someone with an extreme disability caused by various chemicals, as an example, could safely come to be interviewed to receive necessary government services. It is the one concession the State of California has made, and has not been replicated anywhere else in the country, for the needs of persons with

this type of disability. The CCB wishes to know why the State is, at this time, stepping back from acknowledging and addressing this type of disability.

DSA-AC Change to Accommodate: The *Cleaner Air Symbol* was incorporated into the CBC in an effort to encourage safe and healthy environments for people with chemical, particulate, and electrical sensitivities. CBC provisions regarding the *Cleaner Air Symbol* are voluntary and strictly limited in use to publicly funded facilities or any facilities leased or rented by the State of California. Permitted use of the *Cleaner Air Symbol* in these facilities is conditioned on meeting several construction, maintenance, operational and documentation requirements. DSA-AC has conducted interviews with building and property managers for State of California facilities; these managers report no known use of the *Cleaner Air Symbol* as provided in the CBC.

Advances in building code requirements and recent governmental directives directly address issues of environmental health in a manner integral to the construction and maintenance of governmental facilities. The California Green Building Code and Leadership in Energy & Environmental Design (LEED) have been adopted as state and national standards. Governor Brown's Executive Order B-18-12 requires buildings owned or leased by the state to meet LEED Silver Certification and addresses environmental air quality and the use of environmentally preferable products that have a reduced effect on human health and the environment. These mandatory requirements apply broadly to the entire building rather than the limited applicability of the *Cleaner Air Symbol* provisions of the CBC. These issues were presented and discussed at public meetings prior to submittal of this proposal to the California Building Standards Commission.

DSA-AC recognizes the importance of promoting safe and healthy environments as well as the need for usable and enforceable building code regulations. DSA-AC also recognizes the admirable intent behind the original proposal and adoption of the *Cleaner Air Symbol*. However, given the lack of evidence of use of the *Cleaner Air Symbol*, DSA-AC is not persuaded of the public benefit of this existing voluntary provision and respectfully declines to amend its proposal in response to this comment.

Name: Mary Lamielle, National Center for Environmental Health Strategies, Inc.

Item: 11B.13

Section: 11B-216.13 Cleaner Air Symbol

Summary of Comment on First 45-Day Item: The State of California, Department of General Services, California Building Standards Commission failed to consult with the disabled community and in particular those individuals who depend on the Cleaner Air Symbol and code requirements to help identify accessible spaces and buildings. As such the State has no authority to strike the sections that address the Cleaner Air Symbol and Protocol from the requirements.

The Cleaner Air Symbol and Pictogram must be retained within the State of California's code to provide for bare minimum of access to publically funded buildings and facilities or any facilities leased or rented by the State of California for people with environmental sensitivities. While the Division is to be commended for its recent adoption of "Green" building principles, "green buildings" are not by definition accessible to individuals disabled by chemical and electrical sensitivities. Existing buildings, as well as buildings designed and operated to meet a "Green Building" standard, need to adopt and use the Cleaner Air Symbol and Protocol in order to indicate whether a specific building is barrier-free and accessible for individuals disabled by environmental barriers. These individuals need to know that they can conduct business in a specific building.

DSA-AC Change to Accommodate: The *Cleaner Air Symbol* was incorporated into the CBC in an effort to encourage safe and healthy environments for people with chemical, particulate, and

electrical sensitivities. CBC provisions regarding the *Cleaner Air Symbol* are voluntary and strictly limited in use to publicly funded facilities or any facilities leased or rented by the State of California. Permitted use of the *Cleaner Air Symbol* in these facilities is conditioned on meeting several construction, maintenance, operational and documentation requirements. DSA-AC has conducted interviews with building and property managers for State of California facilities; these managers report no known use of the *Cleaner Air Symbol* as provided in the CBC.

Advances in building code requirements and recent governmental directives directly address issues of environmental health in a manner integral to the construction and maintenance of governmental facilities. The California Green Building Code and Leadership in Energy & Environmental Design (LEED) have been adopted as state and national standards. Governor Brown's Executive Order B-18-12 requires buildings owned or leased by the state to meet LEED Silver Certification and addresses environmental air quality and the use of environmentally preferable products that have a reduced effect on human health and the environment. These mandatory requirements apply broadly to the entire building rather than the limited applicability of the *Cleaner Air Symbol* provisions of the CBC. These issues were presented and discussed at public meetings prior to submittal of this proposal to the California Building Standards Commission.

DSA-AC recognizes the importance of promoting safe and healthy environments as well as the need for usable and enforceable building code regulations. DSA-AC also recognizes the admirable intent behind the original proposal and adoption of the *Cleaner Air Symbol*. However, given the lack of evidence of use of the *Cleaner Air Symbol*, DSA-AC is not persuaded of the public benefit of this existing voluntary provision and respectfully declines to amend its proposal in response to this comment.

Name: HolLynn D'Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D'Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O'Mara, and Tom Harrington

Item: 11B.16

Section: 11B-220.2 Point-of-sale devices

Summary of Comment on First 45-Day Item: Commenter disagrees with this code change and requests it be sent back for further study because it conflicts with other proposed code changes regarding electric vehicle charging stations (EVCS).

DSA-AC Change to Accommodate: DSA-AC agrees Section 11B-220.2 is in conflict with proposed language in Item 11B.51, specifically proposed Section 11B-812.10.3; this conflict was due to an oversight on DSA's part. DSA-AC proposed to further amend Sections 11B-220.2 and 11B-812.10.3 during the Second 45-Day Comment Period, as follows:

- 1) In the existing exception for Section 11B-220.2, DSA-AC proposed to eliminate "electricity" from the list of applicable types of motor fuel. A new second exception was proposed which directs code users to Section 11B-812.10.3, the applicable section for point-of-sale devices installed for use with electric vehicle charging stations required to comply with 11B-812.
- 2) In the newly proposed Section 11B-812.10.3, DSA-AC amended its proposal to direct code users to the applicable technical requirements for point-of-sale devices installed for

use with electric vehicle charging stations complying with Section 11B-812. The applicable code sections include Section 11B-707.2 Clear Floor or Ground Space, Section 11B-707.3 Operable Parts, Section 11B-707.7.2 Characters, and 11B-707.9 Point-of-Sale Devices.

These changes were reflected in the Second 45-Day Express Terms. See the Final Express Terms document for the full text of the resulting regulation.

Name: Mehdi Shadyab, P.E., CAsp, on behalf of
City of San Diego, Development Services Department, Structural Plan Review Section

Item: 11B.16

Section: 11B-220.2 Point-of-sale devices

Summary of Comment on Second 45-Day Item: Mr. Shadyab submitted comments on behalf of the City of San Diego, Development Services Department, Structural Plan Review Section. He submitted a comment recommending approval of this section as further amended in the Second 45-Day Express Terms.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: 11B.19

Section: 11B-233.3.1.2.4 (Public Housing Facilities) Multi-story residential dwelling units

Summary of Comment on First 45-Day Item: CA Department of Housing and Community Development (HCD) requested that the proposed amendments to this section be further amended.

The first paragraph (and numbered items) of this section address elevator buildings, while the exception sets requirements for non-elevator buildings. It appears that the exception is not really an exception to the first paragraph (elevator buildings), but prescribes separate requirements for non-elevator buildings. HCD believes it may provide more clarity to separate this exception from this subsection and create a separate subsection for non-elevator buildings.

Additionally, if the intent of this section is to align with Chapter 11A, Chapter 11A requires a bathroom (or powder room) and a kitchen on the primary entry level for multistory dwelling units in elevator buildings.

DSA-AC Change to Accommodate: DSA-AC agrees that the proposed code change may have merit and will retain this comment for consideration during the next rulemaking cycle to assure adequate public review and opportunity to comment. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: 11B.20

Section: 11B-233.3.3 (Public Housing Facilities) Additions

Summary of Comment on First 45-Day Item: CA Department of Housing and Community Development (HCD) requested that the proposed amendments to this section be further amended.

This proposal may create a conflict with Chapter 11A. The conflict originates from the requirements for kitchens in Chapters 11A and 11B. Section 1133A requires kitchens with a 48-inch minimum width, while Chapter 11B requires only a 40-inch width for pass-through kitchens.

EXAMPLE: A developer using state funds proposes to add 10 apartments to an existing 90-unit apartment complex, constructed with private funds. The DSA-AC proposal would require 5 of the new apartments to comply with Chapter 11B, and the other 5 - with Chapter 11A.

At the same time, Chapter 11A applies to new additions to existing covered multifamily dwellings where the addition, when considered alone, meets the definition of a covered multifamily dwelling. In this case, all 10 new apartments would be required to comply with Chapter 11A.

So, when a developer follows the exact language in Section 11B-233.3.3, as written, the 5 dwelling units (5%), required to comply with Chapter 11B, will not comply with Section 1133A due to the different requirements for kitchens in Chapters 11A and 11B.

DSA-AC Change to Accommodate: DSA-AC has withdrawn, at its discretion and for further study, Item 11B.20 based on comments received during the First 45-Day Public Comment Period. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: 11B.21

Section: 11B-233.3.4 (Public Housing Facilities) Alterations, Exception

Summary of Comment on First 45-Day Item: CA Department of Housing and Community Development (HCD) requested that the proposed amendments to this section be further amended.

The proposed amendments to this section are more stringent than the federal standards and the existing California standards, and if approved and adopted, would affect rehabilitation projects funded by HCD and other State and local agencies.

The existing language in Section 11B-233.3.4, 11B-233.3.4.1 and 11B-3.4.2 and 11B-233.1, as well as the definition of PUBLIC HOUSING, does not clarify the scoping. This has resulted in varying interpretations and enforcement by the local jurisdictions. HCD recommends that DSA-AC clarify the scoping.

EXAMPLE: An existing 100-unit condominium building built in 1980 where the owners use public funds (State program) to improve energy efficiency. The upgrade includes new flooring materials, new interior finishes, new attic and wall insulation, new electrical system, new HVAC system, new lighting, new doors and windows, new plumbing fixtures and fittings, and new appliances. The owners do not propose any structural repairs.

This project doesn't trigger compliance with Chapter 11A, because the building was built prior to March 13, 1991. However (based on the DSA-AC interpretation), because of the public funds used for the renovation, this project may need to comply with Chapter 11B in regards to 5% of the dwelling units. In addition, DSA's proposal refers to Section 11B-233.3.1.2, which requires compliance with Chapter 11A, Division IV, for the other 95 dwelling units. This may make some rehabilitation projects funded by HCD or other state and local programs too expensive or even impossible to build due to the additional expenses for retroactive Chapter 11A compliance. In some cases additional compliance with Chapter 11A may be more expensive than the originally propose project.

DSA-AC Change to Accommodate: DSA-AC has withdrawn, at its discretion and for further study, previously proposed amendments to this section based on comments received during the First 45-Day Public Comment Period. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

Additionally, DSA-AC proposed an amendment to correct an inadvertent drafting error in this section. Residential dwelling units with adaptable features are required to comply with Chapter 11A, Division IV rather than Section 11B-809.2, 11B-809.3 or 11B-809.4. This section is being amended to correctly reference the applicable code sections.

This change was reflected in the Second 45-Day Express Terms. See the Final Express Terms document for the full text of the resulting regulation.

Name: Mehdi Shadyab, P.E., CAsp, on behalf of
City of San Diego, Development Services Department, Structural Plan Review Section

Item: 11B.21

Section: 11B-233.3.4 (Public Housing Facilities) Alterations, Exception

Summary of Comment on Second 45-Day Item: Mr. Shadyab submitted comments on behalf of the City of San Diego, Development Services Department, Structural Plan Review Section. He submitted a comment recommending this section be further amended to retain the reference to Section 11B-233.3.1.2 in the exception.

DSA-AC Change to Accommodate: As noted in DSA-AC's statement of reasons for its 2nd 45-day revisions, DSA-AC is withdrawing (a portion of) the previously proposed amendments to this section for further study based on comments received during the first 45-Day Public Comment Period. The 1st 45-day amendments reflecting the concept of prioritizing remedial work during alterations are being withdrawn (or reversed) with the 2nd 45-day revisions; this section of text is noted with single underline and double strikeout and is integral to DSA-AC's 2nd 45-day revisions. DSA-AC respectfully declines to further amend its proposal in response to this comment.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: 11B.22

Section: 11B-233.3.4.2 (Public Housing Facilities) Alterations to individual residential dwelling units

Summary of Comment on First 45-Day Item: CA Department of Housing and Community Development (HCD) requested that the proposed amendments to this section be further amended.

The proposed amendments to this section are more stringent than the federal standards and the existing California standards, and if approved and adopted, would affect rehabilitation projects funded by HCD and other State and local agencies.

The existing language in Section 11B-233.3.4, 11B-233.3.4.1 and 11B-3.4.2 and 11B-233.1, as well as the definition of PUBLIC HOUSING, does not clarify the scoping. This has resulted in varying interpretations and enforcement by the local jurisdictions. HCD recommends that DSA-AC clarify the scoping.

EXAMPLE: An existing 100-unit condominium building built in 1980 where the owners use public funds (State program) to improve energy efficiency. The upgrade includes new flooring materials, new interior finishes, new attic and wall insulation, new electrical system, new HVAC system, new lighting, new doors and windows, new plumbing fixtures and fittings, and new appliances. The owners do not propose any structural repairs.

This project doesn't trigger compliance with Chapter 11A, because the building was built prior to March 13, 1991. However (based on the DSA-AC interpretation), because of the public funds used for the renovation, this project may need to comply with Chapter 11B in regards to 5% of the dwelling units. In addition, DSA's proposal refers to Section 11B-233.3.1.2, which requires compliance with Chapter 11A, Division IV, for the other 95 dwelling units. This may make some rehabilitation projects funded by HCD or other state and local programs too expensive or even impossible to build due to the additional expenses for retroactive Chapter 11A compliance. In some cases additional compliance with Chapter 11A may be more expensive than the originally propose project.

DSA-AC Change to Accommodate: DSA-AC has withdrawn, at its discretion and for further study, Item 11B.22 based on comments received during the First 45-Day Public Comment Period. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

Name: David Cordova, Senior Civil Engineer, California Department of Transportation

Item: 11B.25

Section: 11B-403.5.1.1 (Clear width) Sidewalks and walks

Summary of Comment on First 45-Day Item: Mr. Cordova submitted a statement in support of the proposed amendments to CBC Section 11B-403.5.1.1. Numerous times, in highway projects, Caltrans and local agencies encounter above ground features in sidewalks that were put in place under the Federal clear width standard of 36 inches. Features such as light poles, traffic signal poles, utility poles, etc., are necessary in the public rights-of-way, but may not allow 48 inches of clear width due to the restricted width of available public rights-of-way. The limited reduction in clear width is reasonable.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Catherine Wampler, PE, Senior Civil Engineer, Project Manager, ADA Coordinator
County of Riverside, Transportation Department

Item: 11B.25

Section: 11B-403.5.1.1 (Clear width) Sidewalks and walks

Summary of Comment on First 45-Day Item: Ms. Wampler submitted a statement in support of the code's allowable reduction in the clear width requirement around an object (such as a utility

pole) from 48-inches to 36-inches for distances not to exceed 24-inches. In addition, she recommends that the reduction in clearance be allowed without the requirement for a local agency to justify an “unreasonable hardship”, and she recommends an advisory statement for clear widths to be “48-inches preferred” and “36-inches minimum”.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. The initially proposed language requiring a determination of “unreasonable hardship” was deleted in DSA-AC’s First 45-Day Express Terms document based on a recommendation from the BSC Code Advisory Committee. The proposed amendment provides a limited reduction in sidewalk clear width in alterations without the need for a determination of “unreasonable hardship”. In addition, Section 11B-202.3 provides an exception for alterations when the enforcing authority determines compliance with applicable requirements is “technically infeasible” and “equivalent facilitation” is provided. DSA-AC is proposing no further changes to this code section in response to this comment, however, will consider adding an advisory statement regarding this section to DSA-AC’s on-line Advisory Manual per Ms. Wampler’s recommendation.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: 11B.30

Section: 11B-411.2.1.2.2 (Destination-oriented elevators – Hall call console) Touch screen

Summary of Comment on First 45-Day Item: NEII supports the proposed amendments to 11B-411.2.1.2.2.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: 11B.31

Section: 11B-411.2.1.2.4 (Destination-oriented elevators – Hall call console) Display screen

Summary of Comment on First 45-Day Item: NEII supports the proposed amendments to 11B-411.2.1.2.4.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: 11B.32

Section: 11B-411.2.1.2.5 (Destination-oriented elevators – Hall call console) Audio output

Summary of Comment on First 45-Day Item: NEII supports the proposed amendments to 11B-411.2.1.2.5.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: 11B.33

Section: 11B-411.2.1.3.4 (Destination-oriented elevators – Hall call console) Position

Summary of Comment on First 45-Day Item: NEII asks that the stated slope of “15 to 25 degrees” from the vertical plane be modified to allow the 7 to 25 degree slope that was struck from the requirement for the face of hall call consoles and touch screens. Rationale: The 7 degree minimum will provide additional flexibility in positioning the screen to reduce glare and has not been cited as an issue by users under the current allowance of the code.

DSA-AC Change to Accommodate: DSA-AC agrees with the commenter that the amendments to this section, as originally proposed, unnecessarily reduce flexibility in positioning touch screens to reduce glare, as required by the section. DSA-AC proposed to further amend this item in the Second 45-Day Comment Period by:

- 1) restoring the provision requiring “touch screens shall be sloped away from the user at 7 to 25 degrees from the vertical plane”, which was inadvertently proposed for deletion in the first 45-Day Express Terms;
- 2) replacing the term “individual elements or group of individual elements that are operated by user input” with the more concise term “keypads or buttons”;
- 3) deleting the reference to 11B-307, added in the first 45-Day Express Terms, because Section 11B-204.1 requires compliance with Section 11B-307 on circulation paths, unless specifically exempted; and
- 4) restructuring the section to clarify the general intent of the provisions.

These changes were reflected in the Second 45-Day Express Terms.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: 11B.33

Section: 11B-411.2.1.3.4 (Destination-oriented elevators – Hall call console) Position

Summary of Comment on Second 45-Day Item: NEII thanked DSA-AC for accepting their comment on Item 11B.33 and making the proposed change to Section 11B-411.2.1.3.4. The commenter did, however, request a verification of the final wording of the resulting regulation with the legislative format removed. His understanding is that the section will read as follows:

11B-411.2.1.3.4 Position. Display screens and touch screens shall be positioned so glare is reduced on the screen. Keypads and buttons shall slope away from the user at 15 to 25 degrees from the vertical plane. Touch screens shall be sloped away from the user at 7 to 25 degrees from the vertical plane.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. The final wording of the resulting regulation will be consistent with Mr. Brinkman’s submitted language, except “Keypads and buttons ...” will read “Keypads or buttons ...” as proposed in the Second 45-Day Express Terms language. DSA-AC is proposing no further changes to this section in response to this comment.

See the Final Express Terms document for the full text of the resulting regulation.

Name: Mehdi Shadyab, P.E., CAsP, on behalf of
City of San Diego, Development Services Department, Structural Plan Review Section

Item: 11B.33

Section: 11B-411.2.1.3.4 (Destination-oriented elevators – Hall call console) Position

Summary of Comment on Second 45-Day Item: Mr. Shadyab submitted comments on behalf of the City of San Diego, Development Services Department, Structural Plan Review Section. He submitted a comment recommending approval of this section as further amended in the Second 45-Day Express Terms.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: David Cordova, Senior Civil Engineer, California Department of Transportation

Item: 11B.41

Section: 11B-503.6 (Passenger drop-off and loading zones) Identification

Summary of Comment on First 45-Day Item: Mr. Cordova submitted a statement in support of the proposed amendments to CBC Section 11B-503.6. The ISA sign is not required in the 2010 ADA Standards (Federal Code) for passenger loading/unloading zones. The current requirement in the CBC causes confusion for drivers who are aware that the ISA sign (at a parking space) means for the exclusive use of disabled persons, per the California Vehicle Code. The placement of the ISA sign in passenger loading/unloading zones is not addressed in the California Vehicle Code.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: HolLynn D'Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D'Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O'Mara, and Tom Harrington

Item: 11B.46

Section: 11B-608.6 Shower spray unit and water

Summary of Comment on First 45-Day Item: Commenter disagrees with this code change and requests it be sent back for further study based on the assertion that persons with disabilities will be forced to sit in unhealthy temperatures or hot or cold water until the water temperature can be adjusted.

DSA-AC Change to Accommodate: DSA's proposal carries forward (retains) a previously-adopted exception from the 2013 CBC which allows two fixed shower heads to be provided in lieu of a hand-held spray unit within facilities subject to excessive vandalism that are not transient lodging guest rooms. The essential language in this exception was first adopted in the California Plumbing Code (CPC) circa 1994 and was transferred from the CPC to the CBC at a later date.

DSA's proposal also amends this code section to restore the previously adopted requirement that one of the fixed shower heads must be mounted at 48 inches maximum above the shower floor. This provision was inadvertently omitted from the 2013 CBC. These first two aspects of this

proposal will correct errors and restore to pre-2013 state the CBC provisions regarding fixed shower heads provided in lieu of hand-held spray units within facilities subject to excessive vandalism.

Finally, DSA's proposal adds specific facility types where fixed shower heads are not permitted to be provided in lieu of a hand-held spray unit – medical care facilities, long-term care facilities, and residential dwelling units. DSA-AC proposes to add these facility types to the CBC to be consistent with the limits of the 2010 ADAS. By expanding the list of facility types where fixed shower heads are not permitted to be provided in lieu of hand-held spray units, such fixed shower heads will be permitted to be provided in fewer facility types than are currently allowed by Section 11B-608.6 Exception.

Prior to Ms. D'Lil's comments submitted on behalf of the Coalition of Disability Access Professionals, DSA-AC was unaware of any concerns with this 30+ year-old provision regarding water temperatures. DSA-AC notes CPC requirements for showers in general limits shower water to a maximum temperature of 120 degrees Fahrenheit. Also, the long-established requirement that fixed shower heads (provided in lieu of hand-held spray units) must have vertical and horizontal swivel adjustments provides a level of user-adjustment which addresses, in whole or in part, the commenters concerns that persons with disabilities will be forced to sit in unhealthy temperatures.

DSA-AC respectfully declines to amend its proposal in response to this comment but will retain this comment for consideration during a future rulemaking cycle.

Name: David Cordova, Senior Civil Engineer, California Department of Transportation

Item: 11B.47

Section: 11B-705.1.1.1 (Detectable warning) Dome size

Summary of Comment on First 45-Day Item: Mr. Cordova submitted a statement in opposition to the proposed amendment to CBC Section 11B-705.1.1.1. The proposed dome height change to 0.2 inch is absolute. Although, this is consistent with the current Federal dome height standard, it provides a broader range of dome heights due to the rounding compared to the existing range language of 0.18 inch to 0.22 inch. The proposed 0.2 inch is to the 1/10 inch accuracy standard. Basic mathematical rounding is allowed from the 1/100 measurements to the 1/10, when the standard is to the 1/10 accuracy as in this case. Therefore, when judging dome height compliance, dome height measurements from our Lab given in the 1/100 such as 0.16 can be rounded to the 1/10 accuracy of 0.2 inch. Likewise, a measurement of dome height of say 0.24 can be rounded to 0.2 inch. So the proposed change in the Code will actually result in a broader range of dome heights that are allowable (i.e., 0.16 inch to 0.24 inch) compared to the existing range of 0.18 inch to 0.22 inch. The existing range of 0.18 inch to 0.22 inch has been in the CBC for 20 some years and has been the basis of approvals/denials of detectable warning products for the CA Department of Transportation. Although, the ADA allows for construction industry tolerance, there is no tolerance specified for dome heights, according to the Federal Highway Administration. The existing range of 0.18 to 0.22 inch acts as the tolerance, per the ADA when a range is specified; this covers all the many types of materials that detectable warnings come in. The existing range is a more narrow range than what the proposed Code change is supposed to accomplish, but it will have the opposite effect. Keep the existing code language.

DSA-AC Change to Accommodate: This code change proposal simply incorporates the federal standard, applicable nationwide, for the dome height of detectable warnings. The 2010 ADA Standards for Accessible Design (ADAS) is the relevant federal standard and requires the dome height of detectable warnings to be 0.2 inch. The commenter acknowledges 0.2 inch dome height

as proposed by DSA-AC is consistent with the 2010 ADAS. DSA-AC believes that failure to incorporate this federal standard is inconsistent with Criteria 7 of the 9-Point Criteria.

The commenter encourages DSA-AC to retain the 2013 and prior CBC range for dome heights of detectable warnings of 0.18 inch to 0.22 inch. DSA-AC considers this range reflected in prior editions of the CBC was consistent with the 1991 ADAS Section 4.29.2 which indicated “raised truncated domes with...a height of *nominal* 0.2 inch...” (emphasis added). With the 2010 ADAS, the US Department of Justice adopted a new standard which amended the dome height to 0.2 inches subject to conventional industry tolerances. 2010 ADAS Section 104.1.1 and CBC Section 11B-104.1.1 (Construction and manufacturing tolerances) indicate: “All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.” DSA-AC agrees with the commenter that no other tolerance is specified for dome heights.

The commenter asserts mathematical rounding conventions would allow a range of dome heights from 0.16 inch to 0.24 inch. However, this analysis misrepresents the process of confirming code compliance. Code compliance involves a process of comparing the *actual measured dimension* of an element with the dimensional code requirement(s) for the same element. This process differs from the commenter’s description of the process as obtaining an *actual measured dimension*, then rounding the actual dimension, then comparing it to the code requirement.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Alex Munroe, President, Cape Fear Systems, LLC

Item: 11B.47

Section: 11B-705.1.1.1 (Detectable warning) Dome size

Summary of Comment on First 45-Day Item: Mr. Munroe submitted a statement in opposition to the proposed amendment to CBC Section 11B-705.1.1.1. In the manufacture of detectable warning, there are always going to be warehouse, molding and product cooling temperature fluctuations that might influence the absolute height of the materials, no matter what material or technique is being used. Additionally, normal wear and tear on the product in the field over time will inevitably affect the dome heights, especially since there are so many domes on the field of the detectable warning. A “nominal” 0.20 inch height is more prudent and more manufacturers will be able to hit this target.

DSA-AC Change to Accommodate: DSA-AC agrees with the commenter that molding and product cooling temperature fluctuations may influence the absolute height of the truncated domes of detectable warnings. Assuming appropriate quality control, these variations are recognized in CBC Section 11B-104.1.1 (Construction and manufacturing tolerances) which indicates: “All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.” Old stock of detectable warnings which do not comply with the new standard would not be covered by Section 11B-104.1.1 after the new standard becomes effective.

The commenter encourages DSA-AC to incorporate a “nominal” 0.20 dome height for detectable warnings. This language would have been consistent with the 1991 ADA Standards for Accessible Design (ADAS) Section 4.29.2 which indicated “raised truncated domes with...a height of *nominal* 0.2 inch...” (emphasis added). However, with the 2010 ADAS, the US Department of Justice adopted a new standard which amended the dome height to 0.2 inches subject to conventional industry tolerances. 2010 ADAS Section 104.1.1 and CBC Section 11B-104.1.1 (Construction and manufacturing tolerances) indicate: “All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific

minimum and maximum end points.” DSA-AC believes requiring a nominal 0.2 inch dome height would be inconsistent with the 2010 ADAS.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Jon Julnes, President, Vanguard ADA Systems

Item: 11B.47

Section: 11B-705.1.1.1 (Detectable warning) Dome size

Summary of Comment on First 45-Day Item: Mr. Julnes submitted a letter recommending that the current height range of 0.18 inch minimum and 0.22 inch maximum be maintained. He stated that with zero latitude in design standards, the very second something happens to an installation that alters its appearance or shape, it is out of compliance. The decision to go with a fixed design standard, with no deviation not only limits California to rigid product design, it absolutely eliminates future manufacturers or inventors from coming out with products that can provide the State with more cost effective, productive, functional products and it insures that close to 10% of every product installation will be out of compliance, annually. Removing latitude from the detectable warning design standard is not a solution; it's a brand new problem.

Recommendation: Adopt the federal guidelines verbatim, including the 24” design standard (depth), along with the latitude and built in flexibility that “Equivalent Facilitation” provides, as it was designed to, and does every day, across the entire country, and more so, in this case very well. Equivalent facilitation provides reasonable latitude. Equivalent facilitation allows for products that actually work, instead of just meet a specification.

DSA-AC Change to Accommodate: The commenter encourages DSA-AC to retain the 2013 and prior CBC range for dome heights of detectable warnings of 0.18 inch to 0.22 inch. DSA-AC considers this range reflected in prior editions of the CBC was consistent with the 1991 ADA Standards for Accessible Design (ADAS) Section 4.29.2 which indicated “raised truncated domes with...a height of *nominal* 0.2 inch...” (emphasis added). With the 2010 ADAS, the US Department of Justice adopted a new standard which amended the dome height to 0.2 inches subject to conventional industry tolerances. 2010 ADAS Section 104.1.1 and CBC Section 11B-104.1.1 (Construction and manufacturing tolerances) indicate: “All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.”

The commenter also recommends inclusion of “Equivalent Facilitation” to provide a reasonable latitude for design. DSA-AC notes that CBC Section 11B-103 presently incorporates the 2010 ADAS provision for equivalent facilitation verbatim.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Michael Keels, President, Detectable Warning Systems

Item: 11B.47

Section: 11B-705.1.1.1 (Detectable warning) Dome size

Summary of Comment on First 45-Day Item: Mr. Keels submitted a recommendation that the dome height change not be made for the following reasons:

- 1) With a fixed height requirement once the domes have received even minimal foot traffic and wear of even the slightest amount (height) then the panel is effectively out of code.

This could be a very costly situation from a potential litigious situation to a very costly panel replacement program to stay exactly within code.

- 2) From a user perspective the difference of + or - .02 inches is so negligible that it would be completely unnoticeable for the visually impaired pedestrian. It is even too small of a difference to measure without sophisticated measuring equipment.
- 3) From a manufacturing perspective this lack of any tolerance could be extremely difficult to meet, depending on the material type and process used to manufacture.
- 4) For manufacturers that may have existing tooling that falls within the current variances, but perhaps isn't exactly .2 inch the cost to retool could be in excess of \$100,000 if new tooling is required. This cost would ultimately be passed through contractors to the state and California tax payers or if companies chose not to retool then the number of qualified manufacturers could be greatly reduced and impact the competitive aspect of providing good pricing for state jobs.

DSA-AC Change to Accommodate: The commenter encourages DSA-AC to retain the 2013 and prior CBC range for dome heights of detectable warnings of 0.18 inch to 0.22 inch. DSA-AC considers this range reflected in prior editions of the CBC was consistent with the 1991 ADAS Section 4.29.2 which indicated "raised truncated domes with...a height of *nominal* 0.2 inch..." (emphasis added). With the 2010 ADAS, the US Department of Justice adopted a new standard which amended the dome height to 0.2 inches subject to conventional industry tolerances. 2010 ADAS Section 104.1.1 and CBC Section 11B-104.1.1 (Construction and manufacturing tolerances) indicate: "All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points."

The commenter also expresses concern about new manufacturers' tooling required to meet the 0.2 inch requirement. DSA-AC notes detectable warning dome height of 0.2 inch is presently required by the 2010 ADAS and is applicable nationally, including in California. Products which currently comply with both the 2013 CBC and the 2010 ADAS need not retool to meet this "new" 0.2 inch dome height requirement.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Eileen Wenger Tutt, Executive Director, California Electric Transportation Coalition
Tony Andreoni, Director of Regulatory Affairs, California Municipal Utilities Association

Item: 11B.51

Section: General – Retrofit Projects

Summary of Comment on First 45-Day Item: Ms. Tutt submitted comments on behalf of California Electric Transportation Coalition (Cal ETC) requesting an exemption for the installation of new EVCS in existing parking lots (retrofit projects). As written, the current regulations apply to both the addition of EVCS in new construction parking lots and the addition of EVCS in existing parking lots. Ms. Tutt urged DSA-AC to consider exempting retrofit projects from these regulations or exempting retrofit projects for small parking lots, such as parking lots with 10 or fewer parking spaces for the following reasons:

- 1) These regulations will decrease the amount of EVCS retrofit projects due to the valid concern that property owners have about losing parking spaces in order to meet the accessible EVCS requirement. Under the regulations, if a property owner seeks to install any EVCS in a 10-space parking lot, there must be at least one van-accessible EVCS. This means that 3 to 3.5 parking spaces in the existing lot would have to be removed in order to accommodate one van-accessible EVCS. It is unlikely that any property owner

would agree to the removal of this many spaces in order to add one EVCS to their parking lot.

- 2) In addition to the property owners' concerns about losing parking space, there is also a concern about the cost of installing charging infrastructure near the front of buildings. As required by the regulations, accessible EVCS in building parking lots must be "located on an accessible route to an entrance ..." (Section 11B-812.5.1). In practice, this means that accessible EVCS need to be at or very close to the front of the building, where traditional accessible parking spaces are located. The cost to install charging infrastructure near the front of the building, which is often far from where there is adequate electrical supply for EVCS, is higher than the cost to install charging infrastructure near existing electrical supply.
- 3) The DSA-AC failed to take these cost considerations into account in its analysis of the proposed regulations. The Initial Statement of Reasons states that "the cost of compliance with these proposed regulations will be minimal". The Notice of Proposed Action states that "the DSA-AC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action." Due to the lack of an adequate examination of the cost of these proposed regulations, we urge the DSA-AC and the CBSC to exempt retrofit projects from these proposed regulations until further examination is completed.

DSA-AC Change to Accommodate: At the present time, the US Department of Justice (USDOJ) has issued no specific technical guidance regarding the provision of disabled accessibility at EV charging facilities in public areas; however, EV charging facilities located in a public area clearly provide a "service" to the public as defined by USDOJ. Regardless of whether an EV charging facility is owned and operated by a public or private sector entity, there should be some level of accessibility provided. Providing an exception for the installation of new EVCS in existing parking lots (retrofit projects) would be a violation of the Americans with Disabilities Act.

DSA-AC believes the commenter has mischaracterized the loss of parking spaces in a retrofit project. Under DSA-AC's proposed regulations, the creation of accessible EVCSs would impact parking much less than suggested. DSA-AC surveyed major jurisdictions as to their required parking space dimensions; the typical standard parking space width is 8 to 8.5 feet, although compact spaces with widths of 7.5 feet are allowed in some jurisdictions. The addition of a single van accessible EVCS in a small retrofit project would require 17 feet, or the equivalent of two existing parking spaces.

There is a distinction between the requirement for an element to be located on an "accessible route" and the requirement for an element to be located on "the shortest accessible route". Accessible parking spaces are required by Section 11B-208.3.1 to be "located on the shortest accessible route from parking to an entrance ...". Proposed Section 11B-812.5.1 would require EVCS to be "located on an accessible route to an entrance ...". There is no proposed regulation requiring accessible EVCS to be at or very close to the front of building.

There is a requirement under the Americans with Disabilities Act to provide accessibility at EVCS. DSA-AC's proposed regulations provide uniform scoping and technical guidance for the installation of EVCS at new and existing locations.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Ron Davis, General Manager, Burbank Water and Power

Item: 11B.51

Section: General – Retrofit Projects

Summary of Comment on First 45-Day Item: Mr. Davis submitted comments on behalf of Burbank Water and Power. He concurs with Cal ETC comments regarding exempting retrofit projects from the proposed regulations.

DSA-AC Change to Accommodate: See the DSA-AC response above to the comments Ms. Tutt submitted on behalf of California Electric Transportation Coalition regarding an exception for retrofit projects.

Name: Eileen Wenger Tutt, Executive Director, California Electric Transportation Coalition
Tony Andreoni, Director of Regulatory Affairs, California Municipal Utilities Association

Item: 11B.51

Section: General – Sharing Concept

Summary of Comment on First 45-Day Item: If retrofit operations cannot be exempted from the regulations, Ms. Tutt urges DSA-AC to consider the “sharing concept”. Sharing is when an existing disabled-only van-accessible parking space is used both as a van-accessible EVCS and as a traditional disabled-only van-accessible parking space.

Currently, the DSA’s proposed regulations neither explicitly allow nor prohibit sharing. However, the regulations are worded such that it would be basically impossible to share an accessible space. If retrofit projects are not exempted from the regulations, we request for sharing to be explicitly allowed in order to ensure that retrofit projects remain feasible. Specifically, for retrofit projects, we request shared spaces be exempted from the “EV CHARGING ONLY” surface marking requirement in 11B-812.9.

DSA-AC Change to Accommodate: DSA-AC has identified problems with using an existing required accessible parking space to meet the proposed regulations for accessible EVCS as a “dual use accessible parking / EVCS space” in retrofit projects.

Accessible parking is generally available to vehicles with disabled license plates or placards without time limitations. However, the California Department of Motor Vehicles has determined that, per CVC Section 22511.5 (a) 3, EVCS are a zone reserved for a special type of vehicle and that time limits could be enforced. This effectively precludes a dual use accessible parking / EVCS space from being used as accessible parking without time limitations.

Additionally, when the space is being used as accessible parking, there will be a shortfall of required accessible EVCS; when being used for electric vehicle charging, there will be a shortfall of accessible parking. DSA-AC discussed this design approach with U.S. Access Board staff, who concurred that under federal regulations dual use sharing would result in a shortfall of either accessible parking or accessible charging depending on how the space was being used.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: George L. Parrott, PHD, Professor of Psychology, emeritus, CSU, Sacramento

Item: 11B.51

Section: General – Sharing Concept

Summary of Comment on First 45-Day Item: As a mobility-impaired driver of a fully electric vehicle, Mr. Parrott submitted comments encouraging revisions as necessary to the proposed regulations to fully recognize the concept of “sharing” of existing “handicapped” labeled spaces with the provision for future EVCS installations.

Currently the DSA's proposed regulations neither explicitly allow nor prohibit "sharing". However, the regulations are worded such that it would be basically impossible to "share" an accessible spot. In order to ensure that retrofit projects remain feasible, he requests that "sharing" be explicitly allowed. Specifically, he requests, that in retrofit situations, an exemption for shared spots from the "EV CHARGING ONLY" surface marking requirement in 11B-812.9.

DSA-AC Change to Accommodate: See the DSA-AC response above to the comments Ms. Tutt submitted on behalf of California Electric Transportation Coalition regarding use of the "sharing concept".

Name: Anne Smart, Director, Government Relations and Regulatory Affairs
ChargePoint

Item: 11B.51

Section: General – Retrofits Projects and Sharing Concept

Summary of Comment on First 45-Day Item: Ms. Smart submitted comments on behalf of ChargePoint. As participants in the DGS/DSA-AC working group process, ChargePoint understands that this proposal is an attempt to address an issue on which positions were widely varied. A statewide clarification on accessibility at charging stations is vital and overdue. However, ChargePoint is concerned that these requirements go too far and may dissuade businesses from investing in charging stations.

ChargePoint shares the concerns raised by the California Electric Transportation Coalitions (CalETC) in their comments. ChargePoint fully supports exempting retrofit projects from these standards. Secondly, ChargePoint supports the "sharing concept" as described by CalETC. Until the federal government through the Department of Justice addresses this specific issue, Ms. Smart believes it is premature to block the sharing concept in California.

DSA-AC Change to Accommodate: See the DSA-AC responses above to the comments Ms. Tutt submitted on behalf of California Electric Transportation Coalition regarding both an exception for retrofit projects and use of the "sharing concept".

Name: Jay Friedland, Senior Policy Advisor, Plug In America

Item: 11B.51

Section: General – Retrofits Projects and Sharing Concept

Summary of Comment on First 45-Day Item: Mr. Friedland submitted comments on behalf of Plug In America. Plug In America wrote the ADA guidelines for the State Of Hawaii, and have learned several key facts over the past ten years about charging spaces. First, if the accessibility requirements are too high, there is a high probability of property owners deciding not to offer any public EVCS. Second, it is important that the code define the act of "charging"; if a person is not connected for charging, they should not be in a charging space. Finally, charging stations should be treated as the "accessible element", not the vehicle space.

Plug In America shares the concerns raised by the California Electric Transportation Coalitions (CalETC) in their comments. Plug In America supports exempting retrofit projects from these standards. Secondly, Plug In America supports the "sharing concept" as described by CalETC.

With the current challenges of harmonizing State and federal regulations, Mr. Friedman believes it may be worthwhile to view this set of changes with a short to medium term view, implementing

the changes for immediate needs in California and then allow the various jurisdictions to work out their proposals over the next 18 months before considering longer term solutions.

DSA-AC Change to Accommodate: See the DSA-AC responses above to the comments Ms. Tutt submitted on behalf of California Electric Transportation Coalition regarding both an exception for retrofit projects and use of the “sharing concept”.

Name: Guy Hall – President, Sacramento Electric Vehicle Association; Board Member, Electric Auto Association; Director, Sacramento Clean Cities Board

Item: 11B.51

Section: General – Retrofits Projects and Sharing Concept

Summary of Comment on First 45-Day Item: Mr. Hall submitted comments on behalf of the Electric Auto Association (EAA). EAA supports the changes proposed by the Plug In America organization.

DSA-AC Change to Accommodate: See the DSA-AC responses above to the comments Ms. Tutt submitted on behalf of California Electric Transportation Coalition regarding both an exception for retrofit projects and use of the “sharing concept”.

Name: California Building Industry Associate, California Business Properties Association, Building Owners & Managers Association of California, California Apartment Association, NAIOP Commercial Real Estate Development Association, International Council of Shopping Centers, and California Retailers Association

Item: 11B.51

Section: General – Retrofits Projects and Sharing Concept

Summary of Comment on First 45-Day Item: The industry coalition of the above listed organizations submitted a joint comment in support of the adoption of the proposed code regulations for accessibility at electric vehicle charging stations. Strong support was expressed for Exception 1 to Section 11B-228.3.2 and the application thresholds of Table 11B-228.3.2.1. Concern was expressed regarding application of the new regulations to EVCS “retrofit” installation projects. The industry coalition expressed support for the suggestions put forth by the California Electric Transportation Coalition (Cal ETC), specifically to either exempt retrofit projects until such time as the US Department of Justice issues regulations on EVCSs or to allow application of the “sharing concept” during the interim period.

DSA-AC Change to Accommodate: See the DSA-AC responses above to the comments Ms. Tutt submitted on behalf of California Electric Transportation Coalition regarding both an exception for retrofit projects and use of the “sharing concept”.

Name: John Paul Scott, AIA CASp, Disability Access Coordinator

Item: 11B.51

Section: 11B-812 Electric vehicle charging stations

Summary of Comment on Second 45-Day Item: Mr. Scott noted that there are many misplaced circular and looping references. Specifically, instances where a Chapter 3 Building Block is scoped under a Chapter 2 Scoping section, and circular references that bounce between Sections 11B-220.2, 11B-707, 11B-228.3 and 11B-812.10.

Mr. Scott's specific recommendations include:

- 1) Consolidate scoping for EV chargers and associated point-of-sale devices in Section 11B-228.3 where they should be affirmatively scoped, as follows:

11B-228.3 Electric vehicle charging stations.

11B-228.3.1 General. ...

11B-228.3.1.1 Existing facilities. ...

~~11B-228.3.1.2 Operable Parts. Where EV chargers are provided, operable parts on all EV chargers shall comply with Section 309.4.~~

[Note: Mr. Scott proposed that EV chargers and associated point-of-sale devices be addressed in new Sections 11B-228.3.3 and 11B-812.10.3.]

11B-228.3.2 Minimum number. ...

11B-228.3.3 Electrical vehicle (EV) chargers and point-of-sale devices.

11B-228.3.3.1 All EV chargers shall comply with Section 11B-812.10.

11B-228.3.3.2 Point-of-sale devices at EV charging stations shall comply with Section 11B-220.2.

[Note: Stand-alone point-of-sale devices and point-of-sale devices integrated into the charger pole itself should be treated as separate elements. The stand-alone point-of-sale device should be scoped by Section 11B-220.2. Point-of-sale devices integrated within electric vehicle chargers (into the charger pole itself) should be separately addressed in Section 11B-812.10.3. See below.]

- 2) Revise 11B-812.10 to address both clear floor or ground space and point-of-sale devices integrated within electric vehicle chargers, as follows:

11B-812.10 Electric vehicle chargers.

11B-812.10.1 General. EV chargers shall comply with Section 11B-812.10.

11B-812.10.2 Clear floor or ground space. A clear floor or ground space complying with Section 11B-305 shall be provided and it shall be on an accessible route complying with Section 11B-402.

11B-812.10.3 Operable parts. Operable parts and charging cord storage shall comply with 11B-309.

(Note: There is an exception proposed by DSA for the 5 pound force on the connector in Section 11B-309.4)

11B-812.10.4 Point-of-sale devices integrated within electrical vehicle chargers. Where provided, point-of-sales devices integrated within electric vehicle chargers shall comply with Sections 44B-707.2 11B-707.3, 11B-707.7.2 and 11B-707.9.

[Note: Don't need to reference Section 11B-707.2 because requirement for a clear floor space has been added to Section 11B-812.10.2.]

- 3) Delete duplicative operable parts requirements in Sections 11B-228.3.1.2 and 11B-812.2. The operable parts requirement is stated in Section 11B-812.10.

11B-228.3 Electric vehicle charging stations

11B-228.3.1 General. ...

11B-228.3.1.1 Existing facilities. ...

~~11B-228.3.1.2 Operable Parts. Where EV chargers are provided, operable parts on all EV chargers shall comply with Section 11B-309.4.~~

[Note: Duplicative – addressed in 11B-812.10.]

11B-812 Electric vehicle charging stations

11B-812.1 General. ...

~~11B-812.2 Operable parts. Operable Parts shall comply with section 11B-309.~~

[Note: Duplicative – addressed in 11B-812.10.]

- 4) Delete 11B-220.2, Exception 2 because it is circular scoping through an exception. The scoping for both should be covered in 11B-228.

11B-220.2 Point-of-sale devices. ...

Exceptions:

1. ...
2. ~~Point-of-sale devices at electric vehicle charging stations required to comply with 11B-812 shall comply with Section 11B-812.10.3.~~

[Note: Section 11B-812.10.3 provides a reference to specific paragraphs in Section 11B-707, but it is not clear if this reference is for stand-alone point-of-sale devices or point-of-sale devices integrated within electric vehicle chargers. Stand-alone point-of-sale devices and point-of-sale devices integrated within electric vehicle chargers should be treated as separate elements. Mr. Scott's proposal provides separate scoping for both in Section 11B-228.3.3.]

Mr. Scott identified two potential scoping or technical references that may be new:

- 1) Splitting stand-alone point-of-sale devices from point-of-sale devices integrated within electric vehicle chargers
- 2) The specific reference to 11B-309.4 in Section 11B-228.3.1.2 would not have required a clear floor area at EV chargers operable parts, by exclusion.

DSA-AC Change to Accommodate: The proposed regulatory scheme for point-of-sale devices (POSD) at electric vehicle charging stations (EVCS) incorporates two distinct levels of requirements – one for POSD at EVCS required to comply with Section 11B-812 and one for POSD at EVCS not required to comply with Section 11B-812. For POSD at EVCS not required to comply with Section 11B-812, proposed Section 11B-228.3.1.2 indicates POSD need only comply with the operable parts operation requirements in Section 11B-309.4 – operable with one hand, and no tight grasping, pinching, or twisting of the wrist. For POSD at EVCS required to comply with Section 11B-812, proposed Section 11B-812.10.2 indicates the POSD needs to comply with the broader operable parts requirements in Section 11B-309 – clear floor or ground space; reach

range; operable with one hand, and no tight grasping, pinching, or twisting of the wrist. Mr. Scott's comments appear to overlook this two-level scheme and instead, he proposes a scheme which would subject all POSD at EVCS to the higher standard.

Mr. Scott also proposes to distinguish between requirements for POSD which are integrated into an EVCS charging pedestal or wall unit versus those POSD which are stand-alone and separate from the charging pedestal or wall unit. DSA-AC respectfully declines to incorporate this additional distinction and believes this distinction is unnecessary as the requirements apply to POSD at EVCS without regard to whether the POSD is or is not integrated into an EVCS charging pedestal or wall unit. DSA-AC did revise Items 11B.16 and 11B.51 of its proposal under the 2nd 45-day Public Comment Period submittal to address a separate comment identifying conflicts between existing Section 11B-220.2 and proposed Section 11B-812.10.3. DSA-AC believes these changes clarify the requirements for POSD at all EVCS which would be installed under these proposed requirements.

Mr. Scott's final comment indicates that POSDs subject to proposed Section 11B-228.3.1.2's specific reference to Section 11B-309.4 would not require a clear floor area. DSA-AC confirms Mr. Scott's observation but notes this is applicable only to EVCS which are not required to comply with Section 11B-812. As discussed above, POSD at EVCS required to comply with Section 11B-812 must comply with Section 11B-812.10.2 and by reference Section 11B-309 in its entirety, including provision of clear floor or ground space.

Name: Mehdi Shadyab, P.E., CAsP, on behalf of
City of San Diego, Development Services Department, Structural Plan Review Section

Item: 11B.51

Section: 11B-812 Electric vehicle charging stations

Summary of Comment on Second 45-Day Item: Mr. Shadyab submitted comments on behalf of the City of San Diego, Development Services Department, Structural Plan Review Section. He proposed further amendments to Sections 11B-812.1, 11B-812.4, 11B-812.5, 11B-812.5.2, 11B-812.5.4, 11B-812.5.5, 11B-812.7.1, 11B-812.2.7.2, 11B-812.9, and 11B-812.10.4.

DSA-AC Change to Accommodate: The commenter mischaracterizes DSA's proposal in the Second 45-Day Express Terms as being all new language open for public review and comment. In fact, the only amendments to Item 51 that DSA-AC is proposing in the Second 45-Day Express Terms is to insert applicable point-of-sale devices section references into Section 11B-812.10.3. Incorporating Mr. Shadyab's proposed amendments at this point in the current rulemaking cycle, would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its current proposal in response to these comments, but will retain these comments for consideration during a future rulemaking cycle.

Name: Richard F. Teebay

Item: 11B.51

Section: 11B-812.5.1 Accessible route to building or facility, Exception

Summary of Comment on First 45-Day Item: Mr. Teebay indicated that he agreed with the proposed exception to Section 11B-812.5.1, which permits EV chargers and vehicle spaces to be located in different EV charging facilities if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance or entrances, charging fee and user convenience. This is especially important at larger venues, such as stadiums and arenas, where the accessible spaces are often adjacent to the entrance of these types of facilities with an

appropriate path of travel. This also impacts facilities where accessible spaces are adjacent to a building while general parking is across a street or alley in a parking lot or structure.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Janis Kent, FAIA, CASp, Architect, Stepping Thru Accessibility

Item: 11B.51

Section: 11B-812.5.2 Accessible route to EV charger

Summary of Comment on Second 45-Day Item: The wording of Section 11B-812.5.2 which requires an accessible route “between the vehicle space and the EV charger which serves it” is not clear. It seems to imply a 48” space is required between the vehicle space and the charger, but this is not reflected in the figure. Ms. Kent suggests further amending the proposed language, changing the word “between” to “connecting”.

DSA-AC Change to Accommodate: The commenter mischaracterizes DSA’s proposal in the Second 45-Day Express Terms as being all new language open for public review and comment. In fact, the only amendments to Item 51 that DSA-AC is proposing in the Second 45-Day Express Terms is to insert applicable point-of-sale devices section references into Section 11B-812.10.3. Incorporating Ms. Kent’s proposed amendment at this point in the current rulemaking cycle would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its current proposal in response to these comments, but will retain these comments for consideration during a future rulemaking cycle.

Name: HolLynn D’Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D’Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O’Mara, and Tom Harrington

Item: 11B.51

Section: 11B-812.5.4 Arrangement, Exception 2

Summary of Comment on First 45-Day Item: Commenter is opposed to this code change and requests it be sent back for further study because the phrase “to the maximum extent feasible” is incorporated without specificity.

DSA-AC Change to Accommodate: The term “to the maximum extent feasible” was first used in CBC accessibility requirements adopted by DSA-AC circa 1994 and has been in use continuously since that time; the terms “feasible” and “infeasible” are commonly used terms in, and the term “technically infeasible” has been in use and defined within, recent and current CBC accessibility requirements adopted by DSA.

While the term “to the maximum extent feasible” is not defined in DSA’s proposal, DSA-AC believes the CBC provisions for terms which are not defined may be utilized and is sufficient – CBC Section 201.4 addresses terms not defined as follows: “Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.” In general, ordinary meanings may be acquired in a

college level dictionary.

To assure adequate public review and opportunity to comment, DSA-AC is willing to undertake code development of a more substantial definition of “to the maximum extent feasible” in the next rulemaking cycle. This effort would properly consider the definition provided in the ADA Title III regulations which states: “The phrase ‘to the maximum extent feasible,’ as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).” (reference Subpart D of 28 CFR Part 36 §36.402(c))

Name: Janis Kent, FAIA, CASp, Architect, Stepping Thru Accessibility

Item: 11B.51

Section: 11B-812.6 Vehicle spaces and 11B-812.6.4 Drive-up

Item: 11B.51.05

Section: 11B-228.3.2 Minimum number, Exception 2

Summary of Comment on Second 45-Day Item:

11B-228.3.2 Minimum number, Exception 2 – The commenter believes the proposed language of Exception 2 should refer to assigned parking, if that is the intent. Otherwise there may be confusion between assigned parking and common space parking at someone’s residence.

11B-812.6 Vehicle spaces and 11B-812.6.4 Drive-up – The commenter requests clarity regarding the requirement for pavement markings defining the vehicle space width. Ms. Kent submitted a diagram indicating a line at the head and foot of the pull-up space demarcating the 20’ length and asks if this arrangement is sufficient. The commenter also requests clarity regarding side-by-side charging stations and whether the required 17’ wide spaces may overlap.

DSA-AC Change to Accommodate: Ms. Kent mischaracterizes DSA’s proposal in the Second 45-Day Express Terms as being all new language open for public review and comment. In fact, the only amendments to Item 51 that DSA-AC is proposing in the Second 45-Day Express Terms is to insert applicable point-of-sale devices section references into Section 11B-812.10.3. Incorporating new language to address Ms. Kent’s comments and questions at this point in the current rulemaking cycle would not provide adequate opportunity for public review and comment. DSA-AC respectfully declines to amend its current proposal in response to this comment, but will consider adding an advisory statement to DSA’s on-line Advisory Manual to clarify the intent of this section for code users.

Name: Janis Kent, FAIA, CASp, Architect, Stepping Thru Accessibility

Item: 11B.51

Section: 11B-812.7.2 Marking and 11B-812.9 Surface marking

Summary of Comment on Second 45-Day Item:

Section 11B-812.7.2 Marking – The commenter noted the proposed language of this section should read “... marked with hatched lines a maximum of 36 inches on center. ...” rather than “... marked with hatched lines a minimum of 36 inches on center. ...”.

Section 11B-812.9 Surface marking – The commenter noted that there is no technical information for the color of the words “EV CHARGING ONLY”. The commenter suggested that language similar to that contained in Section 11B-812.7.2 for access aisle marking be added to this section. Additionally, Ms. Kent requests that diagonal pull-up EVCS be addressed in this section.

DSA-AC Change to Accommodate:

Section 11B-812.7.2 Marking – DSA-AC is proposing to further amend Section 11B-812.7.2 in the 15-Day Comment Period based on Ms. Kent’s comment to correct an inadvertent typographical error. The commenter noted the proposed language of this section was in conflict with the language existing in CBC Section 11B-502.3.3. Specifically, Section 11B-502.3.3 requires access aisles to be marked with hatched lines a *maximum* of 36 inches on center, while proposed Section 11B-812.7.2 would require hatched lines a *minimum* of 36 inches on center. DSA-AC is proposing to further amend this section to be consistent with the existing provisions of the CBC. This change was reflected in the 15-Day Express Terms. See the Final Express Terms document for the full text of the resulting regulation.

Section 11B-812.9 Surface marking – Regarding the other comments to this section, Ms. Kent mischaracterizes DSA’s proposal in the Second 45-Day Express Terms as being all new language open for public review and comment. In fact, the only amendments to Item 51 that DSA-AC is proposing in the Second 45-Day Express Terms is to insert applicable point-of-sale devices section references into Section 11B-812.10.3. Incorporating Ms. Kent’s proposed amendments at this point in the current rulemaking cycle would not provide adequate opportunity for public review and comment. DSA-AC respectfully declines to amend its current proposal in response to these comments, but will retain these comments for consideration during a future rulemaking cycle.

Name: John Paul Scott, AIA CASp, Disability Access Coordinator

Item: 11B.51

Section: 11B-812.7.2 Marking

Summary of Comment on 15-Day Item: Mr. Scott submitted a comment recommending the proposed amendments to Section 11B-812.7.2 be approved and accepted.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: HolLynn D’Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D’Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuiness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O’Mara, Tom Harrington, and Christina Mills

Item: 11B.51

Section: 11B-812.8 Identification signs

Summary of Comment on First 45-Day Item: Commenter is opposed to this code change and asks that it be sent back for further study because the first four EVCS will not have an International Symbol of Accessibility (ISA) sign; and there are no signs reserving any of the first four EVCS for the exclusive use of persons with an appropriate placard or license plates, with enforcement clearly defined. Commenter predicates these comments on her view that EVCS are parking spaces.

DSA-AC Change to Accommodate: DSA-AC disagrees that EVCS are parking spaces and has addressed this issue in responses to Items 11B.51.03 and 11B.51.04. Though not proposed as parking regulations, DSA-AC nonetheless recognizes that EVCS require many of the same features, physical spaces, and spatial relationships as required for parking.

It is an administrative policy of the State of California to encourage electric vehicle adoption and use, and to facilitate installation of support services, including EVCS. In light of the absence of California Building Code (CBC) accessibility requirements for EVCS in public accommodations or commercial facilities, DSA-AC has undertaken the development of explicit accessibility requirements to apply to EVCS. DSA-AC conducted an extensive public participation process for the development of the proposed EVCS accessibility regulations. A working group of interested stakeholders including disability advocates, building officials, equipment manufacturers, building owners, business operators, public utilities and state agencies was convened and met 8 times to discuss and review how EVCS should be made accessible. Other state agencies participating included CalTrans, the Department of Motor Vehicles and the Department of Housing and Community Development. Ms. D'Lil was in attendance personally or via teleconference at six of the meetings.

To the first comment, during the public meetings there was unanimity that accessibility was needed at EVCS; DSA-AC also received compelling testimony during the public meetings that where a small number of EVCS are provided, reserving some of the EVCS for the exclusive use of persons with disabilities would be a significant disincentive to their installation. To balance these interests DSA-AC proposes an approach for installations of four or fewer EVCS where the first EVCS provides all of the features, physical space, and spatial relationships necessary for use by persons with disabilities but without an ISA or any other indication this EVCS is reserved for the exclusive use of persons with disabilities. This approach mimics the federal requirements of the ADA Standards for Accessible Design (ADAS) for parking facilities with four or fewer parking spaces.

Where five to 25 EVCS are provided, DSA's proposal requires the van accessible EVCS to be identified with an ISA and requires an additional standard accessible EVCS that is not identified with an ISA and available to all. This provides twice as many accessible EVCS vehicle spaces as would be required by the ADAS for a similarly sized parking facility.

To the second comment, DSA-AC does not dispute that DSA's proposal does not require signs reserving any of the first four EVCS for the exclusive use of persons with a special placard or license plates; this is addressed earlier in DSA's response to this item. Nor does DSA-AC dispute that its proposal does not require signs with enforcement clearly defined. Omitting enforcement signs at accessible EVCS installations is right and appropriate within the context of the CBC.

This relationship can be most easily understood by contrasting the statutory requirements of EVCS with those of parking spaces. In short, it is the California Vehicle Code indicates that accessible parking spaces identified with an ISA are reserved for the exclusive use of persons with special license plates or a distinguishing placard – not the building code. DSA's authority in law is to adopt building regulations, not to establish civil enforcement schemes for activities other than those which occur during the construction of facilities regulated by the CBC.

The designation of accessible parking spaces for the exclusive use of individuals with disabilities is provided by California Vehicle Code Section 22511.8 and Government Code Section 14679.

The accessible parking spaces are reserved by the display of the ISA. Vehicle Code Section 22511.5 also provides that “A disabled person or disabled veteran displaying special license plates...or a distinguishing placard...is allowed to park for unlimited periods in...” a number of restricted parking zones. However, Vehicle Code Section 22511.5 (a) 3. qualifies this by stating “This subdivision does not apply to a zone...which the law or ordinance reserves for special types of vehicles, ...” During the EVCS Working Group discussions, the California Department of Motor Vehicles advised that EVCS were a zone reserved for special types of vehicles. Other Sections of the Vehicle Code on electric vehicles provide for charging time limits and restrictions on a vehicle occupying an EVCS space if not plugged in and charging, with no mention of vehicles displaying disabled license plates or placards.

It is not within DSA’s authority to incorporate provisions into the CBC to reserve EVCS for the exclusive use of people with special license plates or a distinguishing placard. If in the future state or federal law is amended to establish restrictions on the use of EVCS, DSA-AC will propose corresponding building code requirements to reflect lawful requirements for constructed elements at EVCS installations.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Kerwin Lee, Architect, CASp

Item: 11B.51

Section: 11B-812.8 Identification signs

Summary of Comment on Second 45-Day Item: The commenter suggested reorganizing the proposed language of Section 11B-812.8 into “requirements” and “exceptions” to remove excess wording. The proposed amendments would clean-up the section and provide clarity as to what are requirements and what are exceptions.

11B-812.8 Identification signs. *EVCS identification signs shall be provided in compliance with Section 11B-812.8 in the following locations:*

- 1. ~~11B-812.8.2 Five to twenty-five.~~** *Where five to twenty-five total EVCS are provided, one van accessible EVCS shall be identified by an ISA complying with Section 11B-703.7.2.1. The required standard accessible EVCS shall not be required to be identified with an ISA.*
- 2. ~~11B-812.8.3 Twenty-six or more.~~** *Where twenty-six or more total EVCS are provided, all required van accessible and all required standard accessible EVCS shall be identified by an ISA complying with Section 11B-703.7.2.1.*

Exceptions: OR *Identification shall not be required at the following locations:*

- 1. ~~11B-812.8.1 Four or fewer.~~** *Where four or fewer total EVCS are provided, identification with an International Symbol of Accessibility (ISA) shall not be required.*
- 2. ~~11B-812.8.4 Ambulatory.~~** *Ambulatory EVCS shall not be required to be identified by an ISA.*
- 3. ~~11B-812.8.5 Drive-up.~~** *Drive-up EVCS shall not be required to be identified by an ISA.*

11B-812.8.1 ~~11B-812.8.6~~ Finish and size. *Identification signs shall be reflectorized with a minimum area of 70 square inches (45,161 mm²).*

11B-812.8.2 ~~11B-812.8.7~~ Location. *Required identification signs shall be visible from the EVCS it serves. Signs shall be permanently posted either immediately adjacent to the vehicle space or within the projected vehicle space width at the head end of the vehicle space. Signs*

identifying van accessible vehicle spaces shall contain the designation “van accessible.” Signs shall be 60 inches (1525 mm) minimum above the finish floor or ground surface measured to the bottom of the sign. Signs located within an accessible route shall be 80 inches (2032 mm) minimum above the finish floor or ground surface measured to the bottom of the sign. Signs may also be permanently posted on a wall at the interior end of the vehicle space.

DSA-AC Change to Accommodate: Mr. Lee mischaracterizes DSA’s proposal in the Second 45-Day Express Terms as being all new language open for public review and comment. In fact, the only amendments to Item 51 that DSA-AC is proposing in the Second 45-Day Express Terms is to insert applicable point-of-sale devices section references into Section 11B-812.10.3. Incorporating Mr. Lee’s proposed amendments at this point in the current rulemaking cycle would not provide adequate opportunity for public review and comment. DSA-AC respectfully declines to amend its current proposal in response to these comments, but will retain these comments for consideration during a future rulemaking cycle.

Name: Sarah Moore

Item: 11B.51

Section: 11B-812.8 Identification signs

Summary of Comment on Second 45-Day Item: The current proposed EVCS regulations may have the unintended consequence of reducing the deployment of EV charging stations at a time when deployment is already behind goals established by the Governor’s Executive Order to provide adequate infrastructure to support zero-emission vehicles in California. The commenter suggested aligning the proposed new regulations for EVCS with the existing CBC requirements for accessible parking spaces so as not to limit the deployment of EVCS and everyone’s ability to access them. Ms. Moore made two specific recommendations:

- 1) Change Table 11B-228.3.2.1 to require one van accessible EVCS at a facility with 1 to 25 total EVCS; one van accessible and one standard accessible EVCS at a facility with 26 to 50 total EVCS; one van accessible, one standard and one ambulatory EVCS at a facility with 51 to 75 total EVCS; and one van accessible, 2 standard, and 2 ambulatory EVCS at a facility with 76 to 100 total EVCS. The required number of accessible EVCS would be reduced correspondingly for facilities with over 100 total EVCS.
- 2) Change Section 11B-812.8.1 to exempt the requirement for identification of accessible spaces with an ISA at facilities with 25 or fewer total EVCS.

DSA-AC Change to Accommodate: A working group of interested stakeholders including disability advocates, building officials, equipment manufacturers, building owners, business operators, public utilities and state agencies was convened and met 8 times to discuss and review how EVCS should be made accessible. DSA-AC received compelling testimony during the public meetings that where a small number of EVCS are provided, reserving some of the EVCS for the exclusive use of persons with disabilities would be a significant disincentive to their installation. DSA-AC proposed an approach for installations of four or fewer EVCS where the first EVCS provides all of the features, physical space, and spatial relationships necessary for use by persons with disabilities but without an ISA or any other indication this EVCS is reserved for the exclusive use of persons with disabilities. This approach mimics the federal requirements of the ADA Standards for Accessible Design (ADAS) for parking facilities with four or fewer parking spaces.

Where five to 25 EVCS are provided, DSA’s proposal requires both a van accessible and an additional standard accessible EVCS. While this provides twice as many accessible EVCS vehicle spaces as would be required by the ADAS for a similarly sized parking facility, only the van accessible EVCS would require an ISA, mimicking the parking requirements of the ADAS.

The DSA-AC proposed regulations do not require signs with enforcement clearly defined at accessible EVCS installations because it is not within DSA's authority to incorporate provisions into the CBC to reserve EVCS for the exclusive use of people with special license plates or a distinguishing placard. It is the California Vehicle Code which indicates that accessible parking spaces identified with an ISA are reserved for the exclusive use of persons with special license plates or a distinguishing placard – not the building code. During the EVCS Working Group discussions, the California Department of Motor Vehicles advised that an EVCS is not a parking space; it is a zone reserved for a special type of vehicle. The Vehicle Code provides for charging time limits and restrictions on a vehicle occupying an EVCS space if not plugged in and charging, with no mention of vehicles displaying disabled license plates or placards.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Janis Kent, FAIA, CASp, Architect, Stepping Thru Accessibility

Item: 11B.51

Section: Figure 11B-812.9 Surface Marking

Summary of Comment on Second 45-Day Item: The commenter noted that in the figure, the words "EV CHARGING ONLY" are not indicated on the ground in the non-accessible EVCS. All EVCS should be reserved for charging only, regardless of whether they are accessible, otherwise people will park there.

DSA-AC Change to Accommodate: DSA-AC is granted authority to develop regulations for accessibility to public buildings, public accommodations, commercial buildings and publicly funded housing. DSA-AC does not have authority to develop regulations related to non-accessible EVCS. DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Janis Kent, FAIA, CASp, Architect, Stepping Thru Accessibility

Item: 11B.51

Section: 11B-812.10.4 Location

Summary of Comment on Second 45-Day Item: The commenter submitted a question regarding existing facilities where there is no space in front of either the charging space or the access aisle. The commenter presumes it is the intent that the charger can be located within the access aisle itself rather than beyond the "projected width" of the access aisle.

DSA-AC Change to Accommodate: In the development of the proposed regulations, it was DSA-AC's intent that both charging spaces and adjacent access aisles be clear of charging equipment. In existing facilities where there is no space in front of either the charging space or the access aisle, charging equipment may not be located in the access aisle itself. DSA-AC respectfully declines to amend its current proposal in response to this comment, but will consider adding an advisory statement to DSA's on-line Advisory Manual to clarify the intent of this section for code users.

Name: John Paul Scott, AIA CASp, Disability Access Coordinator

Item: 11B.51.01

Section: Chapter 2 - Definition of ELECTRIC VEHICLE CHARGING STATION (EVCS)

Summary of Comment on First 45-Day Item: Mr. Scott was concerned the definition, as originally proposed, allows a variety of interpretations as to the number of electric vehicle charging stations required by proposed Section 11B-228.3.2.1 and Table 11B-228.3.2.1.

DSA-AC Change to Accommodate: DSA-AC agrees that the definition of ELECTRIC VEHICLE CHARGING STATION as proposed could create confusion for code users. The DSA-AC Second 45-Day Express Terms contained a proposal to further amend this definition to clarify the term “Electric Vehicle Charging Station” refers to one or more spaces serviced by a single electric vehicle charger or other piece of charging equipment. Language is being added to clarify that where a multiport electric vehicle charger can simultaneously charge more than one vehicle, the number of electric vehicle charging stations shall be considered equivalent to the number of electric vehicles that can be simultaneously charged.

This change was reflected in the Second 45-Day Express Terms. See the Final Express Terms document for the full text of the resulting regulation.

Name: Richard F. Teebay

Item: 11B.51.03

Section: 11B-202.4 Path of travel requirements, Exception 11

Summary of Comment on First 45-Day Item: Mr. Teebay indicated that he agreed with the proposed amendment to 11B-202.4 to add a new Exception 11, clarifying path of travel requirements for EVCS projects at existing buildings and facilities.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. DSA-AC is proposing no further changes to this section in response to this comment.

Name: HolLynn D’Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D’Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O’Mara, and Tom Harrington

Item: 11B.51.03

Section: 11B-202.4 Path of travel requirements, Exception 11

Summary of Comment on First 45-Day Item: Commenter disagrees with this code change and requests the commission deny this code change proposal. Commenter indicates only alteration projects which exceed the current valuation threshold and if there is a determination of “unreasonable hardship” may the cost for accessibility in the area of remodel or the path of travel requirements be limited to 20% of the construction cost. In support, she asserts that turning regular parking spaces into electric vehicle charging station (EVCS) is a change-in-use, and therefore, is not a remodeling project, but a new construction project to which the exceptions for remodeling cannot apply.

DSA-AC Change to Accommodate: DSA-AC would like to clarify that alteration projects above and below the valuation threshold are not exempted from the cost of providing accessibility in the area of alteration. It is only the cost of path of travel features which may be limited – alterations below the valuation threshold are required to provide upgrades to the path of travel up to a limit of

20 percent of the adjusted construction cost of the alteration; and alterations above the valuation threshold are required to provide upgrades to the path of travel to the greatest extent possible without creating an unreasonable hardship, in no case less than 20 percent of the adjusted construction cost of the alteration.

EVCSs are being installed in California in steadily increasing numbers and DSA-AC has received testimony that many of these installations do not provide features, physical space, or spatial relationships that are usable by persons with disabilities. This lack of accessibility at recently installed EVCS is unsurprising – with the exception of regulations for point-of-sale machines at fuel dispensing facilities (see Section 11B-220.2), Chapter 11B of the CBC does not contain provisions specific to EVCS or which may be generally agreed as applying to EVCS. It necessarily becomes a matter of interpretation for an individual, designer, or code enforcement authority to attempt to apply accessibility regulations for other similar facilities to aspects of EVCS facilities. In its capacity as jurisdictional code enforcement authority, DSA-AC has dealt with this issue for at least 18 years under its Policy 97-03 – Interim Disabled Access Guidelines for Electrical Vehicle Charging Stations.

DSA's development of new EVCS regulations in the context of two policy goals for the State of California: encourage the use of electric vehicles (EV) and support infrastructure, including EVCS; and 2) make specific accessibility regulations in the CBC. In its proposal DSA-AC utilizes a method for path of travel requirements which reflects the requirements of the 2010 ADA Standards for Accessible Design in its determination of whether, and to what extent, path of travel requirements apply based on whether or not the area of alteration is a primary function area. Alterations to primary function areas are required to provide an accessible path of travel to the area of alteration; path of travel features include: a primary entrance to the building or facility, toilet and bathing facilities serving the area, drinking fountains serving the area, public telephones serving the area, and signs. Alterations to areas other than primary function areas are not required to provide these path of travel features. For example, installation of EVCS in dedicated parking facilities or dedicated EVCS fueling facilities are considered primary function areas while installation of EVCS in parking facilities which support restaurants or shopping centers are ancillary to the primary use (dining or shopping respectively). In either case, CBC Section 11B-812.5.1 in DSA's proposal requires EVCS to be located on an accessible route to the building's entrance or, where the EVCS does not serve a particular building, on an accessible pedestrian entrance to the EV charging facility.

The commenter also asserts that turning regular parking spaces into EVCS is a change-in-use, and therefore, a new construction project. DSA-AC disagrees; DSA-AC adopts the definition of ALTERATION: "A change, addition or modification in construction, **change in occupancy or use**, or structural repair to an existing building or facility..." Under the CBC, a change of use is considered an alteration.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Guy Hall – President, Sacramento Electric Vehicle Association; Board Member, Electric Auto Association; Director, Sacramento Clean Cities Board

Item: 11B.51.03

Section: 11B-202.4 Path of travel requirements, Exception 11

Summary of Comment on First 45-Day Item: Mr. Hall submitted comments on behalf of Electric Auto Association (EAA). The proposed regulations that require path of travel upgrades, even if capped at 20% of construction cost could place the entire financial burden solely on the property owner. It is not clear that State grants would include these costs. Mr. Hall asks that this be clarified and resolved so that the public benefit gained through using State grants and financing include these costs.

DSA-AC Change to Accommodate: Both the federal 2010 Americans with Disabilities Act Standards and the 2013 California Building Code contain “path of travel” upgrade requirements when an existing facility undergoes an alteration or addition. Under the 2010 ADA Standards the construction cost of alterations to provide an accessible path of travel to the altered area is deemed to be disproportionate when it exceeds 20 percent of the construction cost of the overall alteration. In this situation the path of travel must be made accessible to the extent it can be without incurring disproportionate costs. Under the 2013 California Building Code disproportionality applies only to alteration projects whose construction cost does not exceed the “valuation threshold”, which is currently \$147,863. For projects whose construction cost exceeds the valuation threshold, the cost of path of travel upgrades is unlimited.

This new exception will require path of travel upgrades of 20 percent of the adjusted construction cost for EVCS projects at existing sites, consistent with the 2010 ADA Standards. DSA believes this approach strikes an appropriate balance between ensuring facilities are accessible and mitigating potential financial burdens on the owners and operators of existing facilities.

DSA-AC has no authority to clarify or develop policy establishing how funds are spent under the State grants program.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: HolLynn D’Lil, on behalf of the Coalition of Disability Access Professionals (CODAP)
Ms. D’Lil indicated the following are CODAP members: Anthony E. Goldsmith, esq; Barry Atwood; Celia McGuinness, esq; Gary Waters; Gilda Puente-Peters; Jonathan Adler; Kevin Jensen; Michael Mankin; Patricia Barbosa, esq; Paul Church; Peter Margen; Richard Skaff; Sid Cohen, esq; and Tim Thimesch, esq
The following people submitted a substantially similar comment: Rocky A. Burks, Michelle Rousey, Gale T. Williams, Connie Arnold, Terrel Terry, Susan Chandler, Karl J. Danz, Dan Madrid, Carole Krezman, Lily Allen, Helen O’Mara, and Tom Harrington

Item: 11B.51.04

Section: 11B-208.1 (Parking spaces) General

Summary of Comment on First 45-Day Item: Commenter disagrees with this code change and requests the commission deny this code change because: 1) it is a diminishment of access standards and 2) it is not in the best interest of the public. The commenter also insinuates that an electric vehicle charging station (EVCS) vehicle space is a parking space.

DSA-AC Change to Accommodate: EVCSs are being installed in California in steadily increasing numbers and DSA-AC has received testimony that many of these installations do not provide features, physical space, or spatial relationships that are usable by persons with disabilities. This lack of accessibility at recently installed EVCS is unsurprising – with the exception of regulations for point-of-sale machines at fuel dispensing facilities (see Section 11B-220.2), Chapter 11B of the CBC does not contain provisions specific to EVCS or which may be generally agreed as applying to EVCS. It necessarily becomes a matter of interpretation for an individual, designer, or code enforcement authority to attempt to apply accessibility regulations for other similar facilities to aspects of EVCS facilities. In its capacity as jurisdictional code enforcement authority, DSA-AC has dealt with this issue for at least 18 years under its Policy 97-03 – Interim Disabled Access Guidelines for Electrical Vehicle Charging Stations.

The commenter encounters the same interpretational need when she recommends alternative language for Section 11B-208 which states: “For the purposes of this section, parking for electric vehicle charging stations shall comply with Sections 812 and Section 11B-228.” DSA-AC disagrees and declines to amend its proposal to incorporate this language.

DSA-AC recognizes that incorporating the commenter's recommended language would establish EVCS as a sub-class of parking facilities. During development of scoping language for EVCS, DSA-AC researched this issue with the US Access Board, the federal agency that develops accessible construction guidelines for adoption as national standards. The US Access Board indicated that EVCS are not the same as parking and instead, are a service to provide vehicle fueling in areas where vehicles must be accommodated. As such, DSA's EVCS proposal includes features, physical space, and spatial relationships that are identical to those required for accessible parking while balancing location requirements to accommodate the electric vehicle charging industry's need for flexibility in siting due to infrastructure concerns. While not required to be closest to a building's entrance, DSA's proposal requires EVCS to be located on an accessible route to the building's entrance or, where the EVCS does not serve a particular building, on an accessible pedestrian entrance to the EV charging facility.

Name: Eileen Wenger Tutt, Executive Director, California Electric Transportation Coalition

Item: 11B.51.05

Section: 11B-228.3 Electric vehicle charging stations (scoping)

Summary of Comment on First 45-Day Item: Ms. Tutt submitted comments on behalf of California Electric Transportation Coalition (Cal ETC) as follows:

Section 11B-228.3.2, Minimum Number, Exception 1

- Cal ETC supports the DSA-AC proposal to exclude from these requirements "EVCS not available to the general public and intended for use by a designated vehicle or driver..."
- Cal ETC also supports maintaining the clarifying language within this exception, which reads "Examples include, but are not limited to, EVCS serving public or private fleet vehicles and EVCS assigned to an employee."

Table 11B-228.3.2.1 Electric Vehicle Charging Stations for Public Use and Common Use

- Cal ETC supports the DSA-AC proposed thresholds in Table 11B-228.3.2.1, specifically the proposal to require 1 van-accessible EVCS for every 1 to 4 EVCS, and 1 Van- and 1 standard-accessible EVCS for every 5 to 25 EVCS.

DSA-AC Change to Accommodate: This is a comment in support of the proposed new regulations for electric vehicle charging stations. DSA-AC is proposing no further changes to this code section in response to this comment.

Name: Anne Smart, Director, Government Relations and Regulatory Affairs
ChargePoint

Item: 11B.51.05

Section: 11B-228.3 Electric vehicle charging stations (scoping)

Summary of Comment on First 45-Day Item: Ms. Smart submitted comments on behalf of ChargePoint as follows:

Section 11B-228.3.2, Minimum Number, Exception 1

ChargePoint strongly supports the exception to this section for “EVCS not available to the general public and intended for use by a designated vehicle or driver”.

ChargePoint would like clarification on the clarifying language related to this exception which reads “Examples include, but are not limited to, EVCS serving public or private fleet vehicles and EVCS assigned to an employee”. ChargePoint supports this exception if it is intended to apply to parking that is employee-only or restricted access (with no public charging). However, if this language is intended to provide an exception only if the parking space is assigned to one individual employee, ChargePoint would be opposed. ChargePoint would recommend making the following change to Section 11B-228.3.2, Exception 1 to provide clarification.

“Examples include, but are not limited to, EVCS serving public or private fleet vehicles and EVCS ~~assigned to an employee~~ located in employee-only parking areas.”

Table 11B-228.3.2.1 Electric Vehicle Charging Stations for Public Use and Common Use

ChargePoint is concerned that the levels proposed in Table 11B-228.3.2.1 will significantly limit future public charging station deployment in California, which is counter to supporting the Governor's goal of 1.5 million EVs by 2025. ChargePoint understands and appreciates the need for accessible parking, however, the proposed thresholds are ambitious and potentially damaging to the market. Property owners will likely chose to cap their investments at 25 charging stations to avoid needing to meet the requirement of three different accessible parking spaces. If there is a clear need and justification for ambulatory parking spaces, this requirement and the cap could actually lead to no ambulatory spaces being enabled at public charging in the State. Overall, the caps will likely lead to reduction in potential deployments at public sites throughout the State.

ChargePoint also questions the justification for three different sizes of accessible parking spaces. In addition to causing sites to cap deployments, drivers may be confused as to the differences between the three accessible parking spaces and to the different rules of use.

DSA-AC Change to Accommodate: The scoping provisions for the electric vehicle charging stations accessibility regulations were extensively discussed during the 8 working group sessions that preceded the initial submission to the Building Standard Commission's Access Code Advisory Committee. Ambulatory EVCSs are intended to provide additional accessibility for individuals with mobility issues that do not require use of a wheeled mobility device such as a wheelchair or scooter. The additional width of the ambulatory space will allow vehicles to be positioned within the width of the EVCS to best suit the location of their electric vehicle connector inlet and also allow easier maneuvering to connect the vehicle to the service equipment. It should be noted that ambulatory spaces are required only when 26 or more EVCS are present at a location. The provision of a single 10 foot wide ambulatory EVCS requires an additional area of 36 square feet beyond that required for a standard 8 foot wide EVCS, which for a 26 EVCS installation represents an increase in the total area required of 0.9%. DSA understands that the technology for electric vehicles is rapidly developing and will monitor the application of the regulations to identify issues to be considered in future rulemakings.

DSA-AC respectfully declines to amend its proposal in response to this comment but will retain this comment for consideration during a future rulemaking cycle.

Name: Jay Friedland, Senior Policy Advisor, Plug In America

Item: 11B.51.05

Section: 11B-228.3 Electric vehicle charging stations (scoping)

Summary of Comment on First 45-Day Item: Mr. Friedland submitted comments on behalf of Plug In America. Plug In America supports the comments made by the California Electric Transportation Coalitions (CalETC) for this item.

DSA-AC Change to Accommodate: This is a comment in support of the proposed new regulations for electric vehicle charging stations. DSA-AC is proposing no further changes to this code section in response to this comment.

Name: Eugen Dunlap

Item: 11B.51.05

Section: 11B-228.3 Electric vehicle charging stations (scoping)

Summary of Comment on First 45-Day Item: Mr. Dunlap made the following comments on proposed Table 11B-228.3.2.1 scoping requirements:

- 1) One charging space at one location is now dead; otherwise it would have to be a “van-accessible” space which would never ever be used in the next couple of years.
- 2) The current proposal of one “van-accessible” and one “standard-accessible” would basically take 2 out of the 5 spaces (in a 5 space scenario) out of business. Nobody would dare to park there even if there was an understanding that one of them could be used by a “normal” driver. Just too complicated and too much ambiguity.
- 3) Current proposal will make it even harder to find private site owners willing to put in the necessary infrastructure to achieve the governor’s goal of over a million EVS on the road.

DSA-AC Change to Accommodate: The commenter correctly understands DSA’s proposal requires facilities with a total of one electric vehicle charging station (EVCS) to provide a van accessible EVCS per Section 11B-228.3.2.1. This van accessible EVCS provides all of the physical dimensions and clearances at the vehicle space and access aisle as well as accessible route connections so the van-accessible EVCS is usable by persons with disabilities. However, in EVCS facilities with four or fewer EVCS, an International Symbol of Accessibility (ISA or wheelchair symbol) is not required per proposed Section 11B-812.8.1; this provision was included to address the circumstance described by the commenter. While the proposal does not require an ISA in EVCS facilities with four or fewer EVCS, provision of the ISA is not prohibited. Where a designer elects to provide an ISA where none is required, it is reasonable that users will interpret that the EVCS is reserved for exclusive use of persons with disabilities.

The “5 space scenario” described by the commenter would require provision of one van accessible EVCS and one standard accessible EVCS per Section 11B-228.3.2.1; an ISA would be required only at the van accessible EVCS. It is important to note that EVCS facilities with 5 to 25 total EVCS would require of one van accessible EVCS and one standard accessible EVCS per Section 11B-228.3.2.1; only the van accessible EVCS is required to provide an ISA. Contrary to the commenter’s assertion, DSA believes the structure of the requirements incentivizes provision of larger EVCS facilities while protecting small facility operators (fewer than 4 EVCS) from undue burden.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Richard F. Teebay

Item: 11B.51.05

Section: 11B-228.3 Electric vehicle charging stations (scoping)

Summary of Comment on First 45-Day Item: Mr. Teebay indicated that he agreed with the proposed exceptions to Section 11B-228.3.2, which contains requirements for the minimum number of EV chargers and vehicle spaces. In addition, Mr Teebay proposed that there be a threshold that triggers accessibility requirements at a given site. For example, if one to four or one to six EVCS are being installed at a given site, the site should, to the maximum extent possible, conform to accessibility requirement (slope, path of travel, van accessible space, and full size space), but these spaces would not have to be posted as accessible only. Currently, at some Los Angeles County sites, some EVCS have been posted for ADA and/or ADA-EVCS ONLY. Mr. Teebay has observed that these EVCS are seldom, if ever, used.

DSA-AC Change to Accommodate: This is a comment in support of the proposed amendment. The changes Mr. Teebay proposed regarding signage requirements for facilities with one to four EVCS are reflected in the proposed text of Table 11B-228.3.2.1 and Section 11B-812.8.1. DSA-AC is proposing no further changes to this section in response to this comment.

Name: Richard F. Teebay

Item: 11B.51.06

Section: 11B-309.4 (Operable Parts) Operation

Summary of Comment on First 45-Day Item: Mr. Teebay indicated that he agreed with the proposed amendment to the Exception to Section 11B-309.4 adding electric vehicle connectors. In addition, Mr. Teebay proposed that a second exception be added which would permit individual sites to use valet parking and/or mobile charging in lieu of complying with the operable parts requirements.

DSA-AC Change to Accommodate: Mr. Teebay submitted a comment in support of the proposed amendment to Section 11B-309.4 providing an exception to the 5 pound activating force requirement for EV connectors.

Mr. Teebay suggested other possible exceptions to the operable parts requirements. EVCS are not considered parking spaces and building code provisions for valet parking would not be applicable. Additionally, the CA Building Code is generally not applicable to free-standing equipment; the use of mobile charging units is not regulated by the building code.

DSA-AC respectfully declines to amend its proposal in response to this comment.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: N/A

Section: 11B-411.2.1.1

Summary of Comment on First 45-Day Item: Please consider the following proposed code change:

11B-411.2.1.1 Location. *Hall call consoles shall be wall-mounted. On floors with a building entry, including parking and transfer levels, each hoistway entrance shall be adjacent to a hall call console. On other floors, a minimum of one hoistway entrance shall be adjacent to a hall call console.*

Exception: *Hall call consoles beyond those required by Section 11B-411.2.1.1 shall be permitted to be provided outside the elevator landing and to be wall-mounted, pedestal-*

mounted, or mounted on a kiosk or security turnstile. Additional hall call consoles or devices integrated with elevator systems are not required to meet the requirements of 11B-411.2.

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle. Incorporating Mr. Brinkman's proposed amendments at this point in the current rulemaking cycle, would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its proposal in response to this comment, but will retain this comment for consideration during a future rulemaking cycle.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: N/A

Section: 11B-411.2.1.2.1, 11B-4.11.2.1.6, 11B-411.2.1.7, 11B-411.2.1.7.2, 11B-411.2.1.7.2.1, 11B-411.2.2.2

Summary of Comment on First 45-Day Item: Please consider the following proposed code changes:

11B-411.2.1.2.1 Keypads. *From any level above and below the main egress level, when the star button is ~~pressed~~ activated an elevator shall be dispatched to the main egress level.*

11B-411.2.1.6 Identification of floors served. *When the accessibility function button is ~~pressed~~ activated, the audio output shall provide a verbal announcement of the floors served by the elevator group.*

11B-411.2.1.7 Elevator car assignment. *When the accessibility function button is ~~pressed~~ activated, elevator car assignment shall comply with Section 11B-411.2.1.7.*

11B-411.2.1.7.2 Assignment by touch screen hall call console. *The audio output shall provide verbal instruction for the user to ~~press~~ activate the accessibility function*

11B-411.2.1.7.2.1. Virtual keypad. *Operation shall be by contact with the touch screen ~~with a press-on to activate~~ the key. The audio output shall provide user input confirmation after each key is ~~pressed~~ activated. Keys shall not be provided with a key repeat function. From any level above and below the main egress level, when the star button is ~~pressed~~ activated an elevator shall be dispatched to the main egress level.*

11B-411.2.2.2 Verbal identification. *When the accessibility function button is ~~pressed~~ activated, verbal announcement of the car designation shall be provided at the elevator car entrance upon arrival....*

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to these sections in this rulemaking cycle. Incorporating Mr. Brinkman's proposed amendments at this point in the current rulemaking cycle, would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its proposal in response to this comment, but will retain this comment for consideration during a future rulemaking cycle.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: N/A

Section: 11B-411.2.1.2.4.3

Summary of Comment on First 45-Day Item: Please consider the following proposed code change:

11B-411.2.1.2.4.3 Duration. *Elevator assignment characters shall be displayed for a minimum of 5 3 seconds.*

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle. Incorporating Mr. Brinkman's proposed amendments at this point in the current rulemaking cycle, would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its proposal in response to this comment, but will retain this comment for consideration during a future rulemaking cycle.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: N/A

Section: 11B-411.4.11

Summary of Comment on First 45-Day Item: Please consider the following proposed code change:

11B-411.4.11 Floor destination indicators. *There shall be a visual display on each elevator car door jamb ~~a visual display~~ or inside the car indicating floor destinations.*

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle. Incorporating Mr. Brinkman's proposed amendments at this point in the current rulemaking cycle, would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its proposal in response to this comment, but will retain this comment for consideration during a future rulemaking cycle.

Name: Kevin L. Brinkman, PE, Code and Safety Director, National Elevator Industry, Inc. (NEII)

Item: N/A

Section: 11B-411.4.11

Summary of Comment on First 45-Day Item: Please consider the following proposed code change:

11B-411.4.11 Floor destination indicators. *There shall ... floor destinations.*

Exception: *Visual displays indicating floor destinations in addition to those required by 11B-411.4.11 are not required to meet the requirements of 11B-411.4.11.*

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle. Incorporating Mr. Brinkman's proposed amendments at this point in the current rulemaking cycle, would not provide adequate opportunity for public review and comment.

DSA-AC respectfully declines to amend its proposal in response to this comment, but will retain this comment for consideration during a future rulemaking cycle.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: N/A

Section: 11B-233.1 (Residential Facilities) General

Summary of Comment on First 45-Day Item: CA Department of Housing and Community Development (HCD) submitted a comment regarding the existing language in this section and in the definition of PUBLIC HOUSING being ambiguous and vague. It is unclear what type of housing is covered by the term "Public Housing". Is it

- 1) Housing owned and/or operated by public entities (State agencies, local government agencies, housing authorities); or
- 2) Privately owned housing operated by or on behalf of a public entity; or
- 3) Privately owned housing using public funds for alterations? (e.g. seismic retrofitting, energy upgrade, weatherization programs, alterations of substandard housing, CDBG projects, etc)

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle, but will retain this comment for consideration during a future rulemaking cycle. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: N/A

Section: 11B-233.3.1.2 Residential dwelling units with adaptable features

Summary of Comment on First 45-Day Item: The scoping in this section may need clarification. It is not clear whether Section 11B-233.3.1.2 applies to covered multifamily dwellings only (as required in Chapter 11A), or to all dwelling units, including single family dwellings. The exception may also be misleading and could create a conflict with Chapter 11A, based on different requirements for dwelling unit kitchens in Chapters 11A and 11B.

EXAMPLE: A building with 100 condominiums is constructed and operated by a Housing Authority. By definition, this public building is a covered multifamily dwelling; therefore, required to comply with both Chapter 11A and Chapter 11B. The exception to this section requires 5 accessible dwelling units (5%, as required by Section 11B-233.3.1.1), and 95 adaptable dwelling units (built per Division IV, Chapter 11A). Chapter 11A requires 100 dwelling units to be adaptable. The conflict originates from the requirements for kitchens in both chapters. Section 1133A requires kitchens with a 48-inch minimum width, while Chapter 11B requires only a 40-inch width for pass-through kitchens. If a builder follows the exact language in this exception, the 5 dwelling units (5%) required to comply with Chapter 11B, will not comply with Section 1133A.

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle, but will retain this comment for consideration during a future rulemaking cycle. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: N/A

Section: 11B-233.3.1.2.3 Ground floors above grade

Summary of Comment on First 45-Day Item: Chapter 11A exempts carriage units. Does DSA-AC intentionally not address carriage units in this section?

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle, but will retain this comment for consideration during a future rulemaking cycle. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

Name: Shawn Huff, Assistant Deputy Director
CA Department of Housing and Community Development (HCD)
State Housing Law Program

Item: N/A

Section: 11B-233.3.4.1 (Public Housing Facilities) Alterations to vacated buildings

Summary of Comment on First 45-Day Item: HCD requested that the proposed amendments to this section be further amended.

The proposed amendments to this section are more stringent than the federal standards and the existing California standards, and if approved and adopted, would affect rehabilitation projects funded by HCD and other State and local agencies.

The existing language in Section 11B-233.3.4, 11B-233.3.4.1 and 11B-3.4.2 and 11B-233.1, as well as the definition of PUBLIC HOUSING, does not clarify the scoping. This has resulted in varying interpretations and enforcement by the local jurisdictions. HCD recommends that DSA-AC clarify the scoping.

EXAMPLE: An existing 100-unit condominium building built in 1980 where the owners use public funds (State program) to improve energy efficiency. The upgrade includes new flooring materials, new interior finishes, new attic and wall insulation, new electrical system, new HVAC system, new lighting, new doors and windows, new plumbing fixtures and fittings, and new appliances. The owners do not propose any structural repairs.

This project doesn't trigger compliance with Chapter 11A, because the building was built prior to March 13, 1991. However (based on the DSA-AC interpretation), because of the public funds used for the renovation, this project may need to comply with Chapter 11B in regards to 5% of the dwelling units. In addition, DSA's proposal refers to Section 11B-233.3.1.2, which requires compliance with Chapter 11A, Division IV, for the other 95 dwelling units. This may make some rehabilitation projects funded by HCD or other state and local programs too expensive or even impossible to build due to the additional expenses for retroactive Chapter 11A compliance. In some cases additional compliance with Chapter 11A may be more expensive than the originally propose project.

DSA-AC Change to Accommodate: DSA-AC is not proposing an amendment to this section in this rulemaking cycle, but will retain this comment for consideration during a future rulemaking cycle. DSA-AC looks forward to working collaboratively with HCD to identify and resolve inconsistencies within the CA Building Code, Chapters 11A and 11B.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

The DSA-AC has determined that no reasonable alternative considered by DSA-AC or that has otherwise been identified and brought to the attention of DSA-AC would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

In order to increase public participation and improve the quality of these regulations DSA-AC involved parties who would be subject to these proposed regulations in stakeholder forums. The purpose of the public discussions was to receive reasonable alternatives to these regulations from the public. DSA-AC stakeholder forums were held as follows:

- Stakeholder Forum No. 1 – April 21, 2015
- Stakeholder Forum No. 2 – May 12, 2015
- Stakeholder Forum No. 3 – May 21, 2015
- Stakeholder Forum No. 4 – June 23, 2015
- Stakeholder Forum No. 5 – July 7, 2015

Interested parties were able to participate via teleconference. In addition, participation via video conference was available at the following locations:

Sacramento Regional Office
1102 Q Street, Suite 5100
Sacramento CA 95811

Oakland Regional Office
1515 Clay Street, Suite 1201
Oakland CA 94612

Los Angeles Regional Office
700 North Alameda Street, Suite 5-500
Los Angeles CA 90012

San Diego Regional Office
10920 Via Frontera, Suite 300
San Diego CA 92127

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

The DSA-AC did not receive any reasonable proposals for alternatives that would lessen any adverse economic impact on small businesses. No adverse impact to small business due to these proposed changes is expected.