

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE DIVISION OF THE STATE ARCHITECT
REGARDING THE 2022 CALIFORNIA BUILDING CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2**

(DSA-AC 01/21)

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

UPDATES TO THE INITIAL STATEMENT OF REASONS:

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

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

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

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

Proposed amendments clarify existing accessibility requirements of the California Building Code.

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

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

Item 2.01

Chapter 2, Section 202 DEFINITIONS

The Division of the State Architect is proposing to amend the definition of ACCESS AISLE for clarity by repealing the word “pedestrian” and replacing the word “parking” with “vehicle.”

Comments received by the Division of the State Architect indicate the word “pedestrian” in the definition is confusing to code users and creates questions about locating detectable warnings in compliance with Chapter 11B where access aisles are approached from walks or sidewalks via perpendicular curb ramps, parallel curb ramps, or blended transitions. Despite existing code provisions that specify the location of detectable warnings at curb ramps and blended transitions, and that prohibit detectable warnings within access aisles and at driveway and drive aisle crossings, commenters question the need for detectable warnings where a pedestrian crosses from one pedestrian area (i.e. walks, sidewalks, curb ramps or blended transitions) to another pedestrian area (i.e. access aisles).

Access aisles accommodate the needs of pedestrians-movement through the access aisle and as an approach to accessible parking, electric vehicle spaces, and accessible passenger drop-off and loading zones. Access aisles also accommodate the spatial requirements for the use of vehicle-mounted wheelchair lifts; in this regard, access aisles also serves as vehicle areas. In practical use, access aisles are both pedestrian and vehicle areas. The Division of the State Architect believes repealing the word “pedestrian” will alleviate this confusion.

The second change to the definition replaces the word “parking” with the word “vehicle.” This change acknowledges that access aisles are required not only at accessible parking, but also at accessible electric vehicle spaces, and accessible passenger drop-off and loading zones.

Commenter and Recommendation:

Steven Johnson, CDCR-FPCM A&E Division, Recommendation for Further Study.

The commenter indicated that the change in terms, parking to vehicle, creates confusion in the language of the definition and a definition for the term “Access Aisle” that is more clearly defined should be used instead.

Agency Response:

The Division of the State Architect thanks the commenter for these comments and has further considered this item but respectfully declines to amend the proposed language. Retaining the term “parking” overlooks the requirements for access aisles at accessible electric vehicle spaces and accessible passenger drop-off and loading zones.

Commenter and Recommendation:

Nubyaan Scott, Disability Rights California, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Commenter(s) and Recommendation (if applicable):

Shane Diller, California Building Officials, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Item 11B.01

Chapter 11B, Division 1 Application and Administration, Section 11B-108

The Division of the State Architect is proposing to amend this section to include the various types of facilities regulated by Chapter 11B, public building, public accommodations, commercial buildings, and public housing. Currently only public accommodations are required to comply.

Commenter and Recommendation:

Nubyaan Scott, Disability Rights California, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Commenter(s) and Recommendation (if applicable):

Shane Diller, California Building Officials, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Item 11B.02

Chapter 11B Division 2 Scoping, Section 11B-206.4

The Division of the State Architect is proposing to amend this section to relocate provisions from Section 11B-206.4 to Section 11B-207. This proposed amendment would include exits under accessible means of egress rather than inclusion in the section for entrances.

The proposed amendment is in response to code users who stated that the requirements for exits are overlooked because of the current provisions that place exits in the scoping sections for accessible routes and entrances.

Commenter and Recommendation:

Eric McSwain, Access Compliance Consultants, Inc., Recommendation to Disapprove

The commenter cites the Health and Safety Code as the basis for a recommendation to disapprove based on the requirement that proposed building standard do not conflict with, overlap, or duplicate other building standards. The commenter indicates this code change would exempt all exit doors serving means of egress stairs on all levels from compliance Section 11B-404 while current code language only exempts exterior exit doors serving stairs on the ground floor.

Commenter's code summary/analysis:

- A. Section 11B-206.2.4 requires an accessible route to all accessible spaces and elements within a building or facility;
- B. By definition, a stairway is a space and a stair is a facility and/or an element;
- C. By definition, a facility or portion thereof that complies with Chapter 11B is accessible.
- D. By definition, all stairs/stairways that comply with the numerous Chapter 11B requirements for stairs (stairs, handrails, signs, protruding objects hazards, etc.) are accessible.

Agency Response:

The Division of the State Architect thanks the commenter for the comments. The Division of the State Architect has further considered this item and respectfully declines to revise the proposed amendment in response to the comments.

Chapter 11B scoping and technical provisions for accessible routes are generally consistent with the 2010 ADA Standards for Accessible Design, the model code adopted by Chapter 11B. These standards incorporate by reference the accessible means of egress requirements from the International Building Code; the publisher's commentary indicates the provisions for accessible means of egress are predominately, though not exclusively, intended to address the safety of persons with a mobility impairment and that the requirements reflect the balanced philosophy that accessible means of egress are to be provided for occupants who have gained access into the building but are incapable of independently utilizing the typical means of egress facilities, such as exit stairways. The Division of the State Architect recognizes this framework and distinguishes between accessible means of egress and the general accessible route requirements.

Accessible means of egress requirements in Chapter 10 include provisions for stairs, but only to the extent that an area of refuge is provided – typically at a stair landing. While many people with disabilities can use stairs safely, there is no expectation that stairs beyond an area of refuge shall be usable by a person with a disability using a wheelchair. Areas of refuge facilitate assisted evacuation and are required to provide

two-way communication so a person needing assistance can request evacuation assistance.

Usability by a person using a wheelchair is a key criteria in the definition for *ACCESSIBLE ROUTE*. Though stairs have accessibility requirements under Chapter 11B (tread width, riser height, striping, handrails) and may be considered *ACCESSIBLE*, stairs are not considered part of an *ACCESSIBLE ROUTE*, as defined. Signs and protruding object limits apply at stairs, stair enclosures and landings, but Chapter 11B requirements for these elements at circulation paths – including paths that are not accessible routes.

Commenter(s) and Recommendation (if applicable):

Nubyaan Scott, Disability Rights California, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Commenter(s) and Recommendation (if applicable):

Shane Diller, California Building Officials, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Item 11B.03

Chapter 11B, Division 2 Scoping, Section 11B-207

The Division of the State Architect is proposing to amend this section to relocate provisions from Section 11B-206.4 to Section 11B-207. This proposed amendment would include exits under accessible means of egress rather than inclusion in the section for entrances.

This proposed amendment is in response to code users who stated that the requirements for exits are overlooked because of the current provisions that place exits in the scoping sections for accessible routes and entrances.

The proposed amendment restores language from prior Chapter 11B editions that required an accessible means of egress from the level of exit discharge to the public way.

Elements that provide for accessible means of egress such as areas of safe refuge, assisted rescue and safe dispersal are regulated in Chapter 10.

In proposed exception #4, at doors to stairways that are not required to comply with Section 11B-404, the provisions for door hardware and door opening width regulated in Chapter 10 as a means of egress. These are consistent with the provisions in Chapter 11B.

The reference to a smoke proof enclosure is proposed to be repealed and not carried forward in this exception because a smoke proof enclosure can include a ramp that is accessible.

Commenter(s) and Recommendation (if applicable):

Eric McSwain, Access Compliance Consultants, Inc., Recommendation to Disapprove

The commenter is concerned that the proposed exemptions will no longer require exit doors to comply with 11B-404 and will conflict with other sections of the 2010 ADA Standards for Accessible Design currently in effect.

Agency Response:

The Division of the State Architect thanks the commenter for the comments. The Division of the State Architect has further considered this item and respectfully declines to revise the proposed amendment in response to the comments. Refer to the Division of the State Architect's response to Eric McSwain's comments in Item 11B.02 for additional detail.

Commenter(s) and Recommendation (if applicable):

Janis Kent, Stepping Thru Accessibility, Recommendation for Further Study Required

The commenter is concerned that if doors providing access to interior or exterior stairways are exempted from accessibility requirements through 11B-404, all additional parameters for accessible doors will also be exempted and in conflict with sections of Americans with Disabilities Act (ADA) scoping requirements

Agency Response:

The Division of the State Architect thanks the commenter for the comments. The Division of the State Architect has further considered this item and respectfully declines to revise the proposed amendment in response to the comments. Refer to the Division of the State Architect's response to Eric McSwain's comments in Item 11B.02 for additional detail.

Commenter(s) and Recommendation (if applicable):

Nuybaan Scott, Disability Rights California, Recommendation to Disapprove

The commenter objects to proposed changes to 11B-207.1 to exempt accessibility provisions at doors providing access to interior and exterior stairways as other users with impairments who are able to use the stairways may benefit from the door accessibility provisions if left in the codes.

Agency Response:

The Division of the State Architect thanks the commenter for the comments. The Division of the State Architect has further considered this item and respectfully declines to revise the proposed amendment in response to the comments. Refer to the Division

of the State Architect's response to Eric McSwain's comments in Item 11B.02 for additional detail.

Commenter and Recommendation:

Shane Diller, California Building Officials, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Item 11B.04

Chapter 11B, Division 2 Scoping, Section(s) 11B-224.7

The Division of the State Architect is proposing to amend the title and repeal the reference to multi-bedroom housing units in Section 11B-224.7.2.

The requirement for an accessible route throughout the unit with mobility features is a requirement of the 2010 ADA Standards for Accessible Design, not the Fair Housing Act.

As read, Section 11B-224.7.2 would not be applicable to efficiency, studio or one-bedroom units that are accessible with adaptable features. These types of units are regulated by the Fair Housing Act (FHA) and Fair Housing Accessibility Guidelines (FHAG). Amending this section will ensure consistency with federal regulations and provide clarity for code users.

Chapter 11B in Section 11B-233.3.1.2 provides scoping that aligns with the FHA and FHAG.

The requirements for an accessible route in accessible units with adaptable features is in Sections 11B-809.6 through 11B-809.12.

Commenter and Recommendation:

Nubyaan Scott, Disability Rights California, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

Commenter and Recommendation:

Shane Diller, California Building Officials, Recommendation to Approve

Agency Response:

The Division of the State Architect thanks the commenter for the support of the proposed amendment. DSA is proposing no further changes to this section in response to this comment.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

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

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

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

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

N/A