

Accessibility Codes in California DSA Activities Fall 2011 to January 2016

DSA's Vision for California Building Code Accessibility Provisions

- Maintain California's position as a leader in the provision of accessibility.
- Integrate the requirements of the updated 2010 ADA Standards and the 2010 CBC into one building code for California as the 2013 CBC.
- Continue California's enhanced level of accessibility with the most stringent of enforceable requirements from the ADA Standards and the CBC
- Enhanced public outreach for maximum transparency and participation
- New initiatives reserved for future code cycles in the 2013 CBC mid-cycle Supplement and future editions of the CBC.

Historic Perspective

- The Unruh Civil Rights Act of 1959 – California legislation prohibiting discrimination based on **disability** as well as sex, race, color, religion, ancestry, national origin, , medical condition, marital status, or sexual orientation.
- The Civil Rights Act of 1964 – Federal Civil Rights Act provided a model for future equal opportunity laws dealing with accessibility.
- The Architectural Barriers Act of 1968 – The first law to recognize that structural barriers in the built environment prevented disabled persons from equal participation in federal programs; became the base for all other architectural accessibility laws in use today.
- Ca Government Code § 4450, 1968 – Requires publically funded buildings to be accessible to and useable by persons with disabilities and authorized DSA to develop building standards for Ca BSC approval and adoption.
- Ca Health and Safety Code § 19955, 1970 – Extended accessibility requirements to privately funded buildings such as offices, shopping malls, retail stores
- The Rehabilitation Act of 1973 – Section 502 created the federal Access Board. Section 504 prohibited discrimination "on the basis of disability" in federal programs or programs receiving

federal financial assistance. Federal agencies responsible to develop regulations to implement Section 504, the first of which were issued in 1977.

- California Building Code Accessibility Standards, 1982 – State amendments to the model codes for accessibility based on the ANSI A117.1 standards.
- The Americans with Disabilities Act of 1990 (ADA) –The wide-ranging federal civil rights law that prohibits, under certain circumstances, discrimination based on disability.
- The 2010 Americans with Disabilities Act Standards for Accessible Design – Revised regulations for Titles II and III of the Americans with Disabilities Act of 1990 (ADA) published in the Federal Register on September 15, 2010 and became mandatory on March 15, 2012. Uses the 1994 Americans with Disabilities Access Guidelines (1994 ADAAG) as regulations for the built environment. The Title II and III regulations, along with the 1994 ADAAG, underwent extensive development and public comment at the national level prior to their adoption by US DOJ.
- The 2010 California Building Code – Published July 2010, effective January 1, 2011.
- The 2013 California Building Code – Published July 2013, effective January 1, 2014.
- The 2016 California Building Code – Scheduled to be published July 2016, effective January 1, 2017.

Building standards proposed by DSA and adopted by the Building Standards Commission are applicable to 1) Publicly funded buildings, structures, sidewalks, curbs and related facilities, 2) Privately funded public accommodations and commercial facilities; and 3) public housing and private housing available for public use.

1 2012 Triennial Code Adoption Cycle

1.1 Model Code Selection

- DGS redirected resources to DSA in the fall of 2011
- Initial challenge – model code selection from three possible options:
 - Current California provisions within Chapters 11B and 11C;
 - International Building Code's Chapter 11 and associated reference standard ANSI A117.1;
 - 2010 ADA Standards for Title II and Title III Facilities: 2004 Americans with Disabilities Act Accessibility Guidelines (2010 ADAS/2004 ADAAG).
- Late 2011 DSA surveyed interested individuals, organizations, affected parties and stakeholders for their model code preferences with outreach to:
 - Governmental agencies, including CCDA, CDOR, DSA AB's Access Committee
 - Building officials,
 - Disability advocates,
 - Design and construction professionals,
 - Codes and standards organizations,
 - Attorneys,
 - Product manufacturers,
 - Facility owners and operators and
 - General public.
- There were 408 individual survey responses with preferences as follows:

○ 1 – Current 2010 CBC	14.2%
○ 2 – IBC Chapter 11 & ANSI A117.1	20.8%
○ 3 – 2010 ADAS/2004 ADAAG Standards	65.0%
- In addition to stakeholder preferences, the 2010 ADA Standards were selected as model code for 2013 California Building Code Chapter 11B for the following reasons:
 - Updated regulations for the Americans with Disabilities Act of 1990 were published by the U.S. DOJ on September 15, 2010 as the 2010 ADA Standards for Accessible Design (2010 ADA Standards). Use of either the previous 1991 ADA Standards or new 2010 ADA Standards was allowed until March 15, 2012, after which compliance with the 2010

ADA Standards became the only option. The integrated CBC would facilitate compliance with the 2010 ADA Standards.

- Accessibility regulations proposed by DSA must meet or exceed the requirements of the ADA Standards. Integration of federal and state standards will significantly improve compliance with both federal and state accessibility requirements.
- Use of the 2010 ADA Standards as the model code facilitates certification by the U.S. DOJ that 2013 CBC meets or exceeds the requirements of revised federal regulations.
- Integration of 2010 ADA Standards with CBC requirements enhanced accessibility by:
 - Clarifying the scope and application of accessibility regulations using nationally mandated ADA Standards as minimum requirements for California's accessibility code;
 - Providing clear scoping and technical standards closely aligned with the federal 2010 ADA Standards for all code users, including general public, designers, contractors, building officials and building owners;
 - Ensuring consistency with the 2010 ADA Standards;
 - Minimizing conflicts between federal and State regulations;
 - Producing a code suitable for certification by the U. S. DOJ

1.2 Comparative Analysis of CBC versus ADA

- DSA hired a nationally recognized accessibility consultant group to compare the provisions of the 2010 CBC and the 2010 ADA Standards. The results of their analysis were reported in a 2,500 row spreadsheet categorizing accessibility provided by the CBC provisions as:
 - Equal or equivalent to,
 - Greater than, or
 - Less than their counterparts in the federal standards.
- The analysis also identified:
 - 2010 CBC provisions on which the federal standards were silent,
 - Federal provisions not addressed by the 2010 CBC,
 - Limited number of direct conflicts where compliance with one standard would force violation of the other.

1.3 Emergency Regulations

- DSA prepared Emergency Regulations addressing the direct conflicts identified during the comparative analysis.
- Initial submittal was referred back by the BSC; DSA convened a DSA Advisory Board Access Committee Working Group to review proposed emergency regulations.
- Public workshop was held in Oakland, May 17, 2012
- Emergency Regulations were modified in response to comments received and resubmitted to the BSC as 7 items:
 - 1104B.3.9 Designated aisle seats – corrected typo in prior mid-cycle submittal
 - 1115B.4.1 Accessible water closets – resolved direct conflicts re water closet centerline dimension to side wall
 - 1115B.8.4 Toilet tissue dispensers – resolved direct conflicts re location of dispensers
 - 1117B.1 Accessible drinking fountains – resolved direct conflicts on technical requirements
 - 1117B.5.3 Proportions – resolved issues with visual and tactile characters on signs
 - 1117B.5.7 Mounting location and height – resolved direct conflicts on mounting heights for signs
 - 1134B.2.1 Pre-existing non-conforming path of travel elements need not be upgraded during alterations if fully compliant with 2007 CBC – achieved consistency with ADA requirements on incremental changes from 1991 to 2010 Standards
- Approved by BSC on July 19, 2012 and became effective on August 1, 2012.
- Included within 2013 proposed regulations

1.4 Pre-submittal Public Participation and Collaboration

- Conducted seven access stakeholder forums May 24 through August 20th 2012 at DSA Regional Offices
 - Sacramento – May 24, Jun 07, Jun 21, and Jul 31, 2012
 - Oakland – May 31, 2012
 - Los Angeles – Jun 14, 2012
 - San Diego – Jul 10, 2012
- Forum agenda and draft regulations on a ADA chapter by chapter basis issued at least 10 days prior to the stakeholder forums in multiple accessible formats:

- Posted on DSA website
- MS Word and PDF formats
- Screen reader enabled electronic versions
- Audio recorded versions
- Forums facilitated by mediators from CSUS Center for Collaborative Policy
- Discussion materials made accessible at forums:
 - Regular and Large font printed versions
 - Projected onto screens at each DSA location
 - Real time access on Internet
 - Real time captioning of discussions for hearing impaired at the meeting and on Internet
- Comments received in real time:
 - Directly at the forum location,
 - By video conferencing from other DSA Regional offices,
 - By teleconference dial in connection
- Follow-up written and e-mail comments encouraged and accepted through August 20, 2012.
- In response to staff analysis, stakeholder input, and public forum comments changes were made to the model code to maintain current level of enforceable accessibility in California:
 - **175** substantive provisions were added, including 16 from federal regulations
 - **41** substantive provisions were deleted
 - Narrow ranges used instead of absolute dimensions
 - Format and layout changes
 - ADA Chapters became CBC Divisions within Chapter 11B
 - ADA numbering system maintained with CBC Chapter 11B prefix
 - Figures integrated with associated text, not at Chapter end as in 2010 CBC
 - Definitions in CBC Chapter 2, defined terms listed in 11B
 - Federal Advisories removed, to be included in companion version

1.5 BSC Code Advisory Committee (CAC)

- 2 ½ days of hearings and public comment September 25, 26 and 27, 2012
- Draft proposed regulations submitted to CAC 10 days prior and posted on DSA and BSC websites
- Draft proposal revised in response to CAC direction and public comments

1.6 Building Standards Commission Public Comment Periods

- Notice of Proposed Action, Initial Statement of Reasons and Express Terms to BSC for posting and public comment.
 - Materials provided in alternative formats – audio recording, electronic PDF, DOC and strike-out / underline parenthetical versions
- 45 day Public Comment period – October 26 through December 10, 2012.
- 1st 15 day comment period – December 14 through December 31, 2012
- 2nd 15 day public comment period – December 21, 2012 through January 7, 2013
- Comments posted on BSC website and addressed by DSA as received
- **268** total comments to BSC:
 - **73** In favor of overall proposal or specific section
 - **69** Requesting changes that were accepted, changes made
 - **46** Requesting changes that were declined but accepted for inclusion in the advisory companion document or future code cycle
 - **69** Requesting changes that DSA declined to accept, broken down as follows:
 - 4 related to format or additional figures
 - 35 based on a misunderstanding or misreading of the proposed language
 - 20 requesting substantive changes above or below the current code
 - 10 opposed to specific DSA provisions or interpretations

- Controversial Items
 - Specialized exceptions in ADA Standards model code. Maintained model code language for unique facility types, exceptions vetted extensively at national level for reasonableness and enforceability – FSOR Page 12 & 14
 - Detectable warnings – for and against, maintained the enforceable provisions from 2010 CBC.
 - Contrast formula – unworkable, removed pending further study
 - Clearance at base of curb ramps in Public ROW – adjusted per public entity comments
 - Upgrade of pre-existing non-compliant path of travel elements during alterations – FSOR Page 11
 - Removal of specific “unreasonable hardship” provisions – replaced by generally applicable provision based on “technically infeasible” conditions in existing buildings.
 - Elimination of currently unenforceable provisions in 2010 CBC, such as:
 - Prohibition of stairs on site
 - Hockey rinks and ski areas to be “firm, stable and slip resistant”
 - Direct conflicts addressed from emergency regs

1.7 Adoption by the Building Standards Commission

- Two days of public hearings before the BSC on January 23 and 24, 2013.
- DSA’s proposed regulations adopted by the BSC on January 24, 2013.
- Published along with other codes on July 1, 2013.
- Became effective January 1, 2014 after statutory 180 day familiarization period.

2 2013 Intervening Code Adoption Cycle

2.1 Identification of Proposed Code Changes

- After adoption of the 2013 CBC, DSA received comments and requests for changes from code users, disability advocates, building owners and other accessibility stakeholders on the use and application of the 2013 CBC accessibility provisions.
- These comments were reviewed by DSA accessibility staff. Issues meriting further study as possible code amendments were identified and together with in-house corrections and clarifications were developed into proposed code amendments for the 2012 Intervening Code adoption Cycle.
- During the 2013 Triennial Code adoption cycle numerous stakeholder comments were received regarding the inadequacy of the model code's language for destination oriented elevators and variable message signage. These items were selected by DSA for development into proposed code language for consideration by the BSC.

2.2 Formation of Working Group

- As there were no national or state level standards available, DSA used San Francisco's AB090 regulations as the starting point for its destination oriented elevator accessibility regulations.
- DSA worked extensively with stakeholders including disability advocates, building officials and building owners and elevator manufacturer's in the San Francisco Bay area to develop the destination oriented elevators regulations

2.3 Research and Field Observation

- To understand the accessibility requirements for destination oriented elevators, DSA conducted multiple field visits to existing installations in San Francisco. Participants included disability advocates, building officials, building owners and elevator manufacturers. DSA also met with local building officials, advocacy organizations and elevator manufacturers, both in Sacramento and San Francisco.

2.4 Pre-submittals Public Hearings

- DSA conducted three public hearings to present the proposed regulations and receive comments were conducted:
 - November 5, 2013 in Sacramento

- December 3, 2013 in Sacramento
- December 4, 2013 in Sacramento

2.5 BSC Code Advisory Committee (CAC)

- 2 days of hearings and public comment February 26 and 27 2014
- Draft proposed regulations submitted to CAC 30 prior and posted on DSA and BSC websites
- Draft proposals revised in response to CAC direction and public comments

2.6 Building Standards Commission Public Comment Periods

- Notice of Proposed Action, Initial Statement of Reasons and Express Terms to BSC for posting and public comment.
 - Materials provided in alternative formats – audio recording, electronic PDF, DOC and strike-out / underline parenthetical versions
- 45-day comment period March 21, 2014 – May 5, 2014
 - 8 Comments in favor of overall proposal or specific section
 - 18 Requesting changes that were accepted, changes made
 - 4 Requesting changes that were declined but accepted for inclusion in the advisory companion document or future code cycle
 - 44 Requesting changes that DSA declined to accept, broken down as follows:
 - 4 Related to format or additional figures
 - 18 Based on a misunderstanding or misreading of the proposed language
 - 12 Requesting substantive changes above or below the current code
 - 10 Opposed to specific DSA provisions or interpretations
- 15-day comment period May 13, 2014 – May 28, 2014
 - 4 Comments in favor of overall proposal or specific section
 - 0 Requesting changes that were accepted, changes made
 - 3 Requesting changes that were declined but accepted for inclusion in the advisory companion document or future code cycle
 - 21 Requesting changes that DSA declined to accept, broken down as follows:

- 10 Based on a misunderstanding or misreading of the proposed language
 - 6 Requesting substantive changes above or below the current code
 - 5 Opposed to specific DSA provisions or interpretations
- All comments posted on BSC website and addressed by DSA as received
- Controversial Items
 - There was significant discussion of destination oriented elevator provisions, as this technology was not yet widely used in existing buildings throughout California. Additionally the development of touch screen technology for user interfaces presented challenges to making the systems accessible to individuals with vision impairments. There were industry concerns that the proposed regulations went beyond the requirements of the local San Francisco ordinance. Adjustments were made to finalize the regulations with consideration of the interests of all stakeholders.

2.7 Adoption by the Building Standards Commission

- One day of public hearings before the BSC on July 22, 2014.
- DSA's proposed regulations adopted by the BSC on July 22, 2014.
- Published along with other codes on January 1, 2015.

2.8 Effective Date

Became effective July 1, 2015 after statutory 180 day familiarization period.

3 2015 Triennial Code Adoption Cycle

3.1 Identification of Proposed Code Changes

- The 2013 CBC became effective on 1 January 2014. DSA continued to receive comments and requests for changes from code users, disability advocates, building owners and other accessibility stakeholders on the use and application of the 2013 CBC accessibility provisions.
- These comments were reviewed by DSA accessibility staff. Issues meriting further study as possible code amendments were identified and together with in-house corrections and clarifications were developed into proposed code amendments for the 2016 Triennial Code Adoption Cycle.
- Numerous stakeholder comments were received regarding the inadequacy of the model code's language for electric vehicle charging stations. In consultation with the Governor's Office of Planning and Research this topic was selected by DSA for the development of proposed code language for consideration by the BSC.

3.2 Formation of Working Group

- As there were no national or state level standards available, DSA used previously developed best practice guidelines as the starting point for its electric vehicle charging station accessibility regulations,.
- DSA convened an Electric Vehicle Charging Station Working Group comprised of disability advocates, industry representatives, building owners, public officials and public utilities to research best practices and current issues. The Working Group also assisted with the development of the proposed accessibility regulations.
- The Working Group met eight times:
 - September 15, 2014
 - October 1, 2014
 - October 14, 2014
 - October 28, 2014
 - November 12, 2014
 - December 16, 2014
 - March 12, 2015
 - April 16, 2015
- Meeting facilities were accessible and any requested accommodations for accessibility were made.

- Detailed meeting minutes and notes were taken and made available on the internet in DSA's cloud based document storage location

3.3 Research and Field Observation

- To understand the accessibility requirements for electric vehicle charging stations, DSA conducted multiple field visits to existing installations in San Francisco and Sacramento. Participants included disability advocates, building officials, building owners and electric vehicle charging equipment manufacturers.

3.4 Pre-submittals Public Hearings

- DSA is in the process of conducting five public hearings to present the proposed regulations and receive comments:
 - April 21, 2015, in Sacramento – Completed
 - May 12, 2015 in Sacramento – Completed
 - May 21, 2015 in Sacramento – Completed
 - June 23, 2015 in Sacramento – Completed
 - July 7, 2015 in Sacramento – Completed
- In addition to attending the public hearings participation was also available:
 - From DSA's Regional Offices in Oakland, Los Angeles and San Diego via videoconference
 - Via telephone conference to the Sacramento hearing location
- Materials being discussed will be available for viewing via Web Ex meeting.
- The discussion will be made available via Real Time Captioning at the DSA Regional Office locations and via the internet.

3.5 BSC Code Advisory Committee (CAC)

- Public hearings before the BSC's CAC Access were held on 14, 15 and 16 July 2015.
- In response to CAC comments DSA made final adjustments of the code proposals and prepared the Notice of Proposed Action, Initial Statement of Reasons, Express Terms and associated documentation for submission to the BSC in early August 2015.

3.6 Building Standards Commission Public Comment Periods

- Notice of Proposed Action, Initial Statement of Reasons and Express Terms were posted by the BSC for public review and comment.
- Public Review, regulatory notice and 45 day Public Comment periods were conducted as follows:
 - 1st 45 Day Public Comment Period – 14 August 2015 through 28 September 2015
 - 2nd 45 day Public Comment Period – 8 October 2015 through 23 November 2015
 - 1st 15 day Public Comment Period – 3 December 2015 through 18 December 2015

3.7 Adoption by the Building Standards Commission

- Consideration of the DSA Accessibility proposals is scheduled for 19 & 20 January 2016

3.8 Publication Period

- Codes approved by the BSC will be forwarded to ICC for composition, proofreading and publication.
- Publication date on or about July 1, 2016.

3.9 Familiarization and Local Amendments

- Statutorily required 180 day period between publication date and effective date.
- Provides 6 month period for education and training.
- Provides 6 month period for local amendment adoption and filing with the BSC.

3.10 Effective Date

- Statewide effective date of Title 24 – California Building Standards Code – January 1, 2017.