

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

**REGARDING THE 2010 CALIFORNIA ADMINISTRATIVE CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1**

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 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)

There are no revisions to the Initial Statement of Reasons, as shown below (pages 1 through 10). DSA-SS responses to public comments received during the 45 Day Comment Periods are provided, commencing on page 10.

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE.

The Division of the State Architect - Structural Safety (DSA-SS) proposes to make amendments to Chapter 4 of the California Building Standards Administrative Code (Part 1, Title 24) for codification as the 2010 edition California Building Standards Administrative Code.

These proposed amendments to existing administrative regulations pertain to building construction for public elementary and secondary schools, and community colleges. The proposed changes are editorial and also provide conformance with the proposed changes by DSA-SS to Part 2, Title 24, in this annual rulemaking cycle (adoption of the 2009 edition *International Building Code*).

The specific purpose and rationale for necessity of these proposed changes follows:

4-207. Definitions

Capitalize the word "Act" in the definition of "APPROVED PLANS AND SPECIFICATIONS." The proposed change is editorial.

4-217. Duties of architect and registered engineers.

(c) Architect or engineer verified reports.

Clarification that these verified report requirements are for architects and engineers. The proposed change is editorial.

4-218. Duties of mechanical and electrical engineers.

Capitalize the word "Duties." The proposed change is editorial.

4-306. Approval of new school buildings, rehabilitation of school buildings, and additions to school buildings.

Clarified that a pre-application package is required for rehabilitations of school buildings in the same manner as required for non-school buildings (language copied from Section 4-307(c)). No change to current DSA policy.

4-309. Reconstruction of alteration projects in excess of \$25,000 in cost.

(a) General

Editorial change to direct user to the correct form (Form DSA-999) and delete reference to Section 4-336, which is not applicable to the projects described in this section.

(c) Required structural rehabilitation.

Change reference for rehabilitation requirements from Section 4-307 to Section 4-306. Clarify that the requirements for structural rehabilitation include both wind and seismic forces. These changes are editorial only; no change to current DSA policy.

4-310. School garages, warehouses, storage and similar buildings, dwellings for employees and miscellaneous structures.

This section was edited to clarify that structures which are exempt from DSA-SS “structural safety” review and approval may not be exempt from DSA-AC “access compliance” review and approval (see Section 5-101) and/or other local agency review and approval. This change is editorial only; no change to current DSA policy.

4-314. Definitions.

Clarified the definition of APPROVED PLANS AND SPECIFICATIONS by removing the admonition that the DSA “identification” stamp shall not be construed as approval of plans. This admonition is no longer necessary because DSA creates a record set and delivers approved plans and the approval letter to the client within five days of approval.

Clarified the definition of GEOTECHNICAL ENGINEER by italicizing the “California Business and Professions Code” to be consistent with the format used in the definition of ARCHITECT.

Revised the definition of INSPECTOR, by removing the description of the inspector’s duties which is redundant. Duties are covered in Section 4-333 and 4-342. No change to current DSA policy.

4-316. Designation of responsibilities

(c) Assumption of responsibility.

Editorial changes to clarify that, when a transfer of responsibility takes place, the previously responsible party need not “relinquish” responsibility before the new party takes over. No change to current DSA policy.

4-317. Plans, specifications, calculations and other data.

(a) General.

Exception added to implement the requirements of Education Code Sections 17319 and 81133.1 (Collaborative Review Process). The collaborative process allows for an application to be filed before design drawings are produced. DSA works collaboratively with the designer during design development to streamline the final plan approval process. In order to conduct design phase reviews with the owner and design team, DSA must receive a project application and filing fees in order to expend resources and staff time.

Relocated Section 4-317(b)2 on incomplete submittals to the “general” section since it applies to both plans and specifications. Changed the word “obviously” to “determined by DSA to be” for clarity. The changes are editorial only.

(b) Plans.

Deleted paragraph number since there is only one paragraph (paragraph two was relocated above).

(c) Specifications.

Editorial changes for clarity:

- included “addition” projects since all addition projects involve alterations to an existing structure.
- deleted “for alteration, rehabilitation or reconstruction projects” from the end of the second paragraph because it is redundant.
- deleted the first sentence of the required statement because it is redundant.
- Clarified that the DSA approved documents are the basis for construction rather than the contract documents.

(e) Site data.

Clarify the definition of “special studies zones.” Clarify that geologic hazard reporting requirements apply to both new construction and alterations as required by Statute (Education Code 17212.5 and 81033). Clarify that DSA may also require a geologic hazard study for construction on a school site outside of a geologic hazard zone when a potential geologic hazard has been previously identified. No change to current DSA policy.

(f) Estimates of Cost.

Provisions added to implement the requirements of Education Code Sections 17319 and 81133.1 (Collaborative Review Process). This provision is necessary to allow DSA to collect appropriate plan review fees if the estimated cost of a project increases substantially between the time of the initial application for the project, and the time when completed plans and specifications are submitted for review.

(g) Deferred approvals.

Subsection 3 clarified to state that only "California" licensed architects or engineers may sign documents in accordance with state law. This change is editorial only; no change to current DSA policy.

Also edited Subsection 3 to replace "the enforcement agency" with "DSA" to coordinate with standard usage. This change is editorial only; no change to current DSA policy.

(h) Signatures required.

Paragraph rearranged for clarity. Changes in first paragraph are editorial only; no change to current DSA policy.

Second paragraph revised to comply with current DSA policy. Responsibility of the architect or engineer in general responsible charge for drawings that have been delegated to consultants is evidenced by signing the drawings with an option to note that the drawings have been coordinated with the design documents and found to be in general conformance with the design. This change is necessary to define the responsibility for oversight and coordination of the design by the architect or engineer in general responsible charge when portions of the design are delegated to other architects or engineers. (Also, see DSA IR A-18 and A-19).

4-318. Procedure for approval of application and voidance of application.

(a) General.

Revised regulations for document stamping and record set creation to comply with Education Code 17304 and current DSA policy.

(b) Approval of application.

Revised regulations for document stamping and record set creation to comply with Education Code 17304 and current DSA policy.

(c) Voidance of application.

Revised regulations for document stamping and record set creation to comply with Education Code 17304 and current DSA policy.

Changed the word "portion" to "increment" to correspond with standard usage. "Increment" is used in relation to a partial submittal of plans and specifications. "Portion" is used in relation to a partial certification of a part (or portion) of the actual construction. This change is editorial only; no change to current DSA policy.

Clarified that a refund for projects that are not constructed is not provided unless requested by the school district. This is consistent with current DSA policy.

4-319. Withdrawal of application.

Provisions added to implement the requirements of Education Code Section 17319 and 81133.1 (Collaborative Review Process). This provision allows DSA to refund unspent fees to the client in the event that an application is voided or withdrawn.

4-320. Fees.

Reference to statute corrected. This change is editorial only.

4-321. Fee schedule 11.

Reference to statute corrected. This change is editorial only.

4-322. Project cost.

- Clarified that an hourly fee may be charged to the school district by DSA for review of bid alternates; no change to current DSA policy.

- Reference to statute corrected. This change is editorial only.

4-323. Revisions of plans and specifications.

Clarified as follows:

- define "revisions"
- clarify that DSA may charge a fee for the review of substantial revisions
- Reference to statute corrected.

These changes are editorial only and are consistent with current DSA policy.

4-324. Examples and explanations of fee computation.

- Footnote inadvertently deleted during the 2006 cycle is replaced.
- Reference to statute corrected. This change is editorial only.

4-325. Billing for further fees.

- Reference to statute corrected. This change is editorial only.

4-331. Notice to DSA at start of construction.

Clarified the information which must be submitted to DSA prior to start of construction. Added reference to appropriate forms (Form DSA-5 for the inspector and Form DSA-102 for contract information). Also revised to require the forms to be submitted "within five days of awarding a contract for construction" (rather than "as soon as a contract has been let"). No change to current DSA policy

4-333. Observation and inspection of construction.

(a) Observation by architect or registered engineer.

Clarification to first paragraph (changed "provides" to "requires"). This change is editorial only; no change to current DSA policy.

Paragraph two clarified to coordinate with Title 24, Part 2, Section 1704A.7.1. This change is editorial only; no change to current DSA policy.

(b) Inspection by project inspector

Subparagraph numbers added for clarity.

Subparagraph 2 added to clarify that project inspectors are prohibited from performing construction or construction related duties that could result in a conflict of interest. No change to current DSA policy.

(The unnumbered paragraph relating to removal of the project inspector is reworded and relocated to 4-333(b)6.)

Subparagraph 3 clarified to state that work may go on under the inspection of "an inspector" (which would include project, assistant, or special inspectors) rather than just the "project inspector." Also clarified by adding reference to Section 4-333(e) for assistant inspectors. Finally, the last sentence is relocated to Section 4-342(b)1. The phrase, "under the direction of the architect and/or engineer" is deleted because it is redundant (see Section 4-342(a)). There are no changes to current DSA policy for any of the changes to subparagraph 3.

Subparagraph 4 added to require that the inspector be capable of performing the job functions. This change is necessary to allow DSA to deal appropriately with inspectors who are physically or mentally unable to perform the code required job functions even with reasonable accommodations.

Subparagraph 5 is rearranged and clarified to better describe the requirements for project inspector approval for a project. A provision was added stating that the inspector shall have "adequate knowledge and experience to perform the required duties." This provision is necessary so that DSA can continue to evaluate the inspector's knowledge and experience relevant to the specific project requirements. Also, added a provision that the inspector "will provide sufficient time on the project to fulfill all inspection responsibilities required by this Code." This will allow DSA to continue to limit the workload of inspectors who attempt to take on more work than they can reasonably inspect in an acceptable manner. No change to current DSA policy.

Subparagraph 6 contains the relocated provisions regarding the removal of the project inspector (see last sentence of the first paragraph of old section 4-333(b)). The requirements are clarified to state that DSA may withdraw approval of the project inspector and to include the relocated provision that the school district or design professional may also withdraw the approval of the project inspector with the concurrence of DSA. No change to current DSA policy.

(c) Project inspector certification.

Inspector certification requirements are relocated to this new section from 4-333(b), with editorial changes to improve clarity.

Changed “lateral load-resisting” to “lateral force-resisting” to be consistent with usage in Section 4-309.

A paragraph is added to require inspectors to notify DSA of any change in name, address or phone number. This change is required to allow DSA to remain in contact with certified inspectors and will facilitate project closeout and certification.

A paragraph is added to clarify that inspector certification lasts four years and must be renewed by attending training classes and passing a recertification test. These provisions match DSA’s current practice and are mandated by Education Code 17311.

(d) Special inspection.

Subparagraphs numbered for clarity.

Subparagraph 1 – added reference to Chapter 17A of Title 24, Part 2 for definition of types of construction requiring special inspection; deleted list of special inspections. This change was made to coordinate with Title 24, Part 2. No change to existing DSA policy.

Subparagraph 2 and 3 – clarify and relocate existing requirements previously included in the sixth paragraph. This change is editorial only; no change to existing DSA policy.

Subparagraph 4 – clarified that special inspectors shall be employed by the school district or an acceptable testing laboratory. This is necessary to prevent potential conflicts of interest which could arise if the special inspectors were employed by the contractor, construction manager or project inspector.

Subparagraph 5 – changed to clarify that special inspector approval occurs prior to performing inspection. No change to existing DSA policy.

Subparagraph 6 – changed to allow DSA to require special inspectors to attend continuing education seminars to maintain their acceptance with DSA. This change is necessary so that DSA can ensure that special inspectors stay up-to-date with Code requirements when and if significant code changes occur in the future.

Subparagraph 10 – Relocated language from the 9th paragraph of old section 4-333(c) to this location for better continuity and clarity. This change is editorial only. A requirement was also added for the special inspector to provide copies of deviation notices to the school district (in addition to the project inspector, architect and DSA).

Subparagraph 11 – Relocated language from 8th paragraph of old section 4-333(c) to this location for better continuity and clarity. Clarifies existing practice and standardizes daily reporting practices in general use. Added a requirement that special inspectors working at the project site will submit a copy of their daily report to the project inspector each day. Clarified that reports shall include all special inspections made regardless of whether such inspections indicate that the work is satisfactory or unsatisfactory.

Subparagraph 12 – clarifies special inspector report requirements including requirements for statements of conformance. This change is necessary so that readers of special inspection reports (including DSA) will be able to ascertain whether the work inspected conforms to the requirements of the DSA approved documents quickly and without needing to interpret disclaimers, limitations, and/or unclear language. This will establish a clear basis for special inspection reporting requirements and provide a basis for disciplinary action by DSA when special inspection reports do not meet these requirements. No change to current DSA policy.

Subparagraph 13 – clarifies verified reporting requirements for special inspectors; verified reports are still required even if the special inspector is not approved by DSA. This change is editorial only.

Subparagraph 15 – clarify that approval/acceptance of special inspectors may be withdrawn by DSA for violating Code requirements. This change is necessary to provide a basis for disciplinary action for special inspectors who fail to perform as required by Code.

(e) Assistant inspectors.

Clarifies the requirements for use and supervision of assistant inspectors. Clarifies that the project inspector must remain on site supervising the assistant inspector during construction. Clarifies the minimum qualifications and requirements for DSA approval of assistant inspectors. Clarifies that DSA may take disciplinary action as specified in section 4-342(c) if an assistant inspector fails to perform Code required duties.

4-334. Supervision by the Division of the State Architect.

Capitalized "Division of the State Architect." This change is editorial only.

4-335. Tests.

The word "agency" was changed to "facility" throughout with reference to testing laboratories because DSA approves individual facilities to perform testing rather than agencies (which could be interpreted to mean a group of facilities).

(a) General.

The second paragraph is relocated from 4-335(b) for continuity and clarity. This change is editorial only. The words, "and inspection" are deleted for clarity since this section deals with testing.

The third paragraph is clarified to provide cross references to other Code sections. These changes are editorial only.

(b) Acceptable testing facilities.

New subsection (b) added to clarify the criteria DSA uses to evaluate and accept testing facilities. Certain provisions have been relocated from the old subsection (b) "performance of tests" for clarity. These changes are necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform manner.

The first paragraph is based on existing language of subsection (b). Language has been expanded to define the method a testing facility uses to apply for DSA acceptance and the minimum criteria for acceptance. This clarification matches existing DSA practice and is necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform manner.

Subsection 1 is necessary to clarify that testing facilities must conform to national standards for conducting tests. This matches existing DSA policy.

Subsection 2 clarifies that the testing facility must operate under the supervision of a competent civil engineer (in accordance with the requirements of nation standards). This matches existing DSA policy.

Subsections 3 and 4 are relocated from the second paragraph of existing subsection (b).

The new second paragraph (after the numbered subsections) clarifies that DSA will evaluate the testing facility to ensure conformance with the requirements in the Code. This clarification matches existing DSA practice and is necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform manner.

The first sentence of the third paragraph is clarified slightly; this change is editorial only.

The second sentence of the third paragraph clarifies that names of acceptable testing facilities will be posted on the DSA website. This allows school districts and other interested parties to verify the acceptance of the testing laboratory and matches existing DSA practice.

(c) Duration of testing facility acceptance.

This new section establishes the duration of DSA acceptance for testing facilities and enumerates requirements for maintaining acceptance. This change matches existing DSA practice and is necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform manner.

(d) Fees for testing laboratory evaluation.

This new section clarifies that DSA charges fees for evaluation of testing facilities. This matches existing DSA practice and is necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform manner.

(e) Performance of tests. (used to be (b))

First paragraph clarified to state that samples for testing shall be taken by a representative of the testing facility and that locations for sampling may be selected by the project inspector, architect, structural engineer, or DSA when there is reason to believe that specific locations may contain deficient materials. This clarification is necessary to prevent unqualified persons from taking samples (sampling must be performed in strict accordance with specified standards for tests to be valid). The engineer in charge of the laboratory is required to have control over sampling, handling and testing of the samples. This clarification matches existing DSA practice and is necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform manner.

The second paragraph is clarified to state that handling and transporting of samples shall be in accordance with approved standards (in addition to sampling and preparation). This clarification matches existing DSA practice and is necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform manner.

(f) and (g) are renumbered only

(h) Verification of test reports.

Clarified that a California registered civil engineer is required to be in charge of the testing facility. This clarification matches existing DSA practice and is necessary to ensure that testing of structural materials is conducted by competent facilities in a uniform way.

4-336. Verified Reports.

(a) General.

Clarified that “all” special inspectors are required to submit verified reports rather than “approved” special inspectors. This matches existing DSA practice.

Clarified that the current definition of the term “personal knowledge” for inspectors applies only to the project inspector. A new definition of the term is added to apply to special inspectors. Special inspectors are not permitted to gain personal knowledge of the work from the reporting of others. This change is necessary to ensure that special inspectors take responsibility for personal inspection of their aspect of the construction work and matches existing DSA practice.

(b) Report form.

Clarified that special inspectors are required to submit verified reports on Form DSA-292 and that project inspectors still use Form DSA-6. This clarification matches existing DSA practice.

(c) Required filing.

Clarified to require verified reports from all special inspectors (not just “approved” special inspectors). Some special inspectors are not be formally approved by DSA for each project.

Clarified that verified reports are required at the completion of the “project” (rather than the “building”) and that a verified report is required from the project inspector when any building included in the scope of the project is occupied or re-occupied. This clarification matches existing DSA practice.

4-338. Addenda and change orders.

(a) General.

Changed to add “field change documents” to the list of documents that are acceptable means of defining changes to DSA approved documents. This change is necessary to allow DSA to provide prompt approval of changes to the construction that cannot wait for the creation and approval of a formal change order. This clarification matches existing DSA practice.

(c) Change orders.

Clarified/added requirements for change orders and field change documents as follows:

- shall refer to portions of the approved plans and specifications being changed,
- clearly describe the work to be accomplished,
- shall be numbered sequentially for easy reference, and
- when previously approved field change documents are included in a change order the change order shall include the complete, DSA stamped field change document.

These changes are necessary to simplify and standardize change order and field change document format. This will facilitate and expedite DSA review and approval. These changes will enhance the ability of inspectors and contractors to properly interpret and implement change orders and field change documents. These changes match existing DSA practice.

(d) Field change documents.

Changed the name of “preliminary change orders” to “field change documents” for clarity. The term “preliminary change order” is left over from previous Codes where every preliminary change order had to be re-approved as part of an official change order. This provision was removed from the Code however the term “preliminary change order” still implies that

such documents need to be re-approved as part of a change order. This change clarifies that “field change documents” do NOT need to be included in change orders (note that field change documents may still be re-approved as part of a change order if necessary to document changes in cost). This change matches DSA’s existing practice and simplifies and streamlines the change approval process.

4-339. Final certification of construction.

The current practice of receiving, tracking and approving change orders requires an abnormal use of staffing resources for both DSA and the clients of DSA. Past (traditional) school project delivery entailed a single prime contractor. Current school project delivery however frequently is by multi-prime contracts in which the owner (District) contracts directly with many “prime” contractors. This “new” delivery method results in each “prime” contractor submitting individual change orders for their portion of a specific change in the project. This has caused the number of change orders received and processed by DSA to increase by a factor of at least five.

This proposed change is recommended so as to eliminate tracking of change orders for final construction costs. DSA charges fees based on the initial estimated construction cost and adjusts those fees based on the final construction cost. Historic regulations (ref 1967 Title 21 section 32 (b)) require the school board to submit a statement of final construction cost to DSA but more recent procedures adopted by DSA have eliminated this requirement and put the burden on DSA to track the cost of each change order and attempt to balance the resulting final construction cost with that reported by others.

4-341. Duties of the architect, structural engineer or professional engineer.

(b) General responsible charge.

Changed “testing agency” to “testing facility” to coordinate with changes to section 4-335. This change is editorial only.

(c) Delegated responsibility.

Clarified that the engineer shall consult with the architect in general responsible charge for deferred approvals and field change documents in addition to addenda and change orders. This change is editorial only.

(d) Approval of inspectors.

Added subparagraph numbers for clarity. Changed so that the school district may submit Forms DSA-5 and DSA-5A to DSA. This change was made to facilitate the submittal of these forms.

Subparagraph 1. Clarified that inspector experience and qualifications must be presented on Form DSA-5. This change is editorial only.

Subparagraph 2. Clarified that assistant inspector experience and qualifications must be presented on Form DSA-5A. This change is editorial only.

Subparagraph 3. Clarified to refer to Section 4-333(d)5 for the requirements for special inspector approval.

Also, changed to emphasis that filing a terminating verified report is required prior to the termination of an inspector's duties when an inspector leaves a project prior to project completion. This change is necessary to allow for an orderly and complete transfer of responsibility to the new inspector and to enhance the ability of DSA to certify construction. This change matches existing DSA policy.

(f) Architect or engineer verified reports.

Clarified that “personal contact” with the project requires visits to the project site during construction by the architect or engineer or their qualified representative.

Clarified that the architect in general responsible charge shall require that verified reports be submitted by special inspectors, the testing facility engineer, and the geotechnical engineer in addition to the parties already listed. These clarifications match existing DSA practice.

(g) Testing and special inspection program.

Clarified that the architect or engineer in general responsible charge shall establish the extent of the special inspection program in addition to the testing program. This clarification matches existing DSA practice.

4-342. Duties of the project inspector.

(b) Duties.

Subparagraph 1 - Clarify the definition of "personal knowledge" as it applies to the project inspector. Clarify that the project inspector is responsible for monitoring the testing and special inspection programs. Clarify that the project inspector is responsible for supervising assistant inspectors. These changes are editorial and match existing DSA policy.

Subparagraph 2 – Delete the first sentence because it duplicates the provisions of Section 4-342(a). Clarify that the basis for inspection is the DSA approved documents rather than the contract documents. These changes are editorial and match existing DSA policy.

Subparagraph 3 – Added Title 24, Part 6 to the list of Code books that the inspector must keep on site. This change is necessary to make sure that the inspector has appropriate energy code requirements close at hand for reference.

Subparagraph 5 – Clarifies that notices shall be delivered via email. This change is necessary to ensure that DSA staff receives adequate advance notice of start of construction etc. Mailed notices may arrive too late to be of use. This change matches existing DSA policy.

Subparagraph 6 – Added a title to subparagraph C to match the format of subparagraphs A and B. This change is editorial and matches existing DSA policy.

Subparagraph 7 – This paragraph was added to clarify the project inspector's responsibility to keep logs of pertinent communications, deviations in the construction, corrective actions taken, semi-monthly reports, change orders, etc. This is necessary to provide for uniform record keeping requirements for project inspectors.

Subparagraph 8 – Renumbered only.

Subparagraph 9 – Clarified that this section deals with the "inspector" verified report. Editorial only.

Subparagraph 10 – Provides a basis for withdrawal of approval or other disciplinary action for inspectors who commit crimes or fail to perform their duties honestly. This change is necessary to allow DSA to take appropriate disciplinary action, as described in Section 4-342(d) below, when inspectors fail to perform their duties honestly and within the law.

(c) Violations.

Revised to clarify that DSA may take appropriate disciplinary action against inspectors who violate any provision of the Code or the law. This change is necessary to provide a basis for disciplinary action against inspectors who fail to perform their duties as required by Code.

(d) Disciplinary actions.

Added to clarify some of the disciplinary actions that DSA may take if inspectors fail to perform their code required duties. This change is necessary to provide a legally enforceable inspector disciplinary process.

(e) Notice of disciplinary actions.

Added to clarify that any notice of disciplinary action will define the grounds for the disciplinary action. This change is necessary to provide a legally enforceable inspector disciplinary process.

(f) Criteria for reinstatement.

Added to clarify the criteria for reinstatement for inspectors who have their approval or certification withdrawn. This change is necessary to provide a legally enforceable inspector disciplinary process.

(g) Filing an appeal.

Added to clarify the procedure for an inspector to file an appeal of a disciplinary action. This change is necessary to provide a legally enforceable inspector disciplinary process.

4-343. Duties of the contractor.

(b) Performance of the work.

Revised to require the contractor to notify the inspector of the start of each aspect of the work "in writing." Also revised to require the contractor to notify the inspector of the completion of each aspect of the work. These changes are necessary to facilitate the inspector's ability to inspect the work efficiently.

(c) Contractor verified reports.

Clarified to indicate that this section pertains to the contractor's verified report. This change is editorial only.

4-351. Location of records.

Editorial changes to clarify that records are stored in electronic format. No change to existing DSA policy.

4-352. Submission of documents.

(b) Construction documents.

Clarified that test, special inspection, and semi-monthly reports shall be submitted to the appropriate regional office. This change is editorial only.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS.

No technical reports or studies were used in the development of these proposed amendments.

CONSIDERATION OF REASONABLE ALTERNATIVES.

DSA could not identify nor determine any reasonable alternatives to the proposed administrative regulations.

REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Division of the State Architect did not identify any reasonable alternatives to the proposed administrative regulations.

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

The Division of the State Architect has no evidence indicating any potential significant adverse impact on business with regard to the proposed action.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS.

The regulations do not duplicate or conflict with federal regulations.

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 does not impose a mandate on local agencies or school districts.

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

(Government Code Section 11346.9(a) (3))

45 DAY PUBLIC COMMENT PERIOD – COMMENT RECEIVED BY DSA:

COMMENT #1

Commenter: Don Williams (California Coalition of Professional Construction Inspectors)

Subject: Section 4-333, Paragraph 5, C:

“C. will provide sufficient time on the project to fulfill all inspection responsibilities required by this Code.”

Comment: This has the potential of being arbitrary and/or unfair. Project inspectors that are independent contractors are not employees of the DGS or DSA and therefore the time spent on a project can not be determined by DSA or DGS. Some projects may require 60 hour work weeks while other projects may require 20 hour work weeks. Only the inspector can determine what time is sufficient to perform the required duties of the inspector on a particular project.

DSA Response:

This provision was added to give DSA grounds for disciplinary action against inspectors who do not provide sufficient time on the project site to fulfill their inspection duties. An essential element in the performance of an inspector is the time spent actually performing inspection on a continuous basis. The continuous inspection requirement is a major departure from typical commercial practice where the inspector inspects the construction only upon completion or at periodic milestones. The code requires continuous inspection during construction so that errors can

be readily identified and corrected. This avoids delays and increased costs resulting when construction defects are identified and remediated promptly rather than after all of the construction work is completed. The determination of what constitutes "sufficient time" is intentionally vague. There is no reasonable way to codify any criteria for what would constitute "sufficient time" for the variety of construction projects that are conducted. DSA has criteria for determining the time required to inspect various types of projects however, the time required for a specific project varies greatly based on the pace of the construction work, the competence of the contractor, the experience of the inspector, and many other factors. In practice, DSA will determine whether an inspector is providing sufficient time on the project based on periodic visits to the project site, the conformance of the construction, and other means.

DSA needs this language to emphasize the key difference in role of the school project inspector versus a typical commercial inspector.

COMMENT #2

Commenter: Don Williams (California Coalition of Profictional Construction Inspectors)

Subject: Section 4-333, Paragraph 6

"6. An approved project inspector may be removed and replaced if the work performed is not in conformance with accepted inspection standards, as determined by the school district and the project architect and engineer with the concurrence of DSA. An approved project inspector may also be removed by DSA if the inspection work performed is not in conformance with accepted standards; see Section 4-342."

Comment: This has the potential of being arbitrary and/or unfair.

First, "Accepted inspection standards as determined by the school district..." leaves the state open to having a deferent standard for each school district across the state. This is hardly a standard at all. There is no written "standard" for DSA project inspection. With this proposed code change a District could claim that there "standard" is that an inspector only spend X number of hours per million \$ of project cost inspecting the project thereby limiting the inspector's ability to perform inspections. A district could claim that there standard is to not inspect existing deficiency in a defined path of travel on modernization projects.

Before accepted standards are written into the code, an "Accepted Standard" must be written and accepted.

DSA Response:

This language was added to make reference to Section 4-342 where the inspector's duties are defined in addition to a description of the authority of DSA to withdraw the approval of the inspector or take other disciplinary actions. The term "accepted inspection standards" is existing code language and not subject to comment. The term used in the added language, "accepted standards," refers to the requirements of Section 4-342. Note that the school district does not define "accepted inspection standards," instead the school district would determine whether the inspector is meeting the "accepted inspection standards" that are set forth in the Code.

COMMENT #3

Commenter: Don Williams (California Coalition of Profictional Construction Inspectors)

Subject: Section 4-333 (d), Paragraph13:

"Approved All special inspectors shall submit in a timely manner verified reports as required by Section 4-336 for the special work covered."

Comment: This has the potential of being costly to the state. Current practice is for Approved Special inspectors to provide "verified reports." Including all special inspectors in the requirement to provide verified reports will increase the administrative cost of testing labs. This cost will be passed on to the District in the form of added project cost. That cost will be an unnecessary burden to the state school construction budget.

This is a duplication of work by the testing lab. The lab manager is already required to provide a verified report on all work performed by the lab.

DSA Response:

In a previous cycle the Code was changed to state that special inspectors "may" require approval by DSA instead of "shall" require approval by DSA. The change was made to streamline the special inspector approval process since many special inspectors are well known to DSA and there is little value in formally approving them to work on every specific project. However, this change inadvertently changed the meaning of subparagraph 13 implying that only "approved" special inspectors would have to certify their work in accordance with Section 4-336. This was never the intent of the original code change. All special inspectors must certify their work. This is a long-standing Title 24

requirement. It is mandated by Education Code Section 17309. It also mirrors a model Code requirement, IBC Section 1704.1.2, which states in part:

“A final report documenting required special inspections and correction of any discrepancies noted in the inspections shall be submitted at a point in time agreed upon by the permit applicant and the building official prior to the start of work.”

An essential element of the DSA construction safety program is that individual inspectors sign verified reports certifying that the work that they inspected is compliant.

COMMENT #4

Commenter: Don Williams (California Coalition of Professional Construction Inspectors)

Subject: Section 4-342, Paragraph 5:

“5. Notification to DSA: The project inspector shall notify DSA by e-mail at the following times:....”

Comment: This has the potential of being unreasonable, unfair and costly. None of the other required reporting parties are required to report via e-mail.

E-mail reporting has no proof of receipt. E-mail reporting has the potential of unknowing spreading computer viruses to the recipients.

When the U.S. postal service is used, the sender has a presumed expectation that the recipient will receive the notification.

Required reports should be allowed to be sent by U.S. mail with urgent notifications sent via fax or e-mail.

DSA Response: The requirement to notify DSA of start of construction and three other key milestones in the construction process is an important aspect of DSA’s construction oversight program. DSA field engineers must be notified of start of construction and three other key construction milestones promptly in order to schedule jobsite visits. US mail and facsimile transmission are too slow to provide effective timely notification to the field engineer because of the processing, sorting and delivery time inherent in these communication methods. Email is the ideal method of communication for these time sensitive notifications since it is delivered to the field engineer immediately and can be easily reviewed when the field engineer is away from the office. Furthermore, DSA is committed to conserving energy and resources. The paper used in US mail or facsimile methods of communication is an unnecessary waste of natural resources. Requiring one consistent means of communication is also desirable because it simplifies the field engineer’s task of scheduling projects and organizing his or her work. Email is used by virtually everyone on a routine basis; it is free, easy, and simple to use.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS.

(Government Code Section 11346.9(a) (4))

The Division of the State Architect has determined 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 regulations.

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

(Government Code Section 11346.9(a) (5))

There are no rejected proposed alternatives to identify. This proposal will not have an adverse economic impact on small businesses.