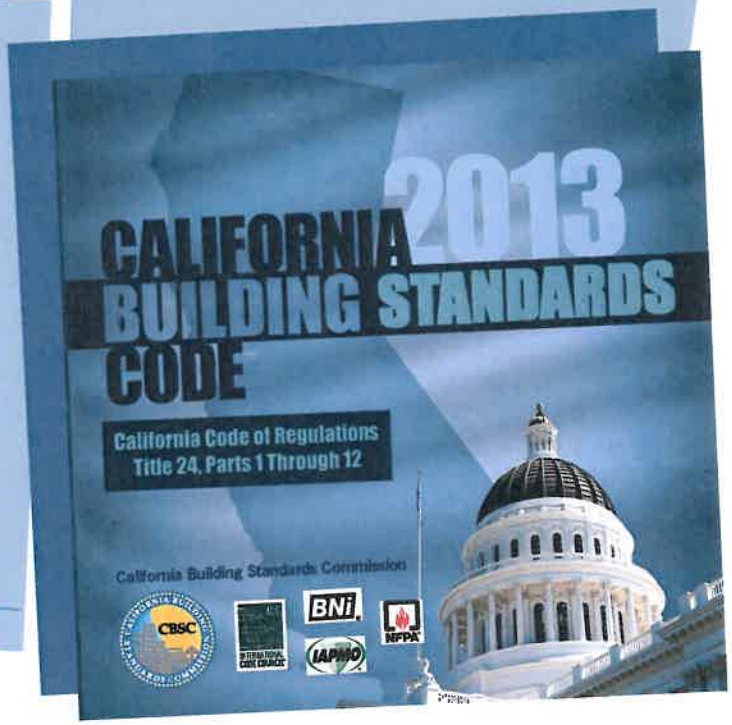
Guide for Local Amendments and Filings of Building Standards

City Ordinances

County Building Code



This guide provides information for local government on the requirements of state law for filing local amendments to building standards.

An educational publication from the California Building Standards Commission

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Introduction

This guide is provided by the California Building Standards Commission (CBSC hereafter) for the purpose of assisting local government with the requirements in state law applying to local amendments to the California Building Standards Code, in Title 24, California Code of Regulations as published by the CBSC, and the filing requirements of any such local amendments. Reprints of the applicable laws and regulations referenced herein are provided in Appendix 2 and 3 at the end of this guide. The issuance of this guide supersedes previously issued CBSC Information Bulletins 10-03 and 11-01.

This guide and other educational documents are available at no charge from the CBSC website http://www.bsc.ca.gov. In particular, our *Guide to Title 24* should be studied by persons not already trained in the application and use of Title 24. Much of the discussion in our *Guide to Title 24* provides background information that will be helpful when using this guide. A listing of our educational publications is provided in Appendix 4 at the end of this guide. If you have not studied our *Guide to Title 24*, keep these fundamentals in mind as you read this guide.

- State laws are enacted through the legislative process.
- State regulations, including building standards are enacted by state agencies as required by state laws for the purpose of implementing, interpreting, clarifying and carrying out the requirements of state law.
- The CBSC is required by state law to adopt, approve, and publish building standards in Title 24, California Code of Regulations, that apply statewide to all building occupancies.

Glossary of Terms, Acronyms, and Abbreviations

The following terms, acronyms, and abbreviations are used in this guide.

CBC: means the California Building Code, which is Part 2 of Title 24, California Code of Regulations.

CBSC: means the California Building Standards Commission

CCR: means the California Code of Regulations, containing regulations by state agencies needed to implement state law.

CEC: means the California Energy Commission

HCD: Department of Housing and Community Development

(Title 24 hereafter). Additionally, the Department of Housing and Community Development (HCD) has adopted administrative regulations (not building standards) to implement the State Housing Law, which are located in Title 25, Division 1, Chapter 1, Subchapter 1, commencing with Section 1, of the California Code of Regulations. These administrative regulations should not be confused with the building standards within Title 24 developed by the Department of Housing and Community Development and adopted and published in Title 24 by the CBSC.

The State Housing Law also requires the Office of the State Fire Marshal (SFM) to develop and propose building standards for fire and panic safety in residential occupancies including hotels, motels, lodging houses, apartment houses, and dwellings. Such building standards are presented to the CBSC for adoption and publication in Title 24.

For additional information on state laws requiring building standards for the various types of buildings and building uses, refer to Sections 1.2 through 1.14 of Chapter 1, Division 1, of the California Building Code (Part 2 of Title 24). The authority and reference provisions of each section identifies the state laws that mandate the enactment of building standards and assigns the responsibility to develop building standards to the state agencies. This subject is explained in detail in our *Guide to Title 24*.

Applicability of State Published Building Standards

The portions of the Health and Safety Code discussed above establish that Title 24 published by the CBSC, which incorporates the latest editions of selected model codes, is the applicable code for all building occupancies throughout the state. The model codes by themselves are not the appropriate codes to apply to the design and construction of buildings in California.

[References: Health and Safety Code (HSC) 17950 and 18938(b) available in Appendix 1]

Availability of Referenced Laws and Regulations

1. **State Law:** All state laws referenced herein may be accessed at the state website http://www.leginfo.ca.gov/.

The authority for enacting local amendments to Title 24 will be discussed in more detail in *Local Code Amendment Authority* of this guide.

[References: HSC 18941.5, 17958.5 and 17958.7 available in Appendix 1 and CBC 1.1.8 and 1.8.6 available in Appendix 2.]

4. **Amendments must be filed with the State:** Local ordinances making amendment to Title 24 are neither effective nor operative until filed with the CBSC or the Department of Housing and Community Development, as appropriate. This matter is discussed in more detail in *Local Code Amendment Filing Requirements* later in this guide. Later in this guide is clarification about gaining approval of local energy conservation requirements from the California Energy Commission

   [References: HSC 18941.5 and 17958.7 available in Appendix 1 and CBC 1.1.8 and 1.8.6 available in Appendix 2.]

5. **Public Access to Code:** Each city, county, and city and county, including charter cities, shall obtain and maintain with all revisions on a current basis, at least one copy of the building standards and other state regulations relating to buildings published in Titles 8, 19, 20, 24, and 25 of the California Code of Regulations. Additionally, the action to amend the provisions of Title 24 must be part of the public record.

   [References: HSC Section 17958.7 and 18942 available in Appendix 1]

   NOTE: Our educational document *It's Your Building Department*, provides considerable information about the requirements of state law applying to local building departments. Access this document at the CBSC website http://www.bsc.ca.gov under the *Education* or *Publications* tab.

Local Code Amendment Authority

Local government may amend the building standards contained in Title 24 for all occupancies, and the regulations of HCD in Title 25 applicable to residential occupancies.
The following are the principals of state law regarding local amendments to Title 24.

2. **Local Amendments under the State Housing Law:** Health and Safety Code Section 17958, 17958.5 and 17958.7 (State Housing Law) authorizes local amendment of building standards in Title 24 related to residential occupancies, including hotels, motels, apartments, and dwellings, and for amendment of Title 25. Such amendments must be reasonably necessary to address local climatic, geological, or topographic conditions. Other important points of law, emphasis, or clarifications follow.

   - The local governing body must make an express finding that amendments to either the building standards, including green building standards, for residential construction contained in Title 24, or the regulations of HCD contained in Title 25, are reasonably necessary because of local climatic, geological, or topographical conditions. There is an exception in Section 52 of Title 25, to the requirement for an express finding where alternate abatement procedures are determined by the local enforcement agency to be equivalent to those contained in Title 25.

   - Unlike the California Building Standards Law, there is no specific requirement in the State Housing Law that local government amendments provide either more restrictive building standards, including green building standards, than those contained in Title 24, or more restrictive regulations than those contained in Title 25. Amendments under the authority of the State Housing Law may only apply to residential occupancies.

   - The local amendments are not effective until copies of both the express findings and the amendments, with the amendments expressly marked and identified as to the applicable findings, have been filed with the CBSC. The filing requirements are discussed in more detail in Local Code Amendment Filing Requirements later in this guide.

   [References: HSC 17958, 17958.5 and 17958.7 available in Appendix 1, and CCR Title 25, Section 52, and CBC 1.8.6, available in Appendix 2]

3. **Local Amendments under the Fire Protection District Law:** Section 13869.7 of the Fire Protection District Law of 1987 (Health and Safety Code, Division 12, Part 2.7), authorizes a local fire protection district to adopt ordinances with fire and panic safety requirements more restrictive than those fire and panic safety provisions in Title 24 shown adopted by the Office of the State Fire Marshal (SFM). Any local ordinance establishing more restrictive fire and panic safety requirements must be limited only to that needed for local climatic, geological, or

California Energy Commission(CEC) for approval, documenting the supporting analysis on how the local government has determined that the proposed local standard will save more energy than the current provisions in Part 6, Title 24, and the local government's determination that the local standards are cost-effective.

Once the CEC staff has verified that the local standards will require buildings to use no more energy than the current provisions of Part 6, Title 24, and that all requirements of Section 10-106 are met, the application will be brought before the full CEC for approval. Only those local energy amendments approved by the CEC are lawfully enforceable.

Recommendation: Contact the CEC Office of Building and Appliance Efficiency before starting the process of adopting local amendments to Part 6 of Title 24. The CEC staff is available to help create the necessary documentation that will meet CEC approval upon application.

CEC Contact: Joe Loyer
Email Address: Joe.Loyer@energy.ca.gov
Mailing Address:
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, CA 95814-5512

[Reference: PRC 25402.1 available in Appendix 1, and Title 24, and CCR, Title 24, Part 1, Section 10-106 available in Appendix 2]

Local Code Amendment Document Requirements

A local government or Fire Protection District exercising the authority provided in Health and Safety Code Sections 13143.5, 13869.7,17958.5 and 18941.5, or Public Resources Code Section 25402.1(h)(2), to adopt amendments to Title 24 must take care with the preparation of the documents to meet the requirement of state law.

- The ordinance documents must include the sections of Title 24 being amended. The amendments must be expressly marked. The amendments should be discernable from the text of Title 24 not being amended.

- The ordinance documents must make an express (written) finding that the amendment is reasonably necessary and must identify the local climatic, geological, or topographical condition that gives cause to amend the

Address the amendment documents to:

Department of Housing and Community Development
Division of Codes and Standards,
State Housing Law Program
2020 West El Camino Avenue, Suite 250
Sacramento, CA 95833

3. **Amendments to Part 6 of Title 24, relating to energy conservation.**
If the local amendments are solely, or in part, amending the energy standards of Part 6 of Title 24, follow the filing steps identified above in item #1.

Be advised that filing amendments to Part 6 of Title 24 with the CBSC does not make the amendment lawfully enforceable until approved by the California Energy Commission. The application process for obtaining CEC approval is separate and is discussed on page 9 of this guide.

Causes for CBSC Rejection

The CBSC conducts a review of all received local filings of amendments to Title 24 for compliance with the requirements of Health and Safety Code Section 17958.7 and 18941.5. The CBSC is not authorized by law to evaluate the merits of the express findings of a local government as to the local climatic, geological, or topographical conditions necessitating the amendments. The following are common causes for rejecting an amendment filing.

- The filing documents indicate the adoption of model codes, or amendment to model codes alone. Only Title 24 as published by the CBSC that incorporates model codes, and the related Title 25 regulations of HCD, are subject to adoption and amendment by local government.

- The amendments are not <u>expressly marked in a manner to distinguish the amendments from the CBSC published text of Title 24.</u>

- The filing documents do not include the required <u>express findings that each amendment is reasonably necessary for local climatic, geological, or topographic conditions</u>. Each amended code provision is subject to this requirement. Vague generalizations that amendments are necessary of local climatic, geological, and topographic conditions are not adequate.

- There is no evidence by an identification number, signature(s), certification of

Appendix 1. Summary of Local Code Amendment Requirements

The following matrix summarizes the requirements discussed within this guide.

Amendment Authority Used	Basic Requirements	Document Requirements	Filing Requirements & Clarifications
California Building Standards Law (HSC, Division 13, Part 2.5)	Must be more restrictive and reasonable necessary. Must apply to other than residential occupancies.	Each amendment must be expressly marked. An express finding by the local governing body must state each amendment is reasonably necessary. Must state the amendment is based on local climatic, geological, or topographical conditions.	File with CBSC See Note 1, 2 & 3.
State Housing Law (HSC Division 13, Part 1.5)	Must be reasonable necessary and applicable only to residential occupancies. Amendment need not be more restrictive.	Same as above.	File with the CBSC See Note 1, 2 & 3.
Fire Protection District Law of 1987 (HSC, Division 12, Part 2.7)	Must be adopted by a local fire protection district. Must be ratified by the city, county, or city and county where the amendments will apply. Amendment must be more restrictive than T24 fire and panic provisions shown adopted by the SFM.	Same as above.	File with HCD See Note 1 & 4.

Notes:

1. A city, county, or city and county may adopt amendments to the Title 24 fire and panic safety requirements shown adopted by the SFM under the CBSL or SHL authority, for enforcement by a local fire district. However, such amendments must be filed with the CBSC.
2. Amendments to the California Energy Code in Part 6 of Title 24 require approval of the California Energy Commission. See the discussion beginning on page 9 of this guide.
3. Amendments are effective only after CBSC determined acceptable for filing as meeting all requirements.
4. Amendments are effective upon ratification by city, county, or city and county where the amendment will apply.

Abbreviations Used:

CBSC- California Building Standards Commission
CBSL- California Building Standards Law within the Health and Safety Code
HCD- Department of Housing and Community Development
HSC- Health and Safety Code
SFM- State Fire Marshal

requirements published in the California Building Standards Code relating to fire and panic safety shall be subject to subdivision (b) of Section 18941.5.
(b) Any fire protection district that proposes to adopt an ordinance pursuant to this section shall, not less than 30 days prior to noticing a proposed ordinance for public hearing, provide a copy of that ordinance, together with the adopted findings made pursuant to subdivision (a), to the city, county, or city and county where the ordinance will apply. The city, county, or city and county, may provide the district with written comments, which shall become part of the fire protection district's public hearing record.
(c) The fire protection district shall transmit the adopted ordinance to the city, county, or city and county where the ordinance will apply. The legislative body of the city, county, or city and county, may ratify, modify, or deny an adopted ordinance and transmit its determination to the district within 15 days of the determination. Any modification or denial of an adopted ordinance shall include a written statement describing the reasons for any modifications or denial. No ordinance adopted by the district shall be effective until ratification by the city, county, or city and county where the ordinance will apply. Upon ratification of an adopted ordinance, the city, county, or city and county, shall file a copy of the findings of the district, and any findings of the city, county, or city and county, together with the adopted ordinance expressly marked and identified to which each finding refers, with the Department of Housing and Community Development.
(d) Nothing in this section shall authorize a district to mandate, nor prohibit a district from mandating, the installation of residential fire sprinkler systems within newly constructed dwelling units or in new additions to existing dwelling units, including, but not limited to, manufactured homes as defined in Section 18007.
(e) Nothing in this section shall authorize a district to mandate, nor prohibit a district from mandating, the retrofitting of existing dwelling units for the installation of residential fire sprinkler systems, including, but not limited to, manufactured homes as defined in Section 18007.
(f) Nothing in this section shall apply in any manner to litigation filed prior to January 1, 1991, regarding an ordinance or regulation which mandates the installation of residential fire sprinkler systems within newly constructed dwelling units or in new additions to existing dwelling units.
(g) This section shall not apply to fire and panic safety requirements for the public schools adopted by the State Fire Marshal pursuant to Section 13143.
(h) (1) A city, county, or city and county that ratifies an ordinance relating to fire and panic safety pursuant to this section shall delegate the enforcement of the ordinance to either of the following:
(A) The chief of the fire protection district that adopted the ordinance, or his or her authorized representative.
(B) The chief building official of the city, county, or city and county, or his or her authorized representative.
(2) Any fee charged pursuant to the enforcement authority of this subdivision shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, pursuant to Section 66014 of the Government Code.

Health and Safety Code Section 17950. *The provisions of this part, the building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part which relate to apartment houses, hotels, motels, and dwellings, and buildings and structures accessory thereto, apply in all parts of the state.*

Health and Safety Code Section 17958. *Except as provided in Sections 17958.8 and 17958.9, any city or county may make changes in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7. If any city or county does not amend, add, or repeal ordinances or regulations to impose those requirements or make changes or modifications in those requirements upon express findings, the provisions published in the California Building Standards Code or the other regulations promulgated pursuant to Section 17922 shall be applicable to it and shall become effective 180 days after publication by the California Building Standards Commission. Amendments, additions, and deletions to the California Building Standards Code adopted by a city or county pursuant to Section 17958.7, together with*

Health and Safety Code Section 17962. *The chief of any city or any county fire department or district providing fire protection services, and their authorized representatives, shall enforce in their respective areas all those provisions of this part, the building standards published in the State Building Standards Code relating to fire and panic safety, and those rules and regulations promulgated pursuant to the provisions of this part pertaining to fire prevention, fire protection, the control of the spread of fire, and safety from fire or panic.*

Health and Safety Code Section 18938. *(a) Building standards shall be filed with the Secretary of State and codified only after they have been approved by the commission and shall not be published in any other title of the California Code of Regulations. Emergency building standards shall be filed with the Secretary of State and shall take effect only after they have been approved by the commission as required by Section 18937. The filing of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the commission.*
(b) The building standards contained in the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc., the Uniform Building Code of the International Conference of Building Officials, Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the National Electrical Code of the National Fire Protection Association, and the Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as referenced in the California Building Standards Code, shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Building Standards Code by the California Building Standards Commission or at a later date after publication established by the commission.
(c) Except as otherwise provided in this subdivision, an adoption, amendment, or repeal of a building standard shall become effective 180 days after its publication in the triennial edition of the California Building Standards Code or one of its supplements, or at any later date as approved by the California Building Standards Commission, with the exceptions of standards adopted pursuant to Section 25402 of the Public Resources Code and those regulations that implement or enforce building standards. Regulations that implement or enforce building standards shall become effective 30 days after filing by the commission with the Secretary of State. This subdivision shall not apply to emergency building standards. An amendment or a repeal of a building standard in the California Building Standards Code that, as determined by the commission, would result in a less restrictive regulation, shall become effective 30 days after filing of the amendment or repeal by the commission with the Secretary of State.
(d) Emergency standards defined in subdivision (a) of Section 18913 shall become effective when approved by the commission, and filed with the Secretary of State, or upon any later date specified therein, and remain in effect as provided by Section 11346.1 of the Government Code and Section 18937 of this code. Emergency standards shall be distributed as soon as practicable after publication to all interested and affected parties. Notice of repeal, pursuant to Section 11346.1 of the Government Code, of emergency standards defined in subdivision (a) of Section 18913 within the period specified by that section, shall also be given to the parties by the affected agencies promptly after the termination of the statutory period pursuant to Section 11346.1 of the Government Code.
(e) This section shall not be applicable to the time limits set forth in Sections 17922 and 17958 for approval of uniform codes and for changes by local agencies in the California Building Standards Code.

Health and Safety Code Section 18941.5. *(a) (1) Amendments, additions, and deletions to the California Building Standards Code, including, but not limited to, green building standards, adopted by a city, county, or city and county pursuant to Section 18941.5 or pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the commission, or at a later date after publication established by the commission.*
(2) The publication date established by the commission shall be no earlier than the date the California Building Standards Code is available for purchase by the public.

Appendix 3. Referenced State Regulations and Building Standards

California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Section 52. *The procedures for abatement, prescribed by this article, or other procedures as determined by the enforcement agency to be equivalent for the purpose intended, may be used.*

California Code of Regulations, Title 24, Part 1, Chapter 10, Section 10-106. *(a) Requirements. Local governmental agencies may adopt and enforce energy standards for newly constructed buildings, additions, alterations, and repairs to existing buildings provided the Energy Commission finds that the standards will require buildings to be designed to consume no more energy than permitted by Title 24, Part 6.*

(b) Documentation Application. Local governmental agencies wishing to enforce locally adopted energy standards shall submit an application with the following materials to the Executive Director:

1. *The proposed energy standards.*
2. *The local governmental agency's findings and supporting analyses on the energy savings and cost effectiveness of the proposed energy standards.*
3. *A statement or finding by the local governmental agency that the local energy standards will require buildings to be designed to consume no more energy than permitted by Part 6. A statement or finding by the local governmental agency that the local energy standards will require buildings to be designed to consume no more energy than permitted by Part 6.*
4. *Any findings, determinations, declarations or reports, including any negative declaration or environmental impact report, required pursuant to the California Environmental Quality Act, Pub. Resources Code Section 21000 et seq.*

California Code of Regulations, Title 24, Part 2, (California Building Code) Section 1.1.3. Scope. *The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout the State of California.*

1.1.3.1 Nonstate-regulated buildings, structures and applications. *Except as modified by local ordinance pursuant to Section 1.1.8, the following standards in the California Code of Regulations, Title 24, Parts 2, 2.5, 3, 4, 5, 6, 9, 10 and 11 shall apply to all occupancies and applications not regulated by a state agency.*

Note: Subsection 1.1.3.2 regarding state-regulated buildings is not shown.

California Code of Regulations, Title 24, Part 2, (California Building Code) Section 1.1.8. City, county, or city and county amendments, additions or deletions. *The provisions of this code do not limit the authority of city, county, or city and county governments to establish more restrictive and reasonably necessary differences to the provisions contained in this code pursuant to complying with Section 1.1.8.1. The effective date of amendments,*
additions or deletions to this code by a city, county, or city and county filed pursuant to Section 1.1.8.1 shall be the
date filed. However, in no case shall the amendments, additions or deletions to this code be effective any sooner than the effective date of this code. Local modifications shall comply with Health and Safety Code Section 18941.5 for Building Standards Law, Health and Safety Code Section 17958 for State Housing Law or Health and Safety Code Section 13869.7 for Fire Protection Districts.

1.1.8.1 Findings and filings.

1. The city, county, or city and county shall make express findings for each amendment, addition or deletion based upon climatic, topographical or geological conditions.

Appendix 4. CBSC Educational Publications

The California Building Standards Commission has developed a variety of educational materials and publications that are available on the CBSC website http://www.bsc.ca.gov/. The materials may be accessed at no cost and read online or printed for your use and distribution. Look on our website home page and under the *Education* or *Publications* tabs (except as noted below) for the following materials.

- How to Use our Website
- Glossary of Terms
- Frequently Asked Questions
- Codes Online, Title 24 (find under the CBSC *Home* page)
- Guide to Title 24 (2013 & 2010 editions)
- Guide to the (Non-Residential) 2010 California Green Building Standards Code
- Guide to the (Non-Residential) 2013 California Green Building Standards Code
- Guide to California Green Building Standards Code, Non-Residential (Commissioning)
- It's Your Building Department (For Local Jurisdictions)
- Accessing State Regulations Online
- Accessing State Laws Online
- Accessing State Legislation Online
- Guide for Creating Proposed Building Standards (For State Agencies)
- Building Standards Information Bulletins
- CALCode Quarterly, an e-publication online newsletter
- Zero-Emission Vehicles in California: Community Readiness Guidebook (Published by the Governor's Office of Planning and Research)
- Local Filings of Code Amendment –Webinar via YouTube and a Webinar slide presentation (pdf)