

**INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS**

**OF THE
DIVISION OF THE STATE ARCHITECT**

**REGARDING THE CALIFORNIA ADMINISTRATIVE CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1, CHAPTER 4**

**GROUP 2
SAFETY OF CONSTRUCTION OF PUBLIC SCHOOLS:
Fire & Life Safety (FLS)**

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS:

(Government Code Section 11346.2(b)(1) requires a statement of specific purpose of each adoption, amendment, or repeal and the problem the agency intends to address and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem the agency intends to address for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.)

Specific Purpose - The Department of General Services, Division of the State Architect (DSA) proposes to the California Building Standards Commission (CBSC) to amend California Building Standards Administrative Code, Title 24, Part 1 and adopt new sections 4-401 through 4-435 as Group 2 of Chapter 4. These provisions will ensure that elementary, secondary or community college buildings and facilities constructed or altered pursuant to these regulations are in compliance with the California Code of Regulations, Title 24 related to the design aspects of the Fire and Life Safety elements, components and systems. These regulations will define the administration of the program, the associated rules, the roles and responsibilities of involved parties and establish a filing fee for applications filed with the DSA for review of proposed construction project plans and specifications.

Problem - The DSA is responsible for the plan review and construction oversight of public school, community college and state owned facilities within California. This includes the building code provisions for fire and life safety, which were transferred to DSA from the State Fire Marshall's jurisdiction in 1992. At the time of the transfer no additional resources or fees were provided; the costs of the Fire and Life Safety compliance were absorbed by DSA's Structural Safety program.

During the intervening 22 years both structural codes and fire and life safety codes have become much more complex, with significant increases in both the complexity of the technical requirements and the scope of their application. Some examples of this include:

- More complex seismic design procedures based on the characteristics of individual building sites;
- Automatic fire sprinkler system requirements for most new and renovated buildings;
- Two way voice communications systems in response to recent security events and natural disasters;
- Access, exiting and security concerns for the disabled.

The updated code requirements have in turn increased the time required to review and approve projects under DSA's jurisdiction for public schools, community colleges and state owned facilities.

Over the years the redirection of Structural Safety Program fees to support the mandated fire and life safety activities has contributed to a decline in the Structural Safety Fund balance. The need to

absorb the cost of the Fire and Life Safety Program within the Structural Safety Program's fee structure has reduced the resources available to DSA for more effective structural review and construction oversight as noted in a recent Bureau of State Audits report. Additionally, with only the Structural Safety fee schedule being available, projects consisting of only fire and life safety work have been paying a much higher fee than would have been assessed under the proposed separate Fire and Life Safety Program fee schedule.

The bottom line is simply that the Fire and Life Safety Program costs that were initially covered by the Structural Safety Program can no longer be absorbed.

Rationale and Benefits - With the maximum Structural Safety Program fees set by statute, the most feasible option to reverse the negative financial trend is to establish Fire and Life Safety as a separate program, with fees set at a level to cover the program's operational costs.

1. Establishing Fire and Life Safety as a separate DSA program provides a number of benefits, including:
 - Restoration to the Structural Safety Program of fees previously used for fire and life safety activities, enabling program improvements to ensure the safety of school construction in response to the Bureau of State Audit findings;
 - Projects with only fire and life safety work will be charged a lower fee more appropriate to the plan review and construction oversight effort they require.
 - Maintenance of Structural Safety Program fees within their statutory limits;
 - Reduction of both Structural Safety Program operating deficits and the Structural Safety Fund balance rate of draw-down.
 - Transparency and accountability for the scope and cost of the Fire and Life Safety Program;
 - Compliance with the statutory mandate that fees charged by a program cover the cost of its operation

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

(Government Code Section 11346.2(b)(3) requires an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the regulation(s).

The following reviews and analyses were performed during the development of the proposed regulations:

1. A review of statutes and codes that govern fire and life safety oversight of design and construction for projects under DSA jurisdiction. The statutes and codes reviewed were:
 - California Government Code
 - California Education Code
 - California Health and Safety Code
 - Title 24 California Code of Regulations Parts 1,2 and 9
 - Title 19 California Code of Regulations
2. Fiscal information and analyses to include:
 - Actual and estimated project costs from FY 2010-11 through 2012-13;
 - Workload analysis for fire and life safety plan reviews;
 - Actual income and expenses from FY 2010-11 through 2012-13, without fee changes; and,

- Actual and potential income and expenses from FY 2010-11 through 2012-13, assuming the proposed fee change for fire and life safety reviews had occurred.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS:

The proposed amendments do not contain any mandates for specific technologies or equipment or for prescriptive standards.

CONSIDERATION OF REASONABLE ALTERNATIVES

(Government Code Section 11346.2(b)(5)(A) requires a description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific action or procedures, the imposition of performance standards shall be considered as an alternate. It is not the intent of this paragraph to require the agency to artificially construct alternatives or describe unreasonable alternatives.)

The following alternatives were identified and rejected by DSA for the reasons listed below each alternative:

1. Maintain fire and life safety program administration under existing provisions.
 - The redirection of Structural Safety Program review fees to FLS activities will continue to impact DSA resources for structural safety plan review and construction oversight.
 - Structural Safety Program operating deficits will continue.
 - Structural Safety Fund balance will continue to decline.
 - Fire and Life Safety Program accountability and transparency will be obscured.

2. Increase structural program fees.
 - Maximum Structural Safety Program fees are set by statute. Legislative action would be necessary to increase overall structural fees in order to recover full cost of Fire and Life Safety Program;
 - Structural Safety Program operating deficits will continue during the legislative and regulatory process
 - Structural Safety Fund balance will continue to decline during the legislative and regulatory process
 - Fire and Life Safety Program accountability and transparency will be obscured.

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

(Government Code Section 11346.2(b)(5)(B) requires a description of any reasonable alternatives that have been identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business.)

The adoption of this regulation will not have a significant statewide adverse economic impact on small businesses.

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

(Government Code Section 11346.2(b)(6)(A) requires the facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business)

DSA has identified no facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business in proposing this action.

ESTIMATED COST OF COMPLIANCE, ESTIMATED POTENTIAL BENEFITS, AND RELATED ASSUMPTIONS USED FOR BUILDING STANDARDS

(Government Code Section 11346.2(b)(6)(B) states if a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.)

The cost of compliance for DSA clients (California public school and community college districts) will be approximately \$7,200,000 per fiscal year, which equates to the amount of the fire and life safety filing fees based on a projected workload consistent with that of FY 2012-13. The costs will be spread across approximately 2,400 projects with a construction valuation of 4.43 billion dollars, representing an aggregate increase of 0.16%.

The implementation of the separate Fire and Life Safety fee schedule will provide revenue to recover the cost fire and life safety review and oversight operations. This in turn will reduce the projected deficit in the DSA's Structural Safety Fund and allow for a greater amount of Structural Safety Program fees to be used for structural safety oversight. The implementation of the separate Fire and Life Safety Program fee will provide for resources to ensure compliance with both the structural and fire life safety requirements for future construction of California schools, community colleges and state owned buildings. Projects with only fire and life safety work will be charged a much lower fee more appropriate to the plan review and construction oversight effort they require.

Other potential long term benefits from the increased oversight will be reduced levels of property damage and loss of life during earthquakes, fires or other disasters, the value of which could equal or exceed the long term cost of the program.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

These proposed administrative regulations do not duplicate or conflict with federal regulations.