

**FINDING OF EMERGENCY
FOR PROPOSED EMERGENCY BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING THE CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1, CHAPTER 6 & 7**

The adoption of these regulations or order of repeal is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as follows:

These regulations are being submitted pursuant to the mandate of Health and Safety Code Section 130022 which provides that all regulatory submittal to the California Building Standards Commission by the Office of Statewide Health Planning and Development (OSHPD) pursuant to Health and Safety Code Sections 130022(b), enacted by SB 499 (Chapter 601, Statutes of 2009), will be deemed emergency regulations and adopted accordingly. These regulations will update requirements related to Hazards U.S. (HAZUS) methodology to reclassify buildings with assigned Structural Performance Category-1 (SPC-1) to Structural Performance Category-2 (SPC-2) based on a collapse probability assessment, consistent with seismic safety requirements of SB 1953 (Chapter 740, Statutes of 1994). In addition, changes had been made to the Nonstructural Performance Category deadlines to align them with the Structural Performance Category deadlines pursuant to SB 2006 (Chapter 851, Statutes of 2000), SB 1661 (Chapter 679, Statutes of 2006), SB 306 (Chapter 642, Statute of 2007), and SB 499 (Chapter 601, Statutes of 2009).

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 130022 (b). The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Section 130022. The Office of Statewide Health Planning and Development is proposing this regulatory action based on Health and Safety Code Section 130022.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 129835 authorizes the Office upon written request from the governing board or authority to make, or cause to be made, an examination and report on the condition of any hospital building. The Office will charge the hospital for actual expenses incurred.

Health and Safety Code Section 129850 authorizes the Office to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. The Office is also authorized to submit to the California Building Standards Commission for approval and adoption of building standards related to the seismic safety of hospital buildings.

Health and Safety Code Sections 129675 through 130070 authorize the Office to provide plan review and construction observation for hospitals, skilled nursing facilities, and intermediate care facilities in order to assure that these health facilities are compliant with the California Building Standards Code. Specifically, Section 129850 authorizes the Office to develop regulations to effectively carry out the mandate of the Alfred E. Alquist Hospital Seismic Safety Act.

Health and Safety Code Sections 130000 through 130070 establish responsibilities for the Office and for hospital owners regarding the seismic safety and retrofit of general acute care hospitals.

Health and Safety Code Section 130005(a) (3) authorizes the Office to develop definitions of earthquake performance categories for earthquake ground motion for existing hospitals that are potentially at significant risk of collapse and that represent a danger to the public as it deems necessary to meet the intent of Health and Safety Code, Sections 130000 through 130025 regarding seismic safety in hospitals.

Health and Safety Code Section 130022 provides that all regulatory proposals submitted by the Office to the California Building Standards Commission pursuant to the provisions of Health and Safety Code Section 130022 shall be deemed emergency regulations. This provision will remain in effect until January 1, 2013.

Health and Safety Code Section 18929 mandates that building standards or administrative regulations that directly apply to the implementation or enforcement of building standards must be submitted by the adopting agency to the California Building Standards Commission for the Commission's approval and must be adopted pursuant to Section 18930 and the Government Code (commencing with Section 11346).

Government Code 11152.5 authorizes a state department to adopt regulations pursuant to the Government Code. Regulations which are building standards must be adopted pursuant to State Building Standards Law of the Health and Safety Code (commencing with 18901).

Government Code 11346.1(c) requires that building standards that are emergency regulations must be approved by the California Building Standards Commission.

Summary of Existing Regulations

Pursuant to SB 1953 (Chapter 740, Statutes of 1994), all general acute care hospitals in service prior to January 1, 2000, were required to evaluate each hospital building to determine the structural and nonstructural performance categories based on their expected seismic performance. Hospital buildings were evaluated to specific Structural Performance Categories (SPC) and these categories are described in Table 2.5.3 of Title 24, Part 1, Chapter 6. Hospital buildings rated SPC-1 were constructed pre-1973, prior to the Alfred E. Alquist Hospital Facilities Seismic Safety Act, and are at risk of collapse in an earthquake. These hospital buildings must be retrofitted, replaced, or removed from acute care service by January 1, 2008 unless an extension has been granted to 2013, 2015, or 2020. The SPC-2 hospital buildings were also constructed pre-1973, and may not be operational or repairable following an earthquake but do not significantly pose a risk to life. These buildings must be retrofitted or replaced by January 1, 2030. The SPC-3 and SPC-4 buildings were built to the HSSA requirements, but because of certain features, may not be operational or repairable after an earthquake. Hospital buildings rated as SPC-3, SPC-4, or highest rated SPC-5 can be used through January 1, 2030 and beyond.

Title 24, Part 2, Volume 2 provides structural requirements for hospital buildings. The basic regulations for the SB 1953 were implemented in the mid-1990's. The structural regulations were based on the 1995 California Building Code (CBC), which was the 1994 Uniform Building Code with California amendments. The requirements were essentially identical for retrofit, renovations, and new construction. The adoption of the 2007/2010 CBC, which are based on the 2006/2009 International Building Code, changed the structural design requirements extensively and reduced the design forces for most areas away from active seismic faults. This change is consistent with the methodology proposed in this rulemaking.

Summary of Effect

The proposed regulations will update requirements for HAZUS methodology to reclassify SPC-1 buildings to SPC-2 based on collapse probability assessment. Collapse probability assessment will be based on Multi-Hazard Loss Estimation Methodology, Earthquake Module (HAZUS-MH MR-2) developed by the Federal Emergency Management Agency / National Institute of Building Sciences. Building specific performance parameters in the AEBM of the HAZUS software, as modified by OSHPD, will be used for the collapse probability assessment. This is an optional method for hospital buildings to assess the seismic risk for hospital buildings slated to be removed from service or retrofitted by 2013. The proposed regulations will provide equivalent level of seismic safety as the buildings rated SPC-2 based on prescriptive SB 1953 evaluations. This will ensure uniformity in seismic performance of hospital buildings and provide significant economic benefit to the impacted hospitals.

The proposed regulations will also revise Nonstructural Performance Categories (NPC) deadlines for consistency with statutory mandate for the SPC compliance deadlines established pursuant to SB 2006 (Chapter 851, Statutes of 2000), SB 1661 (Chapter 679, Statutes of 2006), SB 306 (Chapter 642, Statute of 2007), and SB 499 (Chapter 601, Statutes of 2009).

Comparable Federal Statute or Regulations

There are no federal statutes or regulations that are comparable to these proposed regulations.

Policy Statement Overview

The policy objective of these regulations is to reevaluate the SPC-1 hospital buildings with the goal of reprioritizing these buildings based on seismic risk. The NPC deadline changes will align them with SPC requirements.

MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no matters to be identified. These proposed regulations are in compliance with the mandated requirements of SB 499 (Chapter 601, Statutes of 2009).

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Office of Statewide Health Planning and Development has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

FISCAL IMPACT STATEMENT (attached Form 399)

- A. Cost or savings to any state agency: **Yes. The proposed regulations would result in a savings to University of California hospitals.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **Yes. The proposed regulations would result in a savings to county and district hospitals.**
- E. Cost or savings in federal funding to the state: **Yes. Unknown savings to Medicaid (Medi-Cal) program.**

Estimate: The proposed regulations would result in a significant savings and deferred expenditures for general acute care hospitals subject to SB 1953 (Chapter 740, Statute of 1994) seismic requirements. Savings to individual hospitals will depend on many factors including:

- 1. Current condition of the building,
- 2. Building type,
- 3. Seismic design level,
- 4. Structural deficiencies,
- 5. Quality of construction, and
- 6. Site seismicity and soil type.

Additionally, hospitals that request the HAZUS assessment for an SPC-1 building will be charged the actual cost incurred by OSHPD for performing the assessment. This would be a minor indeterminable cost to the hospital.