

**FINDING OF EMERGENCY  
OF THE  
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT**

**REGARDING THE PROPOSED CHANGES TO THE  
CALIFORNIA BUILDING STANDARDS ADMININSTATIVE CODE  
AND  
CALIFORNIA BUILDING CODE  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PARTS 1 & 2**

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:

The Office of Statewide Health Planning and Development (OSHPD) is proposing regulations to adopt a new consensus national standard, the American Society of Civil Engineers' (ASCE) ASCE 41-06, *Seismic Rehabilitation of Existing Buildings* for the seismic rehabilitation of existing buildings and repeal of Federal Emergency Management Agency's (FEMA) FEMA 356, *Prestandard and Commentary for the Seismic Rehabilitation of Buildings*, and make other related modifications. Adoption of the ASCE 41-06 reference standards will facilitate compliance with SB 1953 seismic safety and retrofit requirements for general acute hospital building construction.

OSHPD is also proposing the adoption of ASCE 41-06 reference standards for single-story skilled nursing facilities to preserve the health and safety of patients residing in these facilities. If ASCE 41-06 is adopted on an emergency basis for general acute care hospitals but not for skilled nursing facilities it will cause confusion for designers because they would have to use different reference standards for the rehabilitation or retrofit of these types of facilities. This would increase the potential for errors in design, plan review and construction and noncompliance of code for the rehabilitation or retrofit of skilled nursing facilities. Unsafe buildings could result in poor seismic performance endangering the health and safety of patients and staff.

**AUTHORITY AND REFERENCE**

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 130021 and Government Code Section 11346.1. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Section 130005. The Office of Statewide Health Planning and Development is proposing this regulatory action based on Health and Safety Code Sections 129850, 130005 (g) and 130021 and Government Code Section 11346.1.

**INFORMATIVE DIGEST**

**Summary of Existing Laws**

Health and Safety Code, Section 1275 authorizes the Office to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code, Section 129790 authorizes the Office to propose building standards for correctional treatment centers in cooperation with the Department of Corrections, Board of Corrections and Department of Youth Authority.

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 authorizes 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 establishes 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 (g) authorizes the Office to develop regulations as they apply to the administration of seismic standards for retrofit designs, construction, and field reviews 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 130021 requires that all regulatory proposals submitted by the Office to the California Building Standards Commission pursuant to the provisions of Health and Safety Code Sections 130000 through 130070 shall be deemed emergency regulations. This provision will remain in effect until January 1, 2008.

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

Government Code, Section 11346.1 (b) (2) requires that any finding of emergency shall include a written statement that contains specific information describing the existence of the emergency and need for immediate action. Subsection (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 are required to progressively improve their expected nonstructural performance category (NPC) and by January 1, 2002, must have achieved an NPC-2. By January 1, 2008, or 2013, if an extension has been granted, hospital buildings must be at an NPC-3 / NPC-3R rating and by January 1, 2030, all hospital buildings must be at NPC-5. Title 24, Part 1, Chapter 6, Article 11, Table 11.1 describes the NPCs and sets forth requirements for achieving those categories.

In addition, hospital buildings were evaluated to specific structural performance categories (SPC) and these categories are also described in Title 24, Part 1, Chapter 6. Hospital buildings rated SPC-1 are at risk of collapse in an earthquake and must be retrofitted, replaced or removed from acute care service by January 1, 2008, or 2013, if an extension has been granted. The SPC-2 buildings were those constructed pre-1973, prior to the Alfred E. Alquist Hospital Facilities Seismic Safety Act (HFSSA), and may not be operational or repairable following an earthquake. These buildings must be retrofitted or replaced by January 1, 2030. The SPC-3 and SPC-4 buildings were built to the HFSSA requirements, but because of certain features, may not be operational or repairable after an earthquake. The highest rated SPC-5 hospital buildings can be used through January 1, 2030, and beyond.

Title 24, Part 2, 2007 California Building Code, Volume 2 provides seismic rehabilitation procedures based on Federal Emergency Management Agency's (FEMA) FEMA 356, *Prestandard and Commentary for the Seismic Rehabilitation of Buildings*, which was published in 2000. The American Society of Civil Engineers' (ASCE) ASCE 41-06 standard is an American National Standard Institute (ANSI) approved consensus national standard for seismic rehabilitation of existing buildings based on FEMA 356 and incorporates research data from the last several years. FEMA 356 is currently out of print and is not readily available as hard copy.

#### Summary of Effect

The proposed regulations will adopt a new ANSI approved national consensus standard for seismic rehabilitation of existing buildings. This will provide uniformity in design for seismic rehabilitation of existing hospital buildings and skilled nursing facilities. This will also simplify construction and the remodel project design / approval process.

ASCE Standard 41-06, *Seismic Rehabilitation of Existing Buildings*, is the latest generation of performance-based seismic rehabilitation methodology. This new national consensus standard was developed from the

FEMA 356, *Prestandard and Commentary for the Seismic Rehabilitation of Buildings*, which served as a starting point for the formal standard development process. ASCE Standard 41-06 represents state-of-the-art knowledge in earthquake engineering and is a valuable tool for the structural engineering profession to improve building performance in future earthquakes. It includes significant improvements in current understanding of building behavior in earthquakes, such as:

- Improved C-coefficients (these coefficients convert ground seismic spectral accelerations to base shear coefficient) for calculation of the pseudo-lateral force and target displacement based on recommendations in FEMA 440, *Improvement of Nonlinear Static Seismic Analysis Procedures*.
- Comprehensive soil-structure interaction provisions including kinematic effects and foundation damping effects.
- Revised acceptance criteria for steel moment frames to reflect final conclusions of the SAC Joint Venture research, which is a partnership of Structural Engineers Association of California (SEAOC), Applied Technology Council (ATC) and California Universities for Research in Earthquake Engineering (CUREe).
- Expanded acceptance criteria for concentrically braced frames defined as a function of brace slenderness, compactness and level of connection detailing.
- Updated nonstructural provisions in the ASCE 41 to be consistent with current National Earthquake Hazards Reduction Program (NEHRP) provisions for new buildings in 2007 CBC.

#### **Comparable Federal Statute or Regulations**

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

#### **Policy Statement Overview**

Title 24, Part 1, Chapter 6 contains OSHPD's administrative regulations for the implementation of SB 1953 (Chapter 740, Statutes of 1994) seismic safety and retrofit requirements for general acute hospitals. These requirements contain seismic evaluation procedures including the definitions for structural and nonstructural seismic performance categories and the deadlines by which hospital buildings must achieve specific levels of seismic performance.

Title 24, Part 1, Chapter 7 provides administrative regulations regarding the submittal of hospital construction projects to OSHPD for plan review and field observation.

Title 24, Part 2, Volume 2, contains structural requirements and nonstructural (anchorage and bracing of equipment, piping etc.) requirements for hospital building construction.

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

There are no matters to be identified.

#### **MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

OSHPD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

#### **FISCAL IMPACT STATEMENT**

- Cost or Savings to any state agency: **None**.
- Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**.
- Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**.
- Other nondiscretionary cost or savings imposed on local agencies: **None**.
- Cost or savings in federal funding to the state: **None**.

#### **EFFECTIVE DATE OF REGULATIONS**

These regulations will amend the 2007 California Building Code which will become effective January 1, 2008. In order to coordinate with the new code these proposed regulations shall also be effective on January 1, 2008.