

**FINAL STATEMENT OF REASONS  
FOR PROPOSED BUILDING STANDARDS OF THE  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
REGARDING THE 2019 CALIFORNIA EXISTING BUILDING CODE  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 10  
(HCD 05/18)**

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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:

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**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 the 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.

No data or any technical, theoretical or empirical study, report, or similar document on which the Department of Housing and Community Development (HCD) is relying has been added to the rulemaking file that was not identified in the Initial Statement of Reasons.

HCD has made no changes to the Express Terms as originally proposed.

**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 Department of Housing and Community Development has determined that the proposed regulatory action would 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) requires a summary of EACH objection or recommendation regarding the specific adoption, amendment, or repeal proposed, and an explanation of how the proposed action was changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action, or reasons for making no change. Irrelevant or repetitive comments may be aggregated and summarized as a group.

The text with proposed changes was made available to the public for a 45-day public comment period from **September 14, 2018**, until **October 29, 2018**. There was no subsequent public comment period.

There were no public comments received during the 45-day public comment period. No public comment(s) were received after the close of the public comment period.

HCD evaluated the 45-day Express Terms during the comment period and has formally submitted a comment letter to the Building Standards Commission indicating areas of possible revision during a subsequent public comment period.

The following is HCD's summary of, and responses to comments, specifically directed at HCD's proposals for the 2019 California Existing Building Code (CEBC).

## **COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD ARE LISTED BELOW.**

- 1. COMMENTER:** Emily Withers, Codes and Standards Administrator II  
Division of Codes and Standards  
Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 200  
Sacramento, CA 95833

### **COMMENT EM-1:**

**Section 1.8.4.1 Permits:** Senate Bill 1226 (Chapter 1010, Statutes of 2018) added new Health and Safety Code (HSC) Section 17958.12 to the State Housing Law. This section provides recognition of the existing discretion of enforcing agencies to apply building standards in effect at the time of a building's construction and to grant case-by-case approvals for use of alternate methods of construction or use of materials. Section 17958.12(b) also requires HCD to propose the adoption of a building standard to the California Building Standards Position (CBSC) to authorize enforcing agencies to determine the date of construction of existing residential units without existing building permits and to issue retroactive building permits.

## **HCD RESPONSE:**

Section 1.8.4.1 requires written construction permits prior to erection, construction, reconstruction, installation, moving or alteration of any building or structure. SB 1226's provisions for retroactive permits for existing residential buildings would introduce conflict between statute and Section 1.8.4.1. It was HCD's intent to introduce an exception to this section to provide for the use of retroactive permits as determined by the local enforcing agency. However, the CBSC has determined that the inclusion of this exception is not sufficiently related to HCD's initial proposal and did not allow HCD to proceed with another 15-day or 45-day public comment period on this issue. In addition, the CBSC determined that the enactment of SB 1226 occurred too late in the code adoption cycle to ensure sufficient pre-cycle participation, Code Advisory Committee review and recommendation, and CBSC processing for inclusion in the 2019 CBC. HCD plans to revisit the inclusion of SB 1226 provisions in the next code adoption cycle.

**2. COMMENTER:** Emily Withers, Codes and Standards Administrator II  
Division of Codes and Standards  
Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 200  
Sacramento, CA 95833

## **COMMENT EM-2:**

**Section 109 Inspections:** Senate Bill 721 (Chapter 445, Statutes of 2018) adds statutory text to the Health and Safety Code requiring post-construction inspections of exterior elevated elements, as defined, for multifamily dwelling units. This bill was signed by the Governor on September 17, 2018, and will be operative on January 1, 2019, which is prior to the effective date of the 2019 CEBC. Therefore, it is HCD's intent to provide reference to the mandated inspection requirements in this bill in the 2019 CEBC.

## **HCD RESPONSE:**

The CBSC has determined that the inclusion of a new reference to the mandated post-construction inspections in the Health and Safety Code is not sufficiently related to HCD's initial proposal and did not allow HCD to proceed with another 15-day or 45-day public comment period on this issue. In addition, the CBSC determined that the enactment of SB 721 occurred too late in the code adoption cycle to ensure sufficient pre-cycle participation, Code Advisory Committee review and recommendation, and CBSC processing for inclusion in the 2019 CBC. HCD plans to revisit the inclusion of SB 721 provisions in the next code adoption cycle.

## **DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS**

Government Code Section 11346.9(a)(4) requires a determination with supporting information 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 regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

HSC Section 18928.1 requires building standards adopted or approved by the CBSC to incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions. In addition, HSC Section 18928 directs each state agency adopting or proposing adoption of a model code, national standard, or specification to reference the most recent edition of applicable model codes, national standards, or specifications. The 2019 CEBC implements this requirement by proposing to adopt by reference the selected contents of the 2018 International Existing Building Code (i.e., model code). No other alternatives have been considered since there is a recent model code available for adoption, including any necessary existing and new California amendments. In addition, adoption of the most recent building standards on a statewide basis, as required by statute, results in uniformity and promotes affordable costs.

## **REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:**

Government Code Section 11346.9(a)(5) requires an explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses, including the benefits of the proposed regulation per Section 11346.5(a)(3).

There were no alternatives available to HCD. HCD is required by statute to adopt this model code by reference. Providing the most recent methods and applying those building standards on a statewide basis, as required by statute, results in uniformity and promotes affordable costs.