

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT
REGARDING THE 2019 CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2**

(HCD 01/19)

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 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.

1) The Public Problem, Administrative Requirement, or Other Circumstance Addressed.

Public Problem:

Proposed amendments to the Appendix O to allow a smaller interior floor space for structures used for purposes of emergency housing. These amendments are in response to California's critical need for emergency housing and availability of suitable structures that may be prohibited due to the code's current interior space requirement.

Administrative Requirement: Health and Safety Code (HSC) section 17921 directs the California Department of Housing and Community Development (HCD) to propose adoption, amendment or repeal of building standards for the protection of public health, safety and general welfare.

2) Specific Purpose

HCD has determined the amendment of the 2019 California Code of Regulations (CCR), title 24, California Building Code (CBC), part 2, is needed pursuant to the requirements of HSC section 17921.

The specific purpose of these regulations is to amend the 2019 CCR, title 24, CBC, part 2 for the following programs:

a) State Housing Law: relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC section 17921.

b) Employee Housing: relative to any building or structure, or outdoors on premises or property in accordance with HSC section 17040.

- c) **Mobilehome Parks and Special Occupancy Parks:** relative to the use of building systems in or on any permanent buildings, accessory buildings, and structures under the ownership and control of the park operator within the park in accordance with HSC sections 18300 and 18620 for mobilehome parks, and sections 18865 and 18871.3 for special occupancy parks.
- d) **Factory-built Housing:** relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with HSC section 19990.

3) **Rationale for Necessity.**

The 2019 CBC, based on the 2018 edition of the International Building Code (IBC) published by the International Code Council (ICC), was effective as of January 1, 2020. HCD has developed amendments to implement, interpret, and make specific provisions of state and federal law and/or to incorporate provisions that benefit the health, safety and general welfare of the people of California. See Public Problem section for additional information.

Specific Proposed Regulatory Actions:

HCD proposes to amend the 2019 CBC. The rationale for each amendment is listed below.

Item 1 HCD proposes to amend Chapter 1, Division I, Section 1.1, as follows:

CBSC-CAC ACTION: Further study. HCD revised Section 1.1.9 to provide reference to statutory section.

HCD RESPONSE TO CAC: Accept.

Section 1.1.9 Effective date of this code.

Rationale: HCD proposes to amend the above referenced existing California amendment. HCD proposes to amend Section 1.1.9 to add an exception for retroactive permits.

Senate Bill 1226 (SB 1226) (Chapter 1010, Statutes of 2018), operative January 1, 2019, added HSC section 17958.12 to the State Housing Law. This section recognizes existing discretion of enforcing agencies to apply building standards in effect at the time of building construction and to grant case-by-case approvals for use of alternate methods of construction and/or materials.

HSC section 17958.12, subdivision (b), also requires HCD to propose the adoption of a building standard to the California Building Standards Commission (CBSC) to authorize enforcing agencies to determine the date of construction of existing residential units which lack issued building permits and to issue retroactive building permits based on the building standards in effect at the time of the determined original construction. HCD has determined that this proposal has no fiscal impact pursuant to California Code of Regulations, title 1, section 100, "Changes Without Regulatory Effect." The statute has been effective since January 1, 2019, and the statute also recognizes current ongoing local practices related to issuance of retroactive permits addressing non-permitted structures. (Retroactive permits are sometimes referred to as "after-the-fact" or "as-built" permits or permits based on use of alternate materials and methods of construction.) HCD's proposed regulations clarify the use of retroactive permits but does not require a

retroactive permit be issued or additional compliance beyond the existing statute.

In accordance with HSC section 17951, the governing bodies of any county or city may prescribe fees to defray costs of enforcement of the original statute (State Housing Law). Local governing bodies may utilize this authority to offset increased costs for statutory compliance. Potential benefits of these regulations include clarification in the building standards to inform code users of statutory provisions which may be overlooked when addressing unpermitted structures or needed building corrections and to ensure unpermitted buildings will meet minimum building standards and protecting against any present health and safety violations.

The new proposed exception supports Nine-Point Criteria “One” by avoiding potential conflict with existing California amendment section 1.1.9 which states that only standards approved by the CBSC effective at the time an application for building permit is submitted shall apply to the plans and specifications for, and to the construction performed under, that permit. The proposed exception meets Nine-Point Criteria “Two” in that the proposed building standards, as applicable to residential structures, are not within the exclusive jurisdiction of another agency. The proposed exception also meets Nine-Point Criteria “Three” due to its contribution to making unpermitted existing housing available for legal occupancy and addressing the public interest in reducing California’s housing crisis. HCD also proposes to number the existing and new exceptions, add HCD’s banner and make grammatical corrections to hyphenate “factory-built.” The proposed amendment has no fiscal impact pursuant to CCR, title 1, section 100, “Changes Without Regulatory Effect.”

Item 2 HCD proposes to amend Chapter 1, Division I, Section 1.8, as follows:

CBSC-CAC ACTION: Approve as submitted.

HCD RESPONSE TO CAC: Accept.

Section 1.8.4.1 Permits:

Rationale: HCD proposes to amend the above referenced existing California amendment. HCD proposes to amend section 1.8.4.1 to clarify that retroactive permits may be obtained although the building has already been constructed. HCD also proposes to move the existing retroactive permit exemption to make it applicable to all permit exceptions. HCD has determined there is no fiscal impact, see additional background for Section 1.1.9.

CBSC-CAC ACTION: Approve as submitted.

HCD RESPONSE TO CAC: Accept.

Section 1.8.9.1 Authority to enforce:

Rationale: HCD proposes to amend the above referenced existing California amendment. HCD proposes to amend section 1.8.9.1 subsection 1 to provide reference to provisions for delayed correction of violations for existing accessory dwelling units (ADU).

Senate Bill 13 (SB 13) (Chapter 653, Statutes of 2019), operative until January 1, 2035, added HSC section 17980.12 to the State Housing Law requiring enforcement agencies issuing “notices to correct” to also provide notification that the owner of the ADU may request a delay. This section provides that the ADU owner may request a delay of enforcement on the violation for up to five (5) years if correcting the violation or abating

the nuisance is not necessary to protect health and safety.

HCD's proposed amendment provides a reference to a new statutory section addressing "notices to correct" for ADUs, operative until January 1, 2035, related to provisions for delaying corrections. HCD has determined that this proposal has no fiscal impact pursuant to CCR, title 1, section 100, "Changes Without Regulatory Effect." HCD's proposed regulation provides a "pointer" to provisions allowing delay in correction in HSC section 17980.12, but do not require approval of delays in correction or additional compliance beyond the existing statute.

Item 3 HCD proposes to amend Chapter 1, Division II, Section 110, as follows:

CBSC-CAC ACTION: Approve as submitted.

HCD RESPONSE TO CAC: Accept.

Section 110.3.12 Type IV-A, IV-B, and IV-C connection protection inspection:

Rationale: HCD proposes to adopt the above referenced new California amendment. This section adds a new field inspection requirement for mass timber connections. This section recognizes the building official's ability to inspect the protection of connections as part of the normal permit inspection process. This was not proposed as a special inspection since, no special expertise or special tools for inspections outside the capability of building officials were required. This proposal was from the International Code Council's (ICC) Ad Hoc Committee on Tall Wood Buildings.

HCD's proposals are co-adoptions, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the Office of the State Fire Marshal (SFM) and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is published with the duplicative ICC-approved code proposals. This rulemaking package includes sections co-adopted with the SFM for tall wood buildings: section 110.3.12, section 202 (mass timber, wall, loading), section 1705, Table 1705.5.7, sections 1705.11.1, 1705.11.2, 1705.12.2, 1705.12.3, 1705.20, sections 2304.10.1.2, 2304.11.3, 2304.11.4, section 3102.3 and Chapter 35 (ASTM D3498-03(2011).)

Background on Tall Wood Buildings and Mass Timber

The Governor's Executive Order B-52-18 directed HCD, the Commission, Division of the State Architect, Office of Statewide Health Planning and Development and the SFM to review and consider adoption of code change proposals developed by ICC's Ad Hoc Committee on Tall Wood Buildings and consider adoption of these proposals in the subsequent Intervening Code Adoption Cycle. The Committee studied building science for tall wood buildings and proposed revisions for the 2021 edition of the IBC to address building construction and inspections using mass timber, including Cross Laminated Timber (CLT). All of the Committee's proposals have not been approved by ICC as of November 2019. HCD's proposals are co-adoptions, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed solely by the SFM, but are also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals.

Fiscal impact:

HCD's proposed adoption of "tall wood proposals" consist of proposals that have been adopted by the ICC for incorporation into the 2021 International Building Code (IBC) (model code). According to the Building Standards Law the IBC provisions will be adopted into the California Building Standard Code during the 2021 Triennial code adoption cycle, unless modified by the state agencies through the process. As identified by the SFM, the cost analysis is then limited to the 18 months that are affected by early adoption. The SFM's proposed regulations, including those co-adopted by HCD, do not mandate the use of the new mass timber subtypes of Type IV construction. The regulations, if approved, allow these construction types as a design option and provide prescriptive building and inspection requirements when using these materials. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact.

Item 4 HCD proposes to amend Chapter 2, Definitions, as follows:

CBSC-CAC ACTION: Approve as Submitted.

HCD RESPONSE TO CAC: Accept.

Section 202 DEFINITIONS:

ACCESSORY DWELLING UNIT

Rationale: HCD proposes to amend the above referenced section with a new California amendment (definition). This new definition is proposed to clarify the meaning of the term as used in the proposed modification of section 1.8.9.1. The proposed amendment has no fiscal impact pursuant to CCR, title 1, section 100, "Changes Without Regulatory Effect." See section 1.8.9.1 for details.

CBSC-CAC ACTION: Approve as Submitted.

HCD RESPONSE TO CAC: Accept.

MASS TIMBER; AND WALL, LOAD-BEARING.

Rationale: HCD proposes to adopt the above referenced section with a new California amendment (definition). This new definition is intended to clarify the meaning of the term as used in new California fire and life safety and structural amendments, primarily proposed by the SFM, incorporating provisions for use of mass timber and Class IV Heavy Timber construction. The "mass timber" definition incorporates both the heavy timber (Type IV construction) and the three new proposed subtypes (A, B, C) of proposed by the SFM for Chapter 6. The definition of "wall, load-bearing" is proposed for amendment to include mass timber walls (saw, glued-laminated, cross-laminated timbers) which have the ability to support the minimum 200 pounds per linear foot vertical load requirement. These two changes are proposals from the ICC Ad Hoc Committee on Tall Wood Buildings. The proposed California amendments to the definitions in Chapter 2; Accessory Dwelling Unit, Mass Timber and Wall; Load-Bearing, add no local or state mandates or fiscal impact. The proposed definitions are to provide clarity to the terms as used in the code. See Item 3 for additional details.

Item 5 HCD proposes to amend Chapter 4, as follows:

CBSC-CAC ACTION: Approve as Submitted.

HCD RESPONSE TO CAC: Accept.

Section 406.2.1 Automatic garage door openers and vehicular gates.

Rationale: HCD proposes to continue adoption of the above referenced California amendment with modification. These changes provide reference to statutory requirements currently in effect and are being proposed to provide clear reference to the new statutory requirement.

Senate Bill 969 (SB 969) (Chapter 621, Statutes of 2018) required backup batteries for garage door openers as of January 1, 2019. SB 969 amended HSC section 19891 which is already referenced in Section 406.3.6 (2019 CBC), however, SB 969 also added new HSC section 19892 related to the sale and installation of garage door openers and replacement garage doors connected to existing openers without a backup battery. These code amendments are for the purpose of informing the code user of the latest California garage door opener requirements. The provisions of HSC section 19892 may result in some functional garage door openers being replaced with new garage door openers with battery backup when garage doors are replaced. However, if the resident decides to add a battery backup function to an existing garage door opener it may cost from \$20 to \$100; the cost of a new replacement garage door opener with the battery backup is estimated at \$150 to \$350. (Information from the Assembly Committee on Housing and Community Development, for hearing dated June 27, 2018.)

The replacement of new garage door openers with battery backup has been statutorily required since January 1, 2019, and the proposed regulations are enforcing, with particularity, an existing statute and not proposing a new mandate; for these reasons HCD has determined there are no additional costs to be imposed beyond those imposed by both existing state and local laws.

Item 6 HCD proposes to amend Chapter 17, as follows:

CBSC-CAC ACTION: Approve as Submitted.

HCD RESPONSE TO CAC: Accept.

Section 1705.5.7 Mass timber construction; TABLE 1705.5.7 Required Special Inspections of Mass Timber Construction.

Rationale: HCD proposes to adopt the above referenced new California amendments (section and table). This section and table add special inspection requirements to section 1705 for buildings constructed with mass timber. These buildings need a level of inspection similar to large buildings and the proposed inspections are similar to those required for prefabricated systems such as pre-cast concrete and structural steel. These proposals are from the ICC's Ad Hoc Committee on Tall Wood Buildings.

HCD's proposals are co-adoptions, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the SFM and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals.

HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option (voluntary) and provide prescriptive building and inspection requirements when using these materials. The regulations do

not mandate building with mass timber, therefore, there is no mandated fiscal impact. See Item 3 for additional details.

CBSC-CAC ACTION: Approve as Submitted.
HCD RESPONSE TO CAC: Accept.

Sections 1705.11.1 Structural Wood; 1705.11.2 Cold-formed steel light frame construction; 1705.12.2 Structural wood; 1705.12.3 Cold-formed steel light frame construction.

Rationale (Sections 1705.11.1, 1705.11.2, 1705.12.2, 1705.12.3): HCD proposes to continue adoption of the above referenced sections with new California amendments. These changes clarify exceptions from special inspection of wood diaphragms and shear walls in high-seismic and high wind areas. These proposals, although addressing issues with mass timber buildings and lateral load resistance, were submitted by ICC's Building Code Action Committee.

HCD's proposals are co-adoptions, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the SFM and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals. See Item 3 for additional details.

The original ICC code proposals indicate no increase or decrease in cost of construction since the exceptions will still apply to light-framed buildings. The code proposals may also result in reduced costs for tall wood buildings if special approval procedures are no longer needed. HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option (voluntary) and provide prescriptive building and inspection requirements when using these materials. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact. See Item 3 for additional details.

CBSC-CAC ACTION: Approve as Submitted.
HCD RESPONSE TO CAC: Accept.

Sections 1705.11.1, 1705.11.2, 1705.12.2, 1705.12.3.

Rationale: These sections have similar changes and were proposed by ICC's Building Code Action Committee and are not unique to tall wood buildings.

CBSC-CAC ACTION: Approve as Submitted.
HCD RESPONSE TO CAC: Accept.

Section 1705.20 Sealing of mass timber.

Rationale: HCD proposes adoption of the above referenced new California amendment. A new proposed California amendment by the SFM, Section 703.9, requires sealing of adjacent mass timber elements to prevent passage of air in specified locations. The special inspection required in the proposed Section 1705.20 is to ensure the integrity of the seal at abutting edges and intersections of mass timber (or mass timber with other materials) where a fire-resistance rating is required. These proposals are from ICC's Ad Hoc Committee on Tall Wood Buildings.

HCD's proposals are co-adoption, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the SFM and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals.

HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option and provide prescriptive building and inspection requirements when using these materials. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact. See Item 3 for additional details.

Item 7 HCD proposes to amend Chapter 23, as follows:

CBSC-CAC ACTION: Approve as Submitted.
HCD RESPONSE TO CAC: Accept.

Sections 2304.10.1.2, Connection fire resistance rating, 2304.11.3 Floors, and 2304.11.4 Roof decks.

Rationale (Sections 2304.10.1.2, 2304.11.3, 2304.11.4): HCD proposes adoption of the above referenced new California amendments. These changes address needed testing and engineering analysis to determine fire resistance ratings for connections used in new Types IV-A, IV-B, and IV-C construction since they are not part of the mass timber element or assembly testing. Connections must be tested to ensure that they retain initial strength throughout the fire-resistance rating time of the connected wood members. These proposals are from ICC's Ad Hoc Committee on Tall Wood Buildings.

HCD's proposals are co-adoption, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the SFM and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals.

The original ICC code proposal indicates no increase or decrease in cost of construction since proposals related to mass timber are addressing new types of construction and an optional type of construction for a building. HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option (voluntary) and provide prescriptive building and inspection requirements when using these materials. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact. See Item 3 for additional details.

Item 8 HCD proposes to amend Chapter 31, as follows:

CBSC-CAC ACTION: Approve as Submitted.

HCD RESPONSE TO CAC: Accept.

Section 3102.3 Type of construction; and 3102.6.1.1 Membrane.

Rationale (Sections 3102.3 and 3102.6.1.1): HCD proposes to continue adoption of the above referenced sections with new California amendments. These changes clarify application of the existing code provisions for buildings covered by membranes to Construction Type IV heavy timber and not to apply to the mass timber constructions types (Type IV-A, B, or C). These proposals are from the Ad Hoc Committee on Tall Wood Buildings. This is a clarification only of the subtype of Type IV construction being referenced.

HCD's proposals are co-adoptions, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the SFM and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals.

HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option and provide prescriptive building and inspection requirements when using these materials. Therefore, there is no increased cost to industry or private individuals due to mandated building standards (building materials or methods of construction). HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option (voluntary) and provide prescriptive building and inspection requirements when using these materials. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact. See Item 3 for additional details.

Item 9 HCD proposes to amend Chapter 33, as follows:

CBSC-CAC ACTION: Further Study. HCD revised Section 3307.1 to provide reference to statutory provisions related to excavations.

HCD RESPONSE TO CAC: Accept.

Section 3307.1 Protection required.

Rationale: HCD proposes to adopt the above referenced section with a new California amendment to clarify notice periods applicable to California.

Civil Code section 832 requires owners of adjacent buildings to have at least 30 days to protect their buildings when proposed excavations are deeper than walls or foundations of adjoining buildings or close enough to endanger the buildings; and requires the owner of the land being excavated to provide protection to the impacted adjacent buildings under specified conditions. HCD initially proposed to reference and summarize Civil Code section 832 to avoid conflicts with model code Section 3307.1 which provides for a 10-day notice period. HCD has further modified the proposed reference to the Civil Code to provide a broader pointer to section 832. Section 832 provides additional requirements (from the model code) related to notices, time allowed for the owner to protect their property, and for the excavating party to protect the adjoining property. Due to differences between the model code section and the number of requirements in section 832, HCD was advised by the Building, Fire and Other (BFO) Code Advisory

Committee (CAC) to provide a simple advised by the BFO CAC to provide a simple reference to the Civil Code section instead of trying to summarize the statute in the CBC.

HCD's proposed reference is consistent with Nine-Point Criteria One. The proposed amendment has no fiscal impact pursuant to CCR, title 1, section 100, "Changes Without Regulatory Effect."

Item 10 HCD proposes to amend Chapter 35, as follows:

CBSC-CAC ACTION: No action was taken by CAC. HCD proposes to add this item per public comment recommendation.

HCD RESPONSE TO CAC inquiry: Add item to rulemaking.

ANSI/APA PRG 320-18

Rationale: HCD proposes to adopt a new California amendment (standard). The 2018 version of the ANSI/APA standard is referenced in amendments by the SFM in section 602.4. Section 602.4 recognizes mass timber as part of Type IV construction and the ANSI/APA standard is referenced specifically for labelling of cross-laminated timber in SFM's amendment and in current section 2304.1.4 (uses 2017 standard). Although the standard has been updated to 2019, HCD proposes updating the reference to the 2018 standard for the 2019 CBC for 2304.1.1 and will be adopting the 2019 standard when adopting the 2021 IBC (model code).

HCD's proposals are co-adoption, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the SFM and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals.

Per Code Advisory Committee (CAC) meeting on March 17 and 18, 2020:

During the CAC meeting, public comment was provided by Dennis Richardson, American Wood Council (AWC) that the International Code Council (ICC) adopted the updated ANSI/APA PRG 320-18 standard to incorporate heat resistant adhesive into Cross-laminated Timber (CLT) which is critical for use in tall wood buildings. The CAC asked that consideration be given to this comment. Upon verification, HCD concurs with the comment and proposes a new amendment to propose adoption of the ANSI/APA PRG 320-18 standard into Chapter 35 – Referenced Standards.

CBSC-CAC ACTION: Approve as Submitted initially for HCD.

HCD RESPONSE TO CAC: Accept.

ASTM D3498-03 (2011)

Rationale: HCD proposes to adopt the above referenced new California amendment (standard). The ASTM reference is used in new Section 703.9 proposed by the SFM requiring adhesives and sealants to prevent the passage of air in Type IV A, B, and C buildings. The adhesives are required to meet ASTM D3498 requirements. This is a proposal from ICC's Ad Hoc Committee on Tall Wood Buildings and also related to a proposed new Section 1705.20 related to inspection of sealing of mass timber.

HCD's proposals are co-adoption, with other state agencies, of selected provisions related to construction using mass timber and construction of tall wood buildings. A large number of "early adoption" amendments are proposed by the SFM and also applicable to residential buildings. HCD's California amendments will be subject to repeal once the 2021 IBC is adopted with the duplicative ICC-approved code proposals.

HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option and provide prescriptive building and inspection requirements when using these materials. Therefore, there is no increased cost to industry or private individuals due to mandated building standards (building materials or methods of construction). HCD, in coordination with the SFM, has determined that these regulations, if approved, allow these construction types as a design option (voluntary) and provide prescriptive building and inspection requirements when using these materials. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact. See Item 3 for additional details.

Item 11 HCD proposes to amend Appendix O, as follows:

CBSC-CAC ACTION: Approve as Submitted.

HCD RESPONSE TO CAC: Accept.

Section O103 EMERGENCY HOUSING

Rationale: HCD proposes to amend the above referenced California amendment section to add an exception. This amendment is being proposed for both the CBC (rulemaking file HCD 01/19) and the CRC (rulemaking file HCD 03/19). These appendices are voluntary measures which are available for local adoption whereupon they become mandatory measures at the local level. The local agencies also have authority to modify the appendices as needed, primarily based on local climatic, geological or topographical conditions.

HCD has been advised that the minimum 70-square-foot interior floor area may be limiting the use of available structures for emergency housing. HCD is charged with ensuring safety, suitability and durability of housing, therefore, HCD used the 70-square-foot dimension recognized as a minimum area for Emergency Sleeping Cabins (Government Code section 8687.3 (h) addressing bridge housing for the City of San Jose.) As a comparison to other sleeping room minimum sizes, HCD's implementing regulations for the Employee Housing Act (CCR, title 25, section 724 Floor area) provides for a minimum floor area for sleeping purposes to be 50 square feet for each occupant. HCD recognizes that the minimum interior space sizes for employee housing are smaller than the minimum 70 square feet specified in Appendix O of the CBC and Appendix X of the CRC, therefore, HCD provides an exception based on local enforcing agency discretion to use a minimum of 53-square-foot interior space for emergency housing, including emergency sleeping cabins for a single occupancy sleeping unit only. (The 53 square feet size accommodates wall studs and interior finish materials inside an 8-by-8-foot framed structure, which is more economical with readily available building materials such as panel siding.) The local enforcing agency should recognize other needs that may alter this minimum square foot area depending on internal configuration of furnishings and any accessibility requirements.

HCD has evaluated the potential for conflict between the proposed amendments and existing Government Code section 8698.3 subdivision (h) which identifies specific requirements for emergency sleeping cabins as used in the City of San Jose. Subdivision (h) also specifies that the subdivision will only remain operative until the California Building Standards Commission includes standards in the California Building Standards Code that conform to the subdivision. The effective date of HCD's proposed amendments is July 1, 2021.

As noted previously, Appendix O of the CBC and Appendix X of the CRC are voluntary building standards available for local adoption. The 70 square foot minimum for emergency sleeping cabins currently specified in Government Code section 8698.3 subdivision h would be acceptable under the Appendices because the 53 square foot minimum is ultimately optional for a jurisdiction to adopt. Implementing a larger square footage minimum does not conflict with the Appendices—whether required by law or simply chosen by a local government. As such HCD finds that the proposed amendment meets HSC section 18930, subdivision (a)(1) and does not conflict with other building standards in Government Code section 8698.3 subdivision (h.)

There is no fiscal impact for the above-mentioned exception as the decreased minimum interior space is a design option and not a mandate. Both Appendix O of the CBC and Appendix X of the CRC are optional building standards available for adoption by local agencies and compliance is not mandated unless adopted at the local level in its existing or locally amended form.

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).

Governor's Executive Order B-52-18 supporting wood products innovation.

Assembly Concurrent Resolution 102, Mass timber products.

Assembly Bill 881 (Chapter 659, Statutes of 2019), operative until January 1, 2025, which adds section 65852.2 of the Government Code.

Senate Bill 13 (Chapter 653, Statutes of 2019), operative until January 1, 2035, added HSC section 17980.12 to the State Housing Law.

Senate Bill 969 (Chapter 621, Statutes of 2018), operative January 1, 2019, which added Health and Safety Code (HSC) section 19892 to the California Building Standards Law.

Senate Bill 1226 (Chapter 1010, Statutes of 2018), operative January 1, 2019, which added HSC section 17958.12 to the State Housing Law.

International Code Council 2018/2019 Code Development Group A and Group B documents addressing code proposals to the IBC, public comments and results of hearings.

[ICC Group A](https://iccsafe.org/products-and-services/i-codes/code-development-process/2018-2019-group-a/) iccsafe.org/products-and-services/i-codes/code-development-process/2018-2019-group-a/

[ICC Group B iccsafe.org/products-and-services/i-codes/code-development-process/2019-group-b/](https://iccsafe.org/products-and-services/i-codes/code-development-process/2019-group-b/)

CCR, title 25, division 1, chapter 1, subchapter 3 (Employee Housing), article 6, subarticle 1, section 724 (Floor Area)

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS

Government Code Section 11346.2(b)(1) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.

HCD is statutorily required to adopt by reference model building codes, which contain prescriptive standards. Prescriptive standards provide the following: explicit guidance for certain mandated requirements; consistent application and enforcement of building standards while also establishing clear design parameters; and ensure compliance with minimum health, safety and welfare standards for owners, occupants and guests. HCD's proposed amendments to the 2019 CBC follow this requirement by proposing prescriptive requirements when requirements are proposed.

Performance standards are permitted by state law; however, they must be demonstrated to the satisfaction of the proper enforcing agency.

CONSIDERATION OF REASONABLE ALTERNATIVES

Government Code Section 11346.2(b)(4)(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.

There were no feasible alternatives available to HCD. The exclusion of statutory requirements may cause conflict within the code and confusion for code users. In addition, the Governor's Executive Order B-52-18 directed HCD and other state agencies to adopt proposals from ICC's Ad Hoc Committee on Tall Wood Buildings for the Intervening Code Cycle.

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

Government Code Section 11346.2(b)(4)(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.

None. HCD is amending the 2019 CBC with California amendments to incorporate recent amendments or additions of statutory requirements and to meet the directive of Executive Order B-52-18.

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

Government Code Section 11346.2(b)(5)(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.

HCD has determined that this regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. These regulations include a reference to HSC section 19892 which requires the sale and installation of only garage door openers with battery backup and requires replacement of garage door openers without battery backup when replacing garage doors. However, these are existing statutory requirements and the proposed regulations only provide a reference to the statutory requirement.

The following information is from the SFM: The use of mass timber can deliver significant cost savings. The cost of the materials is the same or higher, however, the time of construction at the site can be reduced by 20% and the on-site skilled labor is reduced. (From [The Beck Group, Mass Timber Market Analysis](#) (November, 2018)) Retrieved from the Oregon State website:
oregon.gov/ODF/Documents/ForestBenefits/Beck-mass-timber-market-analysis-report.pdf.

HCD has determined that authorizing local agency discretion to allow a smaller emergency housing structure than the minimum size identified in the code may allow for use of smaller structures which may still provide suitable safe housing. This would provide a positive impact on businesses manufacturing, installing and selling these smaller structures.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Government Code Sections 11346.3(b)(1) and 11346.5(a)(10)

The California Department of Housing and Community Development has assessed whether or not and to what extent this proposal will affect the following:

- A.** The creation or elimination of jobs within the State of California.
The regulations will not affect the creation, or cause the elimination, of jobs within the State of California.
- B.** The creation of new businesses or the elimination of existing businesses within the State of California.
The regulations will not affect the creation or the elimination of existing business within the State of California. According to information from the SFM: This is new to the industry and the expanded use of mass timber is unknown and is difficult to calculate for the 18 months of the analysis. The manufacturing of the product is currently done in other states. As of the Fall of 2018 there were five certified manufacturers of Cross Laminated Timber (CLT) in North America. (The Beck Group). These regulations may provide

the incentive to produce CLT in California, but it is unlikely to occur within the 18-month effective period of the regulations. The proposals may create the opportunity for manufacturers to move into the state, but to what extent is unknown.

Local building officials will continue to have the authority to inspect structures as currently required.

- C.** The expansion of businesses currently doing business within the State of California.

The regulations will not affect the expansion of businesses currently doing business within the State of California. See response to B.

- D.** The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations may allow occupancy of previously unpermitted structures or structures needing repair and provide for operable garage doors in the event of power outage. These regulations ensure protection of public health and safety, worker safety and the environment.

These regulations may assist in providing a market for California's timber resources.

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

Government Code Section 11346.2(b)(5)(B)(i) 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.

There is no additional cost of compliance for the proposed regulations. See discussions in Rationale of individual sections for benefits and any assumptions.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Government Code Section 11346.2(b)(6) requires a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal to describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from these federal regulations upon a finding of one or more of the following justifications: (A) The differing state regulations are authorized by law and/or (B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

These regulations do not duplicate nor conflict with federal regulations. The State of California has preemptive authority to adopt more restrictive mandatory standards for the construction methods and materials addressed in these regulations.