

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11
(HCD 06/18)**

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:

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 changes to the Express Terms as originally proposed for the 45-day public comment period as a result of internal review. The rationale for each change was included with the 15-day Express Terms document.

HCD did not make modifications after the 15-day public comment period that ended on November 29, 2018.

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 school districts. HCD has determined that the proposed regulations would impose a mandate on local agencies; however, HSC 17951 provides for local agencies to prescribe fees to offset costs of enforcement.

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**. A total of four comments were received during the 45-day public comment period, one comment was received after the close of the public comment period. HCD also evaluated the 45-day Express Terms during the comment period and formally submitted a comment letter to the Building Standards Commission indicating areas of possible revision during a subsequent public comment period.

The Express Terms were revised with a subsequent 15-day public comment period from **November 14, 2018, through November 29, 2018**.

One comment was received during the 15-Day public comment period.

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

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

- 1. COMMENTER:** Tim McRae
Vice President, Energy
Silicon Valley Leadership Group
2001 Gateway Place, Suite 101E
San Jose, CA 95110

COMMENT: EM-1:

Electric vehicle (EV) charging regulations: The commenter supports HCD's proposal to increase the mandatory minimum for EV capable parking spaces for new multifamily housing buildings from 3 percent to 10 percent. The commenter states that in order to meet California's transportation electrification and 2030 climate goals new buildings must include more EV charging infrastructure. The commenter states that 14 Bay Area governments have voluntarily exceeded the mandatory minimum for EV-capable parking for new housing construction. The commenter states that according to CARB's latest cost analysis, pre-wiring parking spaces for EV charging infrastructure could result in \$264 to \$374 million dollars in avoided retrofit costs between 2020 and 2025.

HCD RESPONSE:

HCD thanks the commenter for their support of the proposed EV regulations.

2. COMMENTER: Statewide Utility Codes and Standards Team

COMMENT: EM-2:

Sections 4.106.5 and A4.106.10: The commenter states that there are conflicts between Backlight, Uplight and Glare (BUG) requirements in Title 24, Part 6; and Title 24, Part 11, which make it unclear whether or not BUG requirements in Title 24, Part 11 apply to certain residential buildings. The commenter proposes edits that they believe will eliminate the ambiguities in language, include a mandatory requirement for BUG ratings in CALGreen, and align Part 11 requirements with Part 6 requirements.

HCD RESPONSE:

HCD thanks the commenter for their comments. HCD agrees with the commenter's suggestion to repeal Section A4.106.10, however, it is too late in the code adoption cycle to ensure sufficient pre-cycle participation, Code Advisory Committee (CAC) review and recommendation and CBSC processing for inclusion in the 2019 CALGreen Code. HCD plans to evaluate the repeal of Section A4.106.10 during the next code adoption cycle.

HCD is not considering the inclusion of the commenter's Section 4.106.5 in the 2019 CALGreen because it would create a duplication of standards for high-rise residential and hotel/motel buildings within Title 24. In addition, the 2019 CEC text related to low-rise residential occupancies with four or more dwellings units addressed by Sections 150.0(k)3B and C need to comply with Section 130.2 when exceeding a specified threshold of lumens. A direct requirement for these occupancies and stating the threshold of 6,200 or greater lumens is a clarification that should be in the 2019 CEC and not through CALGreen. This would be a potential violation of the conflict, overlap or duplication standards in building standards Nine-Point criteria #1 and possibly create an unintentional requirement for these occupancies.

3. 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-3:

Section A4.601.4.2, A4601.5.2 and A4.602: The commenter suggests amendments to the general requirements of Tier 1 (A4.601.4.2) and Tier 2 (A4.601.5.2) to reflect text in Appendix A4 addressing prerequisites related to energy efficiency. There is no change in regulatory effect since the actual prerequisites are addressed in Section A4.203.

The commenter suggests the following amendments to the Residential Occupancies Application Checklist (A4.604):

1. Amend the checklist to include the requirement for humidity controls for bathroom exhaust fans.
2. Amend the checklist to reflect changes made by the California Energy Commission on their final proposal related to Tier 1 and Tier 2 requirements for enhanced energy efficiency.
3. Amend the checklist to include the requirements for recycled water supply systems which were added as a mandatory measure to CALGreen during the 2016 Intervening Code Cycle.

The commenter states that references to the Collaborative for High Performance Schools California (CA-CHPS) Interpretation for EQ 7.0 and EQ 7.1 dated July 2012 also needs to be updated to reflect the current 2014 criteria.

The commenter also states CALGreen references the California Department of Public Health's Standard Practice for the Testing of Volatile Organic Emissions from Various Sources Using Small-Scale Environmental Chambers Version 1.1 (2010). This standard has been superseded by the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emission from Indoor Sources Using Environmental Chambers Version 1.2 (January 2017).

HCD RESPONSE:

HCD thanks the commenter for their comments and will reflect the changes to Tier 1, Tier 2 and the checklist in a 15-day comment period.

HCD will be proposing to update the specified references in the next code adoption cycle since these changes were not discussed during the CAC meeting or addressed during the 45-day public comment period.

4. COMMENTER: Richard W. Corey, Executive Officer
Chief of the Research Planning, Administration, & Emission
California Air Resources Board (CARB)
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

COMMENT: EM-4:

Electric Vehicle (EV) regulations: The commenter thanks HCD for including CARB's suggested code changes to strengthen the multifamily EV charging provisions in the 2019 CALGreen Code. The commenter suggests that the inclusion of these changes are essential to support 1.5 million zero emission vehicles (ZEV) expected on California roadways by 2025. The commenter states that the proposed code changes will help California fulfill its ZEV Action Plan commitment while saving thousands of dollars in retrofit costs per space. The commenter looks forward to working with HCD in future code cycles to continue to strengthen the multifamily EV charging infrastructure provisions to meet EV charging needs and climate goals.

HCD RESPONSE:

HCD thanks the commenter for their support.

5. COMMENTER: CALGreen Coalition (**Late Comment**)

COMMENT: EM-5:

Electric Vehicle (EV) regulations: The commenter supports HCD's proposed EV regulations.

HCD RESPONSE:

HCD thanks the commenter for their support.

6. COMMENTER: Michael A. Quiroz
3rd Wave Construction Information & Technical Services
9121 Atlanta Ave Suite 642
Huntington Beach, CA 92646

COMMENT: EM-6:

Residential Occupancies Application Checklist: The commenter states that it is inappropriate to include a reference to Section 4.305.1 (related to installation of recycled water supply systems) in the checklist because of ongoing litigation concerning this regulation.

HCD RESPONSE:

HCD thanks the commenter for their comment. HCD is updating the checklist to include all mandatory requirements in CALGreen. The checklist is provided as a convenient reference for the code and is a listing of CALGreen's mandatory measures, Tiers 1 and Tier 2 measures, and optional elective measures. The checklist is intended to be comprehensive and reflect the provisions in Chapter 4 and Appendix A4. The proposed reference to Section 4.305.1 is not a new requirement and there is no change in regulatory effect. HCD acknowledges the ongoing litigation and will update the checklist again in the future if there is a change to the regulation due to the outcome of the litigation.

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.

Health and Safety Code Section 18928.1 requires building standards adopted or approved by the California Building Standards Commission 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 shall reference the most recent edition of applicable model codes, national standards, or specification.

In the case of the California Green Building Standards Code (CALGreen), there is no model code applicable to residential occupancies to be adopted. Health and Safety Code Section 17928, mandates HCD to review relevant green building guidelines and to propose green building features that are cost effective and feasible as mandatory building standards. HCD evaluated the available relevant green building guidelines; no alternatives were available for HCD to consider.

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 11346.5(a)(3).

There were no alternatives available to HCD. 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.