

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT
REGARDING THE 2019 CALIFORNIA GREEN BUILDING STANDARDS
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11
(HCD 08/19)**

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.

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.

The specific purpose of these regulations is to amend the 2019 California Code of Regulations (CCR), title 24, California Green Building Standards Code (CALGreen), part 11, for the following programs:

- a) State Housing Law Program:** relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC section 17921.2.
- b) Employee Housing Program:** 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 Health and Safety Code Section 18300 and 18620 for mobilehome parks, and Sections 18865 and 18871.3 for special occupancy parks.
- d) Factory-Built Housing Program:** 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 proposed actions continue to adopt, amend or repeal portions of the 2019 CALGreen as part of the 2019 Intervening Code Adoption Cycle established by the California Building Standards Commission (CBSC). The intent of the 2019 Intervening Code Adoption Cycle is to:

- (1) Continue reducing greenhouse gas (GHG) emissions from buildings.
- (2) Result in environmental benefits through reduced use of energy, water, and raw materials; improved public and building occupant health due to improved indoor air quality; and overall reduction in detrimental environmental impacts.
- (3) Continue the Administration's directive to adopt green building standards for residential, commercial, and public building construction as part of the building code adoption process.

Proposed amendments in this rulemaking are also intended to provide further clarity, specificity and direction to the code user, and to implement and make specific existing state laws. Proposed amendments are a result of recommendations developed during the public participation period prior to submittal to the CBSC. The rationale for each proposed amendment by chapter and section is listed below.

Specific Proposed Regulatory Actions:

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

Item 1 HCD proposes to amend Chapter 2, Section 202, as follows:

SECTION 202 DEFINITIONS

CBSC-CAC ACTION: Approve as Submitted.

HCD Response to CAC: Accept.

ACCESSORY DWELLING UNIT

Rationale: HCD proposes to continue adoption of the above referenced section with amendment. HCD proposes to amend the existing definition to reflect recent statutory changes from Assembly Bill 881 (Chapter 659, Statutes of 2019) for Government Code section 65852.2 (j)(1). The proposed amendment has no fiscal impact pursuant to California Code of Regulations, title 1, section 100, "Changes Without Regulatory Effect."

SUBMETER

Rationale: HCD proposes to adopt the above referenced section with new California amendment (definition). The proposed submeter definition is consistent with Senate Bill 7 (Chapter 623, Statutes of 2016) requiring submetering in multiunit structures. SB 7 directed HCD to develop building standards requiring the installation of water submeters in newly constructed multiunit residential structures; and for residential units in mixed-use residential/commercial structures. This code change clarifies the term "submeter" as used in section 4.303.2. The proposed amendment has no fiscal impact pursuant to California Code of Regulations, title 1, section 100, "Changes Without Regulatory Effect."

Item 2 HCD proposes to amend Chapter 4, Division 4.1, as follows:

SECTION 4.106 – SITE DEVELOPMENT

CBSC-CAC ACTION: Approve as Submitted.

HCD Response to CAC: Accept.

Section 4.106.4.1 New one- and two-family dwellings and townhouses with attached private garages.

Section 4.106.4.2 New multifamily dwellings.

Section 4.106.4.2.3 Single EV space required.

Section 4.106.4.2.4 Multiple EV spaces required.

Section 4.106.4.3 New hotels and motels.

Rationale: HCD proposes to adopt an additional note to 4.106.4.2 and 4.106.4.3 referencing the California Vehicle Code regarding Electric Vehicle (EV) charging spaces considered as parking spaces. Assembly Bill 1100 (Chapter 819, Statutes of 2019) added section 22511.2 to the Vehicle Code requiring that parking spaces served by EV supply equipment or a parking space designated as a future EV charging space be counted as at least one standard automobile parking space for compliance with applicable local parking space requirements. This section of the Vehicle Code also provides that an accessible parking space with an access aisle served by EV supply equipment or with an aisle designated as a future EV charging space be counted as at least two standard automobile parking spaces.

HCD proposes to adopt an exception to 4.106.4.1, 4.106.4.2.3 and 4.106.4.2.4. HCD finds the current code does not make it clear whether or not the raceway is still required if a circuit is installed. The exception eliminates the requirement for a raceway when a 40-ampere 208/240-volt EV circuit is installed at the time of original construction. The raceway is available to ease the installation of a future circuit. If the circuit is installed at the time of original construction, there is no longer a need for the raceway. HCD anticipates no fiscal impact for the proposed building standards.

HCD's proposals for counting future charging spaces towards local parking quota requirements and providing an exception to installation of a raceway is supported by the California Electric Transportation Coalition, CALSTART, ChargePoint, Electric Vehicle Charging Association and Tesla (Hanna Goldsmith *et al.* letter of September 13, 2019).

Item 3 HCD proposes to amend Chapter 4, Division 4.3, as follows:

SECTION 4.303 – INDOOR WATER USE

CBSC-CAC ACTION: Approve as Amended.

HCD Response to CAC: Disagree. No amendment necessary.

Section 4.303.1.4.5 Pre-Rinse spray valves, FOR REFERENCE ONLY, and Table H-2 Standards for Commercial Pre-rinse Spray Valves Manufactured On or After January 28, 2019.

Rationale: HCD proposes to adopt the above referenced section and Reference note with Table to provide requirements for commercial pre-rinse spray valves consistent with the CCR, title 20 (Appliance Efficiency Regulations) and the California Plumbing Code. Water flow and spray force rates for pre-rinse valves were determined for the benefit of water conservation. In addition, FOR REFERENCE ONLY has been included to give users the reference to the specific sections in the Appliance Efficiency Regulations. The proposed amendment has no fiscal impact pursuant to California Code of Regulations, title 1, section 100, “Changes Without Regulatory Effect.” These changes provide consistency with federal regulations, Appliance Efficiency Regulations, and the California Plumbing Code.

CBSC-CAC ACTION: Approve as Amended.

HCD Response to CAC: Accept. Added text to clarify that the application is for individual rental dwelling units.

Section 4.303.2 Submeters for multifamily buildings and dwelling units in mixed-use residential/commercial buildings.

Rationale: HCD proposes to adopt the above referenced section which is a pointer to the California Plumbing Code requirements for installation of submeters for rented individual dwelling units in multifamily buildings and rented individual dwelling units in mixed-use buildings. SB 7 directed HCD to develop building standards requiring the installation of water submeters in newly constructed multiunit residential structures; and for residential units in mixed-use residential/commercial structures. The submeter requirement is currently an existing statutory (Water Code) requirement.

CBSC-CAC ACTION: Approve as Amended.

HCD Response to CAC: Disagree. No amendment necessary.

Section 4.303.3 Standards for plumbing fixtures and fittings.

Rationale: HCD proposes to renumber “Standards for plumbing fixtures and fittings” to 4.303.3 to allow for the new submeter section.

The proposed amendments to sections 4.303.2 and 4.303.3, have no fiscal impact pursuant to California Code of Regulations, title 1, section 100, “Changes Without Regulatory Effect.”

Item 4 HCD proposes to amend Chapter 4, Division 4.4, as follows:

SECTION 4.410 - BUILDING MAINTENANCE AND OPERATION

CBSC-CAC ACTION: Approve as Submitted.

HCD Response to CAC: Accept.

Section 4.410.1 Operation and maintenance manual.

Rationale: HCD proposes to continue adoption of the above referenced section with amendment. HCD proposed to include as one of the required items in a residential structure's Operations and Maintenance Manual, reference to the Office of the State Fire Marshal's (SFM) guidance document on defensible space management. HCD and SFM were directed in earlier versions of Senate Bill 190 (Chapter 404, Statutes of 2019) to include this information and even though the direction of HCD and SFM was removed in the final version, HCD believes that its helpful information that should be included in the manual. There is no fiscal impact for updating the Operations and Maintenance Manual.

Item 5 HCD proposes to amend Chapter 4, Division 4.5, as follows:

SECTION 4.504 – POLLUTANT CONTROL

CBSC-CAC ACTION: Approve as Submitted.

HCD Response to CAC: Accept.

Section 4.504.3 Carpet systems.

Section 4.504.3.1 Carpet cushion.

Section 4.504.4 Resilient flooring systems.

Rationale: HCD proposes to continue adoption of the above referenced sections with amendments. These sections are updated to reflect the most up-to-date referenced standard for the California Department of Public Health's (CDPH) testing and evaluation of volatile organic chemical emissions. The January 2017 edition CDPH standard supersedes the February 2010 edition.

HCD proposes to repeal the list of programs with which the carpet, carpet cushion and resilient flooring need to comply. These sections will now state that carpet, carpet cushion and resilient flooring need to comply with CDPH's testing specification 01350. All of the programs that were previously listed, tested the products to this specification, so there is no need to list these individual programs. HCD is proposing to add a note to these sections that will reference the CDPH's website which lists certification programs and testing labs. It will be much easier to reference a list on the CDPH website rather than updating references in actual code language.

HCD's proposal for updating the CDPH standard is supported by UL Environmental and Sustainability (Josh Jacobs letter of August 27, 2019); the California Air Resources Board (Elizabeth Scheehle letter of October 14, 2019); and the California Department of Public Health (Wenhao Chen letter of October 21, 2019).

The amendment requiring compliance solely with the CDPH standards instead of listing various third-party certifiers or green programs is supported by the California Air Resources Board (Elizabeth Scheehle letter of October 14, 2019); and the California Department of Public Health (Wenhao Chen letter of October 21, 2019).

HCD anticipates no fiscal impact for the proposed amendments to the above referenced sections since it corrects an outdated standard and make other editorial changes.

Section 4.504.5 Composite wood products.

Rationale: HCD proposes to continue adoption of the above reference section with amendment. The modification removes language which is no longer relevant.

Table 4.504.5 no longer has any target dates to address for the specified materials as the dates were removed in the 2013 CALGreen. The modification to this section provides clarity to the code users. The proposed amendment has no fiscal impact pursuant to California Code of Regulations, title 1, section 100, "Changes Without Regulatory Effect."

Item 6 HCD proposes to amend Appendix A4, Division A4.1, as follows:

SECTION A4.106 – SITE DEVELOPMENT

CBSC-CAC ACTION: Approve as Submitted.

HCD Response to CAC: Accept.

Section A4.106.5.3 Solar reflectance index alternative.

Rationale: HCD proposes to continue adoption of the above referenced section with amendment. The note references the contact information for the Energy Standards Hotline. The current email is no longer valid, therefore HCD proposed to amend with the correct email. The proposed amendment has no fiscal impact pursuant to California Code of Regulations, title 1, section 100, "Changes Without Regulatory Effect."

A4.106.8.2 New multifamily dwellings.

Section A4.106.8.2.1 Technical requirements.

Rationale: HCD proposes to continue adoption of the above referenced section with amendment. HCD proposes to provide reference to applicable notes to EV charging in new multifamily dwellings in Section A4.106.4.2. This provides a complete reference for the code user and also incorporates proposed changes addressing the counting of EV charging spaces towards local parking space requirements. HCD anticipates no fiscal impact for the proposed building standards.

Section A4.106.10 Light pollution reduction.

Table A4.106.10 MAXIMUM ALLOWABLE BACKLIGHT, UPLIGHT AND GLARE (BUG RATINGS)

Rationale: HCD proposes to repeal the above referenced section A4.106.10 and Table A4.106.10. The section and table were originally proposed for adoption by HCD in the 2012 Triennial Code Adoption Cycle for the 2013 CALGreen. It was noted, at the time that, section A4.106.10 and Table A4.106.10, applicable to high-rise buildings, would be re-evaluated for duplication depending on changes in the California Energy Commission's rulemaking and whether CALGreen provisions were incorporated into the California Energy Code as recommended at the California Building Standards Commission's rulemaking workshop. Currently the provisions are located in Appendix A4, voluntary measures.

The 2019 California Energy Code (CEC) now has mandatory measures applicable to high-rise residential and hotel/motel buildings in section 130.2 that require compliance with the BUG ratings in accordance with the Illuminating Engineering Society standard (IES TM-15-11) for luminaires of 6,200 lumens or greater. In addition, the 2019 CEC, section 150.0(k)(3) requires low-rise residential buildings with four or more dwelling units, as specified, to meet the outdoor lighting requirements in section 130.2 and other lighting sections. Therefore, it will be misleading and no longer necessary to keep the voluntary measures in CALGreen.

The proposed amendment has no fiscal impact pursuant to California Code of Regulations, title 1, section 100, "Changes Without Regulatory Effect," since any applicable lighting requirements are in the CEC.

Item 7 HCD proposes to amend Appendix A4, Division A4.5, as follows:

SECTION A4.504 – POLLUTANT CONTROL

CBSC-CAC ACTION: Approve as Submitted.

HCD Response to CAC: Accept.

Section A4.504.2 Resilient flooring systems.

Rationale: HCD proposes to continue adoption of the above referenced section with amendment. The section is updated to reflect the most up-to-date referenced standard for the CDPH's testing and evaluation of volatile organic chemical emissions. The January 2017 edition of the CDPH standard supersedes the February 2010 edition.

HCD proposes to repeal the list of programs which the resilient flooring need to comply with. This section will now state that resilient flooring needs to comply with CDPH's testing specification 01350. All of the programs that were previously listed tested the products to this specification, so there is no need to list individual programs. HCD is proposing to add a note to this section that will reference the CDPH's website which lists certification programs and testing labs. It will be much easier to reference a list on CDPH's website rather than updating references in actual code language.

HCD proposes to amend Tier 2 by removing "At least". The sentence is grammatically incorrect as it is.

Section A4.504.3 Thermal insulation.

Rationale: HCD proposes to continue adoption of the above referenced section with amendment. The section is updated to reflect the most up-to-date referenced standard for CDPH's testing and evaluation of volatile organic chemical emissions. The January 2017 edition of the CDPH standard supersedes the February 2010 edition.

HCD proposes to repeal the list of programs which the thermal insulation needs to comply with. This section will now state that thermal insulation needs to comply with CDPH's testing specification 01350. All of the programs that were previously listed tested the products to this specification, so there is no need to list individual programs. HCD is proposing to add a note to this section that will reference the CDPH's website which lists certification programs and testing labs. It will be much easier to reference a list on CDPH's website rather than updating references in actual code language.

The proposed amendments have no fiscal impact pursuant to California Code of Regulations, title 1, section 100, "Changes Without Regulatory Effect," the proposed amendments correct an outdated standard and make other editorial changes. See Item 5 for stakeholder comments.

Item 8 HCD proposes to amend Appendix A4, Division A4.602, as follows:

SECTION A4.602 – RESIDENTIAL OCCUPANCIES APPLICATION CHECKLIST

CBSC-CAC ACTION: Approve as Submitted.

HCD Response to CAC: Accept.

Section A4.602 Residential Occupancies Application Checklist.

Rationale: HCD proposes to continue adoption of the above referenced section with amendment. HCD proposes to amend the Residential Occupancies Application Checklist to align with the proposed changes made in the code. There is no fiscal impact for the amendments made to the checklist.

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).

California Department of Public Health, "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers," Version 1.2, January 2017 (Emission testing method for California Specification 01350.)

Assembly Bill 1100 (Chapter 819, Statutes of 2019) – Electric vehicles: parking requirements.

Senate Bill 7 (Chapter 623, Statutes of 2016) – Housing: water meters: multiunit structures

Senate Bill 190 (Chapter 404, Statutes of 2019) – Fire safety: building standards: defensible space program.

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. However, there are no model codes addressing green building standards specific to California. The CALGreen Code ensures the standards provide the following: explicit guidance for certain mandated requirements; consistent application and enforcement of building standards while also establishing clear design parameters; and ensures compliance with minimum health, safety and welfare standards for owners, occupants and guests.

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.

HCD found that there were no reasonable alternatives to consider.

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 CALGreen with amendments to incorporate statutory requirements and to ensure consistency with other building standards.

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.

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 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.
These 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.
These regulations will not affect the creation or the elimination of new and existing businesses within the State of California.
- C.** The expansion of businesses currently doing business within the State of California.
These regulations will not affect the expansion of businesses currently doing business within the State of California.

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

These regulations will update and improve minimum existing building standards, which will provide increased protection of public health and safety, worker safety and the environment.

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 California amendments. 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 conflict with federal regulations. The State of California has preemptive authority to adopt more restrictive mandatory standards for the appliances addressed in these regulations. The pre-rinse spray valve regulations provide consistency with 10 Code of Federal Regulations part 431(O), and the CCR, title 20, (Appliance Efficiency Regulations.)