

**45 DAY INITIAL STATEMENT OF REASONS  
FOR PROPOSED BUILDING STANDARDS OF THE  
CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
REGARDING THE 2022 CALIFORNIA BUILDING CODE, CHAPTER 11A,  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2**

**(HCD 1-AC 04/21)**

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.

**Item 1**

**Chapter 11A, Existing Buildings, Section 1102A.2**

**Rationale:** The California Department of Housing and Community Development (HCD) proposes to continue adoption of the above referenced California amendment with modification. This is an editorial modification to align with the Fair Housing Act (FHA). The FHA uses the terminology "...after March 13, 1991." By using the existing terminology printed in 11A, "...prior to March 13, 1991," Chapter 11A is inconsistent with the intent of the FHA by not including the date of March 13, 1991. This editorial modification will solve this issue.

**CAC Recommendation (if applicable):**

Approve as submitted.

**Agency Response:**

Accept.

---

**Item 2**

**Chapter 11A, Edge Protection, Section(s) 1114A.7**

**Rationale:** HCD proposes to continue adoption of the above referenced California amendment with modification. This is an editorial modification with no change in regulatory effect. The reference to specific model code section numbers requires HCD to continuously monitor every section reference provided in the code. In response to a model code section renumbering in the 2021 International Building Code (IBC), HCD is proposing to reference chapter 10 versus the specific section, as the chapter number will likely not change but the section has changed and may change again in the future.

**CAC Recommendation (if applicable):**

Further Study.

**Agency Response:**

Disagree. HCD's proposal only addresses changing references to specific sections in Chapter 10 and making the reference generic to Chapter 10. These changes were not questioned by the CAC. The CAC, however, had concerns with using a "Note" in this section. HCD did not propose any changes to the format of the Note to this section. Therefore, HCD has made no further changes to the Express Terms document to reformat the Note or propose it as an exception to section 1114A.7.

---

**Item 3**

**Chapter 11A, Number of complying bathrooms, Section 1134A.2**

**Rationale:** HCD proposes to continue adoption of the above referenced California amendment with modification. This is an editorial modification with no change in regulatory effect. The inclusion of the grab bar installation references noted in Option 1 and Option 2 of this section implies that grab bars are required in Division IV-Dwelling units. However, grab bars are not legally required in Chapter 11-A Division IV-Dwelling unit bathrooms. The presence of the current language referencing grab bar requirements has created confusion for code users, implying that grab bars are required in Division IV-Dwelling units, as required in Division III-Building Features, which is not supported by the current state of the law.

**CAC Recommendation (if applicable):**

Approve as submitted.

**Agency Response:**

Accept.

---

**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).

- FHA Design Manual.

**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 2022 CBC, Chapter 11A, 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 proposed adoption of existing Chapter 11A regulations and changes are for editorial and clarification purposes and are necessary for a complete 2022 California Building Code and Chapter 11A.

## **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.

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.

## **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.

None. There are no changes from the existing regulations in Chapter 11A other than those proposed changes for editorial and clarification purposes.

## **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)

HCD 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, nor 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, nor cause the elimination, of new or 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 benefit California residents by ensuring 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 anticipated increased cost of compliance for the proposed California amendments as these are for editorial and clarification purposes with no intended change in regulatory effect.

### **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; however, federal regulations are referenced for clarification purposes. There is some duplication in the California Chapters 11A and 11B with federal statutes since the model code Chapter 11, Accessibility, is not adopted, and features of FHA and Americans with Disabilities (ADA) statutes, respectively, are adopted for California.