

**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,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
(HCD 1-AC 01/22)**

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 10 Means of Egress, Section 1009.2 Continuity and components

The California Department of Housing and Community Development (HCD) proposes to continue the adoption of the above-referenced California amendment with an editorial modification. During the 2013 Intervening Code Adoption Cycle, HCD renamed section 1119A to “Interior accessible route,” repealed the language in Section 1120A, and combined the requirements for the interior route of travel in Section 1119A. However, the reference in Chapter 10, Section 1009, was omitted, and the error was not fixed in the 2022 California Building Code (CBC). HCD proposes to replace the reference to Section 1120A that now is “Reserved” with 1119A “Interior accessible route” as intended.

The proposed amendment is an editorial modification, and there is no intended change in regulatory effect.

CAC Recommendation (if applicable):

Approved.

Agency Response:

Accept.

ITEM 2

Chapter 10 Means of Egress, Section 1010.1.1 Size of doors

HCD proposes to continue the adoption of the above-referenced California amendment with modification. During the 2021 Triennial Code Adoption Cycle, HCD recognized deletion of the model code language under Exception 10 related to the minimum clear openings. However, HCD inadvertently neglected to specify the repeal of the 2019 amendment within this section. This proposed modification will align the 2022 CBC with the 2021 International Building Code (IBC) (model code) language. There is no intended change in regulatory effect.

CAC Recommendation (if applicable):

Approved.

Agency Response:

Accept.

ITEM 3

Chapter 11A Housing Accessibility, Section 1118A.1 General

HCD proposes to continue the adoption of the above-referenced California amendment with modification. During the 2015 Triennial Code Adoption Cycle, section 1007 was renumbered to align with the changes made to section numbers in the IBC. However, the reference in Chapter 11A, Section 1118A to Section 1007 was inadvertently left in, and is now being proposed for removal.

Due to continuous changes to section numbering throughout the code, HCD proposes to remove the reference to a specific section and just reference Chapter 10.

The proposed amendment provides further clarity to the code user. There is no intended change in regulatory effect.

CAC Recommendation (if applicable):

Approved.

Agency Response:

Accept.

ITEM 4

Chapter 11A Housing Accessibility, Section 1136A.1 Receptacle heights

The Code Advisory Committee (CAC) recommended short term further study for all proposals related to countertop depth allowance in residential occupancies. HCD proposes to continue the adoption of the above-referenced California amendment with modification. This modification is a clarification related to kitchen countertop extension in covered multifamily dwelling units, and it does not change the reach range allowance as identified in section 1138A.3. HCD's intent is to align the language related to countertop extension in dwelling units within chapter 11A with the federal Fair Housing Amendments Act (FHA). During the 2019 Intervening Code Adoption Cycle, HCD modified this section to reflect a maximum 25-1/2-inch (647.7 mm) kitchen countertop depth allowance but did not explain that the 25-1/2 inch countertop depth allowance includes a 1/2 inch industry tolerance for installation of standard countertops. On pages 5.6 and 5.8 of the Fair Housing Act Design Manual (FHADM), it is mentioned that the U.S. Department of Housing and Urban Development (HUD) permits a standard 24-inch-deep cabinet with an additional extension of 1-1/2 inches for countertops, allowing a maximum depth of 25-1/2 inches. On the same page, it is explained that HUD allows a half-inch tolerance for the installation of standard kitchen countertops that may project from the back wall for a maximum dimension of 25-1/2 inches (647.7 mm). The proposed language harmonizes with the FHA. Since this is already being enforced and common within the construction industry, the change avoids excess costs associated with strict interpretation of the text.

CAC Recommendation (if applicable):

Further study required.

Agency Response:

Accept.

ITEM 5

Chapter 11A Housing Accessibility, Section 1136A.2 Switch and control heights

The Code Advisory Committee (CAC) recommended short term further study for all proposals related to countertop depth allowance in residential occupancies. HCD proposes to continue the adoption of the above-referenced California amendment with modification. This modification is a clarification related to kitchen countertop extension in covered multifamily dwelling units, and it does not change the reach range allowance as identified in section 1138A.3. HCD's intent is to align the language related to kitchen countertop extension in dwelling units within chapter 11A language with the FHA. During the 2019 Intervening Code Adoption Cycle, HCD modified this section to reflect a maximum 25-1/2 inch (647.7 mm) kitchen countertop depth allowance but did not explain that the 25-1/2 inch countertop depth allowance includes a 1/2 inch industry tolerance for installation of standard countertops. On pages 5.6 and 5.8 of the FHADM, it is mentioned that HUD permits a standard 24-inch-deep cabinet with an additional extension of 1-1/2 inches for countertops, allowing a maximum depth of 25-1/2 inches. On the same page, it is explained that HUD allows a half-inch tolerance for the installation of standard kitchen countertops that may project from the back wall for a maximum dimension of 25-1/2 inches (647.7 mm). The proposed language harmonizes with the FHA. Since this is already being enforced and common within the construction industry, the change avoids excess costs associated with strict interpretation of the text.

CAC Recommendation (if applicable):

Further study required.

Agency Response:

Accept.

ITEM 6

Chapter 11A Housing Accessibility, Section 1138A.3.1 Forward reach

HCD proposes to continue the adoption of the above-referenced California amendment with modification. This modification will align Chapter 11A with the FHA requirements. During the 2019 Intervening Code Adoption Cycle, HCD modified Section 1136A.1 and 1136A.2 to reflect a maximum 25-1/2 inch (647.7 mm) reach depth to allow for common physical barriers and obstructions but did not explain that that the difference between the 25-inch maximum reach range and the 25-1/2 inch countertop depth allowance includes a 1/2 inch industry tolerance for installation of standard countertops. On pages 5.6 and 5.8 of the FHADM, it is mentioned that HUD permits a standard 24-inch-deep cabinet with an additional extension of 1-1/2 inches for countertops, allowing a maximum depth of 25-1/2 inches. On the same page it is explained that HUD allows a half-inch tolerance for the installation of standard countertops that may project from the back wall for a maximum dimension of 25-1/2 inches (647.7 mm). The modification will align the requirements between the sections and clarify the discrepancy between the reach depth and the counter depth. Since this is already being enforced and common within the construction industry, the change avoids excess costs associated with strict interpretation of the text.

CAC Recommendation (if applicable):

Disapproved.

Agency Response:

Withdraw.

ITEM 7

Chapter 11A Housing Accessibility, Section 1138A.3.2 Side reach

HCD proposes to continue adoption of the above-referenced sections and add another item to the existing Exception. The modification will align Chapter 11A with the FHA. During the 2019 Intervening Code Adoption Cycle, HCD modified the sections related to “reach ranges” to reflect a maximum 25-1/2-inch (647.7 mm) reach depth to allow for common physical barriers and obstructions but did not explain that the difference between the 25-inch maximum reach range and the 25-1/2 inch countertop depth allowance includes a 1/2 inch industry tolerance for installation of standard countertops. On pages 5.6 and 5.8 of the FHADM, it is mentioned that HUD permits a standard 24-inch-deep cabinet with an additional extension of 1-1/2 inches for countertops, allowing a maximum depth of 25-1/2 inches. On the same page, it is explained that HUD allows a half-inch tolerance for the installation of standard countertops that may project from the back wall for a maximum dimension of 25-1/2 inches (647.7 mm). The proposed language harmonizes with the FHA. The modification clarifies the discrepancy between the reach depth and the countertop depth. Since this is already being enforced and common within the construction industry, the change avoids excess costs associated with strict interpretation of the text.

CAC Recommendation (if applicable):

Disapproved.

Agency Response:

Withdraw.

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).

- Fair Housing Act 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.

Government Code Section 12955.1 requires HCD to propose the adoption, amendment, or repeal of building standards by the CBSC. Health and Safety Code (HSC) Section 17922 requires HCD to adopt specified model codes, e.g., Uniform Plumbing Code, by reference, with any additions or deletions made by the Department. Section 17922 requires that the building standards and rules and regulations impose substantially the same requirements as are contained in the most recent editions of the international or uniform industry codes as adopted by the code writing organizations. HCD's amendments to the model code are necessary to eliminate conflict with state laws, include requirements of state laws, or to eliminate conflicts with other adopted model codes or California codes.

Although not based on a model code, 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.

HCD is required by statute to adopt Chapter 10 model code by reference. The proposed amendments are the only reasonable alternative for clarifying the 2022 CBC.

Furthermore, the proposed continued adoption of existing Chapter 11A regulations and changes are for editorial and clarification purposes and are necessary to avoid conflicts within the 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 10 and Chapter 11A other than those proposed changes for editorial and clarification purposes. These changes

help with guidance and construction practices and avoid costs associated with strict compliance with regulatory text.

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 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.

- No increased cost of compliance for those regulations that make only technical and nonsubstantive changes.
- Government Code section 11346.2(b)(5)(B)(ii) provides that the model codes adopted pursuant to HSC section 18928 shall be exempt from the requirements of section 11346.2(b)(5)(B) unless upon request as specified. The purpose of this rulemaking is to continue the adoption of the 2021 IBC which is a model code setting forth requirements for building systems in structures.
- There is no anticipated increased cost of compliance for the proposed California amendments as these are for editorial and clarification purposes to reflect current construction practices.

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. The State of California has preemptive authority to adopt more restrictive mandatory standards for the construction methods and materials addressed in these regulations. In regard to the California regulations, there are some duplications in the California Chapters 11A with federal statutes since the model building code Chapter 11, Accessibility, is not adopted, and features of the FHA and the Americans with Disabilities (ADA) statutes, and California statutes, respectively, are utilized for California.