

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2019 CALIFORNIA MECHANICAL CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 4
(HCD 05/19)**

Notice is hereby given that the California Building Standards Commission (CBSC), on behalf of the Department of Housing and Community Development (HCD), proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 4. HCD is proposing building standards related to the 2019 California Mechanical Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 10, 2020** until **5:00 pm** on **May 26, 2020**.

Please address your comments to:

California Building Standards Commission
Attention: Mia Marvelli, Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice, or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; Civil Code sections 1101.4 and 1101.5; and Government Code sections 12955.1 and 12955.1.1.

HCD is proposing this regulatory action based on HSC sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1 through 18873.5, 18938.3, 18944.11, and 19990; and Government Code section 12955.1.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

HSC section 17040 requires HCD to adopt building standards for employee housing for "...the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing."

HSC section 17921 and Government Code section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

HSC section 17958.12 requires HCD to adopt regulations recognizing retroactive permits.

HSC section 17980.12 requires HCD to adopt regulations to recognize retroactive permits.

HSC sections 18300 and 18865 require HCD to adopt building standards for mobilehome parks and special occupancy parks.

HSC section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

The 2019 California Building Standards Code, California Mechanical Code (CMC), title 24, part 4, adopted by reference the 2018 Uniform Mechanical Code (UPC) with California amendments, became effective on January 1, 2020.

Existing CMC regulations specifically related to the proposed changes:

- Require permits to be based on building standards approved by the CBSC and in effect at the time of permit application.
- Require building permits to be obtained prior to the construction or alteration of buildings.

- Address local authority to enforce and provide a reference to the State Housing Law related to several actions available for enforcing unsafe buildings and structures.
- Include a definition to clarify the terms as used within the text of the CMC.

Summary of Effect

Summary of effect of the proposed specific changes on existing CMC regulations:

- Addition of text related to the use of retroactive permits for approval of existing unpermitted residential structures, and recognition of the application of prior codes, based on the determination of the local enforcing agency, will recognize the use of retroactive permits based on prior codes. This may increase the number of legally permitted existing buildings that were constructed without construction permits issued by the local enforcement agency.
- Addition of text providing a reference to special enforcement procedures related to delayed correction of building violations will allow occupancy of accessory dwelling units (ADU) that need correction, but do not endanger health and safety. The text also acts as a reference to the statutory section authorizing the delay in correction.
- A definition is proposed for “accessory dwelling unit” to clarify the meaning of the term as used in new proposed text.
- HCD has determined that there is no fiscal impact associated with the proposed regulations pursuant to CCR, title 1, section 100, “Changes Without Regulatory Effect.” The proposals do not mandate the issuance of retroactive permits, approval of delayed building corrections, or require any additional compliance beyond the statute.

These changes will affect the following programs:

- State Housing Law: relative to residential occupancies, buildings or structures accessory thereto, and as provided for through the Federal Fair Housing Amendment Act and state law accessibility requirements, except where the application is for public use only.
- Employee Housing: relative to the use of any buildings or structures used for employee housing in accordance with HSC section 17040.
- Mobilehome Parks and Special Occupancy Parks: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18300 and 18865.
- Factory-Built Housing: relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with HSC section 19990.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations will amend existing building standards and provide a reference to a new statutory section addressing ADU enforcement, violations, and corrections.

The benefits anticipated from this proposed regulatory action include more opportunities for housing by increasing awareness of the statutory provisions for retroactive permits and delays in building corrections.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).
HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or savings to any state agency: **No additional cost or saving beyond those imposed by existing law.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No additional cost or savings beyond those imposed by existing law.**
- E. Cost or savings in federal funding to the state: **None.**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).
If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the adoption/amendment of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. HCD's proposed regulations provide references to new statutory provisions, but do not require compliance beyond the statutory mandates.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

The proposed regulations recognize the consideration and possible issuance of retroactive permits by local agencies and possible delay in correction of ADU building violations. Neither would have an adverse impact on businesses. Statutory provisions related to the proposed regulations will have been in effect by the time the regulations become effective. In addition, the provisions related to retroactive permits address existing practices at the local agency level.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

No reporting requirements are proposed.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, since HCD's regulations are not mandates, and do not require compliance beyond the statutory requirement.

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

Reference: Government Code Section 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.

The regulations will not affect the creation or 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 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 may allow occupancy of previously unpermitted structures, or structures needing repair, while ensuring protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

There is no increased cost of compliance (from the existing statutory requirements) for the proposed California amendments.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

There were no feasible alternatives available to HCD. The exclusion of statutory requirements may cause conflict within the code and confusion for code users.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms, and initial statement of reasons can be accessed from the [CBSC website](#).

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website](#).

Reference: Government Code Section 11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law, and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-5888

**PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING
STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Emily Withers, Codes and Standards Administrator II
Department of Housing and Community Development
P.O. Box 278180
Sacramento, CA 95827-8180
Telephone: (916) 263-2998
Email: Emily.Withers@hcd.ca.gov

Back up Contact:

Brianna Bolden-Hardge, Associate Governmental Program Analyst
Department of Housing and Community Development
P.O. Box 278180
Telephone:(916) 223-8338
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