

**FINAL 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 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.

The Department of Housing and Community Development (HCD) has not added any data (including technical, theoretical, or empirical studies, reports, or similar documents relied upon) that would necessitate an update of the information contained in the Initial Statement of Reasons.

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 local agencies or school districts.

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 comment period from March 10, 2023, until April 24, 2023. There was no subsequent public comment period.

A total of 7 comments were received during the 45-day public comment period. Five out of seven comments were not specifically related to our amendments for this Intervening Code Cycle. HCD acknowledges all the comments and responds only to the comments that pertain to our amendments for this Intervening Code Cycle. Please see below the names of commenters:

Nubyaan Scott, Disability Rights California - HCD's response is covered under each item number below, respectively.

Dara Schur, Civil Rights Practice Group - HCD's response is covered under each item number below, respectively.

Marissa Shaw - The comment is not related to any specific proposed items within HCD's package. The comment is related to "Item 15" and "Item 16" of the Division of the State Architect's (DSA) proposal. The commenter also mentions support of all the public comments made by Disability Rights California (DRC) on the proposed building code changes for HCD's (HCD 1-AC 01/22) package.

Eric McSwain, RA, CASp, Access Compliance Consultants - The comment is not related to any specific proposed items within HCD's package. The comment addresses DSA's package, Express Term, item 11, 11B-233.3.1, requesting DSA to consider adopting HCD's definition for "Newly Constructed".

Roy Arnold - The comment is not related to any specific proposed items within HCD's package. The comment is specifically related to "Item 15" and "Item 16" of DSA's proposal. The commenter also mentions support of all the public comments made by DRC on the proposed building code changes for HCD's (HCD 1-AC 01/22) package.

Connie Arnold, Disability Rights Advocate - The comment is not related to any specific proposed items within HCD's package. The comment is addressed specifically to DSA's package and is in support of the comments provided by DRC dated April 24, 2023, on HCD's (HCD 1-AC 01/22) proposed code changes to the 2022 edition of the California Building Standards Code, title 24, part 2.

D.B. Neyhart - The comment is not related to any specific proposed items within HCD's package. The commenter is requesting for all facilities to be wheelchair accessible and have braille signage.

Item 1

Chapter 10 Means of Egress, Section 1009.2 Continuity and components

HCD proposes to replace the reference to Section 1120A (now "Reserved") with Section 1119A "Interior accessible route".

Commenter(s) and Recommendation:

Nubyaan Scott and Dara Schur with Disability Rights California (DRC) are in support of this proposal.

Agency Response:

HCD appreciates the support expressed in the comment by the stakeholder. There is no change in the Final Express Terms or Final Statement of Reasons due to this comment.

Item 2

Chapter 10 Means of Egress, Section 1010.1.1 Size of doors

During the 2021 Triennial Code Adoption Cycle, HCD recognized deletion of the model code language under Exception 10 related to the minimum clear openings and neglected to specify the repeal of the 2019 amendment within this section.

Commenter(s) and Recommendation:

Nubyaan Scott and Dara Schur with Disability Rights California (DRC) are “neutral” on this proposed change.

Agency Response:

HCD acknowledges the comments provided by the stakeholders. There is no change in the Final Express Terms or Final Statement of Reasons due to this comment.

Item 3

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

HCD proposes to delete the reference to a specific section due to continuous changes to sections throughout the code, and just reference Chapter 10.

Commenter(s) and Recommendation:

Nubyaan Scott and Dara Schur with DRC are “neutral” on this proposed change.

Agency Response:

HCD acknowledges the comments provided by the stakeholders. There is no change in the Final Express Terms or Final Statement of Reasons due to this comment.

Item 4

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

HCD proposed to clarify the requirement related to kitchen countertop extension in covered multifamily dwelling units, and to align the language related to countertop extension in dwelling units within chapter 11A with the federal Fair Housing Amendments Act (FHA).

Commenter(s) and Recommendation:

Nubyaan Scott and Dara Schur with DRC expresses opposition to the proposed code change. The stakeholders expresses that the proposed changes will result in a decrease in accessibility.

Agency Response:

HCD acknowledges the comments provided by the stakeholders. HCD proposes no changes to the Final Express Terms or Final Statement of Reasons as a result of these comments. HCD proposes this modification as clarification related to kitchen countertop extension in covered multifamily dwelling units, and 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 covered multifamily dwelling units within chapter 11A with the federal Fair Housing Amendments Act (FHA). HCD disagrees with the unsubstantiated claim that this modification will decrease accessibility since this is already being enforced and common within the construction industry, the change avoids excess costs associated with strict interpretation of the text.

During the 2019 Intervening Code Adoption Cycle, HCD modified section 1136A.1 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. Within the Fair Housing Act Design Manual (FHADM), 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. 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).

Item 5

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

HCD proposed to clarify the requirement related to kitchen countertop extension in covered multifamily dwelling units, and to align the language related to countertop extension in dwelling units within chapter 11A with the FHA.

Commenter(s) and Recommendation:

Nubyaan Scott and Dara Schur with DRC expresses opposition to the proposed code change. The stakeholders expresses that the proposed changes will result in a decrease in accessibility.

Agency Response:

HCD acknowledges the comments provided by the stakeholders. HCD proposes no changes to the Final Express Terms or Final Statement of Reasons as a result of these comments. HCD proposes this modification as clarification related to kitchen countertop extension in covered multifamily dwelling units, and 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 covered multifamily dwelling units within chapter 11A with the federal Fair Housing Amendments Act (FHA). HCD disagrees with the unsubstantiated claim that this modification will decrease accessibility since this is already being enforced and common within the construction industry, the change avoids excess costs associated with strict interpretation of the text.

During the 2019 Intervening Code Adoption Cycle, HCD modified section 1136A.2 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. Within the Fair Housing Act Design Manual (FHADM), 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. 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).

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.

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

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).

Not applicable.