

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

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.

HCD has made no changes to the Initial Statement of Reasons as originally proposed. However, HCD has made a correction in Section 4.410.1, Item 4, to reference CAL FIRE as the correct state agency with information related to maintenance of defensible space.

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.

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. HCD's proposal does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATIONS:

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 April 10, 2020, until May 26, 2020. There was no subsequent public comment period.

A total of four comments were received during the comment period. HCD responded to all the comments received during the 45-day public comment period. Please see below.

Regarding Item 1, Section 202, DEFINITIONS “ACCESSORY DWELLING UNIT” and “SUBMETER,” of Final Express Terms.

No comments were received on Item 1.

Regarding Item 2, Sections 4.106.4.1 “New one- and two-family dwellings and townhouses with attached private garages;” 4.106.4.2 “New multifamily dwellings;” 4.106.4.2.3 “Single EV space required;” 4.106.4.2.4 “Multiple EV spaces required;” 4.106.4.3 “New hotels and motels;” of Final Express Terms.

Two comments were received in support of Item 2.

Commenter: Aydin Akbarut, SoLa Impact

Commenter Recommendation: Approve as Submitted.

Agency Response: Accepts. HCD appreciates the support for the proposed amendment.

Commenter: Zachary Hilton

Commenter Recommendation: Approve as Submitted. The stakeholder supports HCD’s proposals for CALGreen sections 4.106.4.2 and 4.106.4.3.

Agency Response: Accepts. HCD appreciates the support for the proposed amendment.

Regarding Item 2, Sections 4.106.4.1 “New one- and two-family dwellings and townhouses with attached private garages;” 4.106.4.2 “New multifamily dwellings;” 4.106.4.2.3 “Single EV space required;” 4.106.4.2.4 “Multiple EV spaces required;” 4.106.4.3 “New hotels and motels;” of Final Express Terms.

Stakeholders indicate the proposal requires more specificity.

Commenters: Karen Klepack, Senior Manager, Building Electrification and Codes & Standards, Southern California Edison and Kate Zeng, ETP/C&S/ZNE Manager, Customer Programs, San Diego Gas & Electric Company

Commenters Recommendation: Approve as Submitted. The stakeholders provide some support for HCD's CALGreen proposals. While the stakeholders support HCD's exception of a raceway not being installed if an actual EV circuit is installed, the stakeholders express concerns that the language related to installation "...in close proximity" is vague. The stakeholders are concerned the language as written could be used as a loophole for developers to avoid installing the required infrastructure. The stakeholder also comments on items that are not being proposed by HCD.

Agency Response: HCD appreciates the support for the proposed amendment. Regarding the stakeholder's comment on the language requiring more specificity, during the Green & PEME Code Advisory Committee (CAC) meeting on March 4-5, 2020, CAC members approved HCD's proposal including the reference to installation of branch circuits in close proximity to the proposed location on an EV charger. Although the term "close proximity" is not a precise maximum distance it allows for variability in site conditions and design options. For example, designers or owners may prefer the EV charger to be located towards the front of the garage; others may prefer locations closer to the main garage door opening. Output cables on chargers are limited to 25 feet so this should also be considered when proposing the location of the EV charger for safe use of electrical equipment. In addition, HCD's proposed use of "in close proximity" mirrors the use of the term in Section 4.106.4.1 as related to termination of a raceway (if installed) so it is not a different use of the term within the section. After further review no changes were made to the Final Express Terms as a result of these comments.

Regarding Item 3, Sections 4.303.1.4.5 "Pre-rinse spray valves" ; Table H-2 "Standards for Commercial Pre-rinse Spray Valves Manufactured On or After January 28, 2019" ; 4.303.2 "Submeters for multifamily buildings and dwelling units in mixed-use residential/commercial buildings" and 4.303.3 "Standards for plumbing fixtures and fittings," of Final Express Terms. No comments were received on Item 3.

Regarding Item 4, Section 4.410.1 "Operation and maintenance manual," of Final Express Terms. No comments were received on Item 4, however, due to discussions between HCD and the Office of the State Fire Marshal, the source for materials related to maintenance of defensible space was corrected to CAL FIRE. This is a nonsubstantive technical correction.

Regarding Item 5, Sections 4.504.3 "Carpet systems"; 4.504.3.1 "Carpet cushion"; 4.504.4 "Resilient flooring systems"; and 4.504.5 "Composite wood products," of Final Express Terms. Comment was received on the amendment to update the California Department of Public Health (CDPH) references and the removal of UL GREENGUARD Gold.

Commenter: Josh Jacobs, Director of Environmental Codes & Standards, LEED AP+BD&C, UL Environment & Sustainability

Commenter Recommendation: Approve as Amended. The stakeholder provided some support for HCD’s proposals for CALGreen. Although the stakeholder supports HCD’s proposal to reference the CDPH website for certification programs and testing labs, it does not support the removal of UL GREENGUARD Gold as an identified compliance pathway.

Agency Response: HCD appreciates the stakeholder’s support on the proposed amendment, however, after further review HCD will not make any changes to the Final Express Terms as a result of these comments. The codes are updated every three years which can make it difficult to update the language in a timely manner, as new certification programs are developed, or programs are no longer available. In order to maintain the code with the most up to date standards, HCD and other proposing agencies have provided a reference to the CDPH website where all certification programs and testing labs are listed.

Regarding Item 6, Sections A4.106.5.3 “Solar reflectance index alternative”; A4.106.8.2 “New multifamily dwellings”; A4.106.8.2.1 “Technical requirements”; and repeal of Sections A4.106.10 “Light Pollution Reduction”; and “TABLE A4.106.10 MAXIMUM ALLOWABLE BACKLIGHT, UPLIGHT AND GLARE (BUG RATINGS^{1 2}),” of Final Express Terms. No comments were received on Item 6.

Regarding Item 7, Sections A4.504.2 and A4.504.3 of Final Express Terms. One comment was received and recommended Approve as Amended. See Commenter, Commenter Recommendation, and Agency Response for Item 5.

Regarding Item 8, Sections A4.602, Residential Occupancies Application Checklist of Final Express Terms. No comments were received on Item 8.

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.

There were no feasible alternatives to HCD. The exclusion of statutory requirements may cause conflict within the code and confusion for code users. HCD is not aware of any impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

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.