

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2013 CALIFORNIA RESIDENTIAL CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2.5**

(HCD 03/12)

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 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)

No data or any technical, theoretical or empirical study, report, or similar document on which the Department of Housing and Community Development (HCD) is relying has been added to the rulemaking file that was not identified in the Initial Statement of Reasons.

HCD has made no changes to the Express Terms as originally proposed.

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))

HCD 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 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 clearly indicated was made available to the public from **August 31, 2012**, until **October 15, 2012**.

One comment was received during the 45-day public comment period, which ended on **October 15, 2012**. Two comments were received after the close of the public comment period.

The following is HCD's summary of and response to comments specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the actions or reasons for making no change.

In each case, HCD has evaluated the submitted comments and provided the responses below.

NOTE: *The complete text of each comment may be reviewed at the following internet address:*

<http://www.bsc.ca.gov/>

COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD ARE LISTED BELOW.

(The text with proposed changes clearly indicated was made available to the public from August 31, 2012, until October 15, 2012.)

1. COMMENTER: Pat Healy, Chief EPM Inspector (**EM-1**)
Planning and Development Services
San Diego County
5510 Overland Avenue, Suite 110
San Diego, CA 92123
Pat.Healy@sdcounty.ca.gov

COMMENT: EM-1. Section R401.4.1.1: The commenter expresses concern that Section R401.4.1.1 has generated local confusion. Some cities have interpreted the section to mean that a soils report is required for all building projects no matter what the scope, including room additions. Mr. Healy states that a new code cycle may be a good opportunity to provide clarification and the purpose of the residential code is to remove some of the unnecessary expenses and obstacles associated with minor residential projects. The commenter provided HCD a copy of Procedure PC-26 "Soil Classification and Allowable Bearing Value" from the City of Oceanside. The commenter also gave positive feedback regarding HCD's Solar Guidelines document.

HCD RESPONSE:

HCD proposes to continue adoption of model code Sections R401.4 "Soil tests" and R401.4.1 "Geotechnical evaluation" without modification. These sections are unchanged from the 2009 International Residential Code (IRC) and the 2010 California Residential Code (CRC). The commenter states Section R401.4.1 permits use of Table R401.4.1 "Presumptive Load-Bearing Values of Foundation Materials" in lieu of a complete technical evaluation, but it is not clear to all enforcing agencies.

The International Code Council's 2009 International Residential Code Commentary states that where the bearing capacity of the soil has not been determined by geotechnical evaluation, it is a common practice to use presumptive bearing values for the design of the foundation system. Table R401.4.1 includes presumptive load-bearing values for five types of foundation materials. Footnote b in Table R401.4.1 requires that the load-bearing values of a soil be determined by a soils investigation if the soil is likely to have less than 1500 psf bearing capacity. Therefore, there are conditions in which use of the table may not be appropriate or accurate.

There are also statutory and regulatory provisions under which local enforcing agencies may require soil tests in lieu of using Table R401.4.1. Some of these provisions require soil tests at the subdivision or lot level. There is no reference for further soil testing for additional structures on the same lot, although the local enforcing agency may have reasons for requiring further soil tests based on new information or specific conditions. Statutory and regulatory provisions provide waiver of soil tests under specified conditions. A summary of these provisions are listed below:

- Section R401.4.1.1.1 addresses the State Housing Law requiring preliminary soil reports at the subdivision level and then at the lot level if the preliminary report indicates critically expansive soils or other soil problems. (See provisions for "subdivision" and "parcel" in the Subdivision Map Act, starting with Government Code Section 66426.)
- Section R401.4.1.1.1 also permits a waiver of preliminary soil reports if the building department determines, based on prior knowledge, that the preliminary analysis is unnecessary. The individual lot soil investigation required in Section R401.4.1.1.2 is required only if the preliminary soil report indicates soil problems.
- Section R401.4.1.1.5, proposed for the 2013 CRC, restates Health and Safety Code Section 17957 providing for the use of alternate procedures for local governing bodies which are equal or more restrictive than the provisions in Section R401.4.1.1.1.
- The Subdivision Map Act, Government Code Section 66490, also addresses the requirement for preliminary soils report at the subdivision level, but also provides for reports that may be required by local ordinance for other subdivisions. Government Code Section 66491 also provides a waiver of the soils reports or provides for optional soils investigations of each lot.

HCD considered the commenters observations and analysis. The current regulations, supplementary commentary and existing statute provide sufficient guidance to local enforcing agencies when to require

soils tests and when requirements for soil tests may be waived. No modifications are proposed based upon this comment.

COMMENTS RECEIVED AFTER THE 45-DAY PUBLIC COMMENT PERIOD ARE LISTED BELOW.

2. COMMENTER: Mike Jorgensen, Building Official (**EM-2; Late receipt**)
City of San Clemente
910 Calle Negocio, Suite #100
San Clemente, CA 92673

COMMENT: EM-2. Section R302.1: The commenter states that this section should strikethrough “P2904” and not “R313.”

HCD RESPONSE: HCD’s proposed strikethrough of “R313” is intentional. HCD is showing the repeal of an existing California amendment proposed during the 2009 Triennial Code Adoption Cycle for the 2010 California Residential Code (CRC). HCD’s repeal of this existing amendment would leave the model code and the CRC “as-is,” inferring Chapter P2904 was adopted. The Office of the State Fire Marshal (SFM) has statutory authority for fire and panic safety requirements, including fire sprinklers. HCD proposes not to adopt fire sprinkler requirements for the 2013 CRC and is repealing all 2010 HCD amendments related to fire sprinklers. The SFM’s proposed Express Terms dated August 31, 2012 (Page 6) includes the amendment in Section R302.1 of “Section 2904” to “Section R313.” As noted in HCD’s Initial Statement of Reasons, adoption and maintenance of regulations related to fire sprinklers will be promulgated through the SFM for efficiency in rulemaking and effectiveness in enforcement and interpretation. No modifications are proposed based upon this comment.

3. COMMENTER: Mike Jorgensen, Building Official (**EM-3; Late receipt**)
City of San Clemente
910 Calle Negocio, Suite #100
San Clemente, CA 92673

COMMENT: EM-3. Sections R802.1.3, R502, R602: The commenter notes that fire-retardant-treated wood requirements are only in Chapter 8 “Roof-Ceiling Construction” and suggests that similar requirements should be added to Section R502 “Wood Floor Framing” and Section R602 “Wood Wall Framing”.

HCD RESPONSE:
HCD contacted Mr. Jorgensen to further understand his comment and discovered he has also submitted code change proposals to the International Code Council regarding the omission of fire-retardant treated wood requirements in other chapters of the IRC addressing floors and walls where fire-retardant treated wood is used.

The comment may deserve further consideration; however, since it was received outside the 45-day public review period, there is insufficient time for HCD to evaluate and properly discuss the commenter’s proposal with stakeholders and interested parties. In the opinion of HCD staff, the most appropriate forum for this proposal is through the national code development process. No modifications are proposed based upon this comment.

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.)

Health and Safety Code (HSC) Section 18928.1 requires building standards adopted or approved by the California Building Standards Commission to incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions. In addition, HSC Section 18928 directs each state agency adopting or proposing adoption of a model code, national standard, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications. The 2013 CRC implements this requirement by proposing to adopt by reference the selected contents of the 2012 IRC (i.e., model code). No other alternatives have been considered since there is a recent model code available for adoption, including any necessary California amendments. In addition, Adoption of the most recent building standards on a statewide basis, as required by statute, results in uniformity and promotes affordable costs.

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).

There were no alternatives available to HCD. HCD is required by statute to adopt this model code by reference. Providing the most recent methods and applying those building standards on a statewide basis, as required by statute, results in uniformity and promotes affordable costs.