

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE AMENDMENT OF THE
2016 CALIFORNIA BUILDING CODE AND
2016 CALIFORNIA RESIDENTIAL CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PARTS 2 AND 2.5**

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 the agency intends to address 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.)

1) The Public Problem, Administrative Requirement, or Other Circumstance Addressed.

Public Problem: California is faced with a lack of affordable housing as well as a homeless population resulting from several natural disasters in the form of fires, floods, mudflows, and social or economic circumstances. Future seismic activity may also render residents with unoccupiable homes. Although California has adopted the 2016 California Building Standards Code (CBSC) to ensure that residential structures meet minimal safety and health standards, the process of designing and completing a building in full compliance with the requirements of the CBSC may be time consuming and costly. Residents displaced from their homes or currently in a homeless situation need to find shelters immediately to avoid health hazards associated with the lack of protection from the weather, access to sanitary facilities, places to sleep and eat, and protection from extreme temperatures.

Local jurisdictions need to establish and approve housing on a very short timeline; however, they also need to ensure that the housing provided is durable and safe. Relying on the CBSC is the routine process for permitting and approving residential housing. However, there are available options for housing not recognized in the CBSC, but that may provide a quick cost-effective means for assisting persons without safe shelters whether on a permanent or temporary basis.

Administrative Requirement: Health and Safety Code Sections 17922 and 19990 direct the Department of Housing and Community Development (HCD) to adopt the

most recent edition of specified model codes, which in this case are the 2015 International Building Code (IBC) and 2015 International Residential Code (IRC) published by the International Code Council (ICC), as selected by the California Building Standards Commission into Parts 2 and 2.5 of Title 24 of the California Code of Regulations (CCR). These adoptions would result in the 2016 California Building Code (CBC) and 2016 California Residential Code (CRC).

Health and Safety Code Section 18934.8, subdivision (b) provides for adoption of emergency amendments made to the model codes in an expedited rulemaking process outside the 18-month code adoption cycle. Part 1 of Title 24 of the CCR, Section I-419(e), specifies that emergency regulations may be made permanent in accordance with Government Code Section 11346.1 and Health and Safety Code Section 18938.

2) Specific Purpose

The specific purpose of this rulemaking is to make the emergency regulations adopted by HCD permanent regulations in the 2016 CBC and 2016 CRC. These regulations, which are voluntary appendices to the CBC and CRC, are intended to provide a consistent and available standard by which local agencies may develop emergency housing or shelter ordinances and provide a minimum set of health and safety measures for compliance. These regulations also provide a consistent standard for HCD to review, provide recommendations, and approve local emergency housing or shelter ordinances that are submitted to HCD for review. The formal adoption of these standards into the CBC and CRC also protects HCD from use and enforcement of underground regulations not formally adopted in accordance with the Building Standards Law. Additional information may be found in HCD's Finding of Emergency for the initial adoption of emergency regulations (See Attachment A). These regulations are adopted for the following programs, as applicable:

- a) **State Housing Law Program:** relative to residential occupancies, buildings or structures accessory thereto and as provided in Health and Safety Code Section 17921.2.
- b) **Employee Housing Program:** relative to any building or structure or outdoors on premises or property in accordance with Health and Safety Code Section 17040.
- c) **Mobilehome Parks or Special Occupancy Parks Programs:** relative to the use of building systems in or on any permanent buildings, accessory buildings, and structures under the ownership and control of the park operator within the park in accordance with Health and Safety Code Section 18300 for mobilehome parks, and Health and Safety Code Section 18865 for special occupancy parks.
- d) **Factory-Built Housing Law Program:** relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

3) Rationale for Necessity

It is necessary to propose the permanent adoption of emergency regulations to ensure that the regulations remain in effect and are available for HCD use for review and approval of local emergency housing ordinances as well as for local jurisdictions to either adopt as-is or modify for local amendments to the 2016 CBC and 2016 CRC. Currently, the emergency regulations will expire on October 15, 2018, unless readopted or made permanent by HCD.

Specific Proposed Regulatory Actions:

HCD proposes to permanently adopt emergency regulations addressing emergency housing into the 2016 CBC and 2016 CRC. These regulations, which are in the form of voluntary appendices, are available for adoption by local agencies and for use by HCD for review and approval of local emergency housing draft ordinances upon request. (See Attachment A Finding of Emergency reference to Assembly Bill 932 discussion in Background.)

HCD proposes to permanently amend the 2016 CBC and the 2016 CRC as follows:

- Add Appendix N Emergency Housing to the 2016 CBC
- Add Appendix X Emergency Housing to the 2016 CRC

Acronyms:

| | |
|------|---|
| CBC | California Building Code |
| CBSC | California Building Standards Code |
| CRC | California Residential Code |
| GC | Government Code |
| HCD | Department of Housing and Community Development |
| HSC | Health and Safety Code |
| IBC | International Building Code |
| IRC | International Residential Code |

Note: The regulations proposed for permanent adoption in Appendix N in the 2016 CBC are identical to the regulations proposed for permanent adoption in Appendix X in the 2016 CRC. Therefore, this ISOR will address the proposals in the CBC and CRC simultaneously.

1. **APPENDIX N (2016 CBC) and APPENDIX X (2016 CRC)
EMERGENCY HOUSING**

HCD proposes to permanently adopt Appendix N and Appendix X, which were approved for adoption as emergency regulations by the California Building Standards Commission on April 17, 2018. As emergency regulations, the regulations remain in effect for 180 days with an expiration date of October 15, 2018, unless re-adopted for up to two 90-day periods.

Appendix N and Appendix X were proposed as emergency building standards for emergency housing which would be available for adoption by local agencies and HCD use for review and approval of local emergency housing ordinances upon request. The proposed emergency regulations were intended to provide a consistent and available standard by which local agencies may develop emergency housing or shelter ordinances and to provide a minimum set of building standards for compliance. The proposed emergency regulations also provided a consistent standard for HCD to review, provide recommendations, and approve local emergency housing or shelter ordinances submitted to HCD for review. The adoption of these standards into the CBC and CRC would also protect HCD from use and enforcement of underground regulations not formally adopted in accordance with the Building Standards Law. The need for these regulations still exists; therefore, the regulations are proposed for adoption for the 2019 CBC (as Appendix O due to renumbering in the 2018 model code) and 2019 CRC (Appendix X). However, the original emergency adoption effective period will expire and readoptions will not keep the regulations in effect until the 2019 CBC and 2019 CRC become effective on January 1, 2020.

As emergency regulations, these regulations would need to complete a formal rulemaking process to become permanent regulations.

ITEMS 1 AND 2

APPENDIX N AND APPENDIX X EMERGENCY HOUSING

Section: Title Emergency Housing

Rationale: HCD proposes to permanently adopt the above referenced new Appendices as titled. There is no change in regulatory effect from the approved and adopted emergency regulations.

Note for appendix: *“The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.”*

Rationale: HCD proposes to revise and permanently adopt the above referenced nonregulatory note. The revision clarifies that the appendices were adopted as voluntary appendices by HCD and are mandatory for local enforcing agencies only if adopted by a local ordinance. There is no change in regulatory effect from the approved and adopted emergency regulations since HCD’s regulatory action specified adoption of

voluntary Appendix N and Appendix X.

SECTION N101 AND AX101 – GENERAL

Sections: N101.1 and AX101.1 Scope.

Rationale: HCD proposes to permanently adopt the above referenced new sections, which provide the scope and application of the appendices for emergency housing as defined. There is no change in regulatory effect from the approved and adopted emergency regulations.

SECTION N102 AND AX102 - DEFINITIONS

Sections: N102.1 and AX102.1 General.

Rationale: HCD proposes to permanently adopt the above referenced definitions in Section N102.1 and AX102.1. Definitions were adopted in the emergency regulations to provide clarity and reference for terms used in the regulatory text. Brief rationale for the adoption of the new definitions follow. There is no change in regulatory effect from the approved and adopted emergency regulations.

DECLARATION OF SHELTER CRISIS.

Rationale: The proposed definition is duplicated from Government Code Section 8698 that includes provisions for shelter crisis and the meaning of “declaration of a shelter crisis.”

DEPENDENT UNIT.

Rationale: The proposed definition provides clarity for dependent units including clarity for recreational vehicles to be considered as dependent units.

EMERGENCY HOUSING.

Rationale: The proposed definition provides clarity on the types of structures and vehicles under the scope of these proposed appendices. Other synonymous terms may be “emergency shelters” or “temporary emergency residential accommodations;” however, “emergency housing” was an acceptable term with reviewers.

EMERGENCY HOUSING FACILITIES.

Rationale: The proposed definition provides clarity on the types and use of facilities included as “emergency housing facilities.”

EMERGENCY HOUSING SITE.

Rationale: The proposed definition provides clarity for the terms as used in the appendices.

EMERGENCY SLEEPING CABIN.

Rationale: The proposed definition was derived, in part, from Government Code Section 8698.3, subdivision (h), which includes a definition for “emergency sleeping cabin” and specified requirements. HCD’s proposed definition references the appendix that includes similar requirements and some variations in Sections N104 and AX104.

See Section 104 discussion for additional details.

EMERGENCY TRANSPORTABLE HOUSING UNIT.

Rationale: The proposed definition has been derived from the 36 CFR (Code of Federal Regulations) Part 1191 Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) Accessibility Guidelines: Emergency Transportable Housing Units, Final Rule, May 7, 2014. HCD also proposes nonsubstantive editorial corrections.

LANDING PLATFORM.

Rationale: The proposed definition has been derived from the 2018 International Residential Code (IRC) Appendix Q for Tiny Houses.

LOCAL EMERGENCY.

Rationale: The proposed definition refers to the definition for “local emergency” in the California Emergency Services Act, Government Code Section 8558, subdivision (c). Government Code Section 8558, subdivision (c) refers to specified types of emergencies within the territory of a city, county, or city and county, but may be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and may require combined force of other political subdivisions to combat.

LOFT.

Rationale: The proposed definition has been derived from the 2018 IRC Appendix Q for Tiny Houses.

MANUFACTURED HOME.

Rationale: The proposed definition provides clarity on the term as used in the appendices and application to structures manufactured on or after June 15, 1976, and meeting other specifications in Health and Safety Code Section 18007.

MOBILEHOME.

Rationale: The proposed definition provides clarity on the term as used in the appendices and application to structures manufactured prior to June 15, 1976, and meeting other specifications in Health and Safety Code Section 18008.

MULTIFAMILY MANUFACTURED HOME.

Rationale: The proposed definition provides clarity on the term as used in the appendices and application to structures manufactured for not more than two dwelling units, a dormitory or efficiency unit, and meeting other specifications in Health and Safety Code Section 18008.7.

PARK TRAILER.

Rationale: The proposed definition provides clarity on the term as used in the appendices and application to structures designed for human habitation for recreational or seasonal use only meeting other specifications in Health and Safety Code Section 18009.3.

RECREATIONAL VEHICLE.

Rationale: The proposed definition provides clarity on the term as used in the appendices and application to the specified vehicles designed for human habitation for recreational, emergency, or other occupancy and meeting other specifications in Health and Safety Code Section 18010.

STATE OF EMERGENCY.

Rationale: The proposed definition refers to the definition for “state of emergency” in the California Emergency Services Act, Government Code Section 8558, subdivision (b). Government Code Section 8558, subdivision (b) refers to specified types of emergencies that are beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require combined forces of a mutual aid region(s) to combat.

SECTION N103 AND AX103 – EMERGENCY HOUSING

Sections: N103.1 and AX103.1 General.

Rationale: HCD proposes to permanently adopt the above referenced sections that clarify that specified types of buildings or structures are to be occupied only during a declaration of state emergency, local emergency, or shelter crisis. These sections also clarify that buildings built in accordance with the CBSC may be occupied on a permanent basis. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N103.2 and AX103.2 Existing buildings.

Rationale: HCD proposes to permanently adopt the above referenced sections that clarify that code compliant (at time of construction or alteration) existing residential or nonresidential buildings may be used as emergency housing or emergency housing facilities as long as they are not substandard as determined by the local enforcing agency (authority having jurisdiction). The State Housing Law, Health and Safety Code Section 17920.3, specifies substandard conditions for dwelling units, guestrooms or suite of rooms, and their premises. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N103.2.1 and AX103.2.1 New additions, alterations, and change of occupancy.

Rationale: HCD proposes to permanently adopt the above referenced sections that clarify required compliance with the code effective at the time for new additions, alterations or changes of occupancy. These sections also clarify that the requirements only apply to new areas or areas with alterations or changes in occupancy. The exception exempts existing buildings and structures used for emergency housing from

compliance with the California Energy Code, but only as determined by the local enforcing agency. There is no change in regulatory effect from the approved and adopted emergency regulations.

HCD Note: HCD’s intent when developing the Emergency Housing appendices was to exempt existing buildings undergoing alterations and change of occupancy from compliance with the California Energy Code. Alterations and change of occupancy were not mentioned in the exception because HCD considered new additions to buildings as new structures. However, several code users expressed concerns that the language, as written, is misleading, and may be interpreted as applying to additions, too. HCD will clarify the language after the 45-day public comment period.

Sections: N103.3 and AX103.3 Occupant load.

Rationale: HCD proposes to permanently adopt the above referenced sections that specify occupant loads for structures used as emergency housing. These sections provide discretion for the local enforcing agency to determine maximum occupant load; however, sets a minimum size for the interior of the emergency housing unit depending on number of occupants. These minimum dimensions are based on the “emergency sleeping cabin” definition in Government Code Section 8698.3, subdivision (h) that provides for 120 square feet interior space for two occupants and a minimum of 70 square feet for one occupant. HCD also proposes a nonsubstantive editorial correction for Sections N103.3 and AX103.3. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N103.4 and AX103.4 Fire and life safety requirements not addressed in this appendix.

Rationale: HCD proposes to permanently adopt the above referenced sections that gives authority to the local enforcing agencies to determine and enforce specified fire and life safety measures unless they are addressed in the appendices. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N103.5 and AX103.5 Privacy.

Rationale: HCD proposes to permanently adopt the above referenced sections that require a privacy lock on each entrance door and all windows. This is derived from Government Code Section 8698.3, subdivision (h)(7), which requires the lock on each door. HCD expanded the requirement to include a window lock after reaching out to jurisdictions declaring shelter crisis in the past and experiencing issues with unlocked windows. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N103.6 and AX103.6 Heating.

Rationale: HCD proposes to permanently adopt the above referenced sections that require all sleeping areas to have adequate heating as determined by the local enforcing agency. These sections, as written, provide a performance measure to accommodate different types of emergency housing, e.g., tents, which may not be able to maintain a specific temperature, and the times and areas of use of emergency housing, e.g., desert areas vs. cold climates. There is no change in regulatory effect

from the approved and adopted emergency regulations.

SECTION N104 AND AX104 – EMERGENCY SLEEPING CABINS

Sections: N104.1 and AX104.1 General.

Rationale: HCD proposes to permanently adopt the above referenced sections that specify minimum interior dimensions based on occupant loads for emergency sleeping cabins. These minimum dimensions are based on the “emergency sleeping cabin” definition in Government Code Section 8698.3, subdivision (h) that provides for minimum of 120 square feet of interior space for two occupants and 70 square feet for one occupant. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.2 and AX104.2 Live loads.

Rationale: HCD proposes to permanently adopt the above referenced sections that specify live loads for emergency sleeping cabins. These standards are based on the live load requirements for camping cabins in the Special Occupancy Parks Act, Health and Safety Code Section 18871.11. Roof live loads are also consistent with the roof structure live loads in Government Code Section 8698.3, subdivision (h). HCD also proposes a nonsubstantive editorial correction for Sections N104.2 and AX104.2. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.3 and AX104.3 Minimum ceiling height.

Rationale: HCD proposes to permanently adopt the above referenced sections that specify minimum ceiling heights for emergency sleeping cabins. These standards are consistent with the 2018 IRC Appendix Q for Tiny Houses. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.4 and AX104.4 Means of egress.

N104.4.1 and AX104.4.1 Egress window.

Rationale: HCD proposes to permanently adopt the above referenced sections derived from the Health and Safety Code Section 18871.11 and address the design of camping cabins. Sections N104.4 and AX104.4 require a second egress opening with the option of using a window meeting specified criteria. Sections N104.4.1 and AX104.4.1 provide the criteria for the window if used for egress. HCD also proposes a nonsubstantive editorial correction for Sections N104.4.1 and AX104.4.1. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.5 and AX104.5 Plumbing and gas service.

Rationale: HCD proposes to permanently adopt the above referenced sections that clarify that any emergency sleeping cabins with plumbing or gas service must comply with the California Plumbing Code and California Mechanical Code. This differs from the requirements for emergency sleeping cabins in Government Code Section 8698.3, subdivision (h), which are not to contain plumbing or gas service. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.6 and AX104.6 Electrical.

Rationale: HCD proposes to permanently adopt the above referenced sections that require emergency sleeping cabins to have specified electrical provisions that comply with the California Electrical Code. These requirements have been derived from Government Code Section 8698.3, subdivision (h) with additional specifications that the electrical power be continuous, and that the heating equipment have a dedicated receptacle. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.7 and AX104.7 Ventilation.

Rationale: HCD proposes to permanently adopt the above referenced sections that require emergency sleeping cabins to have adequate air exchanges as determined by the local enforcing agency. These requirements are consistent with Government Code Section 8698.3, subdivision (h). There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.8 and AX104.8 Smoke alarms.

Rationale: HCD proposes to permanently adopt the above referenced sections that require emergency sleeping cabins to have smoke alarms installed in accordance with the CRC. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N104.9 and AX104.9 Carbon monoxide alarms.

Rationale: HCD proposes to permanently adopt the above referenced sections that require emergency sleeping cabins to have carbon monoxide alarms if there are fuel-burning appliances or a fireplace in the emergency sleeping cabin. HCD also proposes a nonsubstantive editorial correction for Sections N104.9 and AX104.9. There is no change in regulatory effect from the approved and adopted emergency regulations.

SECTION N105 AND AX105 – EMERGENCY TRANSPORTABLE HOUSING UNITS

Sections: N105.1 and AX105.1 General.

Rationale: HCD proposes to permanently adopt the above referenced sections, which clarify that manufactured homes, mobilehomes, multifamily manufactured homes, recreational vehicles, and park trailers used as emergency housing need to comply with the Manufactured Housing Act of 1980 (HSC Section 18000 *et seq.*); and the implementing regulations in the CCR, Title 25 as specified. HCD also proposes a nonsubstantive editorial correction for Sections N105.1 and AX105.1. There is no change in regulatory effect from the approved and adopted emergency regulations.

SECTION N106 AND AX106 – TENTS

Sections: N106.1 and AX106.1 General.

Rationale: HCD proposes to permanently adopt the above referenced sections that clarify conditions for occupancy of tents for purposes of emergency housing. This section was derived from the CCR, Title 25, Section 910, implementing Employee Housing. In addition, HCD clarifies that tents not meeting specific requirements in these sections cannot be used for more than 7 days since tents are not designed for long term living. There is no change in regulatory effect from the approved and adopted emergency regulations.

SECTION N107 AND AX107 – ACCESSIBILITY

Sections: N107.1 and AX107.1 General.

Rationale: HCD proposes to permanently adopt the above referenced sections. Several federal and state laws and regulations, including referenced Government Code Section 8698.3, subdivision (h), require access to public facilities such as emergency housing. Chapter 11B is specifically stated since emergency housing facilities will be open to the public, and will be owned, operated, or constructed by, for or on behalf of a public entity. A note is added to provide references to federal guidelines related to emergency transportable housing. There is no change in regulatory effect from the approved and adopted emergency regulations.

SECTION N108 AND AX108 – LOFTS IN EMERGENCY HOUSING

Sections: N108.1 and AX108.1 Minimum loft area and dimensions.

- N108.1.1 and AX108.1.1 Minimum area.**
- N108.1.2 and AX108.1.2 Minimum dimensions.**
- N108.1.3 and AX108.1.3 Height effect on loft area.**

Rationale: HCD proposes to permanently adopt the above referenced sections that require minimum areas and dimensions for lofts, and clarify the effect of height when calculating minimum loft area. These standards are consistent with the 2018 IRC Appendix Q for Tiny Houses. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N108.2 and AX108.2 Loft access.

- N108.2.1 and AX108.2.1 Stairways.**
- N108.2.1.1 and AX108.2.1.1 Width.**
- N108.2.1.2 and AX108.2.1.2 Headroom.**
- N108.2.1.3 and AX108.2.1.3 Treads and risers.**
- N108.2.1.4 and AX108.2.1.4 Landing platforms.**
- N108.2.1.5 and AX108.2.1.5 Handrails.**
- N108.2.1.6 and AX108.2.1.6 Stairway guards.**

Rationale: HCD proposes to permanently adopt the above referenced sections, which include requirements for stairways when used for loft access. These standards are consistent with the 2018 IRC Appendix Q for Tiny Houses. HCD proposes editorial

corrections in Sections N108.2.1.2 and AX108.2.1.2; and N108.2.1.4 and AX108.2.1.4, to correct a typographical error: the reference to “80 inches (1880 mm)” should be changed to “74 inches (1880 mm)” to provide consistency with the metric and the source of the information (Appendix Q). There is no intended change in regulatory effect from the approved and adopted emergency regulations.

Sections: N108.2.2 and AX108.2.2 Ladders.
N108.2.2.1 and AX108.2.2.1 Size and capacity.
N108.2.2.2 and AX108.2.2.2 Incline.

Rationale: HCD proposes to permanently adopt the above referenced sections that include requirements for ladders when used for loft access. These standards are consistent with the 2018 IRC Appendix Q for Tiny Houses. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N108.2.3 and AX108.2.3 Alternating tread devices.

Rationale: HCD proposes to permanently adopt the above referenced sections that clarify that alternating tread devices are acceptable for loft access when approved by the local enforcing agency. These standards are consistent with the 2018 IRC Appendix Q for Tiny Houses. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N108.2.4 and AX108.2.4 Loft guards.

Rationale: HCD proposes to permanently adopt the above referenced sections, which clarify location and height of loft guards. These standards are consistent with the 2018 IRC Appendix Q for Tiny Houses. These sections also clarify the maximum width of openings from the walking surface to the guard height. This requirement is consistent with the 2016 CBC Section 1015.4 and 2016 California Residential Section R312.1.3. HCD also proposes a nonsubstantive editorial correction for Sections N108.2.4 and AX108.2.4. There is no change in regulatory effect from the approved and adopted emergency regulations.

SECTION N109 AND AX109 – LOCATION, MAINTENANCE AND IDENTIFICATION

Sections: N109.1 and AX109.1 Maintenance.
N109.1.1 and AX109.1.1 Fire hazards.
N109.3 and AX109.3 Identification. Numbering out of sequence

Rationale: HCD proposes to permanently adopt the above referenced sections that address maintenance, fire safety, and identification of emergency housing and emergency housing facilities. These sections were derived from the CCR, Title 25, Section 704(a) addressing maintenance. The proposed sections also clarify that emergency housing or emergency housing facilities are not to be occupied if substandard conditions, as determined by the local enforcing agency, exist. The fire hazards requirement was included after consultation with the City of Los Angeles and some of the CALBO members. The requirements for structure identification are derived from the 2016 CBC Section 501.2 and the 2016 CRC Section R319.1 and provide a

means to identify individual buildings. HCD also proposes nonsubstantive editorial corrections for Sections N109.1 and AX109.1 and N109.1.1 and AX109.1.1. There is no change in regulatory effect from the approved and adopted emergency regulations.

SECTION N110 AND AX110 – EMERGENCY HOUSING FACILITIES

Sections: N110.1 and AX110.1 Drinking water.

Rationale: HCD proposes to permanently adopt the above referenced sections that require potable drinking water be provided for all emergency housing occupants. These sections were derived from the CCR, Title 25, Section 772, implementing Employee Housing. HCD also proposes a nonsubstantive editorial correction for Sections N110.1 and AX110.1. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N110.2 and AX110.2 Kitchens.

Rationale: HCD proposes to permanently adopt the above referenced sections, which require kitchen be provided for occupants of dependent units. These sections also require refrigerated storage be provided for safe storage of food. These sections were derived from the CCR, Title 25, Section 736, implementing Employee Housing. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N110.3 and AX110.3 Toilet and bathing facilities.

Rationale: HCD proposes to permanently adopt the above referenced sections that clarify the requirements for toilet and bathing facility for occupants of dependent units. These sections were derived from the CCR, Title 25, Section 760, implementing Employee Housing. There is no change in regulatory effect from the approved and adopted emergency regulations.

Sections: N110.4 and AX110.4 Garbage, waste and rubbish disposal.

Rationale: HCD proposes to permanently adopt the above referenced sections, which address the requirements for non-sewage waste disposal. These sections were derived from the CCR, Title 25, Section 742, implementing Employee Housing. There is no change in regulatory effect from the approved and adopted emergency regulations.

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).

- 2018 International Residential Code Appendix Q for Tiny Houses
- Government Code provisions for shelter crisis – Section 8698.3(h)
- Health and Safety Code requirements for camping cabins and park trailers.
- California Code of Regulations Title 25 requirements for tents, maintenance and location of specified structures and provisions for kitchens, bathrooms, heat and waste.
- California Code of Regulations Title 25, Section 724
- 36 CFR, Part 1191 Americans with Disabilities Act (ADA); and Architectural Barriers Act (ABA) Accessibility Guidelines: Emergency Transportable Housing Units, Final Rule, May 7, 2014.

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. The emergency housing standards are derived from prescriptive measures in the 2018 International Residential Code (model code). Many of the emergency housing standards are also derived from and consistent with prescriptive standards in the California statutes and the CCR implementing these statutes as detailed in the section-by-section rationale for adoption in this document.

State law permits performance standards; however, they must be demonstrated to the satisfaction of the proper enforcing agency.

CONSIDERATION OF REASONABLE ALTERNATIVES

(Government Code Section 11346.2(b)(4)(B)) 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.)

HCD had several alternatives to the permanent adoption of the emergency housing regulations as listed below. HCD will be using Alternative #2 to ensure continuity of the emergency regulations during the effective period of the 2016 CBC and 2016 CRC and

carry forward the provisions into the 2019 CBC and 2019 CRC.

1. Make the regulations permanent and the Appendices available for local adoption during the effective period of the 2016 CBC and CRC. The regulations will be effective until December 1, 2019.
2. Make the regulations permanent and the Appendices available for local adoption during the effective period of the 2016 CBC and CRC. The regulations will be effective until December 1, 2019. The regulations will be “carried forward” into the 2019 CBC and CRC.
3. Readopt the regulations for a maximum of two times. This will provide a one-year effective period for the regulations ending in April 2019. Regulations will expire prior to the January 1, 2020, effective date of the 2019 CBC and 2019 CRC.
4. Let emergency regulations expire after the initial 180-day period. Appendices will no longer be available for local adoption in the 2016 CBC and 2016 CRC.

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)

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.

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 or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

- 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 existing business within the State of California.

- The expansion of businesses currently doing business with the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations will provide a codified set of standards for different types of emergency housing and the minimum health and safety requirements for this type of housing. Voluntary location adoption of these standards in local emergency housing ordinances will provide benefits to the populace needing temporary or permanent housing due to homelessness. The standards will provide increased 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.)

- Some provisions in the emergency housing proposal have been derived from the 2018 International Residential Code that is a model code adopted by reference in California. Pursuant to Government Code Section 11346.2, subdivision (b)(5)(B)(ii) adoption of the model codes is exempt from identification of the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates in the Initial Statement of Reasons.
- The emergency regulations are proposed for permanent adoption as voluntary appendices so these regulations are not state mandates. Due to the various types of emergency housing that is recognized in the proposed regulations and the lack of a state mandate to adopt specified types, it is not possible to estimate costs for compliance.
- The potential benefits include availability of a codified set of standards that provide minimum health and safety requirements for several types of structures, including tents that may be used for emergency housing. Recognition in the 2016 CBC and 2016 CRC facilitate development of local ordinances for

emergency housing and use of these standards as minimum requirements. The population in need of emergency housing will benefit from reduction in delays of establishing sites for emergency housing, use of types of emergency housing recognized in the regulations, and faster review and approval of emergency housing ordinances by HCD. Local enforcement agencies will also have a codified set of emergency housing to rely on for code enforcement issues.

- HCD assumes that a codified set of emergency housing regulations provides consistent guidance to code users, local enforcing agencies, and the general public on what

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 duplicate nor conflict with federal regulations. The State of California has preemptive authority to adopt more restrictive mandatory standards for the construction methods and materials addressed in the CBSC that includes these regulations.