

**INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE ADOPTION BY REFERENCE OF THE
2008 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC)
WITH PROPOSED AMENDMENTS INTO THE 2010 CALIFORNIA ELECTRICAL CODE (CEC)
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 3
(HCD 1/08)**

The Administrative Procedure Act requires that an Initial Statement of Reasons to be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE:

(Government Code Section 11346.2 requires a statement of specific purpose of **EACH** adoption, amendment or repeal and the rationale of the determination by the agency that EACH adoption, amendment or repeal is reasonably necessary to carry out the purpose for which it is proposed.

- When repealing adopted California original standards, summarize the effect of the standards and explain why the standard is no longer necessary
- When amending a standard, explain the standard proposed to be modified, explain the effect of the proposed modification, explain the inadequacy of the standards being modified, and explain why the proposed amendment is necessary)

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

Administrative Requirement: Health and Safety Code Section 17922 directs the Department of Housing and Community Development (HCD) to recommend adoption of the most recent edition of the NEC into Part 3, of Title 24, California Code of Regulations (CCR.)

2) Specific Purpose

The California Building Standards Commission (CBSC) selected the 2008 NEC published by the National Fire Protection Association as the model code to be referenced in Title 24, Part 3, CCR for the 2010 code adoption cycle.

The specific purpose of these regulations is to adopt by reference the 2008 edition of the NEC, with State amendments, as indicated on the attached Matrix Adoption Table, into Part 3, Title 24, CCR for the following programs:

- a) **State Housing Law:** relative to residential occupancies, buildings or structures accessory thereto.
- b) **Employee Housing Act:** relative to the use or maintenance of electrical equipment and systems in or on any building or structure or outdoors on premises or property in accordance with Health and Safety Code Section 17040.
- c) **Mobilehome Parks and Special Occupancy Parks:** relative to the installation, use and maintenance of electrical equipment and systems in or on any permanent buildings or structures under the ownership and control of the park operator within the park in accordance with Health and Safety Code Sections 18300, 18670, 18865 and 18873.3.
- d) **Factory-Built Housing Law:** relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assembly in accordance with Health and Safety Code Section 19990.

3) Rationale for Necessity

The National Fire Protection Association acted on the 2008 National Electrical Code at its June Association Technical Meeting held June 3-7, 2007. The 2008 edition of the NEC was issued by the Standards Council on July 26, 2007, with an effective date of August 15, 2007, and supersedes all previous editions. The NEC will automatically become adopted, in its entirety, pursuant to Health and Safety Code Section 17922 (b), one year from its date of publication, if not adopted or proposed for adoption by HCD to the CBSC prior to that date.

If the 2008 NEC becomes adopted in its entirety without being adopted by the CBSC, such automatic adoption would cause considerable confusion because California amendments, also known as "State amendments," are necessary modifications to the model code language to ensure that the 2010 CEC is consistent with state law and unique California conditions.

It is necessary to propose the adoption of some sections of the 2008 NEC with amendments to the model code language to incorporate state law provisions and to accommodate unique California conditions.

It is necessary to not propose the adoption of some sections of the 2008 NEC as they would conflict with existing state law and to accommodate unique California conditions.

It is necessary to propose to bring forward previously existing California amendments. Some existing amendments will be brought over without any changes and will represent no change in their effect from the 2007 California Electrical Code. Other previously existing California amendments will be amended as follows:

- Add or change the reference to the application authority [HCD 1, HCD 1-AC, and/or HCD 2].
- Amend language for consistency with existing state and federal law.
- Amendment language indicating that specified model code language of the 2008 edition of the NEC is not adopted into the 2010 CEC.

Specific Proposed Regulatory Actions:

HCD proposes to adopt the 2008 NEC by reference into the 2010 CEC with amendments. The rationale for each amendment is listed below.

CALIFORNIA ARTICLE 89 GENERAL CODE PROVISIONS

HCD proposes to bring forward the existing language contained in California Article 89 of the 2007 CEC for adoption into the 2010 CEC. The following sections and subsections are proposed to be brought forward without amendment:

89.101, 89.101.3, 89.101.7, 89.101.7.1, 89.101.8.1(1), 89.101.8.1(2), 89.101.9, 89.108, 89.108.1, 89.108.2, 89.108.2.1, 89.108.3, 89.108.3.2.2, 89.108.4, 89.108.4.2, 89.108.4.3, 89.108.5, 89.108.6, 89.108.7, 89.108.7.1, 89.108.7.2(1), 89.108.7.2(2), 89.108.7.2(3), 89.108.7.2.1(1), 89.108.7.2.1(3), 89.108.7.3(1), 89.108.8, 89.108.8.1, 89.108.8.3, 89.108.9, 89.108.10, 89.108.10.2

HCD proposes to bring forward and amend the existing language contained in California Article 89 of the 2007 CEC to update the NEC reference from 2005 to 2008, and to make changes to provide consistency with Title 24, Part 2, California Building Code (CBC). HCD also proposes to make other nonsubstantive reference, grammatical, and punctuation corrections in existing California amendment language and to also provide consistency with the CBC, (California) Chapter 1, General Code Provisions.

SECTION: 89.101.1 Title

HCD proposes to correct the reference to the number of parts in CCR, Title 24, California Building Standards Code, from 11 to 12, and to update 2005 NEC to 2008 NEC, and make minor editorial corrections.

SECTION: 89.101.2 Purpose

HCD proposes to amend language to mirror the text in the CBC as referring to safeguarding life and property from fire and other hazards.

SECTION: 89.101.3.1 Nonstate-Regulated Buildings, Structures, and Applications

HCD proposes to continue adoption of the above referenced California amendment with modification. HCD proposes to amend the list of parts of Title 24 to reflect the addition of the California Green Building Standards Code (Part 11) and the California Residential Code (Part 2.5), and to make an editorial change for consistency with the CBC.

SECTION: 89.101.3.2 State-Regulated Buildings, Structures, and Applications

HCD proposes to amend capitalization of "Section" and defined terms to provide consistency within the document and amend capitalization of "state legislature" to provide consistency with the CBC.

HCD proposes to correct a reserved code section for the California State Lands Commission.

HCD proposes to make corrections to reference the full range of state-regulated activities of the Department of Public Health to provide consistency with the CBC, and to reflect the new organizational name change from the Department of Health Services to the Department of Public Health.

HCD proposes to provide more specificity to the reference for HCD's provisions for housing construction, accessibility, and permanent structures in mobilehome and special occupancy parks and to amend capitalization of "covered multifamily dwelling" to provide consistency with the CBC

HCD proposes to make punctuation corrections and to delete the hyphen in "day care" to the range of state-regulated activities of the Office of the State Fire Marshal to provide consistency with the CBC.

SECTION: 89.101.3.3 Exempted from this Code

HCD proposes to amend capitalization of "code" to lowercase to provide consistency with the CBC.

SECTION: 89.101.4 Annexes

HCD proposes to amend capitalization of "Sections" to provide consistency within the document and provide a more appropriate Health and Safety Code section reference for adoption of model building codes.

SECTION: 89.101.5 Referenced Codes

HCD proposes to correct the name of the NFPA from the National Fire Prevention Association to the National Fire Protection Association (NFPA) and also add a reference to NFPA standards as a potential authoritative guide.

SECTION: 89.101.6 Non-Building Standards, Orders and Regulations

HCD proposes to correct a Health and Safety Code citation for purposes of format consistency.

HCD proposes to amend capitalization of "Section" to provide consistency within the document.

SECTION: 89.101.7.2 Specific Provisions

HCD proposes to correct reference to "provision" for consistency with the CBC.

SECTION: 89.101.7.3 Conflicts

HCD proposes to make "requirement" plural for consistency with the CBC.

SECTION: 89.101.8 City, County, or City and County Amendments, Additions or Deletions

HCD proposes to amend capitalization of "Section" to provide consistency within the document and to add language referencing compliance provisions for local amendments. HCD proposes to revise reference to jurisdictions in the singular for consistency with other codes and to indicate action "by" the jurisdiction. This additional language is to provide consistency with the CBC.

SECTION: 89.101.8.1 (3) Findings and Filings

HCD proposes to also reference HCD's post office box for purposes of receiving copies of referenced findings via mailing.

SECTION: 89.101.10 Availability of Codes

HCD proposes to amend capitalization of "Section" to provide consistency within the document, and to replace an ampersand symbol with the word "and" for sentence structure and consistency with the CBC.

HCD proposes to clarify that complete and up-to-date copies of the specified California Code of Regulations titles are required to be maintained at the building official's office. This modification has no intended change in regulatory effect.

SECTION: 89.101.11 Format

HCD proposes to make minor amendments to capitalize references to the Matrix Adoption Tables.

SECTION: 89.101.12 Validity

HCD proposes to include a reference to articles since the NEC use chapters, articles and sections for purposes of segregating provisions.

SECTION: 89.108.2.1.1 Housing Construction

HCD proposes to add enforcing agency information and statutory authority and reference citations for clarification purposes.

HCD proposes to amend capitalization of "Section" to provide consistency within the document.

SECTION: 89.108.2.1.2 Housing Accessibility

HCD proposes to continue the adoption of the above-listed California amendment into Title 24, Part 3, CEC, with modification.

HCD proposes to remove the hyphen in "time-shares" to provide consistency with the CBC.

HCD proposes to amend capitalization of defined terms and references to "covered multifamily dwelling" to provide consistency within the section.

During the 2007 annual adoption cycle, HCD removed many references to the Group R occupancy classification in CBC Chapter 11A because occupancy classifications are located in CBC Chapter 3 and are not relevant to determine accessibility standards for covered multifamily dwelling units. HCD proposes a similar change to provide clarity and consistency for the code user. The modifications have no intended change in regulatory effect.

HCD proposes the change in subsection (5) as the result of a stakeholder comment from past HCD Access focus group meetings. An existing building reconstructed as a multifamily dwelling, and meeting all other requirements for classification as a covered multifamily dwelling, is considered a new building for the purpose of applying CBC, Chapter 11A. Whether the façade remains and a new building is constructed behind the existing façade, or the building exterior (shell) is preserved in whole or in part, and the interior of the building including all structural portions of the floors and ceilings is removed and newly constructed within, the provisions of CBC, Chapter 11A will apply.

HCD proposes to correct the acronym references to HCD 1-AC and DSA-AC for purposes of consistency with the CBC.

HCD proposes to delete references to Chapters 11A and 11B for the term "publicly funded" since this term is not defined in the referenced chapters. The modifications have no intended change in regulatory effect.

HCD proposes to add enforcing agency information and statutory authority and reference citations for clarification purposes.

SECTION: 89.108.2.1.3 Permanent Buildings in Mobilehome Parks and Special Occupancy Parks

HCD proposes to add enforcing agency information and statutory authority and reference citations for clarification purposes. A capitalization correction is also proposed.

SECTION: 89.108.3.1 Duties and Powers

HCD proposes to amend language to mirror the text in the CBC as referring to movement of specified structures, and to make a correction to the reference for State Housing Law regulations.

SECTION: 89.108.3.2 Laws, Rules and Regulations

HCD proposes to make a punctuation correction in the title for purposes of consistency with the CBC.

SECTION: 89.108.3.2.1 State Housing Law

HCD proposes to amend language to mirror the text in the CBC as referring to movement of specified structures, and to amend capitalization of "code" to lowercase to provide consistency with the CBC.

HCD proposes to amend reference citations to mirror the same reference in the CBC.

SECTION: 89.108.3.2.3 Special Occupancy Parks Act

SECTION: 89.108.3.2.4 Employee Housing Act

HCD proposes to amend reference citations to mirror the same reference in the CBC.

SECTION: 89.108.3.2.5 Factory-Built Housing Law

HCD proposes to revise the title to reflect the complete name of the law.

HCD proposes to amend reference citations to mirror the same reference in the CBC.

SECTION: 89.108.4.1 Permits

HCD proposes to amend language to mirror the text in the CBC as referring to movement of specified structures, and to amend capitalization of "Section" to provide consistency within the document.

SECTION: 89.108.4.3 Plan Review and Time Limitations

HCD proposes an editorial change for punctuation for consistency with the CBC.

SECTION: 89.108.4.3.1 Retention of Plans

HCD proposes to amend capitalization of "Exception" to provide consistency within the document and with the CBC.

HCD proposes to add a reference for the metric equivalent of the bearing wall span for consistency with the CBC.

HCD proposes to correct a reference to a code citation referencing provisions for building plans.

SECTION: 89.108.4.4 Inspections

HCD proposes to delete reference to required inspections formerly only adopted by the State Fire Marshal. These inspections are not related to electrical installations.

HCD also proposes to amend capitalization of "code" to lowercase to provide consistency with the CBC.

SECTION: 89.108.5.1 General

HCD proposes to add more specificity and consistency to citations for referenced statutes, and to amend capitalization of "code" to lowercase to provide consistency with the CBC.

HCD proposes to revise the title of the Factory-Built Housing Law to reflect the complete name of the law.

SECTION: 89.108.6.1 General

HCD proposes to amend capitalization of "code" to lowercase and make a punctuation correction to provide consistency with the CBC.

HCD proposes adding Health and Safety Code Section 17958.5, which provides authority for developing local amendments, to the list of references addressing local amendments.

SECTION: 89.108.6.2 Local Modification by Ordinance or Regulation, Findings, Filings, and Rejections of Local Modifications

HCD proposes to reference local jurisdictions in the singular.

HCD proposes to amend capitalization of "Section" to provide consistency within the document.

SECTION: 89.108.7.2 Local Building Departments

HCD proposes to amend language to mirror the text in the CBC regarding local approval of alternates to provide consistency with the CBC.

SECTION: 89.108.7.2.1 Approval of Alternates

HCD proposes to correct punctuation and amend capitalization of "code" to lowercase in subsection (2) for consistency with the CBC and capitalize a defined term.

HCD proposes to correct a reference to the California Code of Regulations in the last paragraph.

SECTION: 89.108.7.3 Department of Housing and Community Development

HCD proposes to amend language to mirror the text in the CBC as referring to movement of specified structures, and to amend capitalization of "code" to lowercase to provide consistency with the CBC.

SECTION: 89.108.8.2 Appeals Board, Definitions

HCD proposes to make capitalization changes for "Housing Appeals Board" and "Local Appeals Board" for consistency with the CBC.

SECTION: 89.108.9.1 Authority to Enforce

HCD proposes to add more specificity and consistency to citations for referenced statutes, and to amend capitalization of "code" to lowercase to provide consistency with the CBC.

SECTION: 89.108.9.2 Actions and Proceedings

HCD proposes to add more specificity and consistency to citations for referenced statutes, and to amend capitalization of “code” to lowercase to provide consistency with the CBC.

HCD proposes a correction to the title of this section as “Factory-Built Housing Law.”

SECTION: 89.108.10.1 Existing Structures

HCD proposes to include the citation for Health and Safety Code Section 17922 in its entirety since subsections also have applicability to existing structures. The modifications have no intended change in regulatory effect.

**ARTICLE 90
INTRODUCTION**

HCD proposes to adopt Article 90 without amendment.

**CHAPTER 1
GENERAL**

HCD proposes to adopt this chapter without amendment.

**CHAPTER 2
WIRING AND PROTECTION**

HCD proposes to adopt this chapter without amendment.

**CHAPTER 3
WIRING METHODS AND MATERIALS**

HCD proposes to adopt Articles 300, 310, 312, 314, 320, 322, 324, 326, 328, 330, 332, 336, 338, 340, 342, 344, 348, 350, 352-356, 358, 360, 362, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 396 and 398 without amendment.

HCD proposes to adopt Articles 334 and 394 with amendments as indicated below.

**ARTICLE 334
NONMETALLIC-SHEATHED CABLE: TYPES NM, NMC, AND NMS**

SECTIONS: 334.10 AND 334.12

HCD proposes to continue the adoption of Article 334 with amendments. HCD believes that the FPN (Fine Print Note) of Section 334.10, which is not enforceable, does not provide the user with adequate direction; therefore, HCD proposes to continue the adoption of the “Note” for clarity and specificity. This note will provide the user with a specific reference code, the California Building Code, for Type III, IV, and V construction as used in Section 334.10, items (2), (3), and (4).

A similar note is proposed to provide the user with the same reference code for Types I and II construction as referenced in Section 334.12, item (A)(1) exception introduced in the 2008 NEC.

**ARTICLE 394
CONCEALED KNOB-AND-TUBE WIRING**

SECTION: 394.12

HCD proposes to continue the adoption of Article 394 as amended for HCD 1. The amendment provides specificity for the code user as it relates to the use of knob-and-tube wiring in California.

**CHAPTER 4
EQUIPMENT FOR GENERAL USE**

HCD proposes to adopt Articles 400, 402, 404, 406, 408, 409, 410, 411, 422, 424, 426, 427, 430, 440, 445, 455, 460, 470, 480 and 490 without amendment.

HCD proposes to adopt Article 450 with amendments as indicated below.

**ARTICLE 450
TRANSFORMERS AND TRANSFORMER VAULTS (INCLUDING SECONDARY TIES)**

SECTION: 450.23 Less-Flammable Liquid-Insulated Transformers

HCD proposes to continue the adoption of Article 450 with amendments. HCD believes that the FPN (Fine Print Note) below Section 450.23(B), which is not enforceable, does not provide the user with adequate direction; therefore, HCD proposes to continue the adoption of the "Note" for clarity and specificity. This note will provide the user with a specific reference code, the California Building Code, for Types I and II construction as referenced in Section 334.12.

**CHAPTER 5
SPECIAL OCCUPANCIES**

HCD proposes to adopt Articles 518, 545, and 590 of Chapter 5 without amendment.

HCD proposes to **not** adopt Articles 500, 501, 502, 503, 504, 505, 506, 510, 511, 513, 514, 515, 516, 517, 520, 522, 525, 530, 540, 547, 550, 551, 552, 553, and 555 of Chapter 5. The regulations covered by these articles do not fall within the occupancies regulated by HCD.

**CHAPTER 6
SPECIAL EQUIPMENT**

HCD proposes to adopt Articles 600, 620, 626, 680, 682, 690, and 692 of Chapter 6 without amendment.

HCD proposes to **not** adopt Articles 604, 605, 610, 630, 640, 645, 647, 650, 660, 665, 668, 669, 670, 675, 685, and 695. The code provisions covered by these articles do not fall within the occupancies regulated by HCD.

HCD proposes to adopt Article 625 (except Section 625.29(D)) with Office of the State Fire Marshal amendments and as shown on the Matrix Adoption Table. Sections of this article will be identified with a "diamond" symbol (◆) on the Matrix Adoption Table to indicate that the Office of State Fire Marshal's adoption of the article or sections is applicable to structures subject to HCD 1 and/or HCD 2.

**CHAPTER 7
SPECIAL CONDITIONS**

HCD proposes to adopt of Articles 700, 702, 705, 708, 720, 725, 727, and 770 of Chapter 7 without amendment.

HCD proposes to **not** adopt Articles 701 and 760. However, these articles will be identified with a "diamond" symbol (◆) on the Matrix Adoption Table to indicate that the Office of State Fire Marshal's adoption of the article or sections is applicable to structures subject to HCD 1 and/or HCD 2.

**CHAPTER 8
COMMUNICATIONS SYSTEMS**

HCD proposes to adopt this chapter without amendment. Members of the California Building Standards Commission requested that HCD propose adoption of Chapter 8 of the 2005 NEC during the 2007 code adoption cycle. HCD conducted a fact-finding analysis, concurred with the request, and proposed the adoption of Chapter 8.

**CHAPTER 9
TABLES**

HCD proposes to adopt this chapter without amendment.

ANNEXES

HCD proposes to **not** adopt Annexes A, B, C, D, E, F, G, and H of the 2008 NEC. The language within the annexes is non-mandatory and is not part of the requirements or recommendations of the 2008 NEC; it has been included for informational purposes only. The Annexes are available for use by local enforcement agencies without HCD adoption.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS

(Government Code Section 11346.2(b)(2) 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).)

None.

CONSIDERATION OF REASONABLE ALTERNATIVES

(Government Code Section 11346.2(b)(3)(A) requires a description of reasonable alternatives to the regulation and the agency's reason 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 an alternative.)

None. There were no alternatives available to HCD. HCD is required by statute to adopt this model code by reference.

REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

(Government Code Section 11346.2(b)(3)(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. Include facts, evidence, documents, testimony, or other evidence upon which the agency relies to support an initial determination that the action will not have a significant adverse impact on business.)

None. There were no alternatives available to HCD. HCD is required by statute to adopt this model code by reference.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

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

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

(Government Code Section 11346.2(b)(5) 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. It is not the intent of this paragraph to require the agency to artificially construct alternatives or to justify why it has not identified alternatives.)

These regulations do not duplicate nor conflict with federal regulations.