

**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 05/21)**

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 corrected an error in the initial 45-day Express Terms text in section 3111.3. This correction is related to changes to referenced section 1512, titled "Photovoltaic Panels and Modules," in the 2018 International Building Code (IBC) which is no longer published in the 2021 IBC (adopted for the 2022 California Building Code [CBC]). This deletion made the existing HCD 1 and HCD 2 amendment in the 2019 CBC referencing section 1512 irrelevant. HCD proposes continued adoption of section 3111.3 with existing amendments with exception of the existing amendment referencing section 1512. The 15-Day Express Terms changes provide consistency with text from the 2021 IBC with appropriate existing amendments; and with proposals from the Division of the State Architect. These changes result in no intended change in the adoption of this section and applicable amendments from the 45-day Express Terms.

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 California Department of Housing and Community Development (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 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 September 3, 2021, until October 18, 2021. A total of one comment was received during the comment period. HCD responded to the comment received during the 45-day public comment period. Please see below.

The text with proposed changes was made available to the public for an additional 15-day comment period from November 1, 2021, until November 16, 2021, to correct an error in the 45-day Express Terms related to section 3111.3. There was no subsequent public comment period. No comments were received during the 15-day comment period. No changes were made to the 15-day Express Terms.

COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD

Item 35

Chapter 31B Public Pools, Section 3102B Definitions Enforcing Agent or Enforcing Agency

Section 3102B addresses definitions applicable to Chapter 31B. HCD is proposing a new definition for "Enforcing Agent or Enforcing Agency" as the term is used relative to enforcement for Mobilehome Parks (MHPs) and Special Occupancy Parks (SOPs). This new definition is proposed since HCD is proposing that Chapter 31B, currently adopted only by the California Department of Public Health, also apply to construction of swimming pools within the parks.

Commenter(s) and Recommendation:

Eric Trevena, California Department of Public Health

Commenter recommends "further study." The commenter also requests clarification and confirmation that the intended process would be for the local environmental health department to review and approve the public swimming pool according to Chapter 31B construction requirements and HCD then issues the construction permit and performs construction inspections.

Agency Response:

HCD acknowledges the commenter's request for clarification. The intent of HCD's proposed adoption of Chapter 31B, as amended for public pools in MHPs and SOPs, was to provide consistent standards for the construction, installation, renovation, alteration, addition, relocation, replacement or use of any public pool and to its ancillary facilities, mechanical equipment, and related piping. The adoption provides health and safety standards similar for public pools outside MHPs and SOPs.

HCD confirms that the local environmental health department will still review and approve the public swimming pool plans per Chapter 31B and HCD will issue the construction permit and perform construction inspections if the park is under HCD jurisdiction. For parks under local agency jurisdiction (as defined), the local agency will serve as the enforcing agency on behalf of HCD. Since Chapter 31B is not an appropriate location for these procedural steps, HCD plans to issue an Information Bulletin to confirm the permitting and inspection process for public pools in MHPs and SOPs.

COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD

No comments were received during this public comment period.

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.

HSC 18928.1 requires building standards adopted or approved by the CBSC 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 to reference the most recent edition of applicable model codes, national standards or specifications. The 2022 CBC implements this requirement by proposing to adopt by reference the selected contents of the 2021 IBC (i.e., model code). No other alternatives have been considered since there is a recent model code available for adoption, including any necessary existing and new 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 construction 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 construction costs.