

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS OF THE
CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2022 CALIFORNIA ELECTRICAL CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 3**

(HCD 01/20)

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 (ISOR) 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 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 May 28, 2021, until July 12, 2021. There was no subsequent public comment period. A total of three comments were received during the comment period. HCD

responded to all the comments received during the 45-day public comment period. Please see below.

Item 4

Chapter 2 Wiring and Protection, Section 210.8(F) Ground-Fault Circuit-Interrupter Protection for Personnel.

Section 210.8 addresses requirements for personnel protection through the required use of ground-fault circuit-interrupter (GFCI) devices in specified areas. Subsection F applicable to dwellings requires GFCI protection in outdoor areas with specified exceptions.

Commenter(s) and Recommendation:

Robert S. Glass, Manager, State Regulatory Affairs, Goodman Manufacturing Company

Commenter notes that the new requirement in the 2020 NEC has resulted in nuisance tripping of GFCIs not specific to specific manufacturers of heating, ventilating or air conditioning (HVAC) or GFCI devices. The commenter provided a list of states adopting the 2020 NEC who have either deleted or amendment section 210.8.(F) to not apply to HVAC equipment. The Minnesota Department of Labor and Industry has submitted Tentative Interim Agreement (TIA) Number 1593 citing the nuisance tripping occurrences which were difficult for inspectors and electricians to resolve. The TIA also identified a proposed solution for the Authority Having Jurisdiction to temporarily allow installation of a circuit breaker without GFCI protection so HVAC units can operate.

Commenter also references a second TIA (number 1589) submitted by the National Association of Home Builders citing numerous instances in Texas where GFCIs have tripped rendering specified types of HVAC units inoperable. A third TIA (number 1564) was submitted to NFPA requesting a delay in the effective date of this section of the 2020 NEC.

Commenter recommends that HCD delete section 210.8(F) in its entirety as proposed by the states of Massachusetts, Iowa, North Carolina, South Dakota and Utah. If deletion is not feasible, the commenter requests that the section be modified as proposed by the state of Oregon to reference outdoor general purpose receptacles for other than dwelling units.

Agency Response:

HCD thanks the commenter for the comment. HCD is statutorily directed by the Health and Safety Code section 17922 to adopt the most recent version of the National Electrical Code (NEC). Building standards and rules and regulations are also required to impose substantially the same requirements as are contained in the most recent editions of international or uniform industry codes as adopted by HCD. The TIAs 1593 and 1589 have been posted on NFPA's website with final comment dates of July 19, 2021. Therefore, the TIA is a proposed amendment and not an issued amendment as of

this writing. As such, the TIA has not been approved by NFPA as an amendment to the 2020 NEC and not part of the model code.

This is a significant amendment proposal that was introduced after HCD's initial request for stakeholder comments on draft Express Terms by January 5, 2021; and the CBSC's CAC meeting on March 24, 2021. HCD may revisit this issue if the TIA is formally issued as an amendment to the 2020 NEC for potential incorporation in the 2022 or later CEC.

Item 6

Chapter 4 Equipment for General Use, Section 406.9(C) Receptacles in Damp or Wet Locations

Section 406.9 addresses requirements for receptacles in wet or damp locations. Subsection C addresses requirements for receptacles in bathtub and shower space areas and provides exceptions to limitations on receptacle locations.

Commenter(s) and Recommendation:

Kerry Stackpole, Plumbing Manufacturers International (PMI).

Jerry Desmond, Desmond and Desmond LLC, California Government Relations *

Commenter recommends addition of a second exception allowing a single receptacle to be installed for an electronic toilet (smart toilet) or personal hygiene device such as an electronic bidet seat. The proposed exception would allow installation of a ground fault circuit interruptive device (GFCI) -protected receptacle to be installed in locations where a toilet is located within three feet of a bathtub or shower. This exception may reduce undue burdens of locating a receptacle in areas allowed by the code and possible limitations of structural barriers. Allowing the proposed receptacle location and use of the smart toilets and personal hygiene devices that are necessary for safeguarding public health and safety. Commenter recommends "Approve as Amended."

* Additional comment was received from Jerry Desmond providing further information on Kerry Stackpole's request for amendment of section 406.9(c). Kerry Stackpole's proposed amendment was also submitted as a formal request to the National Fire Protection Association for amending the 2020 NEC section 406.9(C) as a Tentative Interim Agreement (TIA). The proposed TIA has been posted on NFPA's website as TIA Log Number 1598 with a final comment date of August 23, 2021. Therefore, the TIA is a proposed amendment and not an issued amendment as of this writing.

Agency Response:

HCD thanks the commenter for the comment. HCD is statutorily directed by the Health and Safety Code section 17922 to adopt the most recent version of the National Electrical Code. Building standards and rules and regulations are also required to impose substantially the same requirements as are contained in the most recent editions of international or uniform industry codes as adopted by HCD. The TIA proposed by Kerry Stackpole has been posted on NFPA's website as TIA Log Number 1598 with a final comment date of August 23, 2021. Therefore, the TIA is a

proposed amendment and not an issued amendment. As such, the TIA has not been approved by NFPA as an amendment to the 2020 NEC and not part of the model code.

This is a significant amendment proposal that was introduced after HCD's initial request for stakeholder comments on draft Express Terms by January 5, 2021; and the CBSC's CAC meeting on March 24, 2021. HCD may revisit this issue if the TIA is formally issued as an amendment to the 2020 NEC for potential incorporation in the 2022 or later CEC.

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 CEC implements this requirement by proposing to adopt by reference the selected contents of the 2020 National Electrical Code (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.