

**INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE FOLLOWING CALIFORNIA CODES:
2010 CALIFORNIA BUILDING CODE
2010 CALIFORNIA RESIDENTIAL CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PARTS 2 AND 2.5, RESPECTIVELY
(HCD EF 01/11)**

The Administrative Procedure Act requires 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 17921 directs the Department of Housing and Community Development (HCD) to propose adoption, amendment or repeal of building standards for the protection of public health, safety and general welfare. Government Code Section 12955.1 provides direction for HCD to propose adoption of building standards necessary to prohibit discrimination in the design and construction of all housing other than publicly funded housing.

2) Specific Purpose

HCD has determined the amendment of the 2010 editions of the California Building Code (CBC) and California Residential Code (CRC) are needed pursuant to the requirements of Health and Safety Code Section 17921 and Government Code Section 12955.1.

The specific purpose of these regulations is to amend the 2010 CBC and 2010 CRC in Title 24, Parts 2 and 2.5, respectively, of the California Code of Regulations (CCR) for the following programs:

- a) **State Housing Law:** 1. relative to residential occupancies, buildings or structures accessory thereto and as provided in Health and Safety Code Section 17921; 2. relative to California Fair Employment and Housing accessibility requirements as provided in Government Code Section 12955.1, except where the application is for public use only.
- b) **Employee Housing Act:** relative to any building or structure or outdoors on premises or property in accordance with Health and Safety Code Section 17040.
- c) **Factory-Built Housing Law:** 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

The 2010 California Building Code (based on the 2009 International Building Code) and the 2010 California Residential Code (based on the 2009 International Residential Code) became effective on January 1, 2011.

It is necessary to propose the amendment or adoption of Sections 420.4.1, 420.4.1.1, 420.4.1.2, 420.4.1.3, 420.4.2, 420.4.2.1, 420.4.2.2, 420.4.3 and 420.4.4 of the 2010 CBC, and Sections R315.1, R315.1.1, R315.1.2, R315.1.3, R315.2, R315.2.1, R315.2.2 and R315.3 of the 2010 CRC, to provide clarification regarding the intent, purpose and installation requirements for carbon monoxide devices in residential occupancies.

The changes provide designers, builders, property owners and enforcing agencies the maximum amount of time to understand and implement statutory changes pursuant to Senate Bill 183 (Chapter 19, Statutes of 2010), enacted during the 2009/2010 legislative cycle, in addition to the new requirements contained in the national model codes HCD is mandated to use in California. The amendments are also in response to numerous requests received during the past year for clarification regarding carbon monoxide devices. These requests demonstrated an immediate need for clarification related to implementation dates created by legislative mandate, enforcement authority, and requirements when major or minor work is being performed on an existing structure. HCD proposes this regulatory action as part of the emergency rulemaking package to incorporate model code language that will be included in the 2012 edition of the International Building Code (IBC) in order to ease the future transition to that code. The proposed California amendments will be removed by HCD during the 2013 code adoption process providing a seamless transition for the code user and regulated public. Other general issues related to the installation of carbon monoxide alarms and detection systems are also addressed. More detailed rationale is provided below.

Specific Proposed Regulatory Actions related to the 2010 CBC:

SECTIONS: 420.4.1 Carbon monoxide alarms; and 420.4.1.1 Carbon monoxide detection systems.

HCD proposes the amendment of the above-listed sections, which provide general requirements for both carbon monoxide alarms and carbon monoxide detection systems. The modified language incorporates provisions from the 2012 IBC, including clarification of requirements for attached garages. Additionally, listing requirements from Section 420.4.3 are relocated to both Section 420.4.1 (for single station carbon monoxide alarms) and Section 420.4.1.1 (for carbon monoxide detection systems).

SECTIONS: 420.4.1.2 Power supply; and 420.4.1.3 Interconnection.

California law requires all detached single family dwellings to have carbon monoxide alarms installed prior to July 1, 2011, and all other dwelling units by January 1, 2013. State law allows these devices to be battery operated or plug-in with battery back-up. However, the law also states that these devices must comply with the installation requirements for new construction contained in the CBC and CRC, which require these devices to be hardwired and interconnected. These two requirements create conflict and have created an unintended problem relating to the power source and interconnection. Dwellings undergoing minor alteration, repair of certain exterior work as specified would, in most cases, require additional permits, inspections and other contracting obligations for specified trades to do electrical work associated with the CBC- and CRC-required power source (hardwire) and interconnection; whereas, the statute would allow battery operated alarms.

Senate Bill 183, "The Carbon Monoxide Poison Prevention Act of 2010," modeled much of its language after existing statute for smoke alarms found in Health and Safety Code Sections 13113.7 and 13113.8. Accordingly, HCD developed carbon monoxide alarm regulations similar to that of current smoke alarm requirements. However, the 2009 International Residential Code (IRC) included two exceptions in Section R314.3.1 that would have exempted installation of smoke alarms in existing dwellings undergoing alterations, repairs and exterior work, which would be in violation of existing law. Although initially removed from the CRC, the California State Fire Marshal has proposed to reinstate and relocate the exemptions to model code Sections R314.4 and R314.5 specific to power source and interconnection of smoke alarms. This proposal ensures compliance with California law. HCD similarly proposes to add these exceptions to power source and interconnection for carbon monoxide devices. The proposed amendments intend to clarify existing statute, reduce economic hardship and ensure internal consistency and compliance with California building standards. The proposed amendments still provide equivalent protection from carbon monoxide poisoning and ensure that the regulated public is given detailed guidance on the required installation of a carbon monoxide alarms in existing dwellings.

HCD's proposal adopts two model code exceptions that address the power supply and interconnection issue for existing structures and correct the conflict which currently exists between statute and regulation.

SECTIONS: 420.4.2 When required in existing dwellings or sleeping units; 420.4.2.1 Carbon monoxide alarms on or after July 1, 2011; and 420.4.2.2 Carbon monoxide alarms on or after January 1, 2013.

Carbon monoxide alarm requirements were promulgated by HCD during the 2009 Triennial Code Adoption Cycle for inclusion in the 2010 California Residential Code and 2010 California Building Code. HCD collaborated with various stakeholders to develop language that would work in conjunction with SB 1386 "The Carbon Monoxide Prevention Act of 2008", which ultimately was not signed by former Governor Schwarzenegger. Subsequently, the carbon monoxide alarm requirements in both the CRC and CBC were approved by the California Building Standards Commission. During the adoption process, proponents of SB 1386 continued to work on the bill and it became "The Carbon Monoxide Poison Prevention Act of 2010 (SB 183). The bill was introduced, amended, but not yet signed into law. Given that Senate Bill 1386 had been vetoed, with a veto message stating "that CO alarms should be developed through the building standards process", HCD had no way of knowing what the final outcome of SB 183 would be and continued to monitor its progress. Ultimately, SB 183 was enacted as law and required retroactive building standards for carbon monoxide alarms in all dwelling units used for human habitation on or after specified dates. This proposed amendment is necessary to implement and make specific the requirements contained in SB 183.

SECTION: 420.4.3 Alarm requirements.

California law requires all carbon monoxide devices to be certified by the Office of the State Fire Marshal. This proposed amendment clarifies this requirement. This amendment also removes references to duplicative standards which are covered in Sections 420.4.1 and 420.4.1.1. Also, HCD believes it is necessary to propose these amendments in order to provide designers, builders, property owners and enforcing agencies the maximum amount flexibility allowed for the installation of carbon monoxide alarms and detectors. Many multi-story transient type residential occupancies have concrete floors which can impede the ability of a property owner to install carbon monoxide detectors on the ceiling of the unit below. This proposed amendment allows carbon monoxide devices to be placed in other locations provided the installation complies with the listing and installation instructions. HCD has received input from representatives of the hospitality industry expressing concern over the feasibility of installing hardwired carbon monoxide detectors in existing buildings. Due to the confusion and concerns that have been expressed, HCD is proposing this amendment to ensure that building owners have as many options as possible to meet the installation requirements for renovations or repairs as well as the January 1, 2013, installation date for all existing buildings.

SECTION: 420.4.4 Visible alarms.

HCD proposes the amendment of the above-listed section, which provides clarity for the code user by explaining that all required carbon monoxide alarms shall be provided with the capability to support visible alarm notification in "COVERED MULTIFAMILY DWELLINGS" as defined in Title 24, Part 2, Chapter 11A. There is no intended change in regulatory effect.

Specific Proposed Regulatory Actions related to the 2010 CRC:

SECTIONS: R315.1 Carbon monoxide alarms; and R315.1.1 Carbon monoxide detection systems.

HCD proposes the amendment of the above-listed sections, which relocates provisions from Section R315.3 for carbon monoxide devices. There is no change in regulatory effect.

SECTIONS: R315.1.2 Power supply; and R315.1.3 Interconnection.

California law requires all detached single family dwellings to have carbon monoxide alarms installed prior to July 1, 2011, and all other dwelling units by January 1, 2013. State law allows these devices to be battery operated or plug-in with battery back-up. However, the law also states that these devices must comply with the installation requirements for new construction contained in the CBC and CRC, which require these devices to be hardwired and interconnected. These two requirements create conflict and have created an unintended problem relating to the power source and interconnection. Dwellings undergoing minor alteration, repair of certain exterior work as specified would, in most cases, require additional permits, inspections and other contracting obligations for specified trades to

do electrical work associated with the CBC- and CRC-required power source (hardwire) and interconnection; whereas, the statute would allow battery operated alarms.

Senate Bill 183, "The Carbon Monoxide Poison Prevention Act of 2010," modeled much of its language after existing statute for smoke alarms found in Health and Safety Code Sections 13113.7 and 13113.8. Accordingly, HCD developed carbon monoxide alarm regulations similar to that of current smoke alarm requirements. However, the 2009 International Residential Code (IRC) included two exceptions in Section R314.3.1 that would have exempted installation of smoke alarms in existing dwellings undergoing alterations, repairs and exterior work, which would be in violation of existing law. Although initially removed from the CRC, the California State Fire Marshal has proposed to reinstate and relocate the exemptions to model code Sections R314.4 and R314.5 specific to power source and interconnection of smoke alarms. This proposal ensures compliance with California law. HCD similarly proposes to add these exceptions to power source and interconnection for carbon monoxide devices. The proposed amendments intend to clarify existing statute, reduce economic hardship and ensure internal consistency and compliance with California building standards. The proposed amendments still provide equivalent protection from carbon monoxide poisoning and ensure that the regulated public is given detailed guidance on the required installation of a carbon monoxide alarms in existing dwellings.

HCD's proposal adopts two model code exceptions that address the power supply and interconnection issue for existing structures and correct the conflict which currently exists between statute and regulation.

SECTIONS: R315.2 When required in existing dwellings; R315.2.1 Carbon monoxide alarms on or after July 1, 2011; and R315.2.2 Carbon monoxide alarms on or after January 1, 2013.

Carbon monoxide alarm requirements were promulgated by HCD during the 2009 Triennial Code Adoption Cycle for inclusion in the 2010 California Residential Code and 2010 California Building Code. HCD collaborated with various stakeholders to develop language that would work in conjunction with SB 1386 "The Carbon Monoxide Prevention Act of 2008", which ultimately was not signed by former Governor Schwarzenegger. Subsequently, the carbon monoxide alarm requirements in both the CRC and CBC were approved by the California Building Standards Commission. During the adoption process, proponents of SB 1386 continued to work on the bill and it became "The Carbon Monoxide Poison Prevention Act of 2010 (SB 183). The bill was introduced, amended, but not yet signed into law. Given that Senate Bill 1386 had been vetoed, with a veto message stating "that CO alarms should be developed through the building standards process", HCD had no way of knowing what the final outcome of SB 183 would be and continued to monitor its progress. Ultimately, this bill was enacted as law and required retroactive building standards for carbon monoxide alarms in all dwelling units used for human habitation on or after specified dates. This proposed amendment is necessary to implement and make specific the requirements contained in SB 183.

SECTION: R315.3 Alarm requirements.

California law requires all carbon monoxide devices to be certified by the Office of the State Fire Marshal. This proposed amendment clarifies this requirement. This amendment also removes references to duplicative standards which are covered in Sections 420.4.1 and 420.4.1.1. Also, HCD believes it is necessary to propose these amendments in order to provide designers, builders, property owners and enforcing agencies the maximum amount flexibility allowed for the installation of carbon monoxide alarms and detectors. Many multi-story transient type residential occupancies have concrete floors which can impede the ability of a property owner to install carbon monoxide detectors on the ceiling of the unit. This proposed amendment allows carbon monoxide detectors to be placed in other locations provided the installation complies with the listing and installation instructions. HCD has received input from representatives of the hospitality industry expressing concern over the feasibility of installing hardwired carbon monoxide detectors in existing buildings. Due to the confusion and concerns that have been expressed, HCD is proposing this amendment to ensure that building owners have as many options as possible to meet the installation requirements for renovations or repairs as well as the January 1, 2013, installation date for all existing buildings.

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 as an alternative.)

None.

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.)

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 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.)

None.

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 neither duplicate nor conflict with federal regulations.