

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

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)

No data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying has been added to the rulemaking file that was not identified in the Initial Statement of Reasons.

HCD has made non-substantive, grammatical or editorial revisions to the following sections after the 45-day public comment period that ended on June 6, 2011: Section 420.4.1 (CBC); and Sections R315.1 and R315.1.4 (CRC).

HCD has made sufficiently related changes to the following sections after the 45-day public comment period that ended on June 6, 2011: Sections 420.4.1.2, 420.4.1.3, 420.4.1.4, 420.4.1.5, 420.4.2, 420.4.2.1, 420.4.2.2, 420.4.2.3, 420.4.2.3.2, 420.4.2.4, 420.4.2.5, 420.4.2.6 (CBC) and Sections R315.1.2, R315.1.3, R315.1.4, R315.2, R315.2.1, R315.2.2, R315.2.3, R315.2.3.1, R315.2.3.2, R315.2.4, R315.2.5 and R315.2.6 (CRC).

Sufficiently related changes repealed existing language, renumbered existing sections and relocated repealed text as new sections. These modifications provide additional clarity and consistency in the application and enforcement of carbon monoxide alarms and eliminate any confusion between existing statute and regulation. The proposed modifications in Title 24, Parts 2 and 2.5, respectively, are intended to have no change in regulatory effect and do the following:

- Separate carbon monoxide (CO) requirements for new construction and existing buildings/ structures. Further divide requirements into existing construction requiring a permit and existing construction not requiring a permit.
- Global changes in terminology are made throughout the document for consistency.
- Additional clarifications regarding alarm requirements, approval, sale and statutory deadlines.
- Clarify exemptions in existing buildings for hard-wire (power supply) and interconnection when not required in alterations to building, plumbing, mechanical or electrical systems.

HCD made no changes after the subsequent 15-day public comment period that ended on June 30, 2011.

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 Department of Housing and Community Development 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))

The following is HCD's summary of and response to comments specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the actions or reasons for making no change:

In each case, HCD has evaluated the submitted comments and provided the responses below.

COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD ARE LISTED BELOW.

(The text with proposed changes clearly indicated was made available to the public from April 22, 2011, until June 6, 2011.)

- 1. COMMENTER:** James O. Abrams, representing the Hotel and Motel Association of California (**EM-1**)
jkabrams@comcast.net

COMMENT: EM-1. The commenter provided written and verbal comments citing concerns that provisions in Section 420.4.1 expanded the scope of Senate Bill (SB) 183 from the sleeping areas to the entire building; that the requirement in Section 420.4.1 requiring a common area carbon monoxide detection system was "problematic" to existing small hotels/motels due to the perceived costs; that triggering criterion in SB 183 was unclear in Sections 420.4.2.1 and 420.4.2.2, and recommended that the triggering criterion be expressly defined. The commenter also thanked HCD for the many proposed amendments that were very helpful in addressing concerns previously discussed. The commenter attended the HCD work group meeting held on May 17, 2011, during the 45-day comment period, where HCD was able to discuss matters of interest in greater detail.

HCD RESPONSE:

HCD appreciates the comments provided by Mr. Abrams. HCD agreed that further clarification would be helpful and proposed 15-day modifications to the Express Terms. HCD has a statutory mandate to adopt the most current model code. The proposed regulations in Section 420.4.1 may exceed requirements of SB 183 yet are still within HCD's authority to adopt. The proposed requirements in Section 420.4.1 were taken from the 2012 International Building Code (IBC) and are intended to provide additional safeguards and consistency and also ease transition to the next triennial code adoption cycle.

The biggest challenge was communicating requirements for new construction and existing buildings. SB 183 mandated that all existing residential buildings have CO alarms. However, installation and application in an existing building can be more difficult and costly given several limiting factors. HCD addressed those concerns by dividing CBC Section 420.4 and CRC R315 into two sections, separating requirements for new buildings and existing construction. The proposed changes provide clarity and consistency for the regulated public and enforcement community; there is no intended change in regulatory effect.

- 2. COMMENTER:** Wayne Wirick Jr. (**EM-2**)
Development Services Director/Building Official
#1 the Plaza, Sonoma CA 95476
wwirick@sonomacity.org

COMMENT: EM-2. The commenter expressed a concern regarding the proposed language allowing plug-in types with battery back-up CO alarms. Additional concern was expressed that CO alarms would be moved from one job to another following a final inspection and these devices may also be removed from convenience outlets by tenants and/or children. Last, the commenter suggested that it did not make much sense to allow the plug-in detectors in Section R315.1.2, Exceptions 3 and 4, but not Exception 2.

HCD RESPONSE:

HCD appreciates the comments. The commenter was contacted by HCD staff and informed that a plug-in with battery back-up CO alarm is permitted by Senate Bill 183, and therefore, as long as the device is certified and approved by the State Fire Marshal, HCD would not restrict its use.

HCD accepts the commenter's position that a plug-in type device is also acceptable for Section R315.2, Exception 2. After the 45-day comment period, HCD proposed changes to Section R315.2.4, Exception 2, to reflect the commenter's suggestion to add the plug-in-type device.

3. COMMENTER: Stephan Kiefer, representing CALBO State Code Committee (**EM-3**)
Chief Building Official
Community Development
City of Livermore
sakiefer@ci.livermore.ca.us

COMMENT: EM-3. The commenter thanked HCD for its brevity in making as few changes as possible during this annual code adoption cycle and asked that HCD consider making a few minor amendments to proposed language in Sections 420.4.2.1 and 420.4.2.2, and CRC Sections R315.2.1 and R315.2.2 to eliminate some confusion as to how and when alarms are to be installed.

HCD RESPONSE:

HCD appreciates Mr. Kiefer's comments and the suggestion of the CALBO committee. HCD agrees with several of the CALBO suggestions and is utilizing some of their proposed language. The revisions proposed after the 45-day public comment period help clarify application and promote uniform enforcement of carbon monoxide alarm installation; there is no intended change in regulatory effect.

4. COMMENTER: C.H. Higgs (**EM-4**)
Building Official
The City of Benicia
City Hall
250 East L Street
Benicia, CA 94510

COMMENT: EM-4. The commenter states that "Since the CBC and CRC do not regulate plumbing or mechanical, it appears plumbing and mechanical permits do not require carbon monoxide alarms." The commenter posits that plumbing and mechanical permits are issued for the type of work and not on valuation. Lastly, the commenter believes that any reference to require carbon monoxide with plumbing or mechanical permits is not correct.

HCD RESPONSE:

HCD appreciates and thanks the commenter for taking the time to share his opinion. However, HCD disagrees with the commenter's assertion. SB 183 requires the installation of carbon monoxide alarms in most residential occupancies used for human habitation. The local building department is responsible to make a diligent effort to secure compliance with California law and regulations adopted by HCD as described by State Housing Law. What types of permits a jurisdiction requires is irrelevant; whether a mechanical, plumbing or electrical permit. They are all building permits and HCD's position is that any permit to construct, whether building, plumbing, mechanical or electrical, is applicable. Title 24, the California Building Standards Code, has twelve parts. The requirements within these parts necessitate the use of one or more parts in coordination with the others. CO alarm requirements are the most restrictive relating to residential occupancies and by order of precedence, established in the California Building Standards Code, the most restrictive requirements shall prevail. No new code change has been made as a result of this comment.

5. COMMENTER: Mike Jorgensen (**EM-5**)
Building Official
City of San Clemente – Building Division
San Clemente, CA 92673
JorgensenM@san-clemente.org

COMMENT: EM-5. The commenter expressed dissatisfaction that HCD's proposed regulations do not address what he declares "a real problem." The commenter states that jurisdictions cannot gain access to the interior of a dwelling to perform carbon monoxide or smoke detector inspections when projects involve only exterior improvements or work such as reroofing or patio covers.

HCD RESPONSE:

HCD appreciates and thanks the commenter for the taking time to share his opinion. HCD acknowledges that there are challenges and difficulties gaining access into a home to ensure compliance with this new law, but disagrees with the claim that it can't be done. Smoke detector requirements have been law for decades. Although enforcing their installation may not be popular, many jurisdictions have achieved and continue to achieve compliance. This has been accomplished by local jurisdictions using good judgment and the

establishment of policies and procedures that meet the needs of an individual community while still ensuring compliance with the law. The same opportunities exist for the local enforcing agencies with regard to SB 183. This new law requires retroactive installation of carbon monoxide alarms in residential occupancies used for human habitation by specified dates. The local building department is responsible to make a diligent effort to secure compliance with California law and regulations adopted by HCD as described by State Housing Law. No new code change has been made as a result of this comment.

6. COMMENTER: Rick Gomes (L-1)
Building Inspection Division
City of Fremont
39550 Liberty St.
Fremont, CA 94539

COMMENT: L-1. The commenter approves of HCD's proposed changes, but asked HCD to modify language in Sections 420.4.2 (CBC) and R315.2 (CRC) to include language for recognizing plumbing, mechanical and electrical permits with valuation exceeding one-thousand dollars (\$1000.00).

HCD RESPONSE:

HCD appreciates and thanks the commenter for taking the time to share his thoughts. Regardless of whether a permit to construct is issued or not, SB 183 requires the retroactive installation of carbon monoxide alarms in most residential occupancies used for human habitation. HCD's position is that any permit to construct, whether building, plumbing, mechanical, electrical, etc. would apply. No new code change has been made as a result of this comment.

COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD.

(The text with proposed changes clearly indicated was made available to the public from June 16, 2011, until June 30, 2011.)

No comments were received during the 15-day public comment period that ended on June 30, 2011.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

(Government Code Section 11346.9(a)(4))

The Department of Housing and Community Development has determined that no alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be more effective and less burdensome to affected private persons than the adopted regulations.

Health and Safety Code Section 17922 requires HCD to adopt the most recent edition of the uniform model codes.

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

(Government Code Section 11346.9(a)(5))

No proposed alternatives were received by the Department of Housing and Community Development that would lessen the adverse economic impact on small businesses.