

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2010 CALIFORNIA RESIDENTIAL CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2.5
(HCD 04/09)**

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.

During this rulemaking, HCD made only non-substantive changes. Non-substantive changes address grammatical, editorial language revisions and/or clarification of ambiguities.

The following sections were revised based upon stakeholder comments after the 45-day comment period that ended on November 16, 2009: Section R315.3, R1001.3, R1001.4, R1003.3 and R1003.4.

The following sections were revised based upon HCD's internal review after the 45-day comment period that ended on November 16, 2009: Sections R315.2 and R315.3.1

No changes were made after the subsequent 15-day comment period that ended on December 9, 2009.

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:

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 October 12, 2009, until November 16, 2009.)

NOTE: *The complete text of each comment may be reviewed at the following internet address:*
http://www.bsc.ca.gov/prpsd_changs/pc_09_comment.htm.

1. **COMMENTER:** Aaron Titus, Technical Program Manager (**EM-1**)
National Electrical Manufacturers Association (NEMA)
1300 North 17th Street, Suite 1752
Rosslyn, VA 22209
(*Comment as forwarded by Sarah Owen, NEMA*)

Sections	R202	Definitions
	R315.1	Carbon Monoxide Alarms
	R315.1.1	Power Supply
	R315.1.2	Interconnection
	R315.2	Where required in existing dwellings
	R315.3	Alarm requirements
	Chapter 44	Reference Standards

COMMENT: EM-1: NEMA suggests that HCD include seven carbon monoxide alarm/device related definitions and revise language by adding specific reference to carbon monoxide detectors, combination smoke/carbon monoxide alarms, and combination smoke/carbon monoxide detectors. Additional recommendations suggested that HCD repeal Section R315.3.1 completely, include revisions specific to control panels, low-power frequency (wireless) detectors and auditory/signal requirements in Sections R315.1.1 and R315.1.2, and include UL 217, UL 268, UL 2034 and UL 2075 in Chapter 44 Referenced standards.

RESPONSE: HCD appreciates and acknowledges NEMA's time and effort in providing comments and suggestions, which will be discussed in greater detail in the following paragraphs.

The 2009 International Residential Code (IRC) included minimum requirements for CO alarms for the first time. Upon introduction of SB 183 "The Carbon Monoxide Poison Prevention Act of 2009" HCD began more purposeful review and analysis of IRC Section R315 "Carbon Monoxide Alarms." HCD proposed amendments to the model code adding prescriptive requirements for use, location, power supply, where alarms are required and designating NFPA 720 as the applicable reference standard for CO alarms/detectors.

Definitions for CO alarms/detectors were not proposed by HCD in this rulemaking. Five of seven definitions suggested by NEMA reside within NFPA 720. NEMA proposed definitions that provided expanded language from NFPA 720, yet rationale why defined terms in NFPA 720 are insufficient was absent. HCD wishes not to maintain definitions as California amendments which already exist in the Reference Standards unless compelling rationale exists. Combination Smoke/Carbon Monoxide Alarm and Combination Smoke/Carbon Monoxide Detector require joint approval with the Office of the State Fire Marshal (SFM) due to statutory authority vested with the SFM. With limited time and resources, dialogue and consensus between HCD and SFM was not achieved during this rulemaking.

NEMA suggested HCD include UL 217, UL 268, UL 2034 and UL 2075 in Chapter 44, Referenced Standards. UL 217 and UL 2034 already exist in Sections R314 and R315 Carbon Monoxide and are listed in Chapter 44. UL 2075 is adopted through HCD's adoption of NFPA 720. Please see Chapter 1, California Administration, Division 1, Section 1.1.5 "Referenced Codes" for further explanation. UL 268 is a reference standard where, again, SFM approval is necessary, but not practicable during this rulemaking. Finally, requirements for control panels, listed low-power frequency (wireless) detectors and auditory/signals suggested by NEMA already exist in the NFPA 720 Reference Standard.

After review and consultation with NEMA representatives, HCD agreed that improved clarity would be achieved by utilizing the NEMA suggested revision to Section R315.3. This includes a direct reference to UL 2075 system-connected CO detectors. The change adds clarity for design and enforcement professionals. The change made to Section R315.3 as a result of the NEMA comment has no intended change in regulatory effect. No other changes were made based upon the comments submitted.

2. The following sections were revised based upon HCD's internal review after the 45-day comment period that ended on November 16, 2009: Sections R315.2 and R315.3.1.

Section R315.2. Where required in existing dwellings. During the 45-day public comment period, HCD's internal review identified a clarity issue. As a result, HCD proposes to remove an ambiguity related to when CO devices are required in existing dwellings. The original proposed amendment required a CO alarm upon work requiring a permit. This language was unintentionally vague and open to interpretation. HCD proposes that permits which involve at least \$1,000 in work would initiate a requirement for a CO alarm for the affected dwelling unit or sleeping unit. This dollar limit is modeled after a similar requirement for smoke alarms required by the Office of the State Fire Marshal upon modification of existing residential structures. There is no intended change in regulatory effect from the original proposed amendments other than the clarification of the level of work that would require a CO device for the dwelling or sleeping unit.

Section R315.3.1. Multiple-purpose alarms. During the 45-day public comment period, HCD's internal review and consultation with the Office of the State Fire Marshal identified consistency and clarity issues. As a result, HCD proposes amendments to this section to provide some grammatical corrections, use consistent nomenclature to NFPA 720 and to clarify that CO alarms combined with smoke alarms are also subject to any listing/approval requirements of the Office of the State Fire Marshal. There is no intended change in regulatory effect.

3. COMMENTER: Bill Nagel, S.E. (EM-2)
California Building Officials Seismic Safety Committee
1225 Eight Street, Suite 425
Sacramento, CA 95814

Sections	R404.1.1.1	Masonry foundation walls
	R404.1.2.2	Reinforcement for foundation walls
	R404.1.4.1	Masonry foundation walls
	R404.1.4.2	Concrete foundation walls
	R1001.3	Seismic reinforcing
	R1001.4	Seismic anchorage
	R1003.3	Seismic reinforcing
	R1003.4	Seismic anchorage

COMMENT: EM-2: The CALBO Structural Safety Committee expressed concern that prescriptive provisions in Sections R404.1.1.1, R404.1.2.2, R401.1.4.1 and R404.1.4.2 of the national model code (IRC), "will allow construction of foundations without sufficient reinforcing steel in the Seismic design category C." In addition, the committee felt that for HCD to "effectively implement" proposed amendments in Sections R1001.3, R1001.4, R1003.3 and R1003.4 as intended, additional clarifying language was needed to ensure that the requirements extended to masonry chimneys and fireplaces in seismic design category "C." As a final note, the committee expressed concern with regard to prescriptive floor, wall and roof construction provisions for steel framing, masonry, and structural insulated panel (SIP) materials found in the IRC. The committee recommended that prescriptive provisions within the code should be limited to light wood frame construction only.

RESPONSE: HCD appreciates the time and effort of the CALBO Seismic Safety Committee members to express their concerns. During the 45-day public comment period, HCD did not propose to modify model code provisions for prescriptive floor, wall, or roof-ceiling construction, specific to steel framing, masonry or structural insulated panel wall construction, nor did HCD propose amendments to Sections R404.1.1.1, R404.1.2.2, R401.1.4.1 and R404.1.4.

Exclusion of prescriptive model code construction requirements for non-wood frame floor, wall, and roof ceiling construction and amendments to Sections R404.1.1.1, R404.1.2.2, R401.1.4.1 and R404.1.4 are substantive. The proposals require an additional 45-day public comment period, minimally. This would delay the adoption, publication and implementation of the entire 2010 CRC. The comments were submitted on the final day of the 45-day comment period with no empirical or statistical data to support or substantiate the committee's suggestions. This has left insufficient opportunity for stakeholder participation and for HCD to request, review and adequately evaluate the merits of the proposal. Last, the comment does not cite specific nine-point criteria as established in Health and Safety Code Section 18930.

HCD does not agree with the suggestion to remove prescriptive model code provisions for other than wood frame construction from the code. California Business and Professions Code Sections 5537 and 6737 require construction of structures other than conventional wood frame construction to be stamped and approved by a California licensed architect or engineer. HCD proposed a new California amendment in Section R301.1.3.3 "Structures other than

woodframe” to clarify this is not only a requirement, but state law. Leaving prescriptive model code provisions permits the California licensed architect or engineer a choice whether to accept prescriptive model code provisions or not.

At this stage, HCD cannot reasonably justify or defend CALBO committee suggestions to propose new California amendments based upon nine-point criteria numbers 3, 4, and/or 5. HCD will consider these comments during the next annual rulemaking where supporting documentation can be submitted, evaluated and our diverse stakeholders can provide additional input. HCD has considered the comments and no changes or modifications to the aforementioned regulations were made as a result of this comment.

The CALBO committee did, however, appropriately identify an exception in Section R301.2.2, which exempts one and two-family dwellings from seismic design category C requirements. The HCD amendments to Sections R1001.2, R1001.4, R1003.3 and R1003.4 were the result of CALBO comments made during an HCD Focus Group Meeting in April 2009. As indicated in HCD’s Initial Statement of Reasons, the proposed amendments were intended to require seismic reinforcing and anchorage requirements to masonry chimneys and fireplaces constructed in one and two-family dwellings in seismic design category C. HCD agrees with the committee’s suggestion to clarify the intent of the HCD amendments in those sections and incorporated the suggested language into Sections R1001.2, R1001.4, R1003.3 and R1003.4. This change adds needed clarity for design and enforcement professionals. This change has no intended change in regulatory effect from the initial Express Terms proposal.

3. **COMMENTER:** James E. Russell P.E. (EM-3)
JERussell.luddite@att.net

Sections	R1001.3	Seismic reinforcing
	R1001.4	Seismic anchorage
	R1003.3	Seismic reinforcing
	R1003.4	Seismic anchorage

COMMENT: EM-3: HCD appreciates and acknowledges Mr. Russell suggestion to revise Sections R1001.3, R1001.4, R1003.3 and R1003.4. Mr. Russell suggested that additional clarifying language was needed for HCD “to effectively implement” the proposed amendments as intended.

RESPONSE: HCD agrees with Mr. Russell’s suggestion. HCD received the same comment and suggestion from CALBO and agreed to make the proposed changes.

4. **COMMENTER** Cove Britton (F-1)
Matson Britton Architects
728 N. Branciforte Ave
Santa Cruz, CA 95062

Section	1.2.7.1	General- Appeals Board
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COMMENT: F-1: Mr. Britton disapproves of the proposed language in new California amendment, Section 1.2.7.1. He requests that the language remain the same as it was printed in Section 108.8.1 of the 2007 CBC. He believes that the “existing language in Section 108.8.1 of the 2007 CBC is more consistent with the 9-point criteria left “as-is” and that the language in the 2009 CRC contradicts item 3 of the nine-point criteria.”

RESPONSE: HCD appreciates and acknowledges Mr. Britton’s comment, but disagrees with his opinion. The proposed California amendment in CRC Section 1.2.7.1 is consistent with an editorial revision proposed to Section 1.8.8.1 of the 2010 California Building Code. Formerly, this was Section 108.8.1 in the 2007 CBC.

The HCD language modification to Section 1.8.8.1 provides consistency between Title 24 Part 2 (CBC), Part 2.5 (CRC), Part 3 (CEC), Part 4 (CMC) and Part 5 (CPC). The proposed change in CBC Section 1.8.8.1 and the new proposed CRC Section 1.2.7 have no change in regulatory effect from the previous edition of the 2007 CBC. No changes were made as a result of this comment.

5. **COMMENTER** Martin D. Cooper (F-2)
City of Foster City
610 Foster City Blvd.
Foster City, CA 94404

Section R202 **Publication of terms and Chapters with “Not adopted in California”**

Chapters 12 through 43

COMMENT: F-2: Mr. Cooper suggests that definitions and chapters not adopted in California should not be published in the 2010 California Residential Code.

RESPONSE: HCD appreciates and acknowledges Mr. Cooper's comment. HCD is conscious of Mr. Cooper's opinion as he first made this suggestion in April 2009 at the HCD IRC Focus Group meeting. Health and Safety Code Section 18930 and the established nine-point criteria are specific to building standards adopted or proposed. Mr. Cooper is addressing a publication matter and not proposed building standards; therefore his comment made during the 45-day comment period exceeds the scope of Health and Safety Code Section 18930 negating an HCD requirement to respond. HCD will be directly involved with the CRC development and publication to ensure its mission is supported; nevertheless, Health and Safety Code Section 18942 states: “the commission shall publish, or cause to be published.” Publication is, therefore, a requisite function of the Building Standards Commission negotiated with the publisher, ICC. No changes could be made to the proposed Express Terms as a result of this comment.

NO COMMENTS WERE RECEIVED DURING THE SUBSEQUENT 15-DAY COMMENT PERIOD.

(Text with the proposed changes clearly indicated was made available to the public from November 25, 2009, until December 9, 2009.)

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 regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation.

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.