

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2010 CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
[ACCESSIBILITY AND ACCESSIBILITY-RELATED STANDARDS ONLY]
(HCD 01/09)**

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 Department of Housing and Community Development (HCD) is relying has been added to the rulemaking file that was not identified in the Initial Statement of Reasons.

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

The following sections were editorially revised after the 45-day comment period that ended on October 12, 2009:

Figure 11A-7B – Elevator Control Panel; Section 1007.9 Signage; Section 1011.3 Tactile exit signs

The following section was withdrawn after the 45-day comment period that ended on October 12 2009:

Section 1022.8 Floor identification signs

HCD's initial Express Terms proposed to strike a reference to ICC/ANSI A117.1. This disabled access reference standard is not adopted in California. HCD had also inserted pointers directing code users to Chapters 11A and 11B.

Chapter 10, "Egress," establishes primary methods of protection for people in buildings by allowing timely relocation or evacuation of building occupants. The essential consideration is a fire, life and safety issue in which the Office of the State Fire Marshal has clear statutory authority to promulgate regulations for all occupancies. Subsequently, HCD and/or DSA make additional amendments to Chapter 10 where statutorily mandated and to ensure accurate reference or pointers direct the code user to additional disabled access requirements in Chapters 11A or 11B.

HCD, the SFM and the DSA proposed California amendments in Section 1022.8. After dialogue with the proposing agencies, HCD chose to rescind its proposed amendments. This will create no change in regulatory effect. The signage and tactile requirements in this section proposed by the SFM apply to all occupancies. Residential occupancies designed with exit enclosures will therefore be required to maintain the required signs with tactile requirements per Section 1117B.5.1.

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

COMMENTS EM-1 THROUGH EM-6 WERE RECEIVED DURING THE 45-DAY COMMENT PERIOD.

(The text with proposed changes clearly indicated was made available to the public from August 28, 2009 until October 12, 2009.)

NOTE: At the direction of the CBSC, only comments related to accessibility are addressed in this Final Statement of Reasons. Non-access provisions will be discussed in the Final Statement of Reasons submitted with HCD's second rulemaking package. (The second 45-day public comment period ends on November 16, 2009.)

1. **COMMENTER:** National Electrical Manufacturers Association (NEMA)
Aaron Titus, Technical Program Manager
1300 North 17th Street, Suite 1752
Rosslyn, VA 22209
(via email from Sarah Owen)
 - a) **COMMENT: EM-1. Section 420.4 Carbon monoxide alarms.** NEMA requests an amendment of the carbon monoxide detection language found in Section 420.4, and additional language to Section 202 "Definitions" and Chapter 35 "Referenced Standards".

NOTE: At the direction of the CBSC, EM-1 will be discussed in the Final Statement of Reasons submitted with HCD's second rulemaking package consisting of non-access provisions.
2. **COMMENTER:** Eugene Lozano, Jr.
California Council of the Blind
4537 Sycamore Avenue
Sacramento, CA 95841

COMMENTS: EM-2 through EM-6 are discussed individually below. The complete set of comments submitted by Eugene Lozano, Jr., California Council of the Blind, is available at the following internet address: http://www.bsc.ca.gov/prpsd_chngs/pc_09_comment.htm.

- a) **COMMENTS EM-2 and EM-3. Section 1007.9 Signage and Section 1011.3 Tactile exits signs, respectively.** The commenter agrees with HCD's proposed amendments and requests that the amendments be approved.

RESPONSE: HCD acknowledges the positive affirmations expressed by the commenter and appreciates the commenter's review and assistance to HCD in the rulemaking process.
- b) **COMMENTS EM-4 and EM-5. Section 1109A.8.5 Accessible single parking space and Section 1109A.8.6 Van accessible single parking space, respectively.** The commenter does not agree with HCD's proposed amendments and requests modification of the text to clearly require hatched lines within loading and unloading access aisle boundaries to be painted blue or white contrasting with the parking surface. The commenter is concerned with the proposed use of the word "preferably" from an enforcement perspective and cites Nine-Point Criteria 3 and 4 to support the recommendation.

RESPONSE: HCD appreciates and acknowledges this comment. However, currently there is no federal or state statutory requirement or accessibility standard that requires hatched lines within the boundaries of loading/unloading access aisles be either blue or white. HCD's proposed language mirrors the amendment adopted by the Division of the State Architect-Access Compliance (DSA-AC) in a 2007 CBC emergency rulemaking implementing Government Code Section 14679, as amended by AB 1531 (Chapter 413/Statutes of 2007). The DSA-AC 2007 CBC amendment, as well as the currently proposed HCD amendment, requires that the hatched lines contrast with the parking surface and states a preference for blue or white. This language reflects statutory text in Government Code Section 14679(a)(2). No new code change has been proposed as a result of this comment.

- c) **COMMENT EM-6. Figure 11A-7B Elevator control panel.** The commenter does not agree with HCD's proposed amendment (spelling correction of "Numeral") to this figure and requests that the reference to "Numeral" be deleted and replaced with "Characters and Symbols." The commenter notes that "characters" are inclusive of numerals and letters and the use of "numerals" may imply that only numerals are addressed by the figure. Nine-Point Criteria 3 and 4 are cited to support the recommendation.

RESPONSE: HCD appreciates and acknowledges the commenter's concerns and rationale. HCD agrees to delete the misspelled word ("Numeral") and to correct the reference to "Characters and Symbols." The "Characters and Symbols" reference will provide consistency with the corresponding text in Section 1124A.3.3.2 and also with amendments proposed by DSA-AC for Figure 11B-40B – Elevator Control Panel. This editorial correction has no intended change in regulatory effect.

3. **EDITORIAL REVISIONS: Section 1007.9 Signage and Section 1011.3 Tactile exit signs.** Three state agencies, HCD, the Office of the State Fire Marshal (SFM) and the Division of the State Architect-Access Compliance (DSA-AC), have proposed amendments to these two sections. To avoid conflicts in the final code within areas of HCD authority and applications, HCD agrees to coordinate language with the SFM and DSA-AC. These editorial changes avoid redundant references and have no intended change in regulatory effect. Section 1011.3 also includes SFM amendments specifically concerning tactile signage related to egress.

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.