FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2013 CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2, CHAPTER 11A
"HOUSING ACCESSIBILITY"

(HCD 08/12)

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 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.

HCD made modifications and/or editorial corrections to the following sections after the 45-day public comment period that ended on December 10, 2012: Sections 202, 1127A, 1136A, 1138A.2, 1143A.7.1 and Division VII "FIGURES" (FIGURES 11A-3B, 11A-9A, 11A-9E and 11A-11A).

Some modifications resulted from stakeholder comments made during the 45-day public comment period. Some modifications were made to coordinate with proposals inititated by the Division of the State Architect (DSA). Many of the changes made by HCD during the subsequent 15-day public comment period resulted from a formatting change in the 2012 International Building Code (IBC), which moved all definitions into Chapter 2. The DSA forwarded a draft of their proposed Express Terms to HCD indicating that they intended to relocate all of Chapter 11B's accessibility definitions into Chapter 2 of the 2013 California Building Code (CBC) to align with the 2012 IBC. Prior to receiving a draft of the DSA's proposed Express Terms, HCD had not intended to relocate Chapter 11A accessibility definitions into Chapter 2. HCD was able to react to this change and reorganize the definitions in the Express Terms submitted for the 45-day public comment period, but they were not complete or fully coordinated with the DSA definitions. The modifications made to HCD's Express Terms during the subsequent 15-day public comment period moved select accessibility-related definitions from the 2013 CBC "Non-Access" Express Terms into the 2013 CBC, Chapter 11A "Housing Accessibility" Express Terms to further coordinate definitions and other related code items with the DSA. This collaboration provides stakeholders both clarity and consistency between Chapters 11A and 11B, where possible. Since HCD's "Non-Access" Express Terms and Chapter 11A "Housing Accessibility" Express Terms are contained in Title 24, Part 2 of the CBC, HCD staff felt the decision to move "accessibility-related" definitions initially located in Part 2, "Non Access" Express Terms into Chapter 11A "Housing Accessibility" Express Terms was appropriate. This action is intended to make it easier for stakeholders to follow accessibility-related changes. HCD also repealed and replaced many defined terms that differed between Chapters 11A and 11B opting to use either existing DSA definitions or definitions that the DSA proposes to align with the 2010 ADA.

HCD made no further modifications to the text after the subsequent 15-day public comment period that ended on December 31, 2012.

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 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 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.

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

COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD ARE LISTED BELOW.
(The text with proposed changes clearly indicated was made available to the public from October 26, 2012, until December 10, 2012.)

1. COMMENTER: Tim McCormick **(EM-1)**
Director of Special Projects
VCA Code Group Inc.
2200 W. Orangewood Ave. Ste. 155
Orange, CA, 92868, (714) 363-4700

COMMENT: EM-1 - Sections 1138A.2.1, 1133A.7 and 1134A.8 (Item 4):
The commenter requested that HCD make revisions to Sections 1138A.2.1, 1133A.7 and 1134A.8 (Item 4), for consistency with Chapter 11B, the 2010 ADA and ANSI A117.1. The suggested revisions concern the required minimum height of knee and toe spaces where the sink or lavatory overflow is manufactured with a dip (protrusion). The commenter proposed to amend these sections by adding language that would exempt the dip of the overflow when determining knee and toe space for sinks and lavatories. The commenter suggested that without an exception, fixtures with overflow on the front side are unable to meet the requirement for knee and toe space height in combination with all other requirements for location, depth, height, etc.

HCD RESPONSE:
HCD's proposed modifications to existing language in Chapter 11A, incorporated the DSA proposals in Chapter 11B, which are intended to bring forward language from the 2010 ADA. Section 1138A.2 was proposed for modification to align with requirements proposed by the DSA in Sections 11B-306 "Knee and Toe Clearance," and Section 11B-606 "Lavatories and Sinks." Upon review, HCD discovered that one of the exceptions in Section 11B-606, which addressed the "overflow dip", was not considered in HCD's package. HCD's "Revised Express Terms" submitted for the 15-day public comment period modifies Section 1138A.2.1 to include language for the "overflow dip" consistent with the DSA's proposal in Chapter 11B.

HCD does not propose to make any changes to Sections 1133A.7 and 1134A.8. While HCD concurs that common use areas and public use areas should maintain the same dimensional requirements, HCD resists the notion of wholesale adoption of ADA requirements or current ANSI A117.1 requirements within the dwelling units. HCD utilizes many provisions from the 1986 ANSI A117.1, which is still recognized as a safe harbor by HUD. The provisions suggested by the commenter were not discussed with stakeholders, nor did HCD publicly state any intention go further than align common use areas and public use areas.

Requirements for knee and toe space within a covered dwelling unit may be discussed with HCD stakeholders and evaluated during the Intervening Code Adoption Cycle.

---

2. COMMENTER: Mark Wood, CBO, CASp **(EM-2)**
California Certified Accessibility Specialists, Inc.
(800) 582-6178
www.calcasp.com

COMMENT: EM-2 - Figure 11A-9A:
The commenter suggested HCD revise Figure 11A-9A (a), illustrating a multiple accommodation toilet facility. The commenter expressed a concern that the figure is technically correct, but misleading. While it correctly shows the minimum landing length of 48 inches in front of the compartment door, the commenter states this is only correct if the door swings in. The commenter also proposed the minimum latch side clearance of 18 inches to be added to the diagram.

HCD RESPONSE:
HCD's initial proposal added the dimensional requirement specified by Section 1127A.2.1 for enhanced clarity. However, HCD staff evaluated the comment and agrees that the illustration and proposed dimension conflicts with a general requirement for maneuvering clearances at doors Section 1126A.3.

A 48 inch minimum landing length is the correct requirement in front of a water closet compartment when the door swings in. However, when the door swings out, as illustrated on Figure 11A-9A (a), Section 1126A.3 requires a 60 inch minimum landing length dimension. HCD proposes to modify Figure 11A-9A (a) by removing the 48 inch minimum dimension. HCD does not propose further modification as latch side clearance is addressed in Section 1126A.3 and Figure 11A-8A.

COMMENT: EM-2. Section 1127A.2.2
The commenter suggested HCD revise Section 1127A.2.2, Item 3, asserting that this section permits shelves to encroach into the clear floor space required around water closets without defining how wide, deep, or how far from the finished floor the shelf is located. The commenter believes that shelves should be removed, or the parameters for installation shall be addressed in the language.

HCD RESPONSE:
HCD modified Section 1127A.2.2 to coordinate with the DSA proposals in Chapter 11B. The DSA proposal brings forward new language from the 2010 ADA. HCD acknowledges the commenter's point of view and analysis, and understands the concern. This language, allowing shelves to encroach into the required clear floor space of water closets, originates from the 2010 ADA. HCD is aware that similar comments have been sent to the Department of Justice (DOJ) and the DSA. HCD is not aware of any modifications proposed by the DOJ. Additionally, HCD staff contacted the DSA and they indicated that they were not going to propose modification to this federal standard based upon the comment. HCD agrees with the DSA that this is a federal standard. The comment may deserve further consideration; however, it will not be repealed or amended without involving all stakeholders and an interpretation by the DOJ. HCD does not propose further modification to this section.

COMMENT: EM-2. Figure 11A-9E
The commenter suggested HCD revise Figure 11A-9E and the grab bars dimensions. The commenter understands that the figures are not enforceable, but expressed an opinion that they should be shown consistent with the specified dimensions in the code as many enforcers use these visual aids.

HCD RESPONSE:
The Figures in Chapter 11A are not drawn to scale. They are provided for illustration purposes only and should not be used to enforce literal accessibility requirements found elsewhere in Chapter 11A. The description (Title) for Figure 11A-9E is "Clear Floor Space at Bathtubs" and not grab bar lengths. Grab bar dimensions at bathtubs are required by Section 1127A.5.2.3 and are illustrated in Figure 11A-9F. However, to provide some additional clarity, HCD modified Figure 11A-9E grab bar lengths to illustrate an approximate scale. HCD also proposes adding a note clarifying that grab bar sizes are shown on Figure 11A-9F. There is no intended change in regulatory effect.

COMMENT: EM-2. Section 1127A.7.2
The commenter applauds HCD for suggesting a height range for the door sign at a multiple accommodation toilet room. However, the commenter questioned the necessity of adding a requirement that the sign must be within 1 inch of the centerline of the door. The commenter expressed an opinion that this sign is meant for the visually impaired, but fails to see why it makes a difference if it is centered on the door or not.

HCD RESPONSE:
HCD's initial proposal modifying existing text in Chapter 11A, Section 1127A.7.2, aligns with the DSA's proposal in Chapter 11B, Section 11B-703.7.2.6. This section provides measures for toilet and bathing facilities sign installation. Pursuant to the DSA's Initial Statement of Reasons, Section 11B-703.7.2.6 is being added to Chapter 11B to indicate an existing provision that is currently found in Section 1115B.6. Language has been amended further to provide greater clarity.

HCD incorporated the DSA proposal of Section 11B-703.7.2.6 and is not aware of any comment (addressed to the DSA) about Section 11B-703.7.2.6. HCD was not made aware by the DSA of any further modifications proposed to this section. HCD understands the commenter's point of view, but for the purposes of consistency between Chapters 11A and 11B, HCD does not propose further modification to Section 1127A.7.2.

---

3. COMMENTER: Eugene Lozano Jr. **(EM-3)**
California Council of the Blind
4537 Sycamore Ave.
Sacramento, CA 95841

COMMENT: EM-3. Section 1139A.8
The commenter is in support of paragraphs 1 and 2 of Section 1139A.8 because of the pedestrian protection that is provided by having the drinking fountains fully contained within alcoves or within walls. However, the commenter, representing the California Council of the Blind, is opposed to paragraph 3 which permits objects to protrude a maximum of 4 inches beyond an alcove or wing wall. The commenter advocated that this section be modified and expressed the concern that there are no requirements that protruding objects have rounded or eased corners, which are needed to prevent injury. Last, the commenter expressed an opinion that the safest way to address protruding objects is identical to what is being proposed by the DSA for drinking fountains; that is containing them fully within alcoves or wing walls.

HCD RESPONSE:
The text, which the commenter opposed, is existing code language. HCD proposes to modify Section 1139A for consistency with Section 11B-602. The requirements for protruding objects in Section 1139A.8 remain unchanged. The commenter asserted that the DSA does not propose this language for adoption into the 2013 CBC, which creates the appearance that Chapters 11A and 11B are not consistent with regard to drinking fountains in common use areas. The commenter is correct that Section 11B-602 does not specifically address or state protruding objects are permitted to project 4 inches maximum. However, Section 11B-602.1 requires that drinking fountains shall also comply with Section 307 "Protruding Objects." Section 11B-307.2 allows a 4 inch horizontal projection into the circulation path. In addition, current model code, Section 1003.3.3, also permits a 4 inch projection.

HCD appreciates the commenter's point of view and understands his concern. Since the DSA is not making additional modifications to Section 11B-602 or Section 11B-307.2, for consistency, HCD proposes no additional modification to this section.

---

4. COMMENTER: Eugene Lozano Jr. **(EM-4)**
California Council of the Blind
4537 Sycamore Ave.
Sacramento, CA 95841

COMMENT: EM-4. Section 1143A.6:
The commenter opposed the exception to Section 1143A.6, allowing signs with raised characters to be installed on the push side of doors with closers and without hold-open devises. He expressed a concern that the placement of the sign on the door rather than the latch side, or in the case of double leaf doors, the right side wall, breaks down the predictability as to where to locate tactile signage. The commenter requested this exception be deleted for consistency and standardization for location of tactile signs with raised print and braille so they are located on the wall on the latch side of the door.

HCD RESPONSE:
HCD's Chapter 11A modifications relate to common use areas and incorporate Chapter 11B proposals that bring forward new language from the 2010 ADA. Section 1143A was modified to align with Section 11B-703. HCD received the above referenced comment during the 45-day comment period. At that time, after coordinating with the DSA, it was clear that Section 1143A.6 was consistent with Section 11B-703.4.2, and HCD was not aware of any further modifications proposed by the DSA for the 15-day public comment period.

HCD reviewed the DSA's "Revised Express Terms" submitted for 15-day public comment period and discovered that the DSA repealed the exception in Section 11B-703.4.2, based on a comment received during the 45-day public comment period, but did not inform HCD. The DSA's rationale was "to maintain the current level of consistency and standardization for the location of tactile identification signs at doors." HCD believes there is no reason for maintaining different dimensional and technical requirements in Common Use Areas (Chapter 11A) and in Public Use Areas (Chapter 11B); therefore, HCD proposes to further amend Section 1143A.6 (Item 8, Exception), incorporating the changes made by the DSA. This amendment provides clarity and consistency to the code user.

---

5. COMMENTER: Eugene Lozano Jr. **(EM-5)**
California Council of the Blind
4537 Sycamore Ave.
Sacramento, CA 95841

COMMENT: EM-5. Section 1143A.6, Item 9:
The commenter requested amendment of Section 1143A.6 "Raised characters and pictorial symbol signs", to include "and Braille" after "raised characters." The commenter believes that the amendment will let the reader understand that "Braille" is different than "Raised Characters" as accessibility elements on signs. The commenter also expressed an opinion that the language, as written, indicates that Braille is also a raised character, and requested that Chapter 11A be harmonized with Chapter 11B to ensure that terminology used is identical.

HCD RESPONSE:
Sections 1143A.6 and 11B-703.2 require raised characters and pictorial symbol signs to be duplicated in Braille. In addition, Section 1143A.6, Item 9 (Height) requires raised characters to be located 48 inches minimum above the finish floor, measured from the baseline of the lowest Braille cells. It is the opinion of HCD staff that the language, as written, is sufficiently clear. Braille is a required part of signage with raised characters (Tactile signs), and there is no need for the same term (Braille) to be repeated in the same sentence.

Section 1143A is harmonized with Section 11B-703. These two sections provide similar language and the same requirements acknowledging some discrepancies still exist within terminology used (tactile signs vs. signs with raised characters). The comment deserves further consideration with regard to harmonization of the terminology, but this task cannot be completed during the current rulemaking. HCD will review this comment and additional areas of Chapters 11A and 11B to harmonize during the next rulemaking cycle. HCD proposes no additional modification to this section.

---

6. COMMENTER: Eugene Lozano Jr. (**EM-6**)
California Council of the Blind
4537 Sycamore Ave.
Sacramento, CA 95841

COMMENT: EM-6. Table 1143A.7.1
The commenter opposed the different measurements for Braille found in Table 1143A.7.1 and Table 11B-703.3.1. The commenter, representing the California Council of the Blind, is in full support of Table 11B-703.3.1 because it complies with the Braille specifications found in the 2010 CBC. The commenter expressed a belief that the existing 2010 CBC provides more spacing between Braille cells and individual Braille dots, which increases readability by tactile readers. The commenter also expressed concerns that permitting ranges in Braille specifications potentially reduces the readability of Braille text depending whether the minimum or maximum specifications are used by the sign fabricator. For that reason, the commenter requested HCD harmonize Table 1143A.7.1 with Table 11B-703.3.1, to ensure Braille access/readability is not reduced below what is currently in the 2010 CBC.

HCD RESPONSE:
HCD's initial proposal modified existing language in Section 1143A to incorporate the DSA's proposals in Chapter 11B. Section 1143A was intended to align with Section 11B-703 and Table 1143A.7.1 was to align with Table 11B-703.3.1. The DSA modified Table 11B-703.3.1 after the Code Advisory Committee meeting, based upon direction received during the meeting. HCD intended to make the same modifications; however, HCD discovered two rows in Table 1143A.7.1 inadvertently remained unchanged. HCD proposes to correct that oversight and modify the dimensions in Table 1143A.7 as originally intended.

COMMENTS RECEIVED DURING THE 15-DAY PUBLIC COMMENT PERIOD.
(The text with proposed changes clearly indicated was made available to the public from December 14, 2012, until December 31, 2012).

A. COMMENTER: Eugene Lozano Jr. **(EM-A)**
California Council of the Blind
4537 Sycamore Ave.
Sacramento, CA 95841

COMMENTER: The commenter supports the modification to Table 1143A.7.1, proposed by HCD after the 45-day public comment period.

HCD RESPONSE:
HCD appreciates the commenter's support of the proposed amendment. (See comment **EM-6** for details.)

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.)

No alternatives were available for HCD to consider. HCD is statutorily required to adopt by reference specific national model building codes, which contain prescriptive standards. Prescriptive standards provide the following: explicit guidance for certain mandated requirements; consistent application and enforcement of building standards while also establishing clear design parameters; and ensure compliance with minimum health, safety and welfare standards for owners, occupants and guests. Performance standards are permitted by state law; however, unlike prescriptive standards, performance standards must demonstrate equivalency to the literal code requirement to the satisfaction of the proper enforcing agency.

Adoption of the most recent building standards on a statewide basis, as required by statute, results in uniformity and promotes affordable 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 pursuant to Government Code Section 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 costs.