

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING THE CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 4**

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:

The Office of Statewide Health Planning and Development (OSHPD) finds that there are some revisions to the Initial Statement of Reasons:

INITIAL STATEMENT OF REASONS:

The Initial Statement of Reasons includes the following:

Section 315.1.1

“and relative humidity” – Editorial amendment.

Section 407.2.1

“If installed ~~through~~ above the roof,” - This modification is necessary to clarify the intent of the code and ensure proper clearance between air intakes and roof surface. In this amendment the reference to plumbing vent location in relation to air intakes is removed because that information already exists in the California Plumbing Code. A reference to the California Plumbing Code is included in this amendment.

Section 407.4.1.1

This requires HVAC supply air for morgues and autopsy rooms to be delivered at the ceiling and either removed low or via autopsy table. This matches industry practice and enhances the safety of room occupants by more effectively removing airborne pathogens.

Section 408.3

Editorial amendment.

Section 409.3

This amendment refines the verbiage of the requirement to ensure that condensation on ductwork is not allowed by code. Moisture is deleterious to ductwork.

Table 4-A Pressure Relationship and Ventilation Requirements for General Acute Care Hospitals, Skilled Nursing Facilities, Intermediate Care Facilities, Correctional Treatment Centers, Outpatient Facilities, and Licensed Clinics

The amendments to this table are consistent with the California Building Code in listing spaces that the Code requires and specifying HVAC parameters for those spaces.

Section 605.0 Insulation of Ducts

This amendment refines the verbiage of the requirement to ensure that condensation on ductwork is not allowed by code. Any moisture is deleterious to ductwork.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Office of Statewide Health Planning and 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).

- ***Public comments received during the 45-Day Public Comment Period from August 24, 2012 to October 8, 2012.***

Section 217.0 Definitions, OSHPD 3SE

Commenter: Ginger Smith

The commenter states, "There is no reason or credible evidence offered to justify the exclusion of primary care clinics that do provide abortion services from the benefits of the 3SE clinic classification for primary care clinics. There is no evidence to support that services provided by primary care clinics that do provide abortion services are any more invasive or risky to public health and safety than routine services normally provided in primary care clinics that do not provide abortion services."

OSHPD Response:

OSHPD has withdrawn this proposal to modify Section 217.0.

Section 217.0 Definitions, OSHPD 3SE

Commenter: Ginger Smith, California Primary Care Association (CPCA)

The commenter expresses that CPCA is in strong support of the proposed new subcategory for clinics – OSHPD 3SE and that CPCA is very grateful for the work of OSHPD staff in developing this subcategory and supports its implementation.

OSHPD Response:

OSHPD has withdrawn this proposal to modify Section 217.0.

Table 4-A, Waiting area primary care clinic

Commenter: Ginger Smith, California Primary Care Association (CPCA)

The commenter suggested that, due to Criteria #5, the following text be added to the regulation:

"Exception, In multi-story buildings that are not able to exhaust to the roof." The commenter states that in urban areas small clinics may utilize space in multi-story buildings are not able to exhaust to the roof.

They may have to exhaust at the façade which would require by mechanical code to be a minimum of 10 feet away from any door or operable window. The commenter argues that this may be physically impossible if the door is in the middle and the space is less than 20 feet wide. The commenter cited Criteria #5 – The cost to the public is unreasonable, based on the overall benefit.

OSHPD Response:

There are no new amendments for Title 24, Part 4, Table 4-A "Waiting area primary care clinic". Therefore, it is outside of this rulemaking proposal and criteria #5 does not apply.

The 10 foot minimal clearance is well established as a nationally accepted standard as specified in ASHRAE 170, "Ventilation of Health Care Facilities", Section 6.3.2. ASHRAE 170 is now combined with Facility Guidelines Institute (FGI) "Guidelines for Design and Construction of Health Care Facilities". FGI is the national standard for health care facility design. This requirement is repeated in California Mechanical Code, Section 407.2.2 which states, "Exhaust outlets shall be located a minimum of 10 feet (3048 mm) above adjoining grade and 10 feet (3048 mm) from doors, occupied areas, and operable

windows.” The 10 foot clearance is established in order to minimize contamination of ventilation air delivered to medical patients, and it is very important to ensure that this air remains clean.

The introduction to ASHRAE 170 states:

Without high quality ventilation in health care facilities, patients, health care workers, and visitors can become infected through normal respiration of particles in the air. Poorly ventilated health care facilities are places where the likelihood of pathogenic particles occurring in the air is quite high. These air-transmitted pathogens can be found everywhere in such health care facilities, and although most individuals can cope with them using their healthy immune systems, some patients are susceptible to these pathogens or even normal environmental air-borne organisms such as fungal spores. Because these organisms are found in higher concentrations in hospitals, additional care must be taken in the design of the ventilation systems.

Section 602.3.1

Commenter: Ginger Smith, California Primary Care Association (CPCA)

The commenter suggested that OSHPD add the following text: “Exception: OSHPD 3SE clinics may utilize flexible ducts for their entire facility and are not required to utilize rigid ducting at all.” The commenter cited Criteria #6 – The exception is vague. The commenter stated, “The current wording could be misinterpreted to mean that OSHPD 3SE clinics are not allowed to use flexible ducting at all. We are recommending that additional wording be added to clarify the intent; that OSHPD 3SE clinics are not limited to 10 feet of flexible ducting for connection purposes.”

OSHPD Response:

OSHPD has withdrawn this proposal to modify Section 602.3.1.

Section 217

Commenter: Essie Santana Tuttle, La Clinica de La Raza, Inc.

The commenter expressed support for the new category of OSHPD 3SE, stating that it will allow community clinics to build appropriate facilities for primary care services.

OSHPD Response:

OSHPD has withdrawn this proposal to modify Section 217.

Table 4-A

Commenter: Essie Santana Tuttle, La Clinica de La Raza, Inc.

The commenter requested: “That a mechanical requirements exception be made for clinics constructed in multi-story buildings to not have to exhaust outward from a lobby area. This could be impossible in some multi-story buildings.”

OSHPD Response:

There are no new amendments for Title 24, Part 4, Table 4-A “Waiting area primary care clinic”. Therefore, it is outside of this rulemaking proposal and criteria #5 does not apply.

Exhausting air away from the lobby area is a well-established HVAC method to ensure the safety of the occupants. The introduction to ASHRAE 170 states:

Without high quality ventilation in health care facilities, patients, health care workers, and visitors can become infected through normal respiration of particles in the air. Poorly ventilated health care facilities are places where the likelihood of pathogenic particles occurring in the air is quite high. These air-transmitted pathogens can be found everywhere in such health care facilities, and although most individuals can cope with them using their healthy immune systems, some patients are susceptible to these pathogens or even normal environmental air-borne organisms such as

fungus spores. Because these organisms are found in higher concentrations in hospitals, additional care must be taken in the design of the ventilation systems.

Section 602.3.1

Commenter: Thomas A. Enslow, Joint Committee on Energy and Environmental Policy
The commenter suggested that OSHPD “keep existing California Mechanical Code Section 602.3.1 OSHPD amendment applicable to OSHPD 3SE occupancies.” The reason the commenter gave is Criteria #3 (public interest), and Criteria #4 (unreasonable, arbitrary, unfair & capricious)

OSHPD Response:

OSHPD has withdrawn this proposal to modify Section 602.3.1.

Section 217.0

Commenter: Jeffrey F. Piepert, MD, PhD, Washington University in St. Louis
The commenter stated various arguments supporting his position that, “any differential treatment of health clinics that perform abortions makes no clinical sense in terms of infection risk.”

OSHPD Response:

OSHPD has withdrawn this proposal to modify Section 217.0.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

OSHPD has determined that no alternative 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:

OSHPD has determined that the proposed regulations will not have an adverse economic impact on small businesses.