

**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 04/13)**

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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 or editorial corrections to the following sections after the 45-day public comment period that ended on May 5, 2014:

Sections 1117A, 1124A, 1126A, 1132A, 1133A, 1140A and Division VII – Figures.

HCD made nonsubstantive editorial corrections to the following sections after the subsequent 15-day public comment period that ended on May 28, 2014:

1. Section 1102A.3.1 “Exception” (the change to “Chapter 2” was already made during the 2012 Triennial Code Adoption Cycle; therefore, strike-out/underline is duplicative and unnecessary).
2. Section 1122A.5.2.4 (the sentence originally shown in strike-out is removed because it was included inadvertently; the text was never a part of the section).
3. Section 1134A.5 Item 3 (the existing text “pound-force”, previously omitted inadvertently, is added and shown in strike-out and “pounds” is underlined to clarify the intended change).
4. Section 1138A.3.1 Item 1 (the change to “When” was already made during the 2012 Triennial Code Adoption Cycle; therefore, strike-out/underline is duplicative and unnecessary).

HCD withdrew proposed Section 1124A.3.4 “Emergency Communication” based on an analysis by the Office of the State Fire Marshal (SFM) that HCD lacked authority to require two-way communication systems. The issue will be properly vetted during the 2015 Triennial Code Adoption Cycle. As a result of the withdrawal, proposed Section 1124A.3.4.1 “Emergency Telephone” is renumbered to Section 1124A.3.4 for continuity.

**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 submitted during the 45-day comment period may be viewed 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 March 21, 2014 until May 5, 2014.)

**1. COMMENTER:** Philip J. Terhorst, AIA (**EM-1**)  
TCA Architects, Inc.  
19782 MacArthur BLVD. Suite 300  
Irvine, CA, 92614, (949) 862-0270

**COMMENT:** **EM-1. Sections 1113A, 1114A, 1115A, 1117A, 1119A, 1122A, 1123A, 1124A, 1125A, 1127A, 1131A, 1132A, 1134A, 1140A, 1143A:**

The commenter supports the modifications to Sections 1113A, 1114A, 1115A, 1117A, 1119A, 1122A, 1123A, 1124A, 1125A, 1127A, 1131A, 1132A, 1134A, 1140A, and 1143A proposed by HCD.

**HCD RESPONSE:**

HCD appreciates the commenter's support of the proposed amendments.

**COMMENT:** **EM-1 (continued). Section 1109A:**

The commenter generally supports the proposed modifications to Section 1109A. However, the commenter expresses an opinion that the exception to this section, as written, is unnecessary, ambiguous or vague, and requests HCD to define "attached to" and "directly serving."

**HCD RESPONSE:**

The proposed modification to Section 1109A.2.1 is intended to clarify that the exception applies only to a private garage attached to and directly serving a single covered multifamily dwelling unit, and not garages attached to common use areas (such as corridors), as previously interpreted by some code users. "Directly attached to and directly serving" means that a garage is attached to a dwelling unit and directly serves only that particular dwelling unit. HCD believes that the language, as proposed, is sufficiently clear, and does not need further clarification.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT:** **EM-1 (continued). Section 1110A:**

The commenter supports the proposed modifications to Section 1110A. However, the commenter requests that HCD make revisions to Section 1110A.1 by clarifying the intent. The commenter believes that the sentence "Where more than one route of travel is provided, all routes shall be accessible" means that secondary routes must meet the requirement for accessibility, but they are not necessarily required to comply with requirements for accessible routes. The commenter provided additional details in support of his comment.

**HCD RESPONSE:**

HCD's initial proposal to modify Section 1110A.1 intended to provide clarity and consistency in California. This amendment is coordinated with the Division of State Architect (DSA), and is consistent with Section 11B-206.2.1.

HCD was not made aware by the DSA of any further modifications proposed to this section. HCD understands the commenter's point of view, and appreciates the additional details provided to support the comment. However, for the purposes of consistency between Chapters 11A and 11B, HCD does not propose further modification to Section 1110A.1. The requirements for exterior accessible routes for covered multifamily dwellings may be discussed with the DSA and HCD stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-1 (continued). Section 1116A:**

The commenter supports all proposed modifications to Section 1116A, but suggests Section 1116A.5 to provide more clarity in regard to the areas requiring detectable warnings. The commenter is concerned that the language, as written, would require detectable warnings between an accessible parking stall and its loading zone. The commenter believes that if someone arrives at accessible parking, it shall be assumed that they know they are in a vehicular area, and no additional warning should be required. However, the commenter agrees that detectable warnings must be installed to prevent pedestrians or wheelchair users from entering vehicular area.

**HCD RESPONSE:**

The proposal to adopt Section 1116A.5 is a result of comments received from stakeholders expressing concerns that detectable warnings at vehicular areas are not addressed in Chapter 11A. This proposal is consistent with Section 11B-207.1.2.5. Sections 1116A.5 and 11B-207.1.2.5 contain slightly different language, but provide the same technical requirements.

HCD is aware that Section 1116A.5, as written, does not address all specific locations where detectable warnings will be required. HCD received three similar comments (EM-1, EM-2, EM-4) during the 45-day comment period suggesting HCD to provide more clarity in regard to the required locations for installation of detectable warnings. However, HCD believes that the language, as proposed, clearly indicates that Section 1116A.5 applies **only when a walk crosses or adjoins a vehicular way**. In addition, HCD's intent was to coordinate with the DSA and address detectable warnings at vehicular areas for consistency with Chapter 11B. HCD was not made aware by the DSA of any further modifications proposed to Section 11B-207.1.2.5. Therefore, HCD believes that further modification to Section 1116A.5 during this rulemaking cycle is unnecessary. Section 1116A.5 may be discussed again with the DSA and HCD stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-1 (continued). Section 1126A:**

The commenter supports all proposed modifications to Section 1126A. However, the commenter suggests an exception to Section 1126A.3, which would exempt doors equipped with an automatic door opening device or panic hardware for compliance with the requirements for maneuvering clearance (push side), when the door has a closer and a latch.

**HCD RESPONSE:**

HCD's proposal to modify Section 1126A.3 is intended to provide clarity and consistency in California. This amendment is coordinated with the DSA, and is consistent with Section 11B-404.2.4. HCD appreciates the comment and understands the commenter's point of view. This comment may have merit; however, it is not specific. HCD is also not aware of any further modifications proposed by the DSA to Section 11B-404.2.4, and does not propose further modifications to Section 1126A.3. HCD will follow up with the commenter and this topic may be discussed with the DSA and HCD stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-1 (continued). Section 1133A.2:**

The commenter supports all proposed modifications to Section 1133A. However, the commenter requests that HCD provide more clarity in regard to the breadboards. The commenter expresses a concern that the term “breadboard” is not defined, and that there are no requirements for functionality, removability, knee space, and clear floor space for breadboards.

**HCD RESPONSE:**

HCD proposes to amend Section 1133A.2 by replacing existing language with new language that more accurately describes the intent. The proposed modification clarifies that the requirements for parallel and forward approach, knee and toe space, removable base cabinets, and repositionable countertops apply to kitchen sinks and work surfaces. HCD understands the commenter’s point of view; however, the comment exceeds the scope of HCD’s proposal. HCD did not propose amendments related to breadboards during this Intervening Code Adoption Cycle. This topic may be re-evaluated and discussed with the DSA and HCD stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-1 (continued). Section 1138A:**

The commenter supports all proposed modifications to Section 1138A, except Section 1138A.3.2. The commenter expresses a concern that HCD’s proposal to amend the exception to Section 1138A.3.2 would require kitchen countertops to be 36 inches maximum above the finish floor, which is impractical to design and install. The commenter states that “due to manufactured items (dishwashers, trash compactors, ice makers, etc.) having fixed dimensions, and ceramic tiles being a fixed dimension, 36 inches is impossible to achieve.” The commenter suggests this item to be removed until U.S. manufacturers change their designs.

**HCD RESPONSE:**

HCD understands the commenter’s point of view. However, HCD respectfully disagrees. Section 1138A.3.2, cited in the comment, addresses the height of kitchen countertops in dwelling units related to reach ranges. It does not provide new general requirements for kitchen cabinets. HCD’s intent with this amendment is to correct an oversight, and clarify that the kitchen countertops in dwelling units are exempt from the height requirements of 34 inches when the side reach is over an obstruction.

Section 1138A.3.2 (Item 2) requires 34 inches maximum height of an obstruction when the side reach is over an obstruction. The exception exempts the top of washing machines and clothes dryers, but not kitchen countertops in dwelling units. Currently, Chapter 11A allows a 36-inch high kitchen countertop in dwelling units, and HCD never intended to change this requirement. This is consistent with the FHA Guidelines and FHA Design Manual, which allow 36-inch high maximum kitchen cabinets when the side reach is over an obstruction.

No changes to the Final Express Terms were made as a result of this comment.

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**2. COMMENTER:** Olivier Baviere (**EM-2**)  
City of San Jose, Building Division  
200 E. Santa Clara Street, Suite T2  
San Jose, CA, 95112 (408) 535-7734

**COMMENT: EM-2. Section 1102A.3.2:**

The commenter expresses a concern that the proposed adoption of Item 2 in Section 1102A.3.2, as written, is not complete. The commenter requests that HCD replace this proposal with new language, which will require all primary functional living areas (living room, dining room, kitchen, bathroom, and sleeping area) within a dwelling unit to be on an accessible level.

The commenter cites Government Code Section 12955.1, which requires HCD to develop standards that provide at least the same protection as federal standards. The commenter believes that the Uniform Federal Accessibility Standards (UFAS) provides greater protection for the disabled when addressing multi-story dwelling units, and Section 4.34.2 (15) clearly describes the spaces which must be on an accessible route with similar language.

The commenter agrees that Question 22 of the DOJ/HUD Joint Statement specifically requires a bathroom

and a kitchen on the accessible level. However, the commenter expresses an opinion that the response to Question 9, which addresses dwelling units with lofts or sunken areas, is so similar that Question 9 and Question 22 are treated the same.

**HCD RESPONSE:**

HCD understands and appreciates the commenter's point of view. However, the commenter may have misinterpreted the intent of HCD's proposal, which requires HCD to provide clarification.

HCD initially proposed to incorporate language from the HUD and DOJ Joint Statement, clarifying that in buildings with elevators, the primary entry level of the unit that is served by the building elevator is required to be provided with a usable kitchen. This proposal provides clarity and consistency with the federal law. Currently Section 1102A.3.2 requires multistory dwelling units in buildings with elevators to provide only a powder room or bathroom.

HCD agrees that Government Code Section 12955.1 requires HCD to develop standards that provide at least the same protection as the federal standards. However, HCD disagrees with the commenter, comparing the HCD regulations with UFAS. UFAS sets standards for facility accessibility by disabled persons for Federal and federally-funded facilities. These standards are to be applied during the design, construction, and alteration of buildings and facilities to the extent required by the Architectural Barriers Act of 1968, as amended. Pursuant to UFAS, only 5 percent of the total number of dwelling units is required to be accessible. For comparison, Chapter 11A is based on the Fair Housing Act Design Manual (FHADM), which is developed by HUD to assist designers, builders, and developers in understanding the design requirements of the Fair Housing Act. Chapter 11A provides at least the same protection, and is more restricted in some areas than the FHADM. Chapter 11A applies to Covered Multifamily Dwellings (regardless of the form of ownership) with three or more apartments or four or more condominiums, and mandate compliance for all dwelling units in buildings with elevators, not only 5 percent.

The commenter's recommendation is outside the scope of HCD's proposal, does not seem to be sufficiently related, and was also not discussed with HCD's stakeholders. HCD believes that, at this time, further modification to Section 1102.3.2 is unnecessary. Section 1102A.3.2 may be discussed again with HCD stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-2 (continued). Section 1110A.1:**

The commenter supports the modification to Section 1110A.1 proposed by HCD. The commenter believes that the proposed language will eliminate the ambiguity that exists in the current building code. The commenter expresses an opinion that this language will eliminate designs with steps to a dwelling unit and will provide a great level of accessibility. However, the commenter is concerned that this proposal will be undermined if the newly proposed Exception 2 to Section 1117A.2 is accepted.

**HCD RESPONSE:**

HCD appreciates the commenter's support of the proposed amendments. (For further details, see the Comment for Section 1117A.2).

**COMMENT: EM-2 (continued). Section 1116A.5:**

The commenter supports the proposed adoption of Section 1116A.5, but expresses a concern that the proposed language adds ambiguity regarding the required site design layout and should be modified to provide clarity.

The commenter also believes that the truncated domes, used to alert the visually impaired, are often misused "in a manner suggesting they provide safety". Therefore, the commenter suggests that the latitude to require bollards or curbs must be written into the code. The commenter has attached floor plans to support his comment.

**HCD RESPONSE:**

HCD proposed to adopt Section 1116A.5 after several comments received from stakeholders expressing concerns that detectable warnings at vehicular areas are not addressed in Chapter 11A. This proposal is consistent with Section 11B-207.1.2.5. Sections 1116A.5 and 11B-207.1.2.5 contain slightly different language, but provide the same technical requirements.

HCD appreciates the comment and understands the commenter's point of view. However, HCD's intent was to coordinate with the DSA and address detectable warnings at vehicular areas for consistency with Chapter 11B. HCD was not made aware by the DSA of any further modifications proposed to Section 11B-207.1.2.5.

HCD is aware that detectable warnings do not "protect" pedestrians. They are designed and intended to "warn" visually impaired pedestrians. HCD is also aware that Section 1116A.5, as written, does not address all specific locations where detectable warnings will be required. HCD received three similar comments (EM-1, EM-2, EM-4), during the 45-day comment period suggesting that HCD provide more clarity in regard to the required locations for installation of detectable warnings. However, HCD believes that the language, as proposed, clearly indicates that Section 1116A.5 would apply **only when a walk crosses or adjoins a vehicular way**. The commenter's recommendation for requiring bollards or curbs only (no detectable warnings allowed) is outside the scope of HCD's proposal and has not been discussed with stakeholders. HCD believes that further modification to Section 1116A.5 during this rulemaking cycle is unnecessary. Section 1116A.5 may be discussed again with the DSA and HCD stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-2 (continued). Section 1117A.2:**

The commenter suggests that proposed Section 1117A.2 Exception 2 be disapproved. The commenter expresses an opinion that the proposed language adds ambiguity to the code when compared to the proposal in Section 1110A.1. The commenter believes that the proposal in Section 1117A.2 will result in reducing accessibility. The commenter also expresses a concern that the proposed language would be used to allow non-accessible private entrances to units served by a corridor or other common space, and suggests that HCD adopt language accepting a reasonable distance between non-accessible and accessible routes of travel. The commenter provides a simple site plan to support his proposal.

**HCD RESPONSE:**

For the 45-day public comment period, which ended on May 5, 2014, HCD proposed to modify Section 1117A.2 by incorporating language from Chapter 11B. The proposal of two new exceptions was intended to provide clarity, specificity and consistency with Section 11B-206.4.1. However, after multiple comments received during the 45-day public comment period, and after further internal review, HCD decided to withdraw the proposed exceptions.

Section 1117A provides general requirements for accessible entrances, exits, interior routes of travel and facility accessibility. Section 1117A.2 requires primary building entrances and exterior ground floor exit doors, **located on accessible routes**, to be accessible. The originally proposed exceptions exempt exits in excess of those required by Chapter 10 (means of egress), which are more than 24 inches above grade, as well as exterior ground floor exits serving smoke-proof enclosures, stairwells, and exit doors serving stairs only. However, there are other sections (Section 1110A or 1130A, for instance) which may require an accessible route to a door, and then trigger the requirements of Section 1117A.2. Therefore, HCD believes that there is no need for the exceptions to be adopted.

**COMMENT: EM-2 (continued). Section 1117A.5:**

The commenter requests that HCD make revisions to proposed Section 1117A.5 in order to provide clarity. The commenter proposes to modify the language by requiring accessible parking to be provided on each parking level with access to a building level with covered dwelling units.

The commenter believes that when a tenant parks a vehicle at a level with no dwelling units, the accessible route shall be to the elevator, and there is no benefit of requiring an accessible parking on these levels. However, the commenter suggests that when there are residential units on the parking level, the disabled person shall have the same option as the able-bodied to park on the same level they reside.

**HCD RESPONSE:**

HCD's initial intent of proposing Section 1117A.5 was to incorporate language from the 2010 ADA and Chapter 11B, providing clarity and specificity to the code user. This proposal, which addresses entrances from parking structures, tunnels or elevated walkways, is consistent with Sections 11B-206.4.2 and 11B-206.4.3. Currently, Chapter 11A does not address entrances from parking structures, tunnels or elevated walkways.

Section 1117A.5 does not relate to accessible parking spaces. The commenter appears to be commenting on accessible parking for multilevel parking facilities and on location of accessible parking spaces, which is addressed in Section 1109A. HCD is aware that the requirements for location of accessible parking spaces in multilevel parking facilities are interpreted differently in different jurisdictions, but these issues are irrelevant to Section 1117A.5. Section 1109A may be discussed again with all stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

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**3. COMMENTER:**           **Gerald W. Sams (EM-3)**  
Handel Architects LLP  
735 Market St., 2<sup>nd</sup> Floor  
San Francisco, CA 94103  
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**COMMENT:**       **EM-3. Section 1109A.8.1:**

The commenter agrees that it makes sense to require higher clearance for vans, but he questions why the vehicles for persons with disabilities need to have higher clearance than the normal cars. The commenter believes that extra height for a “standard” accessible parking space is very expensive, and does not benefit a regular car.

The commenter also provides an example clarifying why lowering the height requirement for “standard” accessible parking spaces would increase accessibility, and would allow more flexibility in the design of garages. He suggests that HCD change the clearance for “standard” accessible parking spaces to 7 feet, leaving the same requirement for 8’ 2” for van accessible parking spaces.

**HCD RESPONSE:**

HCD initially proposed to amend Section 1109A.8.1 by replacing the reference to Chapter 11B with a reference to Section 1143A, which contains the same requirements. The proposed amendment intends to provide clarity to the code user.

HCD is aware that the requirements for vertical clearance of accessible parking spaces are interpreted differently in different jurisdictions. However, the commenter’s proposal is outside the scope of HCD’s proposal, and has not been discussed with stakeholders. Therefore, HCD does not propose further modifications to Section 1109A.8.1. Section 1109A.8.1 may be discussed again with all stakeholders during the next Triennial Code Adoption Cycle, if needed.

**COMMENT:**       **EM-3 (continued). Section 1133A.4:**

The commenter requests that HCD clarify the requirements for sinks and work surfaces, if a combination of sink and work surface is provided. The commenter questions whether the sink can be placed anywhere in the overall 60-inch work surface, or if it must be moved aside to ensure the continuity of the 30-inch work surface.

**HCD RESPONSE:**

The commenter’s proposal is outside the scope of HCD’s proposal and does not seem to be sufficiently related. Therefore, HCD does not propose further modifications to Section 1133A.4. Section 1133A.4 may be discussed again with all stakeholders during the next Triennial Code Adoption Cycle, if needed.

**COMMENT:**       **EM-3 (continued). Section 1133A.4.1:**

The commenter expresses an opinion that the concept of a repositionable sink counter is impractical unless the project has an unlimited budget. The commenter believes that a project that cannot afford stone, cultured stone, and tile for kitchen countertops could not afford the increased plumbing costs and cabinet construction for repositionable plastic laminate countertops either. The commenter does not propose any specific modification, but makes the conclusion that it is hard to design low-income housing when there is a limited choice between two expensive alternatives.

The commenter also expresses an opinion that the requirement for 5 percent of covered multifamily dwelling units to have repositionable countertops belongs in Chapter 11B. He believes that Section 1133A.4.1 is the only section in Chapter 11A where “a proportion of units are to be singled out for handicapped “accessibility”



**COMMENT: EM-4 (continued). Section 1116A.5:**

The commenter recommends that HCD clarify the definitions for pedestrian area, vehicular way or vehicular area, "to aid in identifying the specific location where the detectable warning will be required." The commenter also suggests HCD provide, as an alternative, language clarifying the intent to provide language identifying the specific scope of application. The commenter provides several examples where the language of Section 1116A.5, as written, "could be interpreted and applied in a variety of ways."

**HCD RESPONSE:**

HCD proposed to adopt Section 1116A.5 after several comments received from stakeholders expressing concerns that detectable warnings at vehicular areas are not addressed in Chapter 11A. This proposal is consistent with Section 11B-207.1.2.5. Sections 1116A.5 and 11B-207.1.2.5 contain slightly different language, but provide the same technical requirements.

HCD is aware that Section 1116A.5, as written, does not address all specific locations where detectable warnings will be required. HCD received three similar comments during the 45-day comment period suggesting that HCD provide more clarity in regard to the required locations for installation of detectable warnings. However, HCD believes that the language, as proposed, clearly indicates that Section 1116A.5 applies **only when a walk crosses or adjoins a vehicular way**. In addition, HCD's intent was to coordinate with the DSA and address detectable warnings at vehicular areas for consistency with Chapter 11B. HCD was not made aware by the DSA of any further modifications proposed to Section 11B-207.1.2.5. Therefore, HCD believes that further modification to Section 1116A.5 during this rulemaking cycle is unnecessary. Section 1116A.5 may be discussed again with the DSA and HCD stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1126A.3.1:**

The commenter requests that HCD replace the word "level" with the technical criteria for achieving a "level" condition, namely "running slope and cross slopes, each, not exceeding 1:48", or provide a definition for "level" that provides the technical criteria. The commenter believes that identifying the specific slopes (both running and cross) required at door maneuvering clearances would be consistent with the requirements found in Section 11B-404.2.4.4 of the 2013 California Building Code as well as in Section 404.2.4.4 of the 2010 ADA Standards for Accessible Design.

**HCD RESPONSE:**

HCD proposed to modify Section 1126A.3 by incorporating language from Chapter 11B and the 2010 ADA. HCD's intent of proposing this amendment was to continue maintaining the same technical requirements for common use areas and public use areas, wherever possible. The requirement for level floor or landing area is an existing requirement that has not been changed since 1988. HCD did not intend to repeal or modify this requirement. The commenter's request is outside the scope of HCD's proposal.

Section 1008.1.5 (Floor elevation) requires a level floor or landing on each side of a door. The same section allows exterior landings to have a slope not to exceed ¼ inch per foot (1:48). Section 1126A.2 requires a floor or landing on each side of an **exit door** to be level, and further refers to Chapter 10. Section 1126A.3.1 repeats this requirement, mandating the floor or landing area within the required maneuvering clearance to be level. "Level area" is defined for HCD 1-AC in Chapter 2 as a specified surface that does not have a slope in any direction exceeding ¼ inch (6.4 mm) in 1 foot (305 mm) from the horizontal (2.083-percent gradient).

HCD believes that the language in the above cited sections, addressing the level area, is sufficiently clear.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1126A.4:**

The commenter recommends that HCD replace the phrase "closer effort" with the phrase "opening force," and replace the word "effort" with "force" to reflect the intent and to be consistent with Section 11B-404.2.9. The commenter expresses an opinion that the use of the term "closer" implies that the effort to open the door or gate is specifically linked to the use of a door closer (mechanical device), and Section 1126A.4 may be interpreted as only applicable to when door closers are used. The commenter believes that the term "opening force" is more appropriate to reflect the intent, which is "amount of force required to open the door, irrespective of any specific door hardware."

**HCD RESPONSE:**

HCD's intent to modify Section 1126A was to continue maintaining the same technical requirements for common use areas and public use areas, wherever possible. However, HCD did not propose any modification to Section 1126A.4. The commenter's recommendation may have merit; however, it exceeds the scope of HCD's proposal for this Intervening Code Adoption Cycle, and addresses language that has been in the code for more than 20 years. Section 1126A.4 may be discussed again with HCD's stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1126A.3.2.1:**

The commenter recommends Item 8 (the commenter wrongly directs to Item 8; it is Item 4 in the HCD's proposal) of this section to be amended to address doors and gates for common use areas located within breezeways that are covered, but still open to the exterior environment. The commenter suggests HCD to state that any door or gate, "exposed to the exterior, unconditioned atmosphere" must be provided with a strike edge maneuvering space of 24 inches minimum. The commenter also expresses an opinion that if this is not the intent, HCD needs to modify the language appropriately to distinguish the strike edge requirements for doors located within covered breezeways (indirect, exterior exposure) as opposed to doors located with direct, exterior exposure.

**HCD RESPONSE:**

HCD's intent to modify Section 1126A was to continue maintaining the same technical requirements for common use areas and public use areas, wherever possible. Section 1126A.3.2.1 was amended and reformatted; the language in Item 4 appears as new for publication purposes, but it is existing language currently located in Section 1126A.3.2. HCD did not intend to modify or change the requirements for strike edge maneuvering space during this Intervening Code Adoption Cycle. The commenter's recommendation exceeds the scope of HCD's proposal for this code adoption cycle, and addresses language that has been in the code for more than 20 years. Section 1126A.3.2.1 may be discussed again with HCD's stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1127A.12:**

The commenter expresses an opinion that as Section 1127A.12.1 is currently written, it appears that built-in seating (such as benches or banquettes), as well as built-in tables or counters, are required to be accessible. The commenter expresses a concern that for built-in seating, Chapter 11A, unlike Chapter 11B, does not include technical requirements for accessible benches; therefore, there are no applicable requirements for an accessible bench or banquette. The commenter also believes that the intent of Sections 1127A.12.1, 1127A.12.2, and 1127A.12.3 is that wherever fixed tables and counters are provided, that the accessible counter/dining/work surfaces must have a specific height and depth and that knee and toe clearances be provided. The commenter recommends that HCD clarify the intent, by repealing "or built in seating" in Section 1127A.12.1.

**HCD RESPONSE:**

HCD did not intend to propose amendment of Section 1127A.12 during this Intervening Code Adoption Cycle. The commenter's recommendation exceeds the scope of HCD's proposal for this rulemaking, and was not discussed with HCD's stakeholders. Section 1127A.12 may be discussed again with HCD's stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1127A.13:**

The commenter offers ideas for consideration when HCD addresses electric vehicle charging in the future. The commenter provides the JMS Group assessment when performing plan reviews addressing EV charging spaces and compliance with the California Building Code and the FHA.

**HCD RESPONSE:**

HCD appreciates the commenter's point of view and ideas. Some of these ideas will be taken into consideration for future rulemaking addressing EV charging stations. During this Intervening Code Adoption Cycle, HCD proposes only a placeholder for EV charging stations.

**COMMENT: EM-4 (continued). Section 1131A.2:**

The commenter recommends that HCD revise Section 1131A.2 by adopting a new exception referring to Section 1132A.4. The commenter believes that Section 1132A.4 contains a number of exceptions to the requirement in Section 1131A.2.

**HCD RESPONSE:**

HCD appreciates the commenter's point of view. However, HCD respectfully disagrees.

Section 1131A.2 contains general requirements for changes in level greater than ½ inch, while Section 1132A.4 contains specific requirements for level floor or landing at doors in dwelling units. Pursuant to Section 1.1.7.2 of the California Building Code, where a specific provision varies from a general provision, the specific provision shall apply. HCD believes that it is unnecessary to refer to a section containing specific provisions when Section 1132A.4 would apply by default. HCD also believes that the commenter's recommendation exceeds the scope of HCD's proposal. HCD's proposal in Section 1131A.2 intended to clarify that sloped surface is an appropriate method of compliance with Section 1131A.2. This proposal is consistent with Sections 1111A.2 and 1121A.2.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1132A.3:**

The commenter recommends that HCD revise the language in Item 4 to be consistent with the language in Item 2, requiring a 32-inch net clear opening. (Currently Item 4 allows a nominal 32-inch opening for sliding doors). The commenter believes that it may be best to revise Item 4 by identifying the relevant technical criteria in lieu of associating it with a specific door width.

The commenter notes that after reviewing 32 models of 6-foot wide sliding door assemblies from 19 window/door manufacturers, it appeared that only 2 specific door assemblies were found to provide a clear opening width of 32 inches or greater. In addition, door pulls at the door in the open position often protruded into the clear opening. Based on the research, the commenter expresses a concern that to comply with the requirement in Item 4, the size of the sliding door assembly must typically be increased from 6.5 feet.

The commenter also proposes that HCD amend Item 5 by utilizing language consistent with Item 2.

**HCD RESPONSE:**

HCD appreciates the comment and understands the commenter's point of view. However, HCD does not propose further modifications to Section 1132A.3 as a result of this comment.

HCD's proposal in Section 1132A.3 Item 2 allows the installation of any width if the requirement for 32 inches clear door opening is met. The proposed clarification is a result of comments received from stakeholders expressing concerns that the allowance of a 34-inch wide door creates the illusion that the 32-inch clear opening is not required. HCD did not intend to modify Item 4 and Item 5 during this Intervening Code Adoption Cycle. This comment may have merit; however, the commenter's recommendation exceeds the scope of HCD's proposal, and was never discussed with HCD's stakeholders. Section 1132A.3 may be discussed again with HCD's stakeholders during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1134A.2**

The commenter expresses a concern that the language found in Section 1134A.2, Option 2, Item 6, does not clearly reflect HCD's intent, and may lead to an interpretation by the Authority Having Jurisdiction (AHJ) that is contrary to what HCD intended. The commenter believes that "many design professionals, developers, contractors, and AHJ's continue to struggle with the intent of the language shown in item 6 when addressing the variety of plumbing fixture configurations seen within dwelling units containing multiple bathrooms." The commenter proposes that HCD modify the language to clearly and succinctly convey HCD's intent. The commenter provides a suggestion for modifying the language, and also the JMS Group assessment when performing plan reviews addressing Section 1134A.2, Option 2, Item 6.

**HCD RESPONSE:**

HCD appreciates the commenter's point of view and ideas. However, during this Intervening Code Adoption Cycle, HCD did not intend to propose any modification to Section 1134A.2. The commenter's

recommendation is not sufficiently related, exceeds the scope of HCD's proposal, and has not been discussed with HCD stakeholders. Section 1134A.2, Option 2, may be discussed with HCD stakeholders during the next Triennial Code Adoption Cycle, if needed, and the commenter is welcome to participate.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1134A.7:**

The commenter requests that HCD clarify the language in Section 1134A.7 addressing the minimum distance from the centerline of the water closet to an obstacle when a water closet is adjacent to non-grab bar walls, vanities, lavatories, or bathtubs. The commenter believes that HCD should clarify what "obstacle" represents. The commenter states that where a lavatory occurs directly adjacent to a toilet at one side, and this is where the space for a future fold-down grab bar is to be provided, the majority of design professionals identify the required 18 inches from the centerline of the toilet to the face of the base cabinet for the lavatory. The problem, per the commenter, occurs when the lavatory countertops project/cantilever beyond the face of the base cabinet, and protrude into the required 18 inches clearance. The commenter expresses a concern that this protrusion limits the ability to effectively utilize grab bars at this location in the future. To provide clarity, the commenter proposes revising the last sentence of this section, which would clarify that the 18 inches should be measured from the centerline of the water closet to the furthest projecting surface at the face of the lavatory.

**HCD RESPONSE:**

HCD initially proposed to modify Item 1 of Section 1134A.7 clarifying that the location of water closets shall permit a grab bar installation on at least one side of the fixture. HCD did not intend to further modify this section during this Intervening Code Adoption Cycle. The commenter's recommendation exceeds the scope of HCD's proposal, and was never discussed with HCD's stakeholders. In addition, the comment addresses the distance from the water closet to a non-grab side of the water closet. This is irrelevant to the commenter's concern, which is about grab bar installation in the future. This topic may be discussed during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Section 1138A.3.2:**

The commenter recommends that HCD clarify whether the maximum 24-inch depth for kitchen countertops refers to the depth of the base cabinet (with or without overlay or flush doors) or the depth of the countertop. The commenter expresses a concern that the industry standard casework is typically a 24-inch deep base cabinet box, ¾ inch overlay doors, and an additional ¾ inch countertop overhang, resulting in a 25½-inch deep countertop. The commenter believes that if the intent of the section is such that the maximum countertop depth is 24 inches, this would conflict with the Fair Housing Act, which allows a maximum countertop depth of 25½ inches. The commenter also states that the 2009 edition of ANSI A117.1 (as referenced by the 2012 edition of the International Building Code) amended the requirement for Type 'B' units to "harmonize" with the FHA requirements and allow a maximum countertop depth of 25½ inches, where outlets were located above the countertop. The commenter proposes a potential solution to amend the exception.

**HCD RESPONSE:**

HCD understands the commenter's point of view. However, HCD does not propose further modifications to Section 1138A.3.2 during this Intervening Code Adoption Cycle.

HCD's intent for amending Section 1138A.3.2 was to correct an oversight, and clarify that the kitchen countertops in dwelling units are exempt from the height requirements of 34 inches when the side reach is over an obstruction. The commenter addresses language that is outside the scope of HCD's proposal. Although the requirements for reach ranges in Chapter 11A are consistent with the requirements in Chapter 11B, this topic (depth of kitchen cabinets) has been discussed with multiple stakeholders in the past, and may be discussed again during the next Triennial Code Adoption Cycle. The commenter is invited to be part of this discussion.

No changes to the Final Express Terms were made as a result of this comment.

**COMMENT: EM-4 (continued). Figure 11A-10A:**

The commenter requests that HCD revise clear width dimensions at kitchens to align with text in Section 1133A.2.1. The commenter is concerned that the dimensions on Figure 11A-10A do not state “minimum” and should be revised to say:

“Minimum 48” clear between faces of cabinets, fixtures, or appliances”

“Minimum 60” clear between faces of cabinets, fixtures, or appliances”

**HCD RESPONSE:**

HCD appreciates the comment and the commenter’s point of view. The commenter’s recommendation has merit; however, HCD does not propose further modifications to Figure 11A-10A during this Intervening Code Adoption Cycle. The figures in Chapter 11A are not mandatory, and are intended only as an aid for building design and construction. The requirements for kitchens in dwelling units are contained in Section 1133A, and shall be enforced by the local enforcing agencies. Figure 11A-10A may be modified during the next Triennial Code Adoption Cycle, if needed.

No changes to the Final Express Terms were made as a result of this comment.

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**5. COMMENTER:**

**Soojin Hur (EM-5)**

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**COMMENT: EM-5. Section 1133A.4.1:**

The commenter requests that HCD clarify whether Exception 1 of this section, allowing stone, cultured stone and tile countertops not to comply with the repositionable requirements, applies to Items 1 and 3 only, or to all four items. The commenter expresses a concern that without additional clarification, it is not clear if the removable base cabinets under sinks and work surfaces are required even though the kitchen countertop material is stone, cultured stone or tile. The commenter’s opinion is that Exception 1 of Section 1133A.4.1 is debatable and confusing because the removable base cabinet requirement is first included in Section 1133A.3, and then repeated in Section 1133A.4.1.

**HCD RESPONSE:**

HCD appreciates the comment. However, HCD does not propose further modifications to Section 1133A.4.1. Exception 1 to Section 1133A.4, as written, clearly indicates that stone, cultured stone or tile countertops may be used **without meeting the repositioning requirements**. When there are no repositioning countertops, removable base cabinets are still required under Section 1133A.

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**6. COMMENTER:**

**HolLynn D’Lil (EM-6) [Late Comment]**  
[hdil@comcast.net](mailto:hdil@comcast.net)

**COMMENT: EM-6. Sections 1102A.1, 1109A.8.5, 1110A.1, 1119A.3, 1124A, 1134A.5, 1134A.8**

**HCD RESPONSE:**

Comments received *after* the close of the 45-day public comment period are not included in the official record.

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

(The text with proposed changes clearly indicated was made available to the public from May 13, 2014 until May 28, 2014.)

**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 per Government Code Section 11346.5(a)(3).

There were no alternatives available to HCD. HCD is required by statute to adopt model codes 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.