FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2013 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN)
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11

(HCD 05/13)

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 June 9, 2014: Sections 4.106.4, 4.106.4.2 and Appendix A4, Section A4.602 "Residential Occupancies Application Checklist".

HCD made no further modifications after the subsequent 15-day public comment period that ended on June 26, 2014.

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 April 25, 2014 until June 9, 2014.)

HCD INTERNAL REVIEW

Appendix A4, Section A4.602 "Residential Occupancies Application Checklist":

As the result of an internal review, HCD staff discovered two printing errors in the "Residential Occupancies Application Checklist". Section A4.304.6 and Section A4.506.1 are now listed correctly. There is no change in regulatory effect.

These two editorial corrections are consistent with actions carried out by HCD in its 2013 California Green Building Standards Code (CALGreen) submittal during the 2012 Triennial Code Adoption Cycle.

---

1. COMMENTER: Tobin Symmank, Architect **(EM-1)**
Principal
Architects Orange
144 North Orange Street
Orange, CA 92866 (714) 639-9860
tobins@architectsorange.com

COMMENT: EM-1. Section 4.106.4.2:
The commenter expressed concerns that HCD's proposed requirement for electric vehicle charging stations (EVCS) in addition to the number of locally required parking spaces would be a "huge cost increase". The commenter provided an example for a typical high-density multifamily project with 300 units and 525 parking stalls. In this case, the proposed three percent (3%) requirement would be 16 EVCS. The commenter suggested an average cost of $15,000 to $20,000 per "stall" for apartments "wrapped" around a tiered parking structure with the possibility of greater costs for podium-type residential structures. Estimated costs per dwelling unit would be $800 to $1,067.

HCD RESPONSE:
HCD initially proposed to clarify that EVCS be provided in addition to the number of parking spaces mandated by local requirements. This initial proposal would have ensured electric vehicle (EV) users more access to charging stations and mitigate the possibility of vehicles other than EVs parking in EVCS. However, it is not HCD's intent for builders and residents to incur exorbitantly higher costs and possibly discourage implementation of EV use and ease of charging. Therefore, HCD has withdrawn the original proposal to provide EVCS in addition to local required parking.

---

2. COMMENTER: HolLynn D'Lil **(EM-2)**
P.O. Box 160
Graton, CA 95444
hdlil@comcast.net

Kathleen Berman **(EM-3)**
2706 El Caprice Drive
Rancho Cordova, CA 95670
kathleen3080@sbcglobal.net

David Goble **(EM-5)**
3708 Cedar Avenue
Long Beach, CA 90807
pm241@hush.com

Susan Chandler, President **(EM-7)**
CDR – Californians for Disability Rights, Inc.
1193 17th Street
Los Osos, CA 93402
barnonhill@aol.com

Richard Skaff, Executive Director **(EM-9)**
Designing Accessible Communities
15500 Monte Rosa Avenue
Guerneville, CA 95446
richardskaff@designingaccessiblecommunities.org

Edward G. Evans **(EM-10)**
241 Jones Street, Suite 1E
San Francisco, CA 94102
edwevans@gmail.com

Sidney J. Cohen, Attorney at Law **(EM-11)**
427 Grand Avenue
Oakland, CA 94610
sjc5143@aol.com

Bob Segalman, Ph.D., D.Sc. (Hon), President **(EM-13)**
Speech Communications Assistance By Telephone, Inc. (501c3)
515 P St., #207
Sacramento, CA 95814
drsts@comcast.net

Aurora Chavez **(EM-16)**
Community Advocate
4234 Harrison Street
Riverside, CA 92503
achavez5068@aol.com

COMMENT: EM-2; EM-3; EM-5; EM-7; EM-9; EM-10; EM-11; EM-13, EM-16. Section 4.106.4.2.1: The commenters expressed concerns that the proposed code changes discriminate against people with disabilities because they do not provide the necessary standards that ensure that persons with disabilities can use electric vehicle charging stations (EVCS). Without requirements for signage, accessible route and van parking loading zone requirements, the proposed code change ensures that people with disabilities will be discriminated against in charging station construction.

The commenters recommended disapproval based on seven (7) criteria for building standards and recommended that HCD include a statement that parking for EVCS should comply with current code for parking as stated in Title 24, Section 11B-208 of the California Code of Regulations. See "HCD Response" section below for additional details on comments and specific responses. Note that each specific comment is *italicized* for reader convenience.

COMMENT: Criteria (1) – The proposed building standards do not conflict with, overlap, or duplicate other building standards. *The proposed code change is in violation of parking standards provided in Chapters 11A and 11B.*

HCD RESPONSE:
The primary purpose of the EVCS is to provide electrical charging for the electric vehicle (EV), which is a service offered by the housing provider. The primary purpose of the EVCS is not a parking space. If an EVCS is installed in a parking facility, EV charging is considered the primary service and is not subject to the signage requirements for accessible parking spaces set forth in the California Building Code (CBC), Chapter 11A, Section 1109A. HCD's proposals apply to multifamily housing and do not apply to public accommodations which are addressed in CBC Chapter 11B.

COMMENT: Criteria (2) – The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency. *The proposed code change is in violation of CA Civil Code 51 and 54, CA Government Code 4450 and Health and Safety Code 19955, as well as the ADA. CA law has required since 1968 that building standards include standards to ensure that persons with disabilities can use the built environment.*

HCD RESPONSE:
The building standard criteria identified does not appear to be related to the comment.

Civil Code References – Section 51 is part of the Unruh Civil Rights Act (Unruh Act). Under the Unruh Act, all persons are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all **business establishments**, including both private and public entities. The Unruh Act protects all persons against arbitrary and unreasonable discrimination by a business establishment.

Section 54 requires that individuals with disabilities or medical conditions have the same right as the general public to the full and free use of public places such as streets, highways, public facilities, etc.

HCD's proposal to adopt Sections 4.106.4.2.1 and 4.106.4.2.2 provides equal access to both persons with or without disabilities, which fulfills requirements under the fair housing laws. Since these regulations would apply to projects that are constructed on private property, are not open to the general public, and are not public accommodations, only the Federal Fair Housing Act, California Fair Employment and Housing Act and the Unruh Act requirements for common use areas would apply. The proposed regulations, Section 4.106.4.2.1 (EVCS physical requirements) and Section 4.106.4.2.2 (EVCS locations), provide for use of an EV charger (when installed) from the larger size station locations specified in Section 4.106.4.2.1, which are adjacent to an accessible parking space or an accessible route. Either EVCS location would be adjacent to an accessible route and a 5-foot access aisle.

Government Code Reference – Section 4450 applies to all buildings, structures, sidewalks, curbs, and related facilities constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. This section further requires these facilities to be accessible to and usable by persons with disabilities and mandates the Division of the State Architect (DSA) to develop and propose building standards. HCD's proposal to adopt Section 4.106.4.2.1 applies specifically to multifamily dwellings of 17 or more dwelling units, which are not state or local government buildings. Therefore, Government Code Section 4450 does not apply to the regulations proposed by HCD in this rulemaking.

Health and Safety Code Reference – Section 19955 addresses public accommodations or facilities constructed with private funds and to ensure adherence to the requirements of Government Code Section 4450. Since HCD's proposed regulations would apply to projects that are constructed on private property, are not open to the general public, and are not public accommodations, only the Federal Fair Housing Act, California Fair Employment and Housing Act and the Unruh Act requirements for common use areas would apply.

Americans with Disabilities Act (ADA) Reference – ADA does not apply to projects that are constructed on private property, are not open to the general public, and are not public accommodations.

COMMENT: Criteria (3) – The public interest requires the adoption of the building standards. *The public interest is violated by this proposed code change in that persons with temporary or permanent disabilities will be excluded from using electric vehicle charging stations due to the lack of access requirements.*

HCD RESPONSE:
HCD's proposal to adopt Sections 4.106.4.2.1 and 4.106.4.2.2 provides equal access to both persons with or without disabilities, which fulfills requirements under the fair housing laws. Since these regulations would apply to projects that are constructed on private property, are not open to the general public, and are not public accommodations, only the Federal Fair Housing Act, California Fair Employment and Housing Act and the Unruh Act requirements for common use areas would apply. The proposed regulations, Section 4.106.4.2.1 (EVCS physical requirements) and Section 4.106.4.2.2 (EVCS locations), provide for use of an EV charger (when installed) from the larger size station locations specified in Section 4.106.4.2.1, which are adjacent to an accessible or an accessible route. Either EVCS location would be adjacent to an accessible route and a 5-foot access aisle.

COMMENT: Criteria (4) – The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part. *The proposed building standard is unreasonable, arbitrary, unfair and capricious in the deliberate intent to exclude persons with disabilities from the use of electric vehicle charging stations. Lack of specificity regarding an accessible route to the charging station parking space, lack of signage and commission of well-established requirements for making parking spaces accessible to persons with disabilities as required in Chapter 11B demonstrate a bias and unreasonable discrimination against persons with disabilities.*

HCD RESPONSE:
HCD's proposal to adopt Sections 4.106.4.2.1 and 4.106.4.2.2 provides equal access to both persons with or without disabilities, which fulfills requirements under the fair housing laws. Since these regulations would apply to projects that are constructed on private property, are not open to the general public, and are not public accommodations, only the Federal Fair Housing Act, California Fair Employment and Housing Act and the Unruh Act requirements for common use areas would apply. The proposed regulations, Section 4.106.4.2.1 (EVCS physical requirements) and Section 4.106.4.2.2 (EVCS locations), provide for use of an EV charger (when installed) from the larger station locations specified in Section 4.106.4.2.1, which are adjacent to an accessible parking space or an accessible route. Either EVCS location would be adjacent to an accessible route and a 5-foot access aisle.

The primary purpose of the EVCS is not a parking space. If an EVCS is installed in a parking facility, EV charging is considered the primary service and is not subject to the signage requirements for accessible parking spaces set forth in the California Building Code (CBC), Chapter 11A, Section 1109A. HCD's proposals apply to multifamily housing and do not apply to public accommodations which are addressed in CBC Chapter 11B.

COMMENT: Criteria (6) – The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part. *The proposed building standard is purposefully ambiguous and vague by requiring only part of the standards necessary for the construction of accessible parking spaces for persons with disabilities, particularly in the omission of signage.*

HCD RESPONSE:
The primary purpose of the EVCS is not a parking space. If an EVCS is installed in a parking facility, EV charging is considered the primary service and is not subject to the signage requirements for accessible parking spaces set forth in the California Building Code (CBC), Chapter 11A, Section 1109A. HCD's proposals apply to multifamily housing and do not apply to public accommodations.

COMMENT: Criteria (7) – The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate. *The applicable national specifications in the ADA, CA Title 24 11B have not been incorporated.*

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission*. No such statement is provided.*

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard. *National specification and published standards are commonly available, but not included in this proposed code change.*

HCD RESPONSE:
HCD performed considerable research looking for dimensions for EVCS and was unable to find specific information. There are no standards for EVCS in the ADA or in the California Building Standards Code, Chapter 11B. However, HCD did adopt an ADA ratio that 1 in 25 (but not less than 1) EVCS include a 5-foot access aisle and have a maximum slope of 2.083 percent. The use of the ADA ratio was explained in the Initial Statement of Reasons for Section 4.106.4.2.1.

As far as national standards, the California Green Building Standards Code (CALGreen), similar to the Energy Code, is not based on a model code. The unavailability of model codes for residential purposes is explained in the Initial Statement of Reasons under "Statement of Justification for Prescriptive Standards."

COMMENT:
The commenter suggested revisions to the text – The Commission should direct HCD to include a statement that parking for electric vehicle charging stations should comply with current code for parking as stated in CA Title 24 11B-208.

HCD RESPONSE:
This comment is directed at the California Building Standards Commission (CBSC); however, HCD has explained why Chapter 11B parking standards are not applicable to electric vehicle charging stations (EVCS).

COMMENT: EM-5.
The commenter expressed concerns that due to his physical condition, a handicapped accessible, van accessible, EV dedicated spot will be a minimum requirement for full participation in a normal life. Anything less will be a state-sanctioned limitation on full participation in California life.

HCD RESPONSE:
HCD appreciates the commenter's point of view. As related to a provision of a dedicated "spot", HCD's proposal to adopt Sections 4.106.4.2.1 and 4.106.4.2.2 provides equal access to EVCS for both persons with or without disabilities, which fulfills requirements under the fair housing laws.

COMMENT: EM-9.
The commenter stated that HCD's steering committee for the "EV Readiness Report" did not include representatives from the disability community.

HCD RESPONSE:
The steering committee considered whether accessibility should be addressed in the current set of proposed regulations; however, at the time, it was still undetermined whether the lead should be the Division of the State Architect or whether the "Plug-In Electric Vehicles: Universal Charging Access Guidelines and Best Practices" document prepared by the Governor's Office of Planning and Research (OPR) would be sufficient guidance. During the rulemaking process, HCD did develop electric vehicle charging station dimensions to provide sufficient maneuvering space for charging electric vehicles and the ability for chargers to be used by persons with or without disabilities. These provisions were introduced and discussed in a special focus group meeting held on January 23, 2014. All stakeholders and interested parties on HCD's State Housing Law "Accessibility" mailing list were notified and invited to attend or participate in this meeting.

No changes to the Final Express Terms were made as a result of these comments.

---

3. COMMENTER: Marshall Loskot **(EM-4)**
4480 Mushroom Lane
P.O. Box 1
Platina, CA 96076
mloskot54@tds.net

COMMENT: EM-4. Section 4.106.4.2.1
The commenter expressed concerns that he will be building and using an electric vehicle (accessible van) and the proposed code change discriminates against people with disabilities because it does not provide necessary standards ensuring that persons with disabilities can use electric vehicle charging stations. Without requirements for signage, accessible route and van parking loading zone requirements, the proposed code change ensures that people with disabilities will be discriminated against in charging station construction. The commenter further stated his intent to bring suit against any charging station that is not fully accessible to him and his electric accessible van with wheelchair lift and asks HCD to do its job properly and make all charging stations ADA accessible under current ADA standards.

HCD RESPONSE:
As related to a provision of a fully accessible charging station and custom electric van, HCD's proposal to adopt Sections 4.106.4.2.1 and 4.106.4.2.2 provides equal access to EVCS for both persons with or without disabilities, which fulfills requirements under the fair housing laws.

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

---

4. COMMENTER: Diane Moore **(EM-6)**
1610 Sycamore Lane
Davis, CA 95616
geodian@sbcglobal.net

COMMENT: EM-6. Section 4.106.4.2.1
The commenter expressed a concern that the proposed code change discriminates against people with disabilities because it does not provide necessary standards ensuring that persons with disabilities can use electric vehicle charging stations. Without requirements for signage, accessible route and van parking loading zone requirements, the proposed code change ensures that people with disabilities will be discriminated against in charging station construction. The commenter further states "this is illegal and immoral; why would you want to do it?"

HCD RESPONSE:
HCD's proposal to adopt Sections 4.106.4.2.1 and 4.106.4.2.2 provides equal access to both persons with or without disabilities, which fulfills requirements under the fair housing laws. Since these regulations would apply to projects that are constructed on private property, are not open to the general public, and are not public accommodations, only the Federal Fair Housing Act, California Fair Employment and Housing Act and the Unruh Act requirements for common use areas would apply. The proposed regulations, Section 4.106.4.2.1 (EVCS physical requirements) and Section 4.106.4.2.2 (EVCS locations) provide for use of an EV charger (when installed) from the larger size station locations specified in Section 4.106.4.2.1, which are adjacent to an accessible parking space or adjacent to an accessible route. Either EVCS location would be adjacent to an accessible route and a 5-foot access aisle.

Related to legal authority, Health and Safety Code Section 17921 provides HCD authority to propose the adoption, amendment, or repeal of building standards to the California Building Standards Commission pursuant to the Building Standards Law, and also for the purposes of protection of the public health, safety, and general welfare of the occupant and the public governing the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use, height, court, area, sanitation, ventilation and maintenance of all hotels, motels, lodging houses, apartment houses, and dwellings, and buildings and structures accessory thereto.

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

---

5. COMMENTER: Kevin Lee, Counsel **(EM-8)**
NRG EV Services LLC
11390 West Olympic Boulevard, Suite 250
Los Angeles, CA 90064

COMMENT: EM-8. Section 4.106.4.2.4
The commenter expressed a concern that the proposed language is vague and ambiguous whether the property owners can implement load management technologies, which may include charging at less than full rated amperage from time-to-time, or use one of the many electric vehicle supply equipment on the market rated at less than 40 amps. The commenter proposed language to clarify his point.

HCD RESPONSE:
HCD amended an earlier version of the proposed code text in response to a similar comment for clarification. The revisions, in the current text, clarify that only the required number of EVCS have capacity to simultaneously charge all EVs at the full rated amperage at the required locations. This means that any EVCS in excess of the required number of EVCS do not need the full capacity. This provision is in the 45-

day language and should meet the concerns related to this comment. Although the intent of the provisions is to provide capacity to install a 40-ampere minimum dedicated branch circuit (for level 2 charging), it does not prevent the use of equipment using less capacity with the exception of Level 1 (120-volt) charging equipment.

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

---

6. COMMENTER: HolLynn D'Lil **(EM-12)**
P.O. Box 160
Graton, CA 95444
hdlil@comcast.net

COMMENT: EM-12. Section 4.106.4.2.1
The commenter expressed concerns that the proposed section is in violation of BSC Criteria 7. The commenter cites *Donald v. Sacramento Valley Bank* in which the court held that the bank was still responsible for providing access to public accommodation ATM facilities based on regulations that did apply such as walkways and reach ranges.

HCD RESPONSE:
HCD's proposed regulations for electric vehicle charging stations (EVCS) includes provisions for an accessible route by either being located adjacent to an accessible parking space or on an accessible route. HCD's proposed EVCS dimensions include proposed width (9 feet) and length (18 feet) similar to a parking space for persons with disabilities. In addition, 1 in 25 (but not less than 1) EVCS would have a 5-foot access aisle and have a slope no greater than 1 unit vertical in 48 units horizontal (2.083 percent). These would approximate the design requirements in the 2010 Americans with Disabilities Act as explained in our Initial Statement of Reasons. HCD's proposal in the above referenced section only specifies the requirements for the physical dimensions and slopes of the EVCS, and does not address all of the requirements which may be triggered when an EV charger is actually installed at the EVCS. However, HCD believes that the current standards already codified in Chapter 11A regarding reach ranges, height, walkways, etc. would apply when EV chargers are installed at EVCS in common use areas (parking facilities) of multifamily dwellings.

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

---

7. COMMENTER: Mark C. Krausse, Senior Director **(EM-14)**
State Agency Relations
Pacific Gas and Electric Company
1415 L Street, Suite 280
Sacramento, CA 95814
mark.krausse@pge.com

COMMENT: EM-14. Section 4.106.4
The commenter expressed support for advanced adoption of electric vehicles (EV) on a statewide basis, however, urged specified changes. The commenter provided background on CPUC-developed tariffs which govern responsibility and amount of costs related to installation of electric facilities for new and upgraded buildings. The commenter pointed out that the costs are sometimes borne by the utility customers and sometimes by the developer and/or building owner. In accordance with the tariff structure, some costs on the "utility side of the meter" may be borne by the general utility customers and other costs are directly funded by the developer. Included in this tariff structure is an approximately $2,000 "allowance" per home for electric service facility installations.

The commenter stated that the $400 cost exemption is too broad and should exclude the phrase "utility side of the meter." A concern is that the cost could be interpreted to include both the costs borne by the building owner and the utility ratepayers generally. This interpretation may ban nearly all EV-supportive installations in new residential buildings. The commenter stated that utility costs on the utility side of the meter are not a matter that is within the scope or responsibility of the California Green Building Standards Code or EV costs incurred by developers of new residential construction.

However, costs of upgrading a particular customer's utility infrastructure on the utility side of the meter in order to comply with the new EV standard may be assigned directly to that individual customer or to the developer of the new construction. Those individual costs would be relevant to determining the reasonableness of the new EV standard.

The commenter also had concerns with Exemption 2 since it does not consider the variability of EV ranges and the existence of Plug-in Hybrid Electric Vehicles. An additional concern was that the reference to lack of public charging infrastructure assumes that a home charging station must be complemented by public charging infrastructure. A recommendation was presented to remove the exception or narrow its focus.

HCD RESPONSE:
HCD proposes to withdraw Exception 2 based on this comment and the comment from Sacramento Municipal Utility District **(EM-15)**. Exception 2 would have provided relief to only a limited number of rural residential dwellings statewide. Upon reconsideration of current and future advances in EV technology and increased battery capacity, HCD believes that provisions for low-cost EV infrastructure be provided at the time of initial construction rather than face the need for a more costly retrofit. HCD also proposes to renumber Exception 3 to Exception 2 and make revisions to clarify the $400 threshold as the actual out-of-pocket expense to an individual homeowner or developer. This would not include all or portions of the costs for "allowance" or "allocation" for upgrades shared by all ratepayers and not individual homeowners.

---

8. COMMENTER: Timothy Tutt, Program Manager **(EM-15)**
State Regulatory Affairs
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95852

COMMENT: EM-15. Section 4.106.4
The commenter recommended removal of Exception 2 because the exception is vague and unnecessary, and could act to exempt builders from complying with the electric vehicle (EV)-ready requirements in many if not most cases. Further, the exception ignores the variety of EVs available as well as hybrids which may not have a need for public chargers. Due to the difficulty in narrowing down the exception, the commenter recommended deleting the exemption.

The commenter also recommended revision of Exception 3 because it is vague and overly broad as written, and could be interpreted in a manner outside the parameters of the building standard. The commenter further explained that the utility infrastructure (utility side of the meter) cost associated with any new development is not always wholly allocated to the developer or homeowner. A portion of these costs are generally allocated to utility ratepayers rather than the specific homeowner or developer. In some cases, the allocated costs to the homeowner or developer may total above the $400 threshold. The commenter proposed amendment language to clarify that the exception is only limited to cases where the amount of the utility infrastructure cost actually allocated to the homeowner or to the developer is both specific to the changes resulting from the requirements, not standard infrastructure charges and results in the cost increase to the specific homeowner or developer, not including any cost increases that may be allocated to utility ratepayers in general.

HCD RESPONSE:
HCD proposes to withdraw Exception 2 based on this comment and the comment from Pacific Gas and Electric Company **(EM-14)**. Exception 2 would have provided relief to only a limited number of rural residential dwellings statewide. Upon reconsideration of current and future advances in EV technology and increased battery capacity, HCD believes that provisions for low-cost EV infrastructure be provided at the time of initial construction rather than face the need for a more costly retrofit. HCD also proposes to renumber Exception 3 to Exception 2 and make revisions to clarify the $400 threshold as the actual out-of-pocket expense to an individual homeowner or developer. This would not include all or portions of the costs for "allowance" or "allocation" for upgrades shared by all ratepayers and not individual homeowners.

COMMENTS RECEIVED DURING THE 15-DAY PUBLIC COMMENT PERIOD.
(The text with proposed changes clearly indicated was made available to the public from June 11, 2014 until June 26, 2014.)

NOTE: *The complete text of each comment submitted during the 15-day public comment period may be viewed at the following internet address:*

http://www.bsc.ca.gov

A. COMMENTER:

Mark C. Krausse, Senior Director **(EM-A)**
State Agency Relations
Pacific Gas and Electric Company
1415 L Street, Suite 280
Sacramento, CA 95814
mark.krausse@pge.com

COMMENT: EM-A. Section 4.106.4
The commenter supports the revisions to Section 4.106.4, proposed by HCD after the 45-day public comment period.

HCD RESPONSE:
HCD appreciates the commenter's support of the proposed amendment.

B. COMMENTER:

Robert E. Raymer, Senior Engineer/Technical Director **(EM-B)**
California Building Industry Association
1215 K Street, Suite 1200
Sacramento, CA 95814
rraymer@cbia.org

COMMENT: EM-B. Amendment of the 2013 California Green Building Standards Code (CALGreen)
The commenter indicated industry support (see Coalition list below) for both HCD's and the California Building Standards Commission's 45-day and subsequent 15-day language (CALGreen Express Terms). The commenter further indicated that although industry would have preferred that the new regulations related to electric vehicle (EV) readiness take effect as part of the next Triennial Code Adoption Cycle (effective January 1, 2017), he acknowledged that making the proposed changes at the time of construction can greatly reduce the cost of electric vehicle (EV) charging equipment retrofit down the road. As such, the Coalition will be supporting this major change as part of the 2013 Intervening Code Adoption Cycle. The commenter also indicated willingness to answer any Commission questions regarding the Coalition's support.

Coalition Members:
California Building Industry Association
California Business Properties Association
California Apartment Association
California Chamber of Commerce
Building Owners & Managers Assn. of CA
California Manufacturers & Technology Association
NAIOP of California, the Commercial Real Estate Assn.
International Council of Shopping Centers
American Institute of Architects, California Council
California Retailers Association

HCD RESPONSE:
HCD appreciates the commenter's support of the proposed regulations.

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.

In the case of the California Green Building Standards Code (CALGreen), there is no model code applicable to residential occupancies to be adopted. However, Health and Safety Code Section 17928 mandates HCD to review relevant green building guidelines and to propose green building features that are cost effective and feasible as mandatory building standards.

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. 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.