

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION/
OFFICE OF STATEWIDE HOSPITAL PLANNING AND DEVELOPMENT
REGARDING THE 2025 CALIFORNIA MECHANICAL CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 4
(OSHPD 01/24)**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a Final Statement of Reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS:

Government Code Section 11346.9(a)(1) requires an update of the information contained in the Initial Statement of Reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the Initial Statement of Reasons, the state agency shall comply with Government Code Section 11347.1.

The Department of Health Care Access and Information (HCAI)/Office of Statewide Health Planning and Development (OSHPD) has not added any data (including technical, theoretical, or empirical studies, reports, or similar documents relied upon) that would necessitate an update of the information contained in the Initial Statement of Reasons.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Pursuant to Government Code Section 11346.9(a)(2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s).

The Department of Health Care Access and Information (HCAI)/Office of Statewide Hospital Planning and Development (OSHPD) has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

HCAI does not have authority to propose regulations that would impact 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 an 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 text with proposed changes was made available to the public for a 45-day comment period from May 17, 2024 until July 1, 2024. HCAI received two comments during the 45-day comment period. HCAI proposed revision to Items 5 and 8 based on the public comments. It was also necessary for HCAI to further clarify its department name, and correct an error in the Initial Statement of Reasons. A 15-day public comment period was conducted July 29, 2024 through August 13, 2024 for these changes.

COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD

ITEM 5

Chapter 4 Ventilation Air, Sections 407.5.1.4, 407.5.1.5

HCAI proposes to add sections 407.5.1.4 and 407.5.1.5 to amend the variable air volume requirements for return air controls.

Commenter(s) and Recommendation:

Travis English representing Kaiser Permanente objects to the proposed amendments. Commenter disagrees with code change in relation to changes made in the 2021 Triennial Code Cycle.

Agency Response:

HCAI appreciates the comment and input and has considered the language for revision. The language in Sections 407.5.1.4 and 407.5.1.5 of the 45-day Express Terms were revised and HCAI conducted a 15-day public comment period. Prior to the 2021 Triennial Code Cycle, HCAI amendments required modulating return air boxes in every room served by variable air volume supply boxes. HCAI's intent is not to require this same level of control and conducted a 15-day comment period to revise proposed language.

ITEM 8

Chapter 4 Ventilation Air, Table 4-A

HCAI proposes to repeal and replace CMC Table 4-A based on the 2021 edition of ASHRAE 170 and carry forward existing OSHPD amendments.

Commenter(s) and Recommendation:

Joe Panushka representing Rasmussen and Associates provided input regarding existing OSHPD amendment not carried forward into the new Table 4-A. Waiting area primary care clinic was omitted from Table 4-A in the Initial Express Terms.

Agency Response:

HCAI appreciates the comment and input. After conducting a review, HCAI determined the previous amendments for two functions were not carried forward in the new Table 4-A and that was an oversight. HCAI found two functions previously codified into Table 4-A were not included in the 45-day Express Terms. HCAI revised the Express Terms to add the two functions and conducted a 15-day comment period for this change.

COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD

ITEM 5

Chapter 4 Ventilation Air, Section 407.5.1.3

HCAI proposes to revise section 407.5.1.3 to amend the variable air volume requirements.

Commenter(s) and Recommendation:

Dave Mason representing Stantec objects to the code amendment.

Agency Response:

HCAI appreciates the comment and input, however Section 407.5.1.3 was not included in the 15-day comment period.

ITEM 5

Chapter 4 Ventilation Air, Section 407.5.1.4

HCAI proposes to add section 407.5.1.4 to amend the variable air volume requirements.

Commenter and Recommendation:

Travis English representing Kaiser Permanente objects to the proposed amendment. Section 407.5.1.4 should not be added at this time. HCAI should either (a) adopt national standards, or (b) spend more time developing an approach to VAV, in conjunction with stakeholders (particularly the California Energy Commission).

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. The HCAI proposed language is to coordinate with California Mechanical Code Table 4-A, Table 4-A footnote f and Sections 407.3.1, 407.4.1.3, 407.4.1.4 and new section 407.8 based on ASHRAE 170-2021 Section 6.7.7. Existing language dating back to the 1989 California Mechanical Code has not permitted fluctuating air flows for sensitive spaces. HCAI is providing language to address the return air system for variable air volume systems to ensure the duct system design can maintain a proper air balance when utilizing a variable air volume system.

The California Energy Commission (CEC) did not provide changes for the 2024 Triennial Code cycle to the California Energy Code, Section 140.4(d) that provides an exception for health care facilities related to variable air volume. HCAI and the CEC consulted on the changes to the 2024 Triennial Code Cycle and coordinated with pre-cycle activities for the 2028 Triennial Code Cycle. HCAI and the CEC will continue to coordinate changes in the future code cycles.

The language in Section 407.5.1.4 does not require additional spaces to be constant volume than what is required under the current code amendment. The new language clarifies that controls are needed when Variable Air Volume system design creates noncompliant air balance issues on the return or exhaust duct system. These controls would only be needed to address noncompliant air balance due to other current code sections.

The national standard uses performance language to note that pressure balancing relationships and minimum air changes are to be maintained. HCAI language specifies the mitigating method to address compliance when other code requirements are not met.

Commenter and Recommendation:

Austin Barolin representing Mazetti objects to the proposed code amendment. Comment states the language is repetitive and more restrictive than previous code and national standard.

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. This amendment is to bring clarification to the charging code language in 407.5.1. This section is to address return air systems that have a large change in airflow and the manual volume dampers will not maintain a compliant airflow to constant volume spaces. Section 407.5.1.3 requires modulating dampers for all pressurized spaces. Unlike Section 407.5.1.3 that requires return boxes for each room, Section 407.5.1.4 would allow sensitive spaces that are also required to be pressurized to serve multiple supply boxes with one return box based on this section.

Commenter(s) and Recommendation:

Dave Mason representing Stantec recommends clear prescriptive language as proposed language is vague and open to interpretation. Commenter suggests good performance language exists already in the national standard.

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. HCAI ran additional 15-day public comment period for the revised language as it agreed the 45-day language could imply modulating boxes would be required in all sensitive spaces due to the prescriptive language. ASHRAE 170 is limited to application of ventilation and space pressurization. HCAI must also consider additional codes such as the California Building Code (CBC) and the Uniform Mechanical Code (UMC) when it comes to evaluation of state amendments and adoption of the UMC with regard to the adoption of the California Mechanical Code. CBC Section 1020.6 does not permit the corridor to be used for air movement beyond the transfer air needed for pressurized spaces. OSHPD amendment in CMC 407.3.1 and model language in UMC 314.0 require air balance to be in compliance with air balance standards. California amendments currently do not permit above ceiling spaces to be used as an open plenum space and requires fully ducted return air systems. This provides challenges with variable air volume requirements with respect to maintaining air balance.

Commenter and Recommendation:

Casper Briggs representing Bernhard objects to the proposed amendment. Commenter noted the proposed CMC amendments are not aligned with nationally acceptable HVAC design practices for VAV system control and do not benefit the health safety and welfare of the occupants.

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. This section is to address return air systems that have manual volume dampers that will not maintain a compliant airflow to constant volume spaces.

ITEM 5

Chapter 4 Ventilation Air, Section 407.5.1.5

HCAI proposes to add section 407.5.1.5 to amend the variable air volume requirements.

Commenter(s) and Recommendation:

Travis English representing Kaiser Permanente objects to the proposed amendment. Commenter notes Section 407.5.1.5 should not be added at this time. HCAI should either (a) adopt national standards, or (b) spend more time developing an approach to VAV, in conjunction with stakeholders (particularly the California Energy Commission).

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. Part 6 energy code did not provide changes for the 2024 Triennial Code cycle to Section 140.4(d). HCAI and CEC have and will be coordinating the 2028 Triennial Code Cycle amendments. The language in Section 407.5.1.5 does not require additional spaces to be constant volume than what is required under the current code amendment. The new language clarifies that controls are needed when VAV system design creates noncompliant air balance on the return or exhaust duct system. These controls would only be needed to address noncompliant air balance such as floor being drawn negative due to a mixture of variable and constant volume systems.

Comment received during the 2021 Triennial Code cycle also noted the lack of code with regard to return air controls and the possibility of NR spaces becoming increasingly negative to the point it could be an infection control issue. AHSRAE 90.1-2022, 6.5.3.2.4 requires return fan control to maintain building pressure for variable volume systems. The California Energy Code does not adopt this national standard for health care facilities in Title 24, however the requirement for positive building pressurization is a requirement in CMC Section 407.8.

CMC 407.3.1 requires air ventilation systems to be balanced per air balance standards such as from the American Air Balance Council (AABC). The AABC National Standards for Total System Balance, Seventh Edition, Section 25.2.1 addresses building pressurization in hospitals. The air balance requirements outlined in this section provide procedures to confirm all floors are designed for positive pressure. CMC Section 407.8 requires air handling systems to be maintained at positive pressure to prevent air infiltration. Section 407.5.1.5 coordinates with this requirement to maintain positive building pressure in floors with variable air volume.

Commenter and Recommendation:

Austin Barolin representing Mazetti objects to the proposed amendment. Commenter notes 407.5.1.5 adds confusion to the previous code language by not stating the intent and instead could be misinterpreted as requiring automatic modulating return dampers for all zones to operate a VAV system. The language as it is written, appears to be

restrictive and has a requirement beyond ASHRAE Standard 170. The risk is that, if misinterpreted, it leaves the door open for designers to design full CAV for all zones including NR zones, despite the resulting increase in energy consumption, especially the increase in required reheat energy. It is recommended that 407.5.1.5 should not be issued into the 2025 California Mechanical Code.

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. The 45-day language noted the modulating dampers were required for each zone or zones of similar conditions and could be interpreted as needed more modulating boxes than necessary. HCAI 15-day language notes the controls are for the system, floor or area which is less restrictive. The new language clarifies that controls are needed when VAV system design creates noncompliant air balance issues on the return or exhaust duct system. These controls address noncompliant air balance such as floor being drawn negative due to a mixture of variable and constant volume systems.

Commenter(s) and Recommendation:

Dave Mason representing Stantec recommends using performance language. Recommends using CMC 407.4.1.3 with national standard.

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. The national standard requires return air control and current California Energy Code Sections do not include this requirement. The HCAI amendment will also coordinate compliance with ASHRAE 170, the Uniform Mechanical Code and the International Building Code requirements.

Commenter(s) and Recommendation:

Casper Briggs representing Bernhard objects to the proposed amendment. Commenter notes the proposed CMC amendments are not aligned with nationally acceptable HVAC design practices for VAV system control and do not benefit the health safety and welfare of the occupants.

Agency Response:

HCAI appreciates the comment and input. HCAI is not proposing additional changes to this amendment. The national standard requires return air control and current California Energy Code does not include this requirement. The HCAI amendment will also coordinate compliance with ASHRAE 170, the Uniform Mechanical Code and the International Building Code requirements.

ITEM 8

Chapter 4 Ventilation Air, Table 4-A

HCAI proposes to repeal and replace CMC Table 4-A based on the 2021 edition of ASHRAE 170 and carry forward existing OSHPD amendments.

Commenter(s) and Recommendation:

Joe Panushka representing Rasmussen and Associates provided a comment for the 15-day change. The existing callout for footnote 'q' under the "exhaust directly to outdoors" column was not included for waiting area primary care clinic.

Agency Response:

The Final Express Terms have been updated to add the footnote 'q' callout and is placed adjacent to the yes in the "exhaust directly to outdoors" column of Table 4-A. The callout for footnote 'q' was previously codified into Table 4-A for this function and HCAI considers this an editorial change.

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.

HCAI 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. The proposed regulations will not have a cost impact to private persons.

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 11346.5(a)(3).

OSHDPD has determined that the proposed regulations will not have an adverse economic impact on small businesses. The proposed regulations are technical modifications that will provide clarification and consistency within the code.