



California Regulatory Notice Register

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PROPOSED ACTION ON REGULATIONS

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

Administrative Determinants — Notice File Number Z2020-0408-01 623

TITLE 24. BUILDING STANDARDS COMMISSION

Intervening Code Adoption Cycle amendments to the 2019 California Administrative Code, Part 1, Title 24, California Code of Regulations (CCR) for inclusion therein — Notice File Number Z2020-0414-03 625

TITLE 24. BUILDING STANDARDS COMMISSION

Intervening Code Adoption Cycle amendments to the 2019 California Administrative Code, Part 2, Title 24, California Code of Regulations (CCR) for inclusion therein — Notice File Number Z2020-0414-04 630

TITLE 24. BUILDING STANDARDS COMMISSION

2019 California Administrative Code, Part 1, Title 24, California Code of Regulations — Intervening Code Cycle — Notice File Number Z2020-0414-05 634

TITLE 24. BUILDING STANDARDS COMMISSION

2019 California Building Code, Part 2, Title 24, California Code of Regulations — Intervening Code Cycle — Notice File Number Z2020-0414-06 637

TITLE 24. BUILDING STANDARDS COMMISSION

2019 California Building Code, Part 2 — Notice File Number Z2020-0414-07 641

TITLE 24. BUILDING STANDARDS COMMISSION

2019 California Residential Code, Part 2.5 — Notice File Number Z2020-0414-08 647

TITLE 24. BUILDING STANDARDS COMMISSION

2019 California Existing Building Code — Notice File Number Z2020-0414-09 651

TITLE 24. BUILDING STANDARDS COMMISSION

2019 Intervening Code Adoption Cycle — Part 2, Volume 2 — California Building Code — Notice File Number Z2020-0414-10 656

(Continued on next page)

Time-Dated Material

TITLE 24. BUILDING STANDARDS COMMISSION <i>2019 Intervening Code Adoption Cycle — Part 10 — California Existing Building Code — Notice File Number 2020-0414-11</i>	660
TITLE 24. BUILDING STANDARDS COMMISSION <i>Part 2, California Building Code — Notice File Number Z2020-0414-12</i>	663
TITLE 24. BUILDING STANDARDS COMMISSION <i>Part 2.5, California Residential Code — Notice File Number Z2020-0414-13</i>	669
TITLE 24. BUILDING STANDARDS COMMISSION <i>Part 9, California Fire Code — Notice File Number Z2020-0414-14</i>	675
OAL REGULATORY DETERMINATION	
DEPARTMENT OF CORRECTIONS AND REHABILITATION 2020 OAL DETERMINATION NUMBER 3 <i>Department Operations Manual Chapter 5, Article 21, Section 52060.6 Scheduling of Outside Telephone Calls; Issued by the Department of Corrections and Rehabilitation</i>	
	681
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with Secretary of State	683

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 15. DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to amend Sections 3375.2 and 3377.1 into Title 15, Division 3, Chapter 1, regarding Administrative Determinants.

PUBLIC COMMENT PERIOD

The public comment period begins **April 24, 2020** and closes on **June 10, 2020**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpbm@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code Section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

CONTACT PERSONS

Primary Contact

S. Pollock
Telephone: 916 445-2308
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (916) 445-2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Steve Jimenez
Division of Adult Institutions
Classification Services Unit
Telephone: 916 445-0224

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of regulation on an emergency basis.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The proposed regulations standardize the use of administrative determinants to encourage further access to rehabilitative services and programs within a behavior based model for inmates housed within CDCR. Current regulations allow inmates meeting one or more administrative or irregular placement conditions, known as administrative determinants, to be housed in a facility with a security level that is not consistent with the inmate's placement score, however Section 3375.2(a)(2) requires an inmate with a history of specific sex crimes

designated in Section 3377.1(b) to be housed in accordance with their placement score and not to be assigned outside the security perimeter. The proposed regulations will allow for inmates with a history of specific sex crimes to be placed in a Level II or higher facility based upon individual factors that may indicate a more appropriate placement for the inmate. In addition, inmates serving a life term whose placement score is not consistent with a Level II security level, shall now be afforded the opportunity for placement in a Level II security level when approved by the Departmental Review Board. These changes will allow for a more appropriate placement of the inmate and promote further access to rehabilitative services and programs.

This action will:

- Revise language in Section 3375.2(a) to require that inmates with a history of sex crimes designated in Section 3377.1(b), shall not be housed in a Level I facility. This will allow for these inmates to be placed in a Level II or higher facility based upon individual factors that may indicate a more appropriate placement.
- Remove the language “Level II” from Section 3375.2(a)(11), to provide that inmates serving a life term whose placement score is not consistent with a Level I security level, shall not be housed in a Level I facility except when approved by the Departmental Review Board. This will allow for these inmates to be housed in a Level II or higher facility.
- Revise language in Section 3377.1(b)(10) to provide consistency with the new language in Section 3375.2(a)(2). This will provide that inmates with “R” suffixes shall not be housed in a Level I facility and shall not be assigned outside the security perimeter.

DOCUMENTS INCORPORATED
BY REFERENCE

N/A

SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED REGULATIONS

The proposed regulatory action will benefit CDCR inmates by allowing for specified inmates to access rehabilitative services and programs by allowing for them to be placed in a lower level security facility. Access to rehabilitative services and programs will improve inmates’ ability to rehabilitate so that they are better prepared for life once released from prison, improving their chances of success, and reducing recidivism.

EVALUATION OF
CONSISTENCY/COMPATIBILITY WITH
EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. This was determined by performing a search of existing regulations.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*.
- Cost to any local agency or school district that is required to be reimbursed: *None*.
- Other nondiscretionary cost or savings imposed on local agencies: *None*.
- Cost or savings in federal funding to the state: *None*.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will not affect small businesses. This action

has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by providing rehabilitative services and programs to inmates, providing them a greater chance for success in their communities once released from prison.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION

REGARDING THE 2019 ADMINISTRATIVE CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1

(BSC 01/19)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of California Building Standards Commission proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. The CBSC is proposing building standards related to administrative regulations.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-comments form](mailto:e-comments@dgs.ca.gov) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020**:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Government Code Sections 11000 and 11346 et seq. and Health and Safety Code Sections 18909, 18926, 18927, 18929, 18929.1, 18930, 18930.5, 18931, 18931.6, 18931.7, 18932, 18934, 18935, 18936, 18949.1, 18949.3, 18949.5, and 18949.6.

The purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Sections 11000 and 11346 et seq. and Health and Safety Code Sections 18909, 18926, 18927, 18929, 18929.1, 18930, 18930.5, 18931, 18931.6, 18931.7, 18932, 18934, 18935, 18936, 18949.1, 18949.3, 18949.5, and 18949.6.

The California Building Standards Commission is proposing this regulatory action based on Health and Safety Code Sections 18909, 18926, 18927, 18929, 18931.6, 18931.7, 18932, 18935, and 18936.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Government Code Section 11000. Defines commissions and other referenced departments as “state agencies.”

Government Code Section 11346 et seq. establishes the specified statutes of Article 5 to which CBSC is required to comply as specified in Health and Safety Code Section 18929.

Health and Safety Code Section 18909(c) establishes the rule relating to the implementation or enforcement of a building standard not otherwise governed by statute.

Health and Safety Code Section 18926 sets forth CBSC authority and state agency responsibilities relative to the duties of the Coordinating Council, and state agencies comprising the Coordinating Council.

Health and Safety Code Section 18927 permits CBSC to appoint advisory panels composed of volunteers from professions most likely to be knowledgeable in and affected by building standards, to advise CBSC.

Health and Safety Code Section 18929. Outlines the process for adoption of administrative regulations applying to implementation or enforcement of building standards and publication into Part 1, Title 24.

These administrative regulations may impact the proposing state agencies regarding; criteria to be used for acceptance of a petitions; responsibility of the state adopting and proposing agencies regarding the 45-Day statement of mailing notice requirements; clarify final rulemaking file requirements by state proposing agencies including, providing written statement of mailing notice; and clarify how local jurisdictions are required to calculate and assess the Building Standards Administrative Service Revolving Fund (BSASRF) for green building standards fees on building permits.

The commission shall develop regulations setting forth the procedures for the 18-month adoption cycle.

Health and Safety Code Section 18930 establishes approval or adoption of building standards; analysis

and criteria; review consideration; factual determinations (AKA Nine-Point Criteria).

Health and Safety Code Section 18930.5 grants CBSC the authority, if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, to adopt, approve, codify, update, and publish green building standards for those occupancies.

Health and Safety Code Section 18931 establishes the duties of the commission regarding review and approval, return for amendment with recommended changes, or reject the building standard; codify and publish the approved standards; resolve conflict; ensure consistency; hear appeals and adopt administrative procedures.

Health and Safety Code Section 18931.6 establishes that each city, county or city and county shall collect a fee from an application for a building permit for transmission to the CBSC so that CBSC can deposit it into the Building Standards Administrative Special Revolving Fund.

Health and Safety Code Section 18931.7(b) states that CBSC can utilize the Building Standards Administration Special Revolving Fund for the updating of verification guidelines for Tier 1 or Tier 2 green building standards.

Health and Safety Code Section 18931.7(f) states that CBSC can adopt any procedural regulation which it deems necessary to administer this part.

Health and Safety Code Section 18931.7(d) ensures consistency in nomenclature and format in the code.

Health and Safety Code Section 18932 establishes the contents and format of the building standards code.

Health and Safety Code Section 18934 sets forth a mandate that authorizes CBSC to adopt and the commission adopt regulations establishing procedures to ensure public participation in the development of building standards and regulations.

Health and Safety Code Section 18935 provides for CBSC authority to review and approve proposing and adopting agency notices and initial statements of reasons; publish notices with the Office of Administrative Law; coordinate hearings held by adopting agencies.

Health and Safety Code Section 18936 sets forth CBSC responsibilities for delivery of notices of meetings within a specified time and, at a minimum, to whom these notices are to be sent.

Health and Safety Code Section 18949.1 through 18949.5 transferred authority to adopt, or review and approve building standards to CBSC for specific state agencies.

Health and Safety Code 18949.6 requires CBSC to adopt procedural regulations for the adoption of build-

ing standards and administrative regulations; the adoption process is required to facilitate the triennial adoption of model codes; and requires the procedural regulations allow for public review of proposed building standards and administrative regulations

Summary of Existing Regulations

Chapter 1 of the 2019 California Administrative Code (Cal. Code Regs., Title 24, Part 1, Chpt. 1) contains regulations that explain the various responsibilities and functions of BSC addressing the development, adoption and publication of building standards in Title 24, California Code of Regulations. It also includes requirements for state proposing agencies and state adopting agencies involved in the development of building standards as well as addressing local jurisdiction BSASRF fund, fee processing, determination and calculation for green building standards.

Summary of Effect

The proposed additions, amendments and deletions to Chapter 1, of Part 1, Title 24, California Code of Regulations, are being made to clarify, implement and make specific requirements relative to the APA requirements for mailing notices, state adopting agency rulemaking responsibilities and various editorial improvement, clarity, and consistency changes. Additionally, clarification regarding the process used at the local jurisdiction level to calculate the BSASRF fund fee requirements. Specific rationale is provided for each item within the Initial Statement of Reasons (ISOR).

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to the CBSC proposed action.

Policy Statement Overview

The proposed additions, amendments, and deletions to Chapter 1 of the 2019 California Administrative Code address necessary procedures relative to clarity and consistency within the regulations pertaining to reference statutes. The proposals are purposed to assist the public and state proposing agencies and state adopting agencies with the requirements and processes regarding rulemaking, enforcement, Commission actions on proposed or adopted building standards, appeals and petitions. Renumbering may be necessary in order to accommodate new provisions necessitating separate numbering for organizational reasons to include sequence of rulemaking proceedings and updating the processes used at the local jurisdiction level for fee calculations related to the BSASRF fund.

Evaluation of Consistency

BSC has determined that the proposed administrative regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
BSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).
BSC has determined that the proposed regulatory action would not impose a new mandate on local agencies related to the BSASRF fund calculation process, or school districts.

BSC does not have authority to impose building standards or regulations on school districts. Further, the proposed regulatory actions are administrative in nature and would not enact a new mandate on local agencies related to the BSASRF fund calculation process, or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **No.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**
- E. Cost or savings in federal funding to the state: **No.**

Estimate: Any additional expenditure resulting from this proposed action would be minor and absorbable within the existing budget and resources of BSC.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).
If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact

directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

BSC has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

BSC has determined that the regulations being proposed are administrative and will only impact Part 1 of Title 24 regarding procedures for compliance with BSC rulemaking processes by state adopting and proposing agencies. A workshop was conducted during the pre-cycle regulatory development period for the 2019 Intervening code cycle. During this workshop BSC determined that there were no objections to the proposed changes to the administrative code by the state agencies or the attending public. The public may submit information, facts, or documents either supporting BSC's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

The provision of Government Code Section 11346.3(d) is not applicable. No report is required for the adoption/amendment/repeal of these proposed administrative regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

BSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

Reference: Government Code Section
11346.5(a)(10).

The BSC has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not affect the creation or cause the elimination of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of existing business within the State of California.

C. The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations will not affect the health and welfare of California residents, worker safety or the environment. These regulations are administrative in nature and impact procedures for the administration of the rulemaking process.

ESTIMATED COST OF COMPLIANCE OF
STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section
11346.5(a)(12).

BSC has determined that this proposal would not have a significant effect on housing costs.

BSC does not have authority to impose building standards or regulations affecting housing. Further, the proposed regulatory actions are administrative in nature and would not enact a mandate affecting housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section
11346.5(a)(13).

BSC has determined that no reasonable alternative considered by BSC or that has otherwise been identified and brought to the attention of BSC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS

Reference: Government Code Sections
11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section
11346.5(a)(21).

BSC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR
PROCEDURAL AND
ADMINISTRATIVE QUESTIONS

Reference: Government Code Section
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Gary Fabian, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

**630PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Gary Fabian, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No: (916) 263-0916
E-mail: gary.fabian@dgs.ca.gov

Designated Back-Up Contact Person

California Building Standards Commission
Michael L. Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No: (916) 263-0916
E-mail: Michael.Nearman@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
CALIFORNIA BUILDING
STANDARDS COMMISSION**

**REGARDING THE 2019 CALIFORNIA
BUILDING CODE, CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 2**

(BSC 02/19)

Notice is hereby given that the California Building Standards Commission (CBSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The Building Standards Commission (BSC) is proposing building standards related to the 2019 California Building Code (California Code of Regulations, Title 24, Part 2).

PUBLIC COMMENT PERIOD

Reference: Government Code Section
11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 28, 2020**, until **5:00 p.m. on June 8, 2020**.

Comments may be submitted to CBSC via:

[e-comments form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020**:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Reference: Government Code Section
11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2). BSC proposes to adopt these building standards under the authority granted by Government Code Sections 11346 et seq. and Health and Safety Code Sections 18928.1, 18929.1, 18930, 18934.5, and 18949.6.

BSC proposes to adopt these building standards under the authority granted by Government Code Sections

11346 et seq. and Health and Safety Code Sections 18928.1, 18929.1, 18930, 18934.5, and 18949.6.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Government Code Section 11346 et seq. establishes the specified statutes of Article 5 to which CBSC is required to comply as specified in Health and Safety Code Section 18929.

Health and Safety Code Section 18928.1 sets forth that CBSC shall incorporate text of the model codes, applicable national standards or published specifications, in whole or in part, only by reference, with appropriate additions or deletions in a publication agreement between the commission and the model code organizations.

Health and Safety Code Sections 18929.1 outlines the contents and procedures for the adoption of regulations for the 18-month code adoption cycle.

Health and Safety Code Sections 18930 sets forth the analysis, review considerations, and factual determinations for the approval or adoption of building standards (9-point criteria).

Health and Safety Code Section 18934.5 authorizes CBSC to adopt and publish building standards applicable to state buildings, including state university buildings and, to the extent permitted by law, University of California buildings.

Health and Safety Code 18949.6 requires CBSC to adopt procedural regulations for the adoption of building standards and administrative regulations; the adoption process is required to facilitate the triennial adoption of model codes; and, requires the procedural regulations allow for public review of proposed building standards and administrative regulations.

Summary of Existing Regulations

The 2019 California Building Code (Cal. Code Regs., Title 24, Part 2) contains regulations that specify the minimum requirements for the design and construction of buildings in California in efforts to protect the health, safety and welfare of the public. Currently, a designer must use an alternative means approach (Section 104.11, Chapter 1, Division II, California Building Code) if one wants to design a tall wood building in California specifying cross-laminated timber (CLT) to resist anything beyond gravity loads, as there are no prescriptive regulations in the California Building Code pertaining to the general design and construction of tall wood buildings using CLT.

Summary of Effect

These proposed modifications to the 2019 California Building Code will make applicable to buildings within BSC’s jurisdiction, and available to the local jurisdictions if they choose to adopt the provisions via ordinance, provisions relating to buildings of new specified construction types to ensure the health, safety and welfare of the public, should a designer elect to employ the specified construction types: Type IV–A, IV–B, and IV–C. Adopting these provisions in this Intervening Code Adoption Cycle will make them available for use in the 2019 California Building Code, three years prior to the availability of the provisions via model code adoption in the 2022 California Building Code.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to the BSC proposed action.

Policy Statement Overview

The objective of these proposed additions and changes to the California Building Code are to comply with Executive Order B–52–18 by providing standards by which buildings of specified construction types must comply in order to ensure the health, safety, and welfare of the public within specified jurisdictions.

Evaluation of Consistency

BSC has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
BSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).
BSC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

BSC does not have authority to impose building standards or regulations on school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **No.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**
- E. Cost or savings in federal funding to the state: **No.**

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/peal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

BSC has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because these regulations do not impose any mandate on businesses. These regulations introduce new construction types and methods into the building code from which designers can voluntarily choose but are not required to use.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

BSC has determined that the change in the code is strictly voluntary and not a mandate. However, based on an analysis published in the 2019 GROUP B PUBLIC COMMENT AGENDA by International Code Council's ad hoc Committee on Tall Wood Buildings (available from the Building Standards Commission or at <https://cdn-web.iccsafe.org/wp-content/uploads/2019-ICC-PUBLIC-COMMENT-AGENDA-compressed-2019-upload-upload.pdf>), a typical residential or office building of typical floor plates an estimate of special inspection costs may range from \$1,000 to \$2,000 per floor. Another approach to the cost of special inspection is a percentage of total construction

costs; for typical pre-fabricated construction elements the cost of special inspection may range between 0.15% to 0.30%, depending on labor cost and complexities of the construction in the building. Facts, evidence, documents, testimony, or other evidence upon which BSC relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8) is available for inspection by the public. The public may submit information, facts, or documents either supporting BSC's initial determination or finding to the contrary.

During the development of these regulations, the SFM hosted many public workshops with industry, stakeholders, and the public. At no time was there any evidence proposed that would suggest a significant statewide adverse economic impact on business.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

BSC has made an assessment of the proposed code changes and has determined that these changes do not require a report.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

BSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

BSC has assessed whether or not and to what extent this proposal will affect the following:

- A. The creation or elimination of jobs within the State of California.
These regulations may result in the creation of jobs within the mass timber industry in the State of California.

- B. The creation of new businesses or the elimination of existing businesses within the State of California.
These regulations may result in new business within the mass timber industry in the State of California.
- C. The expansion of businesses currently doing business within the State of California.
These regulations may result in the expansion of businesses currently doing business within the mass timber industry in the State of California.
- D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.
These proposed regulations will update, clarify and improve the building regulations in the California Building Code, which will provide increased protection of public health and safety, worker safety, and the environment and may reduce GHG’s by incentivizing the use of cross-laminated timber and other engineered wood products in construction throughout California.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

BSC has determined that this proposal would not have a significant effect on housing costs.

BSC does not have the authority to promulgate building standards for housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

Executive Order B-52-18 directed BSC, in addition to other agencies, to consider for early adoption during the 2019 Intervening Code Adoption Cycle, the provisions put forth by the International Code Council’s ad hoc committee on Tall Wood Buildings. This proposal is being made pursuant to that directive. BSC has determined that no reasonable alternative considered by BSC or that has otherwise been identified and brought to the attention of BSC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the BSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the BSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

BSC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Gary Fabian, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
E-mail: gary.fabian@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Gary Fabian, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
E-mail: gary.fabian@dgs.ca.gov

Designated Back-Up Contact Person

California Building Standards Commission
Michael L. Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
E-mail: Michael.Nearman@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
DIVISION OF THE STATE ARCHITECT
(DSA-SS AND DSA-CC)**

**REGARDING THE 2019 CALIFORNIA
ADMINISTRATIVE CODE CALIFORNIA
CODE OF REGULATIONS, TITLE 24, PART 1**

(DSA-SS/CC 01-19)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of The Division of the State Architect (DSA) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. The DSA is proposing building standards related the administrative regulations for the structural design of public elementary and secondary schools and community colleges.

PUBLIC COMMENT PERIOD

Reference: Government Code Section
11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-comments form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020:**

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Reference: Government Code Section
11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).
The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18930 and 18949. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health & Safety Code Sections 16000-16023, and Education Code Sections 17280-17317, 81130-81147 and 81052-81053.

The Division of the State Architect is proposing this regulatory action based on Health & Safety Code Section 16022, and Education Code Sections 17295, 17310, 81052, 81142 and 81053.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Section 16022 of the Health & Safety Code authorizes the State Architect to establish building standards for state-owned and state-leased essential services buildings.

Sections 17295, 17310 and 81142 of the Education Code authorize the State Architect to establish building standards for public elementary and secondary schools, and community colleges.

Sections 81052 and 81053 of the Education Code authorize the State Architect to establish building standards which a community college may elect to use in lieu of those standards promulgated in accordance with Education Code Sec. 81142.

Summary of Existing Regulations

Existing building standards which prescribe the administrative requirements for building design and construction of state-owned or state-leased essential services buildings, public elementary and secondary schools, and community colleges are promulgated by the Division of the State Architect. These regulations are contained in Title 24, Part 1, and are based on provisions within the adopted model building code.

Summary of Effect

The proposed action would adopt and amend the current 2019 edition of the California Administrative Code (CBC) (Title 24, Part 1, California Code of Regulations). The proposed action will:

- Integrate statutory revisions and clarify existing amendments in the current 2019 California Administrative Code.
- Make editorial changes to currently adopted amendments to improve clarity or intent.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain building regulations in conformance with current state law by adopting and amending the current edition of the California Administrative Code.

Evaluation of Consistency

There are no regulations being proposed that will be inconsistent or incompatible within this submittal and with current California Administrative Code and statutory requirements of the Education Code and Health and Safety Code.

**OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

Reference: Government Code Section 11346.5(a)(4).
There are no inconsistent or incompatible regulations being proposed.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

Reference: Government Code Section 11346.5(a)(5).
DSA has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **YES**.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- D. Other nondiscretionary cost or savings imposed on local agencies: **YES**.
- E. Cost or savings in federal funding to the state: **NO**.

Estimate: Unknown — Raising the cost threshold in Section 4-309(a) for triggering required evaluation and potential retrofit of existing lateral force resisting elements in alteration projects will potentially reduce costs to the district from having to pay for evaluation and retrofit of those affected elements. The number of alteration projects this will affect, and the cost savings associated with these conditions is unknown as DSA does not maintain this level of data to quantify such an estimate. However, DSA does expect that this revised amendment will save school districts in design and potential retrofit costs of individual structural members on alteration projects where they would otherwise have been affected.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8). If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

DSA has made an initial determination that the adoption and amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8). In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

No facts, evidence, documents, testimony or other evidence has been relied upon to support the initial determination of no effect.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

N/A

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9). Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

DSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The Division of the State Architect has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The DSA has determined that this proposed action has no effect.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The DSA has determined that this proposed action has no effect.

C. The expansion of businesses currently doing business within the State of California.

The DSA has determined that this proposed action has no effect.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The DSA has determined the health and welfare of California residents, public school children in particular, benefit from the proposed regulations as evidenced from past administration of similar administrative regulations.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

DSA has determined that this proposed action has no effect on housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

DSA has determined that no reasonable alternative considered by DSA or that has otherwise been identified and brought to the attention of DSA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS

Reference: Government Code Sections
11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: www.dgs.ca.gov/BSC

Reference: Government Code Section
11346.5(a)(21).

DSA shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR
PROCEDURAL AND
ADMINISTRATIVE QUESTIONS

Reference: Government Code Section
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael L. Nearman
Deputy Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

James P. Hackett
Principal Structural Engineer
Division of the State Architect
916-322-4699
jim.hackett@dgs.ca.gov

Ryan P. Huxley
Supervising Structural Engineer
Division of the State Architect
916-323-9877
ryan.huxley@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
DIVISION OF THE STATE ARCHITECT
(DSA-SS AND DSA-CC)**

**REGARDING THE 2019 CALIFORNIA
BUILDING CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 2**

(DSA-SS/CC 02-19)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of The Division of the State Architect (DSA) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The DSA is proposing building standards related the structural design for the structural design of public elementary and secondary schools, community colleges and state-owned or state leased essential services buildings.

PUBLIC COMMENT PERIOD

Reference: Government Code Section
11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020**, until **5:00 p.m. on June 8, 2020**.

Comments may be submitted to CBSC via:

[e-comments form](http://e-comments.dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020**:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18930 and 18949. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health & Safety Code Sections 16000–16023, and Education Code Sections 17280–17317, 81130–81147 and 81052–81053.

The Division of the State Architect is proposing this regulatory action based on Health & Safety Code Section 16022, and Education Code Sections 17310, 81142, and 81053.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Section 16022 of the Health & Safety Code authorizes the State Architect to establish building standards for state-owned and state-leased essential services buildings.

Sections 17310 and 81142 of the Education Code authorize the State Architect to establish building standards for public elementary and secondary schools, and community colleges.

Sections 81052 and 81053 of the Education Code authorize the State Architect to establish building standards which a community college may elect to use in lieu of those standards promulgated in accordance with Education Code Sec. 81142.

Summary of Existing Regulations

Existing building standards which prescribe the requirements for building design and construction of state-owned or state-leased essential services buildings, public elementary and secondary schools, and community colleges are promulgated by the Division of the State Architect. These regulations are contained in Title 24, Part 2, and are based on provisions within the adopted model building code.

Summary of Effect

The proposed action would adopt and amend the current 2019 edition of the California Building Code (CBC) (Title 24, Part 2, California Code or Regulations) which was based upon adoption and amendment of the most recent edition of the selected model building code (*International Building Code (IBC)*, 2018 edition). The proposed action will:

- Integrate currently adopted structural safety amendments into the updated Title 24, Part 2.
- Repeal currently adopted amendments deemed to be sufficiently addressed by the adopted model building code.
- Make editorial changes to currently adopted amendments to improve clarity or intent.
- Co-adopt provisions affecting mass timber with the State Fire Marshal and California Building Standards Commission after consideration for adoption under Executive Order B-52-18. These provisions originate from International Code Council (ICC) — Tall Wood Building Proposal, which is up for adoption into the 2021 IBC in October of 2019.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain building regulations in conformance with current state law by adopting and amending the current edition of the California Building Code based upon the most current edition of the model building code and nationally recognized structural design standards.

Evaluation of Consistency

There are no regulations being proposed that will be inconsistent or incompatible within this submittal and with current California Building Code and statutory requirements of the Education Code and Health and Safety Code; with the exception that the provisions affecting mass timber being adopted by ICC for incorporation into the next model code are being proposed for adoption into this Intervening code cycle prior to becoming effective in the next model code.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

DSA has determined that the proposed regulatory action DSA has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **NO**.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**.
- E. Cost or savings in federal funding to the state: **NO**.

Estimate: The proposed regulations will have no mandated cost or savings to any state agency, local agency, or school district.

The election to utilize mass timber as a construction method is voluntary and the cost to associated with this selection is considered to be negligible for the following reasons. Use is dependent upon the economic viability of mass timber for a construction project and the environmental mindset of the project owner/developer. During the SFM Workshops on ICC’s Tall Wood Building Proposals, several contractors indicated that mass timber, including Cross-laminated Timber (CLT), becomes economical at approximately five to six stories. This is also corroborated in Section 2.4.1 of the *Mass Timber Market Analysis Completed for Council of Western States Foresters* by The Beck Group (November 2018) which indicates that CLT is most advantageous and competitive in terms of cost and appropriateness of application in buildings 6–16 stories tall. Most school or essential services building projects are one– or two–story buildings, and DSA does not anticipate these regulations to result in any significant increase in use of mass timber. The current regulations have resulted in one project constructed with mass timber since inclusion in the 2016 CBC, and we would expect the same in 2019/2020. This is because mass timber is not considered economically feasible for one– or two–story buildings that are typical in school and essential services building construction.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

DSA has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

Through economic assessment of the proposed regulations, the DSA determined no significant, adverse

economic impact will directly affect businesses in the manner described by GC Section 11346.5, subdivision (a)(8).

During the SFM Workshops on ICC’s Tall Wood Building Proposals, several contractors indicated that mass timber becomes economical at approximately five to six stories. Likewise, the *Mass Timber Market Analysis Completed for Council of Western States Foresters* by The Beck Group (November 2018) indicates that CLT is most advantageous and competitive in terms of cost and appropriateness of application in buildings 6–16 stories tall. Since use of mass timber as a means of construction is voluntary, DSA estimates one or two projects within its jurisdiction may use mass timber per year for environmental or aesthetic reasons, which is essentially the same number of school projects that have been constructed using CLT in the last 3 years. Mass timber is not considered economically feasible for one– or two–story buildings that are typical in school and essential services building construction.

No other facts, evidence, documents, testimony or other evidence has been relied upon to support the initial determination of no effect.

FINDING OF NECESSITY FOR THE PUBLIC’S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

The proposed regulatory action does not require a report by any business or agency, so the Division of the State Architect has not made a finding of necessity for public’s health, safety or welfare.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

DSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The Division of the State Architect has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The Division of the State Architect has determined that this proposed action has little to no effect on the creation or elimination of jobs within the State of California. However, future creation of mass timber industry in California may occur if these regulations increase demand in mass timber products; but, due to non–fiscal viability described above, the effect on schools and essential services buildings is expected to be negligible.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The Division of the State Architect has determined that this proposed action has no effect on the creation of new businesses or the elimination of existing businesses within the State of California. However, future creation of mass timber industry in California may occur if these regulations increase demand in mass timber products; but, due to non–fiscal viability described above, the effect on schools and essential services buildings is expected to be negligible.

C. The expansion of businesses currently doing business within the State of California.

The Division of the State Architect has determined that this proposed action has no effect on the expansion of businesses currently doing business within the State of California. However, future creation of mass timber industry in California may occur if these regulations increase demand in mass timber products; but, due to non–fiscal viability described above, the effect on schools and essential services buildings is expected to be negligible.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

The Division of the State Architect has determined that the proposed regulatory action would have no adverse effect on the health and welfare of California residents, worker safety, and the state’s environment. However, future creation of mass timber industry in California may occur if these regulations increase demand in mass timber products, which will improve the health of California’s forests and have a positive effect on the state’s environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section
11346.5(a)(12).

The Division of the State Architect has determined that this proposed action has no effect on housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section
11346.5(a)(13).

DSA has determined that no reasonable alternative considered by DSA or that has otherwise been identified and brought to the attention of DSA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections
11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: www.dgs.ca.gov/BSC

Reference: Government Code Section
11346.5(a)(21).

DSA shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael L. Nearman, Deputy Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

James P. Hackett, Principal Structural Engineer
Division of the State Architect
Ph. 916-322-4699
jim.hackett@dgs.ca.gov

Diane C. Gould, Supervising Structural Engineer
Division of the State Architect
Ph. 916-324-6959
diane.gould@dgs.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

REGARDING THE 2019 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2

(HCD 01/19)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et seq. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the California Department of Housing and Community Development (HCD), proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. HCD is proposing building standards related to the 2019 California Building Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-Comment form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020:**

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Note: Only comments received in an accessible format will be viewable via CBSC’s website. Use the e-Comment form to ensure accessibility.

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially, as proposed in this notice, or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicat-

ed, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; Civil Code sections 1101.4 and 1101.5; and Government Code sections 12955.1 and 12955.1.1.

HCD is proposing this regulatory action based on HSC sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 17958.12, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1, 18873.2, 18873.3, 18873.4, 18873.5, 18938.3, 18944.11, and 19990; and Government Code section 12955.1.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

HSC section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

HSC section 17921 and Government Code section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards to the CBSC.

HSC section 17958.12 requires HCD to adopt regulations to recognize retroactive permits.

HSC section 17980.12 provides for delays in corrections of building violations to accessory dwelling units. Operative until January 1, 2035.

HSC sections 18300 and 18865 require HCD to adopt building standards for mobilehome parks and special occupancy parks.

HSC section 19990 requires HCD to adopt building standards for factory-built housing.

Government Code section 8698 authorizes local agencies to declare a shelter crisis which will suspend state or local building standards for emergency housing. Government Code section 8698.3 specifically addresses a shelter crisis for the City of San Jose requiring a minimum of 70 square feet interior space for one occupant for emergency sleeping cabins as used for emergency bridge housing.

Summary of Existing Regulations

The 2019 California Building Standards Code, title 24, California Building Code (CBC), part 2, adopted by reference the 2018 International Building Code (IBC) with California amendments, and became effective on January 1, 2020.

Existing CBC regulations specifically related to the proposed changes:

- Require permits to be based on building standards approved by the CBSC and in effect at the time of permit application.
- Require building permits to be obtained prior to the construction or alteration of buildings.
- Address local authority to enforce and provide a reference to the State Housing Law related to several actions available for enforcing unsafe buildings and structures.
- Includes definitions to clarify terms as used within the text of the CBC.
- Provides a reference to specific HSC sections specifying requirements for garage door openers for new construction.
- Requires a 10-day notification period for informing adjacent building owners when excavating on neighboring property.
- Provides a voluntary Appendix O, available for adoption by local agencies, for purposes of providing minimum standards for emergency housing. When adopted as-is or as-amended by local agencies, the appendix becomes mandatory at the local level.

Summary of Effect

Summary of effect of the proposed specific changes on existing CBC regulations:

- Addition of text providing a reference to the use of retroactive permits for approval of existing unpermitted residential structures and recognition of the application of prior applicable building codes, in force, at or near the time of the unpermitted construction, based on the determination of the local enforcing agency. This is not a mandate and clarifies existing law and practice. The benefit of this amendment will make clear to local enforcing agencies the ability to issue retroactive permits which will increase the

number of legally permitted existing buildings that were constructed without construction permits issued by the local enforcement agency and ensure the health and safety therein.

- Addition of text providing a reference to special enforcement procedures related to delayed correction of building violations will allow occupancy of accessory dwelling units that need correction, but do not endanger health and safety. The text also acts as a reference to the statutory section authorizing the delay in correction.
- Addition of text requiring an inspection for wood covers protecting connections in mass timber buildings.
- Definitions are proposed for “accessory dwelling unit” and “mass timber” to clarify the meaning of the terms as used in new proposed text. The definition for “wall, load-bearing” is amended to clarify application to construction Type IV-Heavy Timber.
- Addition of text and a reference to existing statute related to garage door openers will notify code users of prohibitions on sale, installation of garage door openers without a battery backup function and the requirement that when a garage door containing a non-battery backup function is replaced, the new garage door must include a door opener with a battery backup.
- Adds an exception to the minimum interior size of emergency housing structures based on discretion of the local enforcing agency. The minimum size is reduced from 70 square feet to 53 square feet to allow use of an eight-foot square unit.
- Adds several new sections related to special inspections for mass timber buildings and amends some sections to and make other clarifying changes related to special inspections.
- Adds a method for determining fire resistance ratings for connections in mass timber buildings.
- Adds clarifying changes to sections addressing floors and roof decks in heavy timber buildings.
- Clarifies provisions addressing membrane structures to only apply to the original Type IV Heavy Timber construction type.
- Addition of a note to clarify that the Civil Code includes a 30-day time period for property owners to protect their property which may be impacted by adjacent excavation. This note clarifies that a longer time period will be allowed versus the 10-day notification period in the current existing regulations.
- Adds new referenced standards to Chapter 35’s list of referenced standards.

These changes will affect the following programs:

- a) State Housing Law: Relative to residential occupancies, buildings or structures accessory thereto in accordance with HSC section 17910 et seq. Relative to the Federal Fair Housing Amendment Act and state statutory accessibility requirements in accordance with Government Code sections 12955.1 and 12955.1.1, except where the application is for public accommodations only.
- b) Employee Housing: relative to the use of any buildings or structures used for employee housing in accordance with HSC section 17040.
- c) Mobilehome Parks and Special Occupancy Parks: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18300 and 18865.
- d) Factory-built Housing: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance with HSC section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity, and give direction for the code user. A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations will adopt, amend or repeal existing building standards and establish new building standards, which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards on a statewide basis, as required by statute, results in uniformity in residential construction and promotes affordable costs. Further benefits anticipated from this proposed regulatory action include more opportunities for available housing by increasing awareness of the statu-

tory provisions for retroactive permits, permitting occupancy to continue in ADU's and delays a building violation corrections when the violation is not impactful to health and safety; and allowing additional types of structures to be used for emergency housing purposes.

Proposal of code changes related to tall wood buildings and mass timber, implement the Governor's Executive Order B-52-18 and the Legislature's Assembly Concurrent Resolution 102 (June 6, 2019) urging the Office of the State Fire Marshal (SFM) to adopt regulations for the use of mass timber products for residential and commercial building construction. Code changes proposed for tall wood buildings and use of mass timber are co-adoptions with the SFM and other state agencies.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).
HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. HCD's proposal does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by the Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or savings to any state agency: **No additional costs or savings beyond those imposed by existing law.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

D. Other nondiscretionary cost or savings imposed on local agencies: **No additional costs or savings beyond those imposed by existing law.**

E. Cost or savings in federal funding to the state: **None.**

Estimate: There is no additional cost of compliance for the proposed regulations. See discussions in Initial Statement of Reasons for individual sections for benefits and any assumptions.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the amendment of these regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide, in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

HCD’s proposed regulations recognize the consideration and possible issuance of retroactive permits by local agencies and possible delay in correction of ADU building violations. Neither would have an adverse impact on businesses. Statutory provisions related to the proposed regulations will have been in effect by the time the regulations become effective and therefore no additional costs beyond those already in existing law. In addition, the provisions related to retroactive permits address existing practices at the local agency level.

The proposed regulations related to garage door openers provide references (pointers) to existing statutory requirements, therefore, the statutory requirement will prevail whether these regulations are adopted or not. HSC section 19892 also prohibits the sale and installation of garage door openers without battery backup as of July 1, 2019. Therefore, there is no increased cost for compliance beyond the existing statutory requirement since only the garage door openers with battery backup would be available for purchase and instal-

lation in California. HCD has confirmed the availability of garage door openers with battery backup functions on popular hardware store websites.

The proposed regulations related to construction of tall wood buildings and use of mass timber provide an optional (voluntary) design and construction method using mass timber. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact. The proposed regulations related to decreasing the allowable minimum interior floor space of emergency housing will allow the use of additional structures currently viewed as non-compliant. Therefore, the proposed regulations will not have an adverse economic impact on businesses.

FINDING OF NECESSITY FOR THE PUBLIC’S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

No reporting requirements are proposed.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

HCD is not aware of any additional cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action beyond current costs based on existing law. The use of mass timber or construction of tall wood buildings is a design option and not mandated, therefore, the related provisions do not have mandated costs.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

HCD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of businesses within the State of California. However, these regulations may provide the incentive to produce cross-laminated timber in California, but according to the SFM, it is unlikely to occur within the 18-month effective period of the regulations. These proposals may create the opportunity for manufacturers to move into the state, but to what extent is unknown.

C. The expansion of businesses currently doing business within the State of California.

These regulations may affect the expansion of businesses currently doing business within the State of California if the mass timber/tall wood buildings become a common design option chosen by designers and builders. The acceptance and use of this building type cannot be determined at this time.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

These regulations may allow occupancy of previously unpermitted structures or structures needing repair while ensuring protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

No increased cost of compliance (from the existing statutory requirements) for the proposed California amendments. See additional information in the Initial Statement of Reasons.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

There were no feasible alternatives available to HCD. The exclusion of statutory requirements may cause conflict within the code and confusion for code users. The Governor’s Executive Order B-52-18 directed HCD and other specified agencies to consider proposing adoption of the International Code Council’s Ad Hoc Committee on Tall Wood Buildings proposals for the intervening code cycle.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website.

Reference: Government Code Section 11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law, and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-5888

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Emily Withers, Codes and Standards
 Administrator II
 California Department of Housing and
 Community Development
 P.O. Box 278180
 Sacramento, CA 95827-8180
 Telephone: (916) 263-2998
 Email: Emily.Withers@hcd.ca.gov

Back-up:

Karla DaRosa, Associate Analyst
 California Department of Housing and
 Community Development
 P.O. Box 278180
 Sacramento, CA 95827-8180
 Telephone: (916) 263-4656
 Email: Karla.Darosa@hcd.ca.gov

**TITLE 24. BUILDING STANDARDS
 COMMISSION**

**NOTICE OF PROPOSED ACTION TO
 BUILDING STANDARDS OF THE
 CALIFORNIA DEPARTMENT OF HOUSING
 AND COMMUNITY DEVELOPMENT**

**REGARDING THE 2019 CALIFORNIA
 RESIDENTIAL CODE CALIFORNIA CODE OF
 REGULATIONS, TITLE 24, PART 2.5**

(HCD 03/19)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et seq. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the California Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2.5. HCD is proposing building standards related to the 2019 California Residential Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-Comment form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020:**

California Building Standards Commission
 2525 Natomas Park Drive, Suite 130
 Sacramento, CA 95833
 Michael Nearman, Deputy Executive Director

Note: Only comments received in an accessible format will be viewable via CBSC's website. Use the e-Comment form to ensure accessibility.

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST-HEARING MODIFICATIONS TO THE
 TEXT OF THE REGULATIONS**

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially, as proposed in this notice, or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2). The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) section 18949.5. The purpose of these

building standards is to implement, interpret, or make specific the provisions of HSC sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; and Government Code sections 12955.1 and 12955.1.1.

HCD is proposing this regulatory action based on HSC sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 17958.12, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1, 18873.2, 18873.3, 18873.4, 18873.5, 18938.3, 18944.11, and 19990; and Government Code section 12955.1.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

HSC section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

HSC section 17921 and Government Code section 12955.1 require HCD to propose the adoption, amendment or repeal of building standards to the CBSC.

HSC section 17958.12 requires HCD to adopt regulations to recognize retroactive permits.

HSC section 17980.12 provides for delays in corrections of building violations to accessory dwelling units. Operative until January 1, 2035.

HSC sections 18300 and 18865 require HCD to adopt building standards for mobilehome parks and special occupancy parks.

HSC section 19990 requires HCD to adopt building standards for factory-built housing.

Government Code section 8698 authorizes local agencies to declare a shelter crisis which will suspend state or local building standards for emergency housing.

Government Code section 8698.3 specifically addresses a shelter crisis for the City of San Jose requiring a minimum of 70 square feet interior space for one occupant for emergency sleeping cabins as used for emergency bridge housing.

Summary of Existing Regulations

The 2019 California Building Standards Code, title 24, California Residential Code (CRC), part 2.5, adopted by reference the 2018 International Residential Code with California amendments, became effective on January 1, 2020.

Existing CRC regulations specifically related to the proposed changes:

- Require permits to be based on building standards approved by the CBSC and in effect at the time of permit application.
- Require building permits to be obtained prior to the construction or alteration of buildings.
- Address local authority to enforce and provide a reference to the State Housing Law related to several actions available for enforcing unsafe buildings and structures.
- Includes definitions to clarify terms as used within the text of the CRC.
- Provides a reference to specific HSC sections specifying requirements for garage door openers for new construction.
- Provides a voluntary Appendix X, available for adoption by local agencies, for purposes of providing minimum standards for emergency housing. When adopted as-is or as-amended by local agencies, the appendix becomes mandatory at the local level.

Summary of Effect

Summary of effect of the proposed specific changes on existing CRC regulations:

- Addition of text providing a reference to the use of retroactive permits for approval of existing unpermitted residential structures and recognition of the application of prior applicable building codes in force, at or near the time of the unpermitted construction, based on the determination of the local enforcing agency. This is not a mandate and clarifies existing law and practice. The benefit of this amendment will increase the number of legally permitted existing buildings that were constructed without construction permits issued by the local enforcement agency.
- Addition of text providing a reference to special enforcement procedures related to delayed correction of building violations will allow occupancy of accessory dwelling units that need correction, but do not endanger health and safety. The text also acts as a reference to the statutory section authorizing the delay in correction. The text does not mandate the approval of the delay.
- A definition is proposed for “accessory dwelling unit” to clarify the meaning of the term as used in new proposed text.
- Addition of text and a reference to existing statute related to garage door openers will notify code users of prohibitions on sale, installation of garage door openers without a battery backup function and requirement for replacement of non-battery

backup garage door openers when garage doors are replaced.

- Adds an exception to the minimum interior size of emergency housing structures based on discretion of the local enforcing agency. The minimum size is reduced from 70 square feet to 53 square feet to allow use of an eight-foot square unit.

These changes will affect the following programs:

- a) State Housing Law: Relative to residential occupancies, buildings or structures accessory thereto in accordance with HSC section 17910 et seq. Relative to the Federal Fair Housing Amendment Act and state statutory accessibility requirements in accordance with Government Code sections 12955.1 and 12955.1.1, except where the application is for public accommodations only.
- b) Employee Housing: relative to the use of any buildings or structures used for employee housing in accordance with HSC section 17040.
- c) Mobilehome Parks and Special Occupancy Parks: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18300 and 18865.
- d) Factory-built Housing: relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with HSC section 19990.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations, as part of the update to the 2019 CRC, will adopt, amend or repeal existing building standards and establish new building standards which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards on a statewide basis, as required by statute, results in unifor-

mity and promotes affordable costs and delays in construction; and allows additional structures to be used for emergency housing purposes.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing State regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).
HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. HCD's proposal does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by the Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or savings to any state agency: **No additional costs or saving beyond those imposed by existing law.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No additional costs or savings beyond those imposed by existing law.**
- E. Cost or savings in federal funding to the state: **None.**

Estimate: There is no additional cost of compliance for the proposed regulations. See discussions in the Initial Statement of Reasons for individual sections for benefits and any assumptions.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/peal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the amendment of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide, in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

HCD's proposed regulations recognize the consideration and possible issuance of retroactive permits by local agencies and possible delay in correction of ADU building violations. Neither would have an adverse impact on businesses. Statutory provisions related to the proposed regulations will have been in effect by the time the regulations become effective. In addition, the provisions related to retroactive permits address existing practices at the local agency level.

The proposed regulations related to garage door openers provide references (pointers) to existing statutory requirements, therefore, the statutory requirement will prevail whether these regulations are adopted or not. HSC section 19892 also prohibits the sale and installation of garage door openers without battery backup as of July 1, 2019. Therefore, there is no increased cost for compliance beyond the existing statutory requirement since only the garage door openers with battery backup would be available for purchase and installation in California. HCD has confirmed the availability of garage door openers with battery backup functions on popular hardware store websites.

The proposed regulations related to decreasing the allowable minimum interior floor space of emergency housing will allow the use additional structures currently viewed as noncompliant. Therefore, the proposed regulations will not have an adverse economic impact on businesses.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

No reporting requirements are proposed.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

HCD is not aware of any additional cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action beyond current costs.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

HCD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not directly affect the creation or cause the elimination of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The regulations will not directly affect the creation or the elimination of existing business within the State of California.

C. The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations will update and improve building standards, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section
11346.5(a)(12).

No increased cost of compliance (from the existing statutory requirements) for the proposed California amendments. See additional information in the Initial Statement of Reasons.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section
11346.5(a)(13).

There were no feasible alternatives available to HCD. The exclusion of statutory requirements may cause conflict within the code and confusion for code users.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections
11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the [CBSC website](#).

Reference: Government Code Section
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website](#).

Reference: Government Code Section
11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law, and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-5888

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Thomas Martin, District Representative II
California Department of Housing and Community Development
P.O. Box 278180
Sacramento, CA 95827-8180
Telephone: (916) 263-3272
Email: Thomas.G.Martin@hcd.ca.gov

Emily Withers, Codes and Standards Administrator II
California Department of Housing and Community Development
P.O. Box 278180
Sacramento, CA 95827-8180
Telephone: (916) 263-2998
Email: Emily.Withers@hcd.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

REGARDING THE 2019 CALIFORNIA EXISTING BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 10

(HCD 07/19)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Cali-

California Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 10. The HCD is proposing building standards related to 2019 California Existing Building Code (CEBC).

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-Comment form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020:**

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Note: Only comments received in an accessible format will be viewable via CBSC’s website. Use the e-Comment form to ensure accessibility.

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice, or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept

written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; Civil Code sections 1101.4 and 1101.5; and Government Code sections 12955.1 and 12955.1.1.

HCD is proposing this regulatory action based on HSC sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1 through 18873.5, 18938.3, 18944.11, and 19990 and Government Code section 12955.1.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

HSC section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

HSC section 17921 and Government Code section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards to the CBSC.

HSC section 17958.12 requires HCD to adopt regulations to recognize retroactive permits.

HSC section 17980.12 provides for delays in corrections of building violations to accessory dwelling units. Operative until January 1, 2035.

HSC sections 18300 and 18865 require HCD to adopt building standards for mobilehome parks and special occupancy parks.

HSC section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

The 2019 California Building Standards Code, title 24, California Existing Building Code (CEBC), part 10,

adopted by reference the 2018 International Existing Building Code (IEBC) with California amendments, became effective on January 1, 2020.

Existing CEBC regulations specifically related to the proposed changes:

- Require permits to be based on building standards approved by the CBSC and in effect at the time of permit application.
- Require building permits to be obtained prior to the construction or alteration of buildings.
- Address local authority to enforce and provide a reference to the State Housing Law related to several actions available for enforcing unsafe buildings and structures.
- Provide a list and discussion of required building inspections.
- Include definitions to clarify terms as used within the text of the CEBC.
- Provide for the use of original materials and methods of construction for repairs and alterations of existing structures.

Summary of Effect

Summary of effect of the proposed specific changes on existing CEBC regulations:

- Addition of text providing reference to the use of retroactive permits for approval of existing unpermitted residential structures, and recognition of the application of prior applicable building codes in force, at or near the time of the unpermitted construction, based on the determination of the local enforcing agency. This is not a mandate and clarifies existing law and practice. The benefit of this amendment will increase the number of legally occupiable existing unpermitted buildings.
- Addition of text providing a reference to special enforcement procedures related to delayed correction of building violations will allow occupancy of accessory dwelling units that need correction, but do not endanger health and safety. The text also acts as a reference to the statutory section authorizing the delay in correction. The text does not mandate the approval of the delay.
- Addition of an existing statutory requirement in the State Housing Law for inspection of exterior elevated elements and reference to inspections specifically for condominium projects provides complete set of required inspections in the CEBC. These inspections are intended to identify elevated wooden structures in need of repair and ensure continued safety for the public.

- A definition is proposed for “accessory dwelling unit” and “exterior elevated element” to clarify the meaning of the terms as used in new proposed text.
- Addition of text and a reference to existing statute related to garage door openers will notify code users of a requirement to replace an existing garage door opener without a battery backup function with a garage door opener that includes battery backup, when existing garage doors are replaced. This also clarifies that the retroactive statutory requirement is exempt from HSC provisions for retention and use of original materials and methods of construction.

These changes will affect the following programs:

- a) State Housing Law Program: Relative to residential occupancies, buildings or structures accessory thereto, in accordance with HSC section 17910 et seq.. Relative to the Federal Fair Housing Amendment Act and state statutory accessibility requirements in accordance with Government Code sections 12955.1 and 12955.1.1, except where the application is for public accommodations only.
- b) Employee Housing Program: relative to the use of any buildings or structures on the property in accordance with HSC section 17040.
- c) Mobilehome Parks and Special Occupancy Parks Programs: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18300 and 18865.
- d) Factory–built Housing Program: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance with HSC section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity and give direction for the code user. A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations as part of the update to the 2019 CEBC, will adopt, amend or repeal existing building standards and establish new building standards, which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of

general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards on a statewide basis, as required by statute, results in uniformity in residential construction and promotes affordable costs.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
None.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).
HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. HCD's proposal does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or savings to any state agency: **No additional costs or savings beyond those imposed by existing law.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

D. Other nondiscretionary cost or savings imposed on local agencies: **No additional costs or savings beyond those imposed by existing law.**

E. Cost or savings in federal funding to the state: **None.**

Estimate: There is no additional cost of compliance for the proposed regulations. See discussions in Initial Statement of Reasons for individual sections for benefits and any assumptions.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the amendment of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

HCD's proposed regulations recognize the consideration and possible issuance of retroactive permits by local agencies and possible delay in correction of ADU building violations. Neither would have an adverse impact on businesses. Statutory provisions related to the proposed regulations will have been in effect by the time the regulations become effective. In addition, the provisions related to retroactive permits address existing practices at the local agency level.

The statutory requirement for inspections of existing exterior elevated walking surfaces, as adopted as a building standard by these proposed regulations, is not a new requirement for multifamily building owners or businesses. In addition, inspection of these structures is for the purposes of public safety, ensuring durability of the structure, avoiding more extensive and costly repairs, or liability associated with occupancy in unsafe structures.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

No reporting requirements are proposed.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

HCD is not aware of any additional cost impacts that a representative private person or business would necessarily incur in reasonable direct compliance with the proposed action beyond current costs, since the inspection and correction requirements for exterior elevated walking surfaces is already a statutory requirement and being applied. As related to compliance with the original statute for the inspection of exterior elevated elements, HCD has estimated a cost of \$150 to \$300 per inspection; however there is no additional cost impact beyond that imposed by existing state and local laws. HCD has estimated a required replacement garage door opener with battery backup at a cost of \$150 to \$350; however, there is no additional cost impact beyond that imposed by existing state and local laws.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

HCD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not directly affect the creation, or cause the elimination, of jobs within the State of California. However, the original statutory requirement for inspection of exterior elevated elements may create more jobs for qualified inspectors.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulation will not affect the creation or elimination of businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

These regulation will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations will update and improve building standards related to the construction and maintenance of residential structures.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

No increased cost of compliance (from the existing statutory requirements) for the proposed California amendments. See additional information in the Initial Statement of Reasons.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

There were no feasible alternatives available to HCD. The exclusion of statutory requirements may cause conflict within the code and confusion for code users.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms, and initial statement of reasons can be accessed from the [CBSC website](#).

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website](#).

Reference: Government Code Section 11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in

the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

**CBSC CONTACT PERSON FOR
PROCEDURAL AND
ADMINISTRATIVE QUESTIONS**

Reference: Government Code Section
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-5888

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Emily Withers, Codes and Standards
Administrator II
California Department of Housing and
Community Development
P.O. Box 278180
Sacramento, CA 95827-8180
Telephone: (916) 263-2998
E-mail: Emily.Withers@hcd.ca.gov

Karla DaRosa, Associate Governmental
Program Analyst
California Department of Housing and
Community Development
P.O. Box 278180
Sacramento, CA 95827-8180
Telephone: (916) 263-4656
E-mail: Karla.Darosa@hcd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
OFFICE OF STATEWIDE HEALTH
PLANNING AND DEVELOPMENT**

**REGARDING THE 2019 CALIFORNIA
BUILDING CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 2,
VOLUME 2**

(OSHPD 03/19)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, PART 2, Volume 2, CALIFORNIA BUILDING CODE. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing facilities, licensed clinics, and correctional treatment centers.

PUBLIC COMMENT PERIOD

Reference: Government Code Section
11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-comments form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020:**

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior

to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Sections 1275, 18928, 129790, and 129850.

The Office of Statewide Health Planning and Development (OSHDP) is proposing this regulatory action based on Health and Safety Code, Section 129850.

INFORMATIVE DIGEST

Reference: Government Code, Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code, Section 1275, authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code, Section 18928, requires OSHPD to adopt and reference the most recent edition of a model code. The model code, with amendments or proposed changes, shall be adopted within one year after the publication date. Health and Safety Code, Section 129790, authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of Youth Authority.

Health and Safety Code, Section 129850, authorizes OSHPD to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. OSHPD is also authorized and responsible to submit building standards related to the seismic safety of hospital buildings to the California Building Standards Commission.

Summary of Existing Regulations

Title 24, Part 2, Volume 2, California Building Code contains regulations pertaining to the design and construction of hospitals, skilled nursing and immediate care facilities, licensed clinics, and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Part 2, Volumes 1 and 2, of the 2019 California Building Code.

Summary of Effect

The proposed makes editorial and technical modifications, clarifications, and provides consistency within Title 24, Part 2, Volume 2, California Building Code Code, and provides coordination with Title 22, Licensing and Certification requirements.

Comparable Federal Statute or Regulations

There is no federal statute or regulation related to this proposed action.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. The intent of this proposal is to propose amendments that will provide editorial and technical modifications for clarification and consistency with the code.

Evaluation of Consistency

The proposed action is consistent and compatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5). OSHPD has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6). An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **NO**.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**.
- E. Cost or savings in federal funding to the state: **NO**.

Estimate: None

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8). If the agency makes an initial determination that the amendment of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

OSHPD has made an initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8). In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its final determination of no statewide adverse economic

impact. The scope of the proposed action is to make necessary editorial and minor technical modifications to the existing code that are in alignment with health facility licensing requirements and with national standards.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11). Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

OSHPD has made an assessment and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9). Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10). OSHPD has assessed whether or not and to what extent this proposal will affect the following:

- A. **The creation or elimination of jobs within the State of California.**
The proposed regulations will not create or eliminate jobs within the State of California.
- B. **The creation of new businesses or the elimination of existing businesses within the State of California.**
The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.
- C. **The expansion of businesses currently doing business within the State of California.**
The proposed regulations will not cause expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public’s health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state’s environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

These proposed regulations will not result in any cost of compliance that would impact housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

OSHDP has determined that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to the attention of OSHPD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Richard Tannahill, Health Facilities Review,
Acting Supervisor
Lori Campbell, Building Standards Unit,
Alternate Contact
Office of Statewide Health Planning and Development
Facilities Development Division
(916) 440-8300
FAX (916) 324-9118
regsunit@oshpd.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING THE 2019 CALIFORNIA EXISTING BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 10

(OSHPD 07/19)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, PART 10. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing facilities, licensed clinics, and correctional treatment centers.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-comments form](https://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020:**

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Sections 1275, 18928, 129790, 129850, and 130005.

The Office of Statewide Health Planning and Development (OSHPD) is proposing this regulatory action based on Health and Safety Code, Section 129850.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code, Section 1275, authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code, Section 18928, requires OSHPD to adopt and reference the most recent edition of a model code. The model code, with amendments or proposed changes, shall be adopted within one year after the publication date.

Health and Safety Code, Section 129790, authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of Youth Authority.

Health and Safety Code, Section 129850, authorizes OSHPD to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. OSHPD is also authorized and responsible to submit building standards related to the seismic safety of hospital buildings to the California Building Standards Commission.

Health and Safety Code, Section 130005, authorizes OSHPD to define earthquake performance categories as it deems necessary to meet the intent of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. Specifically section (f) authorizes OSHPD to consult with the Hospital Building Safety Board, to develop regulations for critical nonstructural systems and to prioritize the timeframes for upgrading those systems that represent the greatest risk of failure during an earthquake.

Summary of Existing Regulations

Title 24, Part 10, California Existing Building Code contains regulations pertaining to the design and construction of hospitals, skilled nursing and immediate care facilities, licensed clinics, and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Part 2, Volumes 1 and 2, of the 2019 California Building Code.

Summary of Effect

The proposed makes editorial and technical modifications, clarifications, and provides consistency within Title 24, Part 10, California Existing Building Code, and provides coordination with Title 22, Licensing and Certification requirements.

Comparable Federal Statute or Regulations

There is no federal statute or regulation related to this proposed action.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. The intent of this proposal is to propose amendments that will provide editorial and technical modifications for clarification and consistency with the code.

Evaluation of Consistency

The proposed action is consistent and compatible with existing state regulations.

**OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

Reference: Government Code Section 11346.5(a)(4).
There are no other matters to identify.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

Reference: Government Code Section 11346.5(a)(5).
OSHPD has determined that the proposed regulatory action **WOULD NOT** impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **NO**.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**.
- E. Cost or savings in federal funding to the state: **NO**.
Estimate: None.

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

Reference: Government Code Section 11346.5(a)(8).
If the agency makes an initial determination that the amendment of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

OSHPD has made an initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its final determination of no statewide adverse economic impact. The scope of the proposed action is to make necessary editorial and minor technical modifications to the existing code that are in alignment with health facility licensing requirements and with national standards.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

OSHPD has made an assessment and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The proposed regulations will not create or eliminate jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

The proposed regulations will not cause expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state's environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

These proposed regulations will have not result in any cost of compliance that would impact housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

OSHPD has determined that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to the attention of OSHPD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the [CBSC website: www.dgs.ca.gov/BSC](http://www.dgs.ca.gov/BSC).

Reference: Government Code Section
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website](http://www.dgs.ca.gov/BSC): www.dgs.ca.gov/BSC.

Reference: Government Code Section
11346.5(a)(21).

OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

**CBCS CONTACT PERSON FOR
PROCEDURAL AND
ADMINISTRATIVE QUESTIONS**

Reference: Government Code Section
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Richard Tannahill, Health Facilities Review,
Acting Supervisor
Lori Campbell, Building Standards Unit,
Alternate Contact
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
FAX (916) 324-9118
regsunit@oshpd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
STATE FIRE MARSHAL**

**REGARDING THE 2019 CALIFORNIA
BUILDING CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 2**

(SFM 01/19)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the State Fire Marshal's (SFM) office proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The State Fire Marshal is proposing building standards related to the 2019 intervening rulemaking code cycle.

PUBLIC COMMENT PERIOD

Reference: Government Code Section
11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020**, until **5:00 p.m. on June 8, 2020**.

Comments may be submitted to CBSC via:

[e-comments form](http://dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020**:

California Building Standards Commission
Attention: Mia Marvelli, Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS

Reference: Government Code Section
11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The State Fire Marshal has proposed these building standards under the direct statutory authority to adopt, amend and or repeal rules and regulations for fire and life safety regulations.

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Sections 1250, 1569.72, 1569.78, 1568.02, 1502, 1597.44, 1597.45, 1597.46, 1597.54, 1597.65, 13108, 13108.5, 13113, 13113.5, 13114, 13143, 13132, 13132.7, 13132, 13133, 13135, 13143.2, 13143.6, 13146, 13210, 13211, 17921, 18928, 18949.2 and 25500-25545; Education Code Section 17074.50; and Government Code Section 51189. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18928.

The proposed building standards are not within the exclusive jurisdiction of another agency.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws:

Health and Safety Code Section 13108(a).

The State Fire Marshal shall prepare and adopt building standards related to the means of egress, the installation of fire alarms and fire extinguishing systems in any state-owned building or in any state-occupied building.

Health and Safety Code Section 13113.

An automatic sprinkler system shall be installed in all 24-hour institutional type occupancies, and homes for the care of aged or senile persons.

Health and Safety Code Section 13113.5.

The State Fire Marshal Shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114(a).

The State Fire Marshal shall adopt regulations and standards to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state, and that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

Health and Safety Code Section 13132.

Every person, firm, or corporation maintaining or operating any facility for the care of the mentally handicapped shall file a statement with the fire authority having jurisdiction within five days of the admission or readmission of a patient stating that such patient is an ambulatory or a non-ambulatory person and enumerating the reasons for such classification. Such a statement shall also be filed for each existing patient within 30 days of the effective date of this section.

Any statement required to be filed pursuant to this section shall be certified as to its correctness by the person attending such patient.

It shall be unlawful for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. Any such act shall be in violation of this section and subject to the provisions of Section 13112.

Health and Safety Code Section 13132.7.

Mandates fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133(a).

The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, and residential care facilities for the elderly. These fire safety standards shall apply uniformly throughout the state.

Health and Safety Code Section 13135.

The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities based on whether the residents or patients of the facilities are non-ambulatory.

Health and Safety Code Section 13143.

Grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children’s nursery, children’s home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1(a).

The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.6(a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9(a).

The State Fire Marshal shall prepare, adopt, and submit building standards and other fire and life safety regulations establishing minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 17921(b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18928(a).

Requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18897.3.

Except as provided in Section 18930, the State Fire Marshal shall adopt minimum fire safety regulations for organized camps in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

Health and Safety Code Section 18949.2(b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state’s fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state’s codes related to fire and life safety.

(c) The state’s fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state’s fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 2, 2019 California Building Code with SFM amendments and additional building standards relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to update the 2019 California Building Code (California Code of Regulations, Title 24, Part 2) based upon updated information or recent actions of the SFM. This proposed action:

Repeals certain amendments to the 2018 International Building Code and/or California Building Standards not addressed by the model code that are no longer necessary nor justified pursuant with Health and Safety Code 18930(a)(7).

Adopts and implements additional necessary amendments to the 2019 California Building Code that address inadequacies of the 2018 International Building Code as they pertain to California laws.

Codifies non-substantive editorial and formatting amendments to the 2019 California Building Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act in accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the annual code adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which they are proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2018 International Building Code and published as the 2019 California Building Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Building Code establish and or maintain minimum requirements for the prevention of fire and panic for the protection of life and property against fire and panic in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2019 California Building Code.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5). SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **No.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**
- E. Cost or savings in federal funding to the state: **No.**
Estimate: 0.

INITIAL DETERMINATION OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(7).

If the agency makes an initial determination that the adoption of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, the determination shall include the following:

- A. Identification of the types of businesses that would be affected.
New buildings in the Wildland Urban Interface area
- B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action.
N/A
- C. SFM has made an initial determination that the adoption of this regulation may have a significant adverse economic impact on businesses, including the ability of California businesses to compete in other states. SFM has considered proposed alternatives that would lessen any adverse impact on business and invites you to submit proposals. Submissions may include the following considerations:

The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses.

Consolidation or simplification of compliance and reporting requirements for businesses.

The use of performance standards rather than prescriptive standards.

Exemption or partial exemption from the regulatory requirements for businesses.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

The SFM has assessed the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9). Tall Wood Building (TWB)

The Tall Wood Building (TWB) proposed regulations do not mandate the use of the three new Type IV construction categories. The proposal only recognizes their use as a design option. Therefore, there is no cost increase to industry.

The use of mass timber possibly will deliver significant cost savings to construction due to the cost of materials, the period of project construction timelines and a possible reduction by 20% by on-site skilled labor.

Wildland Urban Interface workgroup (WUI)

The SFM Wildland Urban Interface workgroup (WUI) proposed regulations estimate an increase of approximately \$1,150 per structure that is built in the fire severity zone. The regulations have no fiscal impact for other structures.

The WUI proposal will require a cap sheet under roof assemblies that contain an airspace. The 72-pound cap sheet sells for an average of \$21.00 to \$25.00 per 100-foot roll. The cap sheet which is used to achieve a "Class A" assembly for several different roofing mate-

rials. Taking the high cost of \$25.00 a roll, this comes out to \$0.25 per square foot.

Installation of the cap sheet material would add about \$10.00 per roll or \$0.10 per foot cost. Total installation would be \$0.35 per foot or \$35.00 per square foot. A 1,500-square foot, one-story house would cost \$525.

The WUI workgroup proposal will require vents to be listed to ASTM E2886 for new structures that are built in the areas that have been identified as a Fire Severity Zone.

The cost for the vents would be \$20 to \$25 per vent. This would add an additional cost of approximately \$600 for a 2,000-square foot structure. This can vary based on the design of the structure's exterior venting.

The WUI workgroup proposal would require flashing installed at the wall and deck intersection; covering six inches above the deck on the wall. The cost of flashing is approximately .80 cents a foot. A 20-foot deck would add an additional \$16 in materials.

SFM Elevator Workgroup

The SFM elevator workgroup proposal will require venting for smoke, temperature and humidity control. The requirements for venting were previously in the 2012 model code, but were removed in the 2015 edition. There is a cost for the installation of venting. The cost is absorbed or neutral because the equipment manufacture listing requires the temperature and humidity standards to be met for their warranty.

The cost of forecasting for the venting at the beginning of construction is more cost-effective than having to add the venting later to meet the equipment standards. This is also more effective than voiding the manufacturer's warranty. The workgroup found the overall cost neutral because of the offsetting factors.

The SFM elevator workgroup proposal for medical emergency elevators will allow different elevators to meet the requirements. The costs are unknown, because they are based on a designer's ability to utilize different elevator systems to meet the specific building design and function.

Escape rooms

The escape room regulations were approved for the ICC 2021 edition of model codes. The proposal is to adopt these regulations in California early before the triennial adoption. The ICC proposals did identify that there could be an increase in the cost of construction.

The main cost will be standalone special amusement areas that exceed the 1,000 square feet that intentionally confound the egress path. The regulations will provide a fire protection system and detection system. The code does allow temporary systems and alternate means to address the life safety issues upon approval of the fire official. The cost can vary greatly based on the size and

the circumstances. It may add an additional cost that is minimum to several thousand dollars.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

Reference: Government Code Section
11346.5(a)(10).

The SFM has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The Tall Wood Building (TWB) proposals will create the opportunity for the increased use of mass timber. The use of mass timber can deliver significant cost savings. The cost of the materials is the same or higher. The time of construction at the site can be reduced by 20% and the on-site skilled labor is reduced. The regulations may create an increase in the demand for specialists, designers, and engineers in mass timber. They may also increase the demand for workers in manufacturing plants of mass timber if they are built in California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The Tall Wood Building proposals will create the opportunity for the increased use of mass timber. The use of mass timber can deliver significant cost savings. The cost of the materials is the same or higher. The time of construction at the site can be reduced by 20% and the on-site skilled labor is reduced. This may increase the mass timber manufacturers, designers, and construction firms in California.

C. The expansion of businesses currently doing business within the State of California.

The Tall Wood Building proposals will create the opportunity for the increased use of mass timber. This may create the increased use of wood products. Inversely, this may create a reduction in the traditional use of concrete and steel in construction.

This is new to the industry and the expanded use of mass timber is unknown and difficult to calculate for the 18-month effective period of analysis. The manufacturing of the product is currently done in other states. According to the Beck Group, as of 2018 there are five certified manufactures of Cross Laminated Timber (CLT) in the North America. This will provide the incentive to produce CLT in California, but it is unlikely to occur within the

18-month time frame. The proposals may create the opportunity for manufacturing to move into the state, but to what extent is unknown.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The SFM worked with various stakeholders to propose regulations that provide an acceptable level of fire and life safety. These proposals include standards for the protection from wildland fires; safety for the use and movement of hazardous materials; safe egress; protections for fire service personnel; worker and public safety in elevators

ESTIMATED COST OF COMPLIANCE OF
STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section
11346.5(a)(12).

The SFM Wildland Urban Interface workgroup (WUI) proposed regulations estimate an increase of approximately \$1,150 per structure that is built in the fire severity zone. The regulations have no fiscal impact for other structures.

The WUI proposal will require a cap sheet under roof assemblies that contain an airspace. The 72-pound cap sheet sells for an average of \$21.00 to \$25.00 per 100-foot roll. The cap sheet which is used to achieve a "Class A" assembly for several different roofing materials. Taking the high cost of \$25.00 a roll, this comes out to \$0.25 per square foot.

Installation of the cap sheet material would add about \$10.00 per roll or \$0.10 per foot cost. Total installation would be \$0.35 per foot or \$35.00 per square foot. A 1,500-square foot, one-story house would cost \$525.

The WUI workgroup proposal will require vents to be listed to ASTM E2886 for new structures that are built in the areas that have been identified as a Fire Severity Zone.

The cost for the vents would be \$20 to \$25 per vent. This would add an additional cost of approximately \$600 for a 2,000-square foot structure. This can vary based on the design of the structure's exterior venting.

The WUI workgroup proposal would require flashing installed at the wall and deck intersection; covering six inches above the deck on the wall. The cost of flashing is approximately .80 cents a foot. A 20-foot deck would add an additional \$16 in materials.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section
11346.5(a)(13).

The SFM has determined that no reasonable alternative considered by SFM or that has otherwise been iden-

tified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected small business than the proposed action, or would be more cost-effective to affected small business and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

SFM shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR
PROCEDURAL AND
ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Gregory Andersen, Chief of Code Development
CAL FIRE, Office of the State Fire Marshal
(916) 568-2915
Greg.andersen@fire.ca.gov

Crystal Sujeski, Deputy State Fire Marshal
III Specialist
Office of the State Fire Marshal, Code
Development and Analysis Division
(916) 568-2916
Crystal.sujeski@fire.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
STATE FIRE MARSHAL**

**REGARDING THE 2019 CALIFORNIA
RESIDENTIAL CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 2.5**

(SFM 02/19)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the State Fire Marshal's (SFM) office proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2.5. The State Fire Marshal is proposing building standards related to the 2019 intervening rulemaking code cycle.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-comments form](http://e-comments.dgs.ca.gov/BSC/e-comments) dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than **June 8, 2020**:

California Building Standards Commission
Attention: Mia Marvelli, Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The State Fire Marshal has proposed these building standards under the direct statutory authority to adopt, amend and or repeal rules and regulations for fire and life safety regulations.

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Sections 1250, 1569.72, 1569.78, 1568.02, 1502, 1597.44, 1597.45, 1597.46, 1597.54, 1597.65, 13108, 13108.5, 13113, 13113.5, 13114, 13143, 13132, 13132.7, 13132, 13133, 13135, 13143.2, 13143.6, 13146, 13210, 13211, 17921, 18928, 18949.2, 25500-25545, Government Code Section 51189, Education Code 17074.50 The

purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18928.

The proposed building standards are not within the exclusive jurisdiction of another agency.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code Section 13108(a).

The State Fire Marshal shall prepare and adopt building standards related to the means of egress, the installation of fire alarms and fire extinguishing systems in any state-owned building or in any state-occupied building.

Health and Safety Code Section 13113.

An automatic sprinkler system shall be installed in all 24-hour institutional type occupancies, and homes for the care of aged or senile persons.

Health and Safety Code Section 13113.5.

The State Fire Marshal Shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114(a).

The State Fire Marshal shall adopt regulations and standards to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state, and that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

Health and Safety Code Section 13132.

Every person, firm, or corporation maintaining or operating any facility for the care of the mentally handicapped shall file a statement with the fire authority having jurisdiction within five days of the admission or readmission of a patient stating that such patient is an ambulatory or a non-ambulatory person and enumerating the reasons for such classification. Such a statement shall also be filed for each existing patient within 30 days of the effective date of this section.

Any statement required to be filed pursuant to this section shall be certified as to its correctness by the person attending such patient.

It shall be unlawful for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. Any such act shall be in violation of this section and subject to the provisions of Section 13112.

Health and Safety Code Section 13132.7.

Mandates fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133(a).

The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, and residential care facilities for the elderly. These fire safety standards shall apply uniformly throughout the state.

Health and Safety Code Section 13135.

The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities based on whether the residents or patients of the facilities are non-ambulatory.

Health and Safety Code Section 13143.

Grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children’s nursery, children’s home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1(a).

The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.6(a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9(a).

The State Fire Marshal shall prepare, adopt, and submit building standards and other fire and life safety regulations establishing minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 17921(b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18928(a).

Requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18949.2(b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state’s fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state’s codes related to fire and life safety.

(c) The state’s fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state’s fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 2.5, 2019 California Residential Code with SFM amendments and additional building standards relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to update the 2019 California Residential Code (California Code of Regulations, Title 24, Part 2.5) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 International Residential Code and/or California Building Standards not addressed by the model code that are no longer necessary nor justified pursuant with Health and Safety Code 18930(a)(7).

Adopt and implement additional necessary amendments to the 2019 California Residential Code that address inadequacies of the 2018 International Residential Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2019 California Residential Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the annual code adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2018 International Residential Code and published as the 2019 California Residential Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Residential Code, establish and or maintain minimum requirements for the prevention of fire and panic for the protection of life and property against fire and panic in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of

regulation applicable to the amendments and building standards relating to the 2019 California Residential Code.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **No.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**
- E. Cost or savings in federal funding to the state: **No.**

Estimate: 0.

INITIAL DETERMINATION OF SIGNIFICANT
STATEWIDE ADVERSE ECONOMIC
IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(7).

If the agency makes an initial determination that the adoption of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The determination shall include the following:

- A. Identification of the types of businesses that would be affected.
New buildings in the Wildland Urban Interface area
- B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action.
N/A
- C. SFM has made an initial determination that the adoption of this regulation may have a significant adverse economic impact on businesses, including the ability of California businesses to compete in

other states. SFM has considered proposed alternatives that would lessen any adverse impact on business and invites you to submit proposals. Submissions may include the following considerations:

The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses.

Consolidation or simplification of compliance and reporting requirements for businesses.

The use of performance standards rather than prescriptive standards.

Exemption or partial exemption from the regulatory requirements for businesses.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

The SFM has assessed the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).
Wildland Urban Interface workgroup (WUI)

The SFM Wildland Urban Interface workgroup (WUI) proposed regulations estimate an increase of approximately \$1,150 per structure that is built in the fire severity zone. The regulations have no fiscal impact for other structures.

The WUI proposal will require a cap sheet under roof assemblies that contain an airspace. The 72-pound cap sheet sells for an average of \$21.00 to \$25.00 per 100-foot roll. The cap sheet which is used to achieve a "Class A" assembly for several different roofing materials. Taking the high cost of \$25.00 a roll, this comes out to \$0.25 per square foot.

Installation of the cap sheet material would add about \$10.00 per roll or \$0.10 per foot cost. Total installation would be \$0.35 per foot or \$35.00 per square foot. A 1,500-square foot, one-story house would cost \$525.

The WUI workgroup proposal will require vents to be listed to ASTM E2886 for new structures that are built in the areas that have been identified as a Fire Severity Zone.

The cost for the vents would be \$20 to \$25 per vent. This would add an additional cost of approximately \$600 for a 2,000-square foot structure. This can vary based on the design of the structure's exterior venting.

The WUI workgroup proposal would require flashing installed at the wall and deck intersection; covering six inches above the deck on the wall. The cost of flashing is approximately .80 cents a foot. A 20-foot deck would add an additional \$16 in materials.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The SFM has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The SFM did not identify a change in the number of jobs within the state.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The SFM did not identify a change in the number of businesses within the state.

C. The expansion of businesses currently doing business within the State of California.

The SFM workgroup identified that the use and manufacturing of Wildland Urban Interface (WUI) listed vents would increase to meet a larger demand.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The SFM worked with various stakeholders to propose regulations that provide an acceptable level of fire and life safety. These proposals include standards for the protection of structures from wildland fires and the residential use of energy storage systems.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

The SFM Wildland Urban interface workgroup (WUI) proposed regulations estimate an increase of ap-

proximately \$1,150 per structure that is built in the fire severity zone. The regulations have no fiscal impact for other structures.

The WUI proposal will require a cap sheet under roof assemblies that contain an airspace. The 72-pound cap sheet sells for an average of \$21.00 to \$25.00 per 100-foot roll. The cap sheet which is used to achieve a "Class A" assembly for several different roofing materials. Taking the high cost of \$25.00 a roll, this comes out to \$0.25 per square foot.

Installation of the cap sheet material would add about \$10.00 per roll or \$0.10 per foot cost. Total installation would be \$0.35 per foot or \$35.00 per square foot. A 1,500-square foot, one-story house would cost \$525.

The WUI workgroup proposal will require vents to be listed to ASTM E2886 for new structures that are built in the areas that have been identified as a Fire Severity Zone.

The cost for the vents would be \$20 to \$25 per vent. This would add an additional cost of approximately \$600 for a 2,000-square foot structure. This can vary based on the design of the structure's exterior venting.

The WUI workgroup proposal would require flashing installed at the wall and deck intersection; covering six inches above the deck on the wall. The cost of flashing is approximately .80 cents a foot. A 20-foot deck would add an additional \$16 in materials.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

SFM has determined that no reasonable alternative considered by SFM or that has otherwise been identified and brought to the attention of SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and

initial statement of reasons can be accessed from the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

SFM shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Gregory Andersen, Chief of Code Development
CAL FIRE, Office of the State Fire Marshal
(916) 568-2915
Greg.andersen@fire.ca.gov

Crystal Sujeski, Deputy State Fire Marshal
III Specialist
Office of the State Fire Marshal, Code Development and Analysis Division
(916) 568-2916
Crystal.sujeski@fire.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE STATE FIRE MARSHAL

REGARDING THE 2019 CALIFORNIA FIRE CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9

(SFM 04/19)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 9. The SFM is proposing building standards related to the 2019 intervening rulemaking code cycle.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020, until 5:00 p.m. on June 8, 2020.**

Comments may be submitted to CBSC via:

[e-comments form](https://www.dgs.ca.gov/BSC/e-comments) [dgs.ca.gov/BSC/e-comments](https://www.dgs.ca.gov/BSC/e-comments)

US Mail postmarked no later than **June 8, 2020:**

California Building Standards Commission
Attention: Mia Marvelli, Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The State Fire Marshal has proposed these building standards under the direct statutory authority to adopt, amend and or repeal rules and regulations for fire and life safety regulations.

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Sections 1250, 1569.72, 1569.78, 1568.02, 1502, 1597.44, 1597.45, 1597.46, 1597.54, 1597.65, 13108, 13108.5, 13113, 13113.5, 13114, 13143, 13132, 13132.7, 13132, 13133, 13135, 13143.2, 13143.6, 13146, 13210, 13211, 17921, 18928, 18949.2, 25500-25545, Government Code Section 51189, Education Code 17074.50. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18928.

The proposed building standards are not within the exclusive jurisdiction of another agency.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code Section 13108(a).

The State Fire Marshal shall prepare and adopt building standards related to the means of egress, the installation of fire alarms and fire extinguishing systems in any state-owned building or in any state-occupied building.

Health and Safety Code Section 13113.

An automatic sprinkler system shall be installed in all 24-hour institutional type occupancies, and homes for the care of aged or senile persons.

Health and Safety Code Section 13113.5.

The State Fire Marshal shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114(a).

The State Fire Marshal shall adopt regulations and standards to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state, and that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

Health and Safety Code Section 13132.

Every person, firm, or corporation maintaining or operating any facility for the care of the mentally handicapped shall file a statement with the fire authority having jurisdiction within five days of the admission or readmission of a patient stating that such patient is an ambulatory or a non-ambulatory person and enumerating the reasons for such classification. Such a statement shall also be filed for each existing patient within 30 days of the effective date of this section.

Any statement required to be filed pursuant to this section shall be certified as to its correctness by the person attending such patient.

It shall be unlawful for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. Any such act shall be in violation of this section and subject to the provisions of Section 13112.

Health and Safety Code Section 13132.7.

Mandates fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133(a).

The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, and residential care facilities for the elderly. These fire safety standards shall apply uniformly throughout the state.

Health and Safety Code Section 13135.

The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities based on whether the residents or patients of the facilities are non-ambulatory.

Health and Safety Code Section 13143.

Grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life

and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1(a).

The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.6(a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9(a).

The State Fire Marshal shall prepare, adopt, and submit building standards and other fire and life safety regulations establishing minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 17921(b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18928(a).

Requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18949.2(b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state’s fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state’s codes related to fire and life safety.

(c) The state’s fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state’s fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 9, 2019 California Fire Code with SFM amendments and additional building standards relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to update the 2019 California Fire Code (California Code of Regulations, Title 24, Part 9) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 International Fire Code and/or California Building Standards not addressed by the model code that are no longer necessary nor justified pursuant with Health and Safety Code 18930(a)(7).

Adopt and implement additional necessary amendments to the 2019 California Fire Code that address inadequacies of the 2018 International Fire Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2019 California Fire Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the annual code adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2018 International Fire Code and published as the 2019 California Fire Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Fire Code, establish and or maintain minimum requirements for the prevention of fire and panic for the protection of life and property against fire and panic in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

**OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY OR
TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

Reference: Government Code Section 11346.5(a)(4).
The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2019 California Fire Code.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

Reference: Government Code Section 11346.5(a)(5).
SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **No.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**
- E. Cost or savings in federal funding to the state: **No.**

Estimate: 0.

INITIAL DETERMINATION OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(7).

If the agency makes an initial determination that the adoption of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The determination shall include the following:

- A. Identification of the types of businesses that would be affected. Business that build and operate escape rooms.
B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action. None.
C. SFM has made an initial determination that the adoption of this regulation may have a significant adverse economic impact on businesses, including the ability of California businesses to compete in other states. SFM has considered proposed alternatives that would lessen any adverse impact on business and invites you to submit proposals. Submissions may include the following considerations:
The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses.
Consolidation or simplification of compliance and reporting requirements for businesses.
The use of performance standards rather than prescriptive standards.
Exemption or partial exemption from the regulatory requirements for businesses.

FINDING OF NECESSITY FOR THE PUBLIC’S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

The SFM has assessed the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for

the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9). Tall Wood Building (TWB)

The Tall Wood Building (TWB) proposed regulations do not mandate the use of the three new Type IV construction categories. The proposal only recognizes their use as a design option. Therefore, there is no cost increase to industry.

The use of mass timber possibly will deliver significant cost savings to construction due to the cost of materials, the period of project construction timelines and a possible reduction by 20% by on-site skilled labor.

Wildland Urban Interface workgroup (WUI)

The SFM Wildland Urban Interface workgroup (WUI) proposed regulations estimate an increase of approximately \$1,150 per structure that is built in the fire severity zone. The regulations have no fiscal impact for other structures.

The WUI proposal will require a cap sheet under roof assemblies that contain an airspace. The 72-pound cap sheet sells for an average of \$21.00 to \$25.00 per 100-foot roll. The cap sheet which is used to achieve a “Class A” assembly for several different roofing materials. Taking the high cost of \$25.00 a roll, this comes out to \$0.25 per square foot.

Installation of the cap sheet material would add about \$10.00 per roll or \$0.10 per foot cost. Total installation would be \$0.35 per foot or \$35.00 per square foot. A 1,500-square foot, one-story house would cost \$525.

The WUI workgroup proposal will require vents to be listed to ASTM E2886 for new structures that are built in the areas that have been identified as a Fire Severity Zone.

The cost for the vents would be \$20 to \$25 per vent. This would add an additional cost of approximately \$600 for a 2,000-square foot structure. This can vary based on the design of the structure’s exterior venting.

The WUI workgroup proposal would require flashing installed at the wall and deck intersection; covering six inches above the deck on the wall. The cost of flashing is approximately .80 cents a foot. A 20-foot deck would add an additional \$16 in materials.

SFM Elevator Workgroup

The SFM elevator workgroup proposal will require venting for smoke, temperature and humidity control. The requirements for venting were previously in the 2012 model code, but were removed in the 2015 edition. There is a cost for the installation of venting. The cost is absorbed or neutral because the equipment man-

ufacture listing requires the temperature and humidity standards to be met for their warranty.

The cost of forecasting for the venting at the beginning of construction is more cost-effective than having to add the venting later to meet the equipment standards. This is also more effective than voiding the manufacturer's warranty. The workgroup found the overall cost neutral because of the offsetting factors.

The SFM elevator workgroup proposal for medical emergency elevators will allow different elevators to meet the requirements. The costs are unknown, because they are based on a designer's ability to utilize different elevator systems to meet the specific building design and function.

Escape rooms

The escape room regulations were approved for the ICC 2021 edition of model codes. The proposal is to adopt these regulations in California early before the triennial adoption. The ICC proposals did identify that there could be an increase in the cost of construction.

The main cost will be standalone special amusement areas that exceed the 1,000 square feet that intentionally confound the egress path. The regulations will provide a fire protection system and detection system. The code does allow temporary systems and alternate means to address the life safety issues upon approval of the fire official. The cost can vary greatly based on the size and the circumstances. It may add an additional cost that is minimum to several thousand dollars.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The SFM has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The Tall Wood Building (TWB) proposals will create the opportunity for the increased use of mass timber. The use of mass timber can deliver significant cost savings. The cost of the materials is the same or higher. The time of construction at the site can be reduced by 20% and the on-site skilled labor is reduced. The regulations may create an increase in the demand for specialists, designers, and engineers in mass timber. They may also increase the demand for workers in manufacturing plants of mass timber if they are built in California.

B. The creation of new businesses or the elimination of existing businesses within the

State of California.

The Tall Wood Building proposals will create the opportunity for the increased use of mass timber. The use of mass timber can deliver significant cost savings. The cost of the materials is the same or higher. The time of construction at the site can be reduced by 20% and the on-site skilled labor is reduced. This may increase the mass timber manufacturers, designers, and construction firms in California.

C. The expansion of businesses currently doing business within the State of California.

The Tall Wood Building proposals will create the opportunity for the increased use of mass timber. This may create the increased use of wood products. Inversely, this may create a reduction in the traditional use of concrete and steel in construction.

This is new to the industry and the expanded use of mass timber is unknown and difficult to calculate for the 18-month effective period of analysis. The manufacturing of the product is currently done in other states. According to the Beck Group, as of 2018 there are five certified manufactures of Cross Laminated Timber (CLT) in the North America. This will provide the incentive to produce CLT in California, but it is unlikely to occur within the 18-month time frame. The proposals may create the opportunity for manufacturing to move into the state, but to what extent is unknown.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The SFM worked with various stakeholders to propose regulations that provide an acceptable level of fire and life safety. These proposals include standards for the protection from wildland fires; safety for the use and movement of hazardous materials; safe egress; protections for fire service personnel; worker and public safety in elevators.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

The SFM did not identify and impact on housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

The SFM has determined that no reasonable alternative considered by the SFM or that has otherwise been

identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

Reference: Government Code Sections
11346.5(a)(16) and 11346.5(a)(20).

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: www.dgs.ca.gov/BSC.

Reference: Government Code Section
11346.5(a)(21).

SFM shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

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ADMINISTRATIVE QUESTIONS**

Reference: Government Code Section
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Gregory Andersen, Chief of Code Development
CAL FIRE, Office of the State Fire Marshal
(916) 568-2915
Greg.andersen@fire.ca.gov

Crystal Sujeski, Deputy State Fire Marshal
III Specialist
Office of the State Fire Marshal, Code
Development and Analysis Division
(916) 568-2916
Crystal.sujeski@fire.ca.gov

**OAL REGULATORY
DETERMINATION**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS**

**(Pursuant to Government Code Section 11340.5
and
Title 1, section 270, of the
California Code of Regulations)**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

**2020 OAL DETERMINATION NUMBER 3
(OAL MATTER NUMBER CTU2019-0930-01)**

REQUESTED BY: Daniel Acedo

CONCERNING: Department Operations
Manual Chapter 5, Article 21,
Section 52060.6, Scheduling of
Outside Telephone Calls;
Issued by the Department of
Corrections and Rehabilitation

**DETERMINATION ISSUED
PURSUANT TO
GOVERNMENT CODE
SECTION 11340.5.**

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of “regulation” as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of “regulation,” but was not adopted pursuant to the APA and should have been, it is

an “underground regulation” as defined in California Code of Regulations, title 1, section 250.¹

CHALLENGED RULE

The challenged rule was issued by the Department of Corrections and Rehabilitation (Department) and is contained in Chapter 5, Article 21, section 52060.6 of the Department Operations Manual (D.O.M.)². D.O.M. section 52060.6 establishes requirements for inmates scheduling outside telephone calls. It is attached as Exhibit A, hereafter referred to as D.O.M. section 52060.6.

DETERMINATION

OAL determines that D.O.M. section 52060.6 meets the definition of “regulation” that should have been adopted pursuant to the APA, but was not. D.O.M. section 52060.6 is therefore an underground regulation.

FACTUAL BACKGROUND

On September 30, 2019, Daniel Acedo (Petitioner) submitted a petition to OAL challenging D.O.M. section 52060.6 as an underground regulation. D.O.M. section 52060.6, issued by the Department, is a part of Chapter 5, Article 21, with a revision date of December 14, 2012.

OAL accepted the petition for consideration on December 2, 2019. The petition was published in the California Regulatory Notice Register on December 13, 2019. Comments from the public were solicited until January 13, 2020. OAL did not receive any comments. A response to the petition from the Department was due no later than January 27, 2020. No response was received from the Department.

D.O.M. section 52060.6 is titled “Scheduling of Outside Telephone Calls,” and provides the following:

Telephone sign-up sheets covering seven days will be maintained and logged weekly. Sign-up sheets shall be divided in 15 minute increments. Sign-ups for inmate telephone calls will be accepted during program hours on second and third watch only.

¹ As defined by title 1, section 250(a),

“Underground regulation means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.”

² The challenged rule attached as Exhibit A was taken from the Department’s website at: <https://www.cdcr.ca.gov/regulations/cdcr-regulations/dom-toc/> on, or about, December 2, 2019.

- Inmates must present their identification card to sign up.
- Inmates may not sign up for a call time slot during their work/training hours.

If an inmate fails to appear for the call at the designated time, the next scheduled caller will be allowed to place their call or the telephone will remain vacant.

Inmates shall not, under any circumstances, charge phone calls to credit cards or place third party calls.

Inmates shall not declare an Emergency Interruption to the telephone operator when placing telephone calls.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of “regulation” as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA (Gov. Code sec. 11340(b)). An OAL determination is entitled to “due deference” in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422 [268 Cal.Rptr. 244].

ANALYSIS

OAL’s authority to issue a determination extends only to the limited question of whether the challenged rule is a “regulation” subject to the APA. This analysis will determine (1) whether the challenged rule is a “regulation” within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls

within any recognized exemption from APA requirements.

A regulation is defined in Government Code section 11342.600 as:

... every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186], the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency’s procedure (Gov. Code, § 11342, subd. (g)).³

As stated in *Tidewater*, the first element used to identify a “regulation” is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the State of California. It is sufficient if the rule applies to a clearly defined class of persons or situations.⁴

D.O.M. Chapter 5, Article 21 is titled “Inmate Use of Telephones.” Article 21 was adopted to provide inmates with “the means and the opportunity to make personal calls to persons outside of the institutions/facilities of the Department.” (D.O.M. § 52060.1.) Article 21 establishes “procedures in the use of intrainstitution/intrafacility telephones for business purposes, authorizing confidential phone calls between inmates and their attorneys of record, and the use of public telephones for personal calls by inmates.” (D.O.M. § 52060.2.) D.O.M. section 52060.6, therefore, applies to all inmates within the custody of the Department, and is a rule of general applicability.

The second element used to identify a “regulation” as stated in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency’s procedure.

³ Section 11342(g) was re-numbered in 2000 to section 11342.600 without substantive change.

⁴ See also *Roth v. Department of Veterans Affairs*, (1980) 110 Cal.App.3d 14, 19; 167 Cal.Rptr. 552, 557.

Penal Code section 5054 specifically provides that the care and custody of inmates, as well as the management and control of state prisons, is vested in the Secretary of the Department. It states:

Commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation.

The Secretary, through the use of the D.O.M., is implementing, interpreting and making specific the duties delegated to the Secretary pursuant to section 5054 of the Penal Code when managing how inmates schedule outside telephone calls.

Title 15, Sections 3018, 3044, and 3282 set forth guidelines for telephone use by inmates, including frequency and limitations on types of calls, but these sections do not detail requirements for scheduling telephone calls for all inmates. D.O.M. section 52060.6 provides further details for scheduling telephone calls that are not in the regulations, such as maintaining telephone sign-up sheets, designating times when sign-ups will be accepted, requiring the presentation of identification in order to sign-up, and consequences if an inmate fails to appear for their designated call time, among other things. Therefore, D.O.M. section 52060.6 further implements, interprets, and makes specific those provisions of law.

D.O.M. section 52060.6, therefore, meets the definition of “regulation” in Government Code section 11342.600.

The final issue to examine is whether the challenged rule falls within an express statutory exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rule-making agency or a specific program. Pursuant to Government Code section 11346, the procedural requirements established in the APA “shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly.*” (Emphasis added.)

The Department has not identified an express statutory exemption from the APA that would apply to D.O.M. section 52060.6, nor did OAL find such an exemption.

CONCLUSION

In accordance with the above analysis, OAL determines that D.O.M. section 52060.6 meets the definition of “regulation” that should have been adopted pursuant to the APA.

Date: April 13, 2020

/s/
Amy R. Gowan
Attorney

For: Kenneth J. Pogue
Director

Copy: Ying Sun
Department of Corrections and Rehabilitation
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SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2020-0228-03
DEPARTMENT OF FOOD AND AGRICULTURE
Fertilizing Materials Violations Matrix

The Department of Food and Agriculture proposed this action to amend 11 regulations that address fertilizer materials labeling, including labeling of agricultural minerals, auxiliary soil and plant substances, commercial fertilizers, soil amendments, specialty fertilizers, and organic input materials, labeling registration and record keeping, and related administrative penalties for violations of statutes in the Food and Agricultural Code and regulations in title 3 of the California Code of Regulations.

Title 3
AMEND: 2300.1, 2303, 2304, 2308, 2315, 2318, 2322, 2322.1, 2322.2, 2322.3, 2323
Filed 04/13/2020
Effective 04/13/2020
Agency Contact: Nick Young (909) 266-7994

File# 2020-0302-01
DEPARTMENT OF JUSTICE
Amendment of Health Facilities Regulation

Nonprofit corporations that operate or control a health facility are required to provide written notice to, and obtain the approval of, the Attorney General prior to entering into any agreement or transaction to sell,

transfer, lease, exchange, option, convey, or otherwise dispose of a material amount of its assets, or transfer control, responsibility, or governance of a material amount of its assets. In this regular rulemaking, the Department of Justice is amending this review and approval process in response to statutory changes made in Assembly Bill 651 (2017–2018 Reg. Sess.).

Title 11
AMEND: 999.5
Filed 04/08/2020
Effective 07/01/2020
Agency Contact: Julia Zuffelato (916) 210–6040

File# 2020–0304–01
DEPARTMENT OF JUSTICE
Department of Motor Vehicles Bond Form

This action, submitted by the Department of Justice pursuant to Government Code section 11343.8, is a request to file and print the amended bond form of the Department of Motor Vehicles titled, “Traffic Violator School (TVS) Owner Surety Bond”.

Title 11
AMEND: 51.15
Filed 04/13/2020
Effective 04/13/2020
Agency Contact: Cara M. Porter (415) 510–3508

File# 2020–0303–01
FAIR EMPLOYMENT AND HOUSING COUNCIL
Religious Creed and Age Discrimination

This action clarifies what constitutes employment discrimination based on religious creed or age by including examples of disparate impacts and providing details regarding pre–employment inquiries, job applications, and advertisements.

Title 2
AMEND: 11016, 11063, 11075, 11076, 11078, 11079
Filed 04/14/2020
Effective 07/01/2020
Agency Contact: Brian Sperber (213) 337–4495

File# 2020–0228–02
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
Permit Application Fees

This action by the San Francisco Bay Conservation and Development Commission (Commission) revises the fees for permit applications submitted to the Commission.

Title 14
AMEND: Division 5, Appendix M
Filed 04/13/2020
Effective 07/01/2020
Agency Contact: Marc Zeppetello (415) 352–3655

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit www.oal.ca.gov.