



California Regulatory Notice Register

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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 2. FAIR POLITICAL
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY:

Santa Cruz–Monterey–Merced Managed
Medical Care Commission dba Central
California Alliance for Health

A written comment period has been established commencing on May 28, 2021 and closing on July 12, 2021. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return

the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than July 12, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING
COSTS AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

ANIMAL CONFINEMENT

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person beginning **May 28, 2021 and ending on July 12, 2021**. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 25993 of the Health and Safety Code (HSC), the Department is proposing to implement, interpret, or make specific the requirements relating to the confinement of egg-laying hens, veal calves, and breeding pigs, and/or selling specified whole veal meat, whole pork meat, shell eggs, and liquid eggs in California in accordance with sections 25990, 25991, 25992, 25993.1, and 25994 of the HSC, as described in the Informative Digest.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

In 2018, California voters passed Proposition 12, Farm Animal Confinement Initiative, self-titled as the Prevention of Cruelty to Farm Animals Act, and as defined in the proposed regulatory text, the Farm Animal Cruelty statute (Act), which amended the requirements of HSC sections 25990 through 25993 and added section 25993.1; section 25994 remained unchanged. The purpose of the Act is to prevent animal cruelty by phasing out certain methods of farm animal confinement for covered animals raised in the State and the products harvested from those animals, or immediate offspring of those animals in the case of breeding pigs, if sold within the State for human consumption. The Act mandates farm animal confinement standards and compliance timeframes, establishes definitions affecting the production and sale of shell eggs, liquid eggs, whole veal meat, and whole pork meat in the State, and directs the Department and the Department of Public Health (DPH) to jointly promulgate regulations to implement the provisions of the HSC relating to the confinement of specified farm animals and the sale of specified products derived from them.

In this rulemaking, the Department proposes to adopt new Chapter 10 (commencing with section 1320) of Division 2 of Title 3 of the California Code of Regulations (CCR) to implement, interpret, and make specific the laws established by the Act. Specifically, this proposal would establish a program of registration, certification, conveyance inspection, and labeling and marking requirements for the sale of shell eggs, liquid eggs, whole veal meat, and whole pork meat in the State which is necessary to fully effectuate the intent of the Act.

Existing law, section 25990(a) of the HSC specifies that a farm owner or operator within the State of California shall not knowingly cause any covered animal to be confined in a cruel manner.

Existing law, section 25990(b) of the HSC specifies that a business owner or operator shall not knowingly engage in the sale within the State of any of the following: (1) Whole veal meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner; (2) Whole pork meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner, or is the meat of immediate offspring of a covered animal who was confined in a cruel manner; (3) Shell eggs that the business owner or operator knows or should know is the product of a covered animal who was confined in a cruel manner; (4) Liquid eggs that the business owner or operator knows or should know

are the product of a covered animal who was confined in a cruel manner.

Existing law, section 25991(a) of the HSC defines “breeding pig” as meaning any female pig of the porcine species kept for the purpose of commercial breeding who is six (6) months or older or pregnant.

Existing law, section 25991(b) of the HSC defines a “business owner or operator” to mean any person who owns or controls the operations of a business.

Existing law, section 25991(c) of the HSC defines a “cage-free housing system” for egg-laying hens including types of qualifying platforms and flooring systems and describes different acceptable hen housing systems that must include the minimum requirements for enrichments such as scratch areas, perches, nest boxes, and dust bathing areas as well as the ability of an employee to fully stand and provide care while working in the hens’ usable floorspace.

Existing law, section 25991(d) of the HSC defines a “calf raised for veal” to mean any calf of the bovine species kept for the purpose of producing the food product described as veal.

Existing law, section 25991(e) of the HSC defines acts that mean an animal was “confined in a cruel manner” including, but not limited to, confining a calf raised for veal with less than 43 square feet of usable floorspace per calf after December 31, 2019; confining a breeding pig with less than 24 square feet of usable floorspace per pig after December 31, 2021; confining an egg-laying hen with less than 144 square inches of usable floorspace per hen after December 31, 2019; and confining an egg-laying hen with less than the amount of usable floorspace per hen required by the 2017 edition of the United Egg Producers’ Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing or in an enclosure other than a cage-free system after December 31, 2021.

Existing law, section 25991(f) of the HSC defines a “covered animal” as meaning any calf raised for veal, breeding pig, or egg-laying hen who is kept on a farm.

Existing law, section 25991(g) of the HSC defines an “egg-laying hen” as meaning any female domesticated chicken, turkey, duck, goose, or guineafowl kept for the purpose of egg production.

Existing law, section 25991(h) of the HSC defines “enclosure” as meaning a structure used to confine a covered animal or animals.

Existing law, section 25991(i) of the HSC defines “farm” as meaning the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food or fiber; and does not include live animal markets, establishments at which mandatory inspection is provided under the Federal Meat Inspection Act (21 U.S.C. Sec. 601 et

seq.), or official plants at which mandatory inspection is maintained under the federal Egg Products Inspection Act (21 U.S.C. Sec. 1031 et seq.).

Existing law, section 25991(j) of the HSC defines “farm owner or operator” as meaning any person who owns or controls the operations of a farm.

Existing law, section 25991(k) of the HSC defines “fully extending the animal’s limbs” as meaning fully extending all limbs without touching the side of an enclosure, or another animal.

Existing law, section 25991(l) of the HSC defines “liquid eggs” as meaning eggs of an egg-laying hen broken from the shells, intended for human food, with the yolks and whites in their natural proportions, or with the yolks and whites separated, mixed, or mixed and strained. Liquid eggs do not include combination food products, including pancake mixes, cake mixes, cookies, pizzas, cookie dough, ice cream, or similar processed or prepared food products, that are comprised of more than liquid eggs, sugar, salt, water, seasoning, coloring, flavoring, preservatives, stabilizers, and similar food additives.

Existing law, section 25991(m) of the HSC defines a “person” as meaning any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate.

Existing law, section 25991(n) of the HSC defines “pork meat” as meaning meat, as defined in 3 CCR 900 as of August 2017, of a pig of the porcine species, intended for use as human food.

Existing law, section 25991(o) of the HSC defines “sale” as meaning a commercial sale by a business that sells any item covered by this chapter, but does not include any sale undertaken at an establishment at which mandatory inspection is provided under the Federal Meat Inspection Act (21 U.S.C. Sec. 601 et seq.), or any sale undertaken at an official plant at which mandatory inspection is maintained under the federal Egg Products Inspection Act (21 U.S.C. Sec. 1031 et seq.). For purposes of this section, a sale shall be deemed to occur at the location where the buyer takes physical possession of an item covered by HSC section 25990.

Existing law, section 25991(p) of the HSC defines “shell egg” as meaning a whole egg of an egg-laying hen in its shell form, intended for use as human food.

Existing law, section 25991(q) of the HSC defines “turning around freely” as meaning turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure or another animal.

Existing law, section 25991(r) of the HSC defines “uncooked” as meaning requiring cooking prior to human consumption.

Existing law, section 25991(s) of the HSC defines “usable floorspace” as meaning the total square

footage of floorspace provided to each covered animal, as calculated by dividing the total square footage of floorspace provided to the animals in an enclosure by the number of animals in that enclosure. In the case of egg-laying hens, usable floorspace shall include both ground space and elevated level flat platforms upon which hens can roost but shall not include perches or ramps.

Existing law, section 25991(t) of the HSC defines “veal meat” as meaning meat, as defined in 3 CCR 900 as of August 2017, of a calf raised for veal intended for use as human food.

Existing law, section 25991(u) of the HSC defines “whole pork meat” as meaning any uncooked cut of pork, including bacon, ham, chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin, or cutlet, that is comprised entirely of pork meat, except for seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives. Whole pork meat does not include combination food products, including soups, sandwiches, pizzas, hotdogs, or similar processed or prepared food products, that are comprised of more than pork meat, seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives.

Existing law, section 25991(v) of the HSC defines “whole veal meat” as meaning any uncooked cut of veal, including chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin, or cutlet, that is comprised entirely of veal meat, except for seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives. Whole veal meat does not include combination food products, including soups, sandwiches, pizzas, hotdogs, or similar processed or prepared food products, that are comprised of more than veal meat, seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives.

Existing law, section 25992 of the HSC specifies the exceptions to the provisions of Chapter 13.8 of Division 20 of the HSC, including during medical research; during examination, testing, individual treatment, or operation for veterinary purposes; during transportation; during rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions; during slaughter; for a breeding pig during the five (5) day period prior to her farrowing date and while she is nursing piglets; and during temporary periods of no more than six (6) hours in a 24-hour period and no more than 24 hours total in any 30-day period.

Existing law, section 25993(a) of the HSC specifies that the Department and DPH shall jointly promulgate rules and regulations for the implementation of these provisions by September 1, 2019.

Existing law, sections 25993(b) and (c) specify that a violation of any of the provisions of Chapter 13.8 of Division 20 of the HSC is a misdemeanor and punishable

by a fine not to exceed \$1,000 or by imprisonment in the county jail for a period not to exceed 180 days or by both, and that provisions of the chapter supersede any conflicting regulations, including those in Chapter 6 (commencing with section 40601) of Subdivision 6 of Division 2 of Title 22 of the CCR.

Existing law, section 25993.1 of the HSC specifies that it shall be a defense to any action to enforce section 25990(b) that a business owner or operator relied in good faith upon a written certification by a supplier that the whole veal meat, whole pork meat, shell eggs, or liquid eggs at issue was not derived from a covered animal confined in a cruel manner, or from the immediate offspring of a breeding pig who was confined in a cruel manner.

Existing law, section 25994 of the HSC specifies that the provisions of the chapter are in addition to, and not in lieu of, any other laws protecting animal welfare, including the California Penal Code, and shall not be construed to limit any state law or regulations protecting the welfare of animals, nor prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

Existing regulations in 3 CCR section 1350 (Shell Egg Food Safety) specify the minimum cage size requirements for egg producers and egg handlers, as defined by Food and Agricultural Code (FAC) section 27510, for marketing unpasteurized shell eggs in California. The Egg Safety and Quality Management (ESQM) program ensures eggs have been properly handled, labeled, transported, and refrigerated by inspecting eggs at production, packing, distribution, and retail facilities; and are wholesome and safe to eat. However, ESQM program regulations do not exist to implement the scope of animal confinement provisions mandated by the Act for egg-laying hens. The intent of the ESQM program’s section 1350 regulations is to prevent the occurrence of *Salmonella enterica* serotype Enteritidis (SE) contamination of shell eggs at production and to prevent SE contaminated shell eggs from being marketed to California consumers.

Regulations do not exist for the confinement of veal calves and breeding pigs, or the covered products of whole veal meat and whole pork meat as mandated by the Act.

Therefore, the Department is proposing to adopt new Chapter 10 (commencing with section 1320), of Division 2, of Title 3 of the CCR to specify the requirements for persons housing egg-laying hens, veal calves, and breeding pigs, and/or selling specified whole veal meat, whole pork meat, shell eggs, and liquid eggs in the State in accordance with sections 25990, 25991, and 25993 of the HSC.

Anticipated Benefits of the Proposal: This proposal would establish a regulatory framework for purposes of implementation of the provisions of the Act as

mandated by section 25993 of the HSC. Effective implementation of the provisions specified in HSC sections 25990 through 25994 by adopting these regulations would benefit the objectives of the citizens of California that voted to approve the Proposition 12 initiative and the standards for animal confinement and prohibition of animal cruelty that it described. Egg, pork, and veal producers and distributors would benefit from this proposal because the Department is establishing compliance requirements for producing and selling covered products in the State in accordance with current law as specified in HSC sections 25990 through 25994 to ensure the orderly sale of covered products from covered animals not confined in a cruel manner regardless of their state or country of origin within California. This proposal does not directly impact human health and welfare of California residents, worker safety, or the State's environment, however the Department can infer that benefits accrue to Californians knowing that breeding pigs, veal calves, and egg-laying hens are raised with a minimum space requirement, which may be more space than covered animals previously were allotted. There are no quantitative studies that document or measure the effect of confinement covered animals according to the standards outlined in the Act for people in California. The proposed regulations are necessary to implement animal confinement requirements and sale of the covered products pursuant to HSC sections 25990, 25991 and 25993.

Comparable Federal Regulations/Mandated by Federal Law or Regulations: This proposal is not mandated by federal law or regulations and does not duplicate or conflict with any federal regulations because there are no federal regulations governing farm animal confinement requirements if the products from specified animals are marketed to California consumers.

Consistency and Compatibility with Existing State Regulations: The Department has evaluated this proposal and believes that it is not inconsistent or incompatible with existing State regulations. The intent is to conform the Department's regulations relating to marketing shell eggs, liquid eggs, whole veal meat, and whole pork meat in California to HSC sections 25990 and 25991. Existing regulations in 3 CCR section 1350 (Shell Egg Food Safety) specify the minimum cage size requirements for egg producers and egg handlers, as defined as defined by FAC section 27510, for marketing unpasteurized shell eggs in California. The Egg Safety and Quality Management (ESQM) program ensures shell eggs have been properly handled, labeled, transported, and refrigerated by inspecting eggs at production, packing, distribution, and retail facilities; and are wholesome and safe to eat. The intent of the ESQM

program's section 1350 regulations is based on food safety to prevent the occurrence of Salmonella enterica serotype Enteritidis (SE) contamination of shell eggs at production and to prevent SE contaminated shell eggs from being marketed to California consumers. Regulations do not exist for the confinement of veal calves and breeding pigs, or the covered products of whole veal meat and whole pork meat as mandated by the Act.

Forms Incorporated by Reference: None.

Technical, Theoretical, and Empirical Study, Report, or Similar Documents (Materials Relied Upon):

- California Proposition 12, Farm Animal Confinement Initiative (2018)
- United Egg Producers, Animal Husbandry Guidelines for U.S. Egg-Laying Flocks, Guideline for Cage-Free Housing, 2017 Edition
- Federal Meat Inspection Act (21 U.S.C. 601 et seq.)
- Egg Products Inspection Act (21 U.S.C. 1031 et seq.)
- California Code of Regulations, Title 3 section 900
- California Code of Regulations, Title 3 section 1350
- Food and Agricultural Code section 27510
- CDFA Workshop to Discuss CA Proposition 12: Farm Animal Confinement Initiative (2018), February 22, 2019, Sacramento, CA
- Sumner, D.A., Goldstein, R., Hart, J.D., Lee, H., Matthews, W.A., & Medellin-Asuara, J. (2020). *Standardized regulatory impact assessment of proposed regulations to implement proposition 12*. University of California, Davis, UC Agricultural Issues, and California Department of Food and Agriculture
- California Department of Public Health, Food and Drug Branch, Memo dated November 13, 2020
- CDFA State Organic Program (FAC sections 46000–46029 and 3 CCR sections 1391–1391.7)
- USDA, Agricultural Marketing Service, National Organic Program (7 CFR Part 205)
- Internal Revenue Code (26 U.S.C. 501(c)(3))
- Health and Safety Code section 113758
- USDA, Food Safety Inspection Service, Meat, Poultry and Egg Product Inspection Directory, Legend for Establishment Numbers
- Code of Federal Regulations, Title 21, Part 172 sections 172.510 and 172.515(b), Part 182 sections 182.10, 182.20, 182.40, and 182.50, and Part 184
- Health and Safety Code section 113789
- Health and Safety Code section 109947

- Code of Federal Regulations, Title 21, Part 160
- Code of Federal Regulations, Title 21, Part 101 section 101.3
- United States Constitution, Title 21, Part 343 section 403, Code of Federal Regulations, Title 9 section 590.5, Health and Safety Code section 109992, and Food and Agricultural Code section 27519.6
- Health and Safety Code section 110460
- Code of Federal Regulations, Title 9, Part 424 section 424.21(c)
- USDA, Institutional Meat Purchase Specifications: Fresh Veal Series 300 (November 2014)
- 2014 Uniform Retail Meat Industry Standards
- Code of Federal Regulations Title 9, Part 317 section 317.2(1) and Part 381 section 381.125(b)
- USDA, Institutional Meat Purchase Specifications: Fresh Pork Series 400 (November 2014)
- Code of Federal Regulations, Title 21, Part 530 section 530.3(i)
- Code of Federal Regulations, Title 3, Part 2 section 2.31
- Economic and Fiscal Impact Statement STD 399 with Attachment

LOCAL MANDATE

There will be no local mandate.

COST OR SAVINGS TO STATE AGENCIES (FISCAL IMPACTS)

The Act mandates farm animal confinement standards and compliance timeframes, establishes definitions affecting the production and sale of shell eggs, liquid eggs, whole veal meat, and whole pork meat in the State, and directs the Department and the DPH to jointly promulgate regulations to implement the provisions of the HSC relating to the confinement of specified farm animals and the sale of specified products derived from them. Details of the estimated fiscal impacts discussed below can be found in the Department's Standardized Regulatory Impact Assessment (SRIA) and appendix.

Department. The total annual agency budget for Fiscal Year (2020–21) equals approximately \$3.53 million. The Department estimates the total annual fiscal costs for Fiscal Years (2021–22) and (2022–23) to each equal approximately \$4.94 million.

Pursuant to the Act, the Department's proposed regulations describe a program to implement prohibitions on the sale of shell eggs, liquid eggs, whole veal meat, and whole pork meat derived from cruelly confined animals so Californians can

have confidence that the products they purchase come only from sources that meet specified animal housing standards, as described. Specifically, this proposal would establish a program of registration, certification, conveyance inspection, and labeling and marking requirements for the sale of shell eggs, liquid eggs, whole veal meat, and whole pork meat in the State which is necessary to fully effectuate the intent of the Act.

Schools. Schools in California serve free or reduced-price meals to needy children with funding from the State Meal Program that includes state and federal dollars. In the 2018–2019 school year a total of 288 million breakfasts and 536 million lunches were provided to school children. Eggs and pork are components in these meals and the costs of these covered products will increase after January 1, 2022 when the full standards go into effect. In total, it is expected State costs for school meals to increase by \$1.84 million in the first full school year after egg-laying hen and breeding pig confinement standards move to cage-free and twenty-four square feet, respectively.

Colleges and universities. The economic impact on the operating costs of California state colleges and universities is accounted for in meal plan fees to participating students living on campus. The costs to the State of California from the increase in meal plan fees is the State expenditure to fund meal plans for students on state-subsidized scholarships which include coverage of room and board fees. The State costs for student meal plan subsidy is \$1.32 million for the first full academic year after January 1, 2022 when animal confinement minimum standards go into full effect due to an increase in food costs.

State prisons. California's state prison population is projected to remain at about 117 thousand people for the next several years when animal confinement minimum standards go into full effect after January 1, 2022. (California Department of Corrections and Rehabilitation 2020). An increase in the price of shell eggs, liquid eggs, and whole pork meat would increase the total costs of meals for the state prisons by about \$4.68 million per year.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

Cost to local governments will not be reimbursed by the State.

OTHER NON-DISCRETIONARY COST OR SAVINGS IMPOSED ON LOCAL AGENCIES

The Department's regulations do not require additional expenditures by local governments; however, local agencies may incur costs. Fiscal impact on local governments will begin when the second deadline of animal confinement minimum standards go into effect January 1, 2022 for whole pork meat, shell eggs, and liquid eggs due to the increase in the cost of these foods sold in California. Whole veal meat is not included in this impact to local agencies because it is not purchased by the impacted local governments. This cost to local governments will not be reimbursed by the State.

County jails. California county jail population totaled around 73,000 inmates in 2018 and 2019. (California Board of State and Community Corrections August 25, 2020 report). Beginning in 2022, an annual total cost for county jails of about \$2.92 million due to increase in costs of shell egg, liquid egg, and whole pork meat due to full implementation of animal confinement standards as outlined in statutes.

COST OR SAVINGS IN
FEDERAL FUNDING TO STATE

None.

DETERMINATION OF ANTICIPATED
BUSINESS IMPACT

The Department has made an initial determination that this regulatory proposal will impact egg, veal, and pork producers; food processing facilities (referred to as "food manufacturing" in SRIA); distribution; food retailers (supermarkets/grocery/convenience stores); and restaurants (and drinking establishments) that purchase or sell shell eggs, liquid eggs, whole veal meat, or whole pork meat in California, as specified. Details of the estimated business impacts as discussed below can be found in the Department's SRIA and appendix.

Businesses (and individuals) affected by this proposal:

California egg producers: approximately 6,546 farms

California veal producers: approximately 0 farms

California pork producers: approximately 1,236 farms

California restaurant/drinking establishments: approximately 76,200

California supermarkets/grocery/convenience stores: approximately 20,000

California food processing facilities: approximately 450

Total number of businesses affected: approximately 104,432

Compete with businesses in other states. In-state farms will find it more costly to compete with farms outside of the State when selling shell eggs, liquid eggs, whole veal meat, and whole pork meat to an out-of-state buyer compared to farms located in states that do not have the same animal confinement standards as described in the Act. Food processing facilities based in the State will have to use more expensive ingredients, shell eggs, liquid eggs, whole veal meat, and whole pork meat, that are compliant with the Act compared to food processing facilities located outside the State.

Creation/elimination of existing businesses/expansion of businesses: The proposed regulations will impact whole veal meat, whole pork meat, shell eggs, and liquid eggs produced and marketed in California. The current businesses from farm to end-user will be affected. Some farms may choose to exit during implementation rather than make the necessary adjustments, others may find the implementation of the regulations attractive for entry into the market. Private third-party certifying businesses providing certification services to farms and "handlers" according to the NOP standards within the State will be able to expand services to additional farms and distributors for compliance with the Act and this proposal. This flux is expected to be small relative to the numbers already in the production, distribution, processing, and retailing businesses. It is expected entries and exits in the range of less than 100 businesses.

Creation/elimination of jobs: Impacts on jobs in California is minimal compared to the impact on consumer expenditures for the covered food items. Overall, there is a projected a loss of 31 jobs statewide in the calendar year 2022, when final deadlines for the Act go into effect, and then a loss of 332 jobs in 2023, after adjustments for the a reduction in cage-free shell egg production are fully incorporated. A large portion of the jobs effect from the proposed regulations are in California's shell egg production and associated industries due to requirement to a cage-free production system.

Anticipated compliance requirements as a result of this proposal: Producers and distributors who sell their shell eggs, liquid eggs, whole pork meat, and whole veal meat in California would need to comply with the certification, registration, and labeling requirements as proposed. Private third-party certifiers would need to be accredited by the Department to certify operations in as compliance with the Act and these regulations.

Certification. The proposed regulations require producers and distributors to be certified as compliant with the Act. This may be done by a private third-party that is accredited by the

Department, a government entity outside of the State, or directly by the Department. Certification compliance consists of credible regulatory documentation (audit trail) of a production or distribution operation's good standing with certification requirements in these regulations and conformance with the specific minimum confinement standards in accordance with HSC section 25991.

Registration. The proposed regulations require annual distributor registration application and renewal used by the Department to identify and ensure compliance of businesses selling shell eggs, liquid eggs, whole pork meat, and whole veal meat within or into California.

Labeling. The proposed regulations require product container labeling for shell egg cartons, which is already a requirement under the Department's ESQM program (3 CCR section 1354), although this proposal would require some modifications to the existing required labeling on printed cartons. Consumer facing packaging labeling of other products such as liquid eggs, whole pork meat, and whole veal meat is not a requirement of the proposed regulations, however, could be implemented voluntarily by associated industries. Required labeling of shipping manifests and bills of lading is proposed for all covered product sales transactions within or into the State, however these types of documents are easily generated and modified.

Paperwork/Reporting: There are new paperwork and reporting requirements under this proposal. The requirements include annual distributor registration application and renewal forms, certifying agent accreditation application and renewal (every five years) forms that may be retained and otherwise required by statute or regulation, and submitted to the Department as part of routine business transactions in order for the sale of covered products in California. Accredited third-party certifying agents are also required to submit an annual report to the Department of the operations that have been granted, renewed, or denied certification. Each producer and distributor operation must be certified as compliant to raise covered animals producing covered products sold in California, and/or businesses selling covered products within and into the State. This certification requires necessary records to be maintained for review or audit by a certifying agent or the Department, as specified.

Recordkeeping: There are new recordkeeping requirements under this proposal that may impact egg, pork, and veal distributors and producers. The proposed regulations require that records must be sufficient for an audit trail and documented in a

traceable manner that covered product originated from certified compliant operations with the Act and these regulations. For example, records of their business operations, such as, production and shipment records, invoices, receipts, and related paperwork. The records are not required to be sent to the Department, however certified producers and certified distributors must keep the records on-site or available electronically for two years. Accredited third-party certifiers are to submit annual reports to the Department as a part of their recordkeeping requirements as specified in this proposal. The Department conducts routine and risk-based audits and inspections of farms, distributors, end-users, and certifying agents to ensure compliance with statutes and regulations.

Benefits to human health, worker safety, or the State's environment. This proposal does not directly impact human health and welfare of California residents, worker safety, or the State's environment, however the Department can infer that benefits accrue to Californians knowing that breeding pigs, veal calves, and egg-laying hens are raised with a minimum space requirement, which may be more space than covered animals previously were allotted. This proposal is needed to implement the Proposition 12 initiative which was passed by California voters in 2018. A benefit is for proper and orderly implementation of a law directly decided by voters for them to purchase with confidence covered products from covered animals not raised in a cruel manner. There are no quantitative studies that document or measure the effect of purchasing shell eggs, liquid eggs, whole veal meat, and whole pork meat from farms animals not confined in a cruel manner for people in California.

The Department has made an initial determination that the proposed regulatory action will have significant, statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states. The Department has considered proposed alternatives that would lessen any adverse economic impacts on business and invites you to submit proposals. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that 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.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is aware of cost impacts that a representative private person or businesses would necessarily incur in reasonable compliance with the proposed action. This determination is based on the SRIA included in this filing. The impacts are as a result of the implementation of existing law, HSC sections 25990 and 25991.

Private persons: There are no initial costs for an individual and ongoing costs for an individual are estimated at \$50 per year for increase in food costs after January 1, 2022. California per individual annual covered egg consumption (including in processed products made in California) is a little over 20 dozen. Per dozen cost increase about \$2 per dozen, increasing ongoing costs to \$40 per individual and it is estimated that increase in whole pork meat and whole veal meat prices will increase food costs \$10 per individual giving a total of \$50 per year individual ongoing costs.

Businesses: Producers and distributors selling shell eggs, liquid eggs, whole pork meat, and whole veal meat would need to comply with the provisions for animal confinement or ensure covered product sold in the State originate from animals that comply with the provisions for animal confinement as specified in HSC section 25990 and 25991.

Whole pork meat. A typical breeding pig farm has about 1,000 breeding pigs and produces 20,000 hogs per year. Estimated initial cost for a typical breeding pig operation is \$66,000 per farm to convert barns and pens into housing compliant with minimum standards outlined in the Act. Estimated ongoing cost is greater than the initial cost of conversion at \$100,000 per year for a typical breeding pig farm due to smaller inventory of breeding pigs, lower piglet output per animal and increased breeding pig mortality.

Shell eggs and liquid eggs. A typical egg farm is one million egg-laying hens producing a total of 25 million dozen eggs per year. Estimated initial cost is \$68 million per typical egg farm to convert to cage-free requirements outlined in the Act. Estimated annual ongoing cost is \$6.8 million per typical egg farm.

Whole veal meat. There is no veal produced in California.

Paperwork/Reporting and Recordkeeping: The recordkeeping/reporting requirement for a typical California business is estimated at \$5,000/year and a conservative estimate of 7,900 businesses will need to comply with proposed recording requirements for a total of \$39.5 million/year. The possible 7,900 businesses include egg producers, pork producers, and

distributors of covered egg, pork, and veal products. Each of these operations must be certified as compliant to raise covered animals in California and/or sell covered products in California. This certification requires necessary records to be maintained for review or audit by an accredited third-party certifier or the Department. This number of California businesses, 7,900, is potentially an overestimate based on the current number of commercial egg and pork producers in California being much smaller than the United States Department of Agriculture (USDA) 2017 Agricultural census reference of 6,500 covered farming operations in the State. The Act does not have a minimum herd or flock size requirement for compliance (ESQM program), or a minimum number of dollars sold to register (State Organic Program), so any farm raising egg-laying hens or breeding pigs will need to comply with recordkeeping requirements. In addition, California distributors are responsible for documenting traceability of selling shell eggs, liquid eggs, whole veal meat, and whole pork meat sourced from certified farms, which may originate at locations outside of the State or country.

HOUSING COSTS

None.

SMALL BUSINESS IMPACT

The Department's proposal may affect small California businesses, as defined in Government Code section 11342.610, such as small retail food establishments (supermarkets, grocery stores, convenience stores, restaurants, and other food retailers) that have veal on their menus due to the increase in veal wholesale prices, however, as a whole, costs are negligible because total sales change little. For small California pork and egg producers, they face initial and annual compliance costs that are less than a typical operation because they are likely to have space that is compliant or almost compliant. There are about 210 small pork farms selling more than 25 hogs annually and 823 small egg farms may need to make investments for animal confinement compliance in California. Estimated initial costs is \$5,000 and ongoing annual cost \$500 for small pork and egg producers.

BUSINESS REPORTING REQUIREMENT

It is necessary for the health, safety, or welfare of the people of the State that the regulation apply to businesses. There are new paperwork and reporting requirements under this proposal. The requirements include annual distributor registration application and renewal forms, certifying agent accreditation

application and renewal (every five years) forms that may be retained and otherwise required by statute or regulation, and submitted to the Department as part of routine business transactions in order for the sale of covered products in California. Accredited third-party certifying agents are also required to submit an annual report to the Department of the operations that have been granted, renewed, or denied certification.

RESULTS OF STANDARDIZED REGULATORY IMPACT ASSESSMENT

The Department completed a SRIA, which is included in this filing. A summary of the results of the assessment is as follows:

a. The creation or elimination of jobs within the State.

Impacts on jobs in California is minimal compared to the impact on consumer expenditures for the covered food items. Overall, the Department projects a loss of 31 jobs statewide in the calendar year 2022, when final deadlines for the Act go into effect and proposed regulations are fully implemented, and then a loss of 332 jobs in 2023, after adjustments for the reduction in cage-free shell egg production are fully incorporated. A large portion of the jobs lost are in the shell egg production and associated industries because the mandates of the Act require these industries to move into a cage-free production system.

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

Creation and elimination of businesses is natural given any significant change to the business conditions. The regulations considered here will change the nature of veal, pork, and eggs produced and marketed in California. The current businesses from farm through end-user will be affected. Some farms may choose to exit during implementation rather than make adjustments others may find the implementation of the regulations attractive for entry. The Department expects this flux to be small relative to the numbers already in the production, distribution, and retailing businesses. The Department expects entries and exits in the range of less than 100 businesses.

California has a large shell egg industry. Egg producers in California face higher costs by \$72 million, and egg output will decline by 51 million dozen relative to the baseline in 2022. Shell egg farm revenue rises by \$7 million in 2022.

c. The competitive advantages or disadvantages for businesses currently doing business within the State.

The cage-free mandate for egg-laying hens and 24-square-foot mandate for breeding pigs (the portion of the proposed regulations that goes into effect starting

January 1, 2022) may cause some egg and pork producers to exit because they find it uneconomical to adapt their facilities to comply with the new mandates required by the Act. The Department expects that some preexisting producers whose facilities already meet the Act's standards will enjoy corresponding competitive advantages. Preexisting cage-free egg producers, whose potential market grows when statutes take effect, will have an advantage over those who have not engaged in cage-free production in that they will not face costs of converting facilities. Similar competitive farm issues apply to breeding pig operations, but there are very few such businesses in California.

d. The increase or decrease of investment in the State.

As discussed in Section 6.2 and 6.3 of the SRIA, some new businesses and investment may enter the market as a result of the proposed regulations, the overall effect of the regulations (as summarized in Section 1.4, reported in Section 4, and detailed in Appendices 1–4 of the SRIA) is to decrease the total amount of shell eggs, liquid eggs, whole pork meat, and whole veal meat consumed in California. Although some one-time investments in construction, machinery, and labor will be made by businesses as they adapt their facilities, in the long run the Department expects that the regulations promulgated to implement the Act will decrease average annual investment in California egg and pork producers and distributors, relative to the Baseline. Although investment in other businesses in California may correspondingly decrease as investors move resources elsewhere, the Department expects the net effect to be a modest decrease in overall investment in the State.

California consumers will be affected by higher food prices and respond with lower quantity consumed. In the 2022 calendar year, when the Act's standards go into full effect, proposed regulations will increase consumer expenditures in California of \$1,195 million. The largest impacts are on consumers of shell eggs and whole pork meat due to increased cost of these covered products at wholesale and retail.

e. The incentives for innovation in products, materials, or process.

Farms may have some incentives to innovate in their business processes as they adapt their facilities to be compliant with the Act's confinement standards. However, businesses involved in the design and manufacturing of products and materials for adaptation, such as animal cages, are not typically located in California.

f. The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety,

and the State's environment and quality of life, among any other benefits identified by the agency.

The SRIA did not quantify any benefits directly impacting human health and welfare of California residents, worker safety, or the State's environment. Other economic studies have shown that some government regulations of meat and egg production and processing increase consumer willingness to pay more in food markets. About 20% of California's shell egg consumption prior to 2022 already met California cage-free egg standards. This means cage-free shell egg consumers were already willing to pay more than twice as much, on average, for cage-free shell eggs than for conventional shell eggs. Other consumers who are not willing to pay double for cage-free eggs may be willing to pay a smaller increased amount for cage-free shell eggs. Both of these types of consumers would therefore receive some corresponding benefits (even if they are hard-to-quantify benefits such as moral satisfaction, peace of mind, social approval, etc.) from knowing all eggs raised and sold in California are cage-free after January 1, 2022. In addition, non-consumers of the covered products may benefit from assurance that shell eggs, liquid eggs, whole veal meat, and whole pork meat sold in California meet the specified housing standards even if they do not plan to consume these foods. The Department notes that a large majority of voters in 2018 approved, 63%, the Proposition 12 initiative to eliminate egg-laying hens, veal calves, and breeding pigs from being cruelly confined in the State or if products from those animals are sold in the State.

Animal confinement space allowances prescribed in the Act (cage-free for egg-laying hens, 43 square feet for veal calves and 24 square feet for breeding pigs) are not based in specific peer-reviewed published scientific literature or accepted as standards within the scientific community to reduce human food-borne illness, promote worker safety, the environment, or other human or safety concerns. Health and Safety Code confinement standards are described as a minimum standard for space allowance to prevent cruel confinement of covered animals and the law was not primarily written with the concern or benefit of human food-borne illness, worker safety, environment, etc. The standard of cage-free in HSC references the United Egg Producers 2017 guidelines and is the cage-free standard set by the egg industry to provide uniform guidance of cage-free egg operations. Minimum space requirements for veal calves and breeding pigs outlined in HSC are not drawn from specific industry standards or published scientific research prescribing 43 square feet for veal calves and 24 square feet for breeding pigs. The Department has no regulatory discretion over the Act's animal confinement mandates, so any

such effects would stem not from the way regulations were written or implemented, but from the mandates directly imposed by the Act.

SUMMARY OF DEPARTMENT OF FINANCE COMMENTS AND DEPARTMENT'S RESPONSE

The Department of Finance (Finance) provided comments to the Department's SRIA. A summary of the five comment categories and the Department's responses are below. Reference citations noted in the below responses can be found in the Department's SRIA.

Finance comment #1: The SRIA must estimate the costs to producers to comply with the new housing, certification, labeling, and reporting requirements and for individuals to maintain their consumption or to substitute. Furthermore, disparate impacts must be discussed. For instance, some small farmers might not be able to switch to cage-free eggs right away and might reduce or stop production altogether. Larger farms, who typically can adapt more quickly, will increase their market share to compensate for lower production from smaller farms.

a. Cost to producers for certification, labeling, and reporting requirements

Certification costs. Proposed regulations require farms to be certified as compliant with the Act. This may be done by a private third-party that is accredited by the Department or directly by the Department. Producers would incur costs for certification services from accredited third-party certifiers by payment of fees charged by these private entities. For existing private businesses that conduct certification services similar to those proposed in these regulations (e.g., American Certified Humane, Certified Humane, Validus, Global Humane Animal Partnership, etc.), the fee structures are most commonly based on a sliding scale depending on the size of the production operation. Small producers may pay \$100–\$200 per year for certification while large producers may pay \$2,000–4,000 each year for certification (subsection b. below for more information on smaller- and larger-sized operations). If a production operation is already inspected by a third-party company for welfare standards who is accredited by the Department, then the producer may not have to incur additional costs for certification. For example, American Certified Humane, Certified Humane, and Global Animal Partnership all have standards that meet the minimum confinement requirements for egg-laying hens. Similar costs might be expected for producers receiving certification services directly from the Department, depending upon the extent of public funds available to support this activity.

Labeling costs. Product container labeling is only required for shell egg cartons under this proposal. Currently, all cartons of unpasteurized eggs still in the shell that are sold in California have required labeling of “CA SEFS COMPLIANT” as part of the Department’s Shell Egg Food Safety program. The addition of “CA CAGE FREE” labeling as part of the proposed regulations starting in July of 2022 is not expected to result in significant additional costs to shell egg producers that already must print cartons with California specific statements. Additionally, the use of “Cage Free” statements on cartons to identify this type of production system for consumers purchasing eggs is already common in the marketplace, and the proposed addition of “CA” to existing statements to designate conformance with the Act and this proposal’s specific standards is not expected to be a significant added cost.

Labeling of other covered products (e.g., liquid eggs, whole pork meat, and whole veal meat) on consumer facing packaging is not a requirement of the proposed regulations, but could be done voluntarily by the industry at the discretion of the producer, packer, or co-packer to communicate compliance with the Act and these regulations for marketing purposes.

Proper labeling of shipping manifests and bills of lading is required by the proposed regulations and again is estimated to be a nominal cost to the producer or distributor because these types of documents are already being generated and printed for covered products distributed and sold in California. For example, beginning in January of 2022 shipments of whole pork meat under this proposal will need to have “CA 24+” printed on the shipping documents and be available for review during the certification process, upon entry at a California Border Protection Station, or during an inspection or investigation.

Reporting costs. The additional cost of reporting requirements as outlined in the proposed regulations is estimated to be \$5,000 annually for a typical California business (producer, distributor or accredited third-party certifier). This record keeping cost will vary depending on the extent of time required to maintain documents required to demonstrate compliance and traceability with the Act and these regulations. Additionally, annual reporting to the Department is required of accredited third-party certifiers and annual renewal distributor registration under this proposal will contribute to overall recordkeeping costs for a typical California business.

b. Consideration of disparate impacts

California Veal Operations: small and large farm potential differential impacts. There is no data to indicate that there are veal producers in California. Therefore, there are no differential impacts across veal producers.

California Pork Operations: small and large farm potential differential impacts. According to the 2017 United States (US) Census of Agriculture, there were 1,389 swine farms that had a total of 96,456 hogs and pigs in California. The census data does not distinguish between breeding pig, weaned pig, finishing, or fully integrated operations. Of the total swine operations in California, 1,236 of the farms sold hogs and pigs at a total of 207,768 animals in 2017. Most of the farms that sold hogs and pigs (USDA reported term for number of head slaughtered), 1,009 farms, sold fewer than 25 hogs and pigs each annually. To qualify as a “farm” operation under the USDA definition, the business only needs to have products that might have sold for more than \$1,000 in a year. Of these 1,009 very small operations, a total of 5,950 animals were sold, giving an average of about 6 hogs and pigs from each farm. A breeding pig will produce about 25 piglets per year, therefore few of these small operations would have any breeding pigs that would be affected by the Act’s confinement square footage minimums. There were six farms in 2017 that sold more than 5,000 hogs and pigs each for a total of 161,409 animals, giving an average of about 26,900 hogs and pigs sold by each of these larger swine operations.

Of the six large farms that sold more than 5,000 pigs each, three were farrow-to-finish, meaning they housed breeding sows and would need to comply with minimum confinement standards requirements in 2022. Calculations assume that these farms sold about 25,000 hogs and pigs each, that would imply about 1,000 breeding pigs at each of these three larger swine farms. Nationwide, breeding pigs represent about 4% of hogs and pig inventory, which of the 96,456 hogs and pigs in California indicates there are less than 4,000 breeding pigs in California. According to the 2017 Agricultural Census, the total inventory of hogs and pigs in the United States (US) was 72 million animals. Since breeding pigs represent 4% of the total hog and pig population, California has about 0.133% of the national breeding pig herd.

California pork producers produce specialty pork, such as organic, pasture-raised, and show animals for 4-H and FFA projects. Farrowing operations with a small number of breeding pigs will likely find it easier to meet California-specific housing regulations than would commercialized operations. Generally, very small livestock farms have higher measured, imputed, or implied accounting costs per animal sold, but continue to operate the farm because either their actual individual costs are lower than those imputed or implied in the studies or for non-pecuniary reasons (Whitt, McDonald and Todd).

The economic impact of proposed regulations on swine producers in California is likely concentrated on the larger operations that are more likely to have

already made the capital investment in housing that based on pens and square footage allowance from traditional commercial breeding pig operations. Very small pork producers are more likely to already be compliant with confinement standards outlined in the Act or would have nominal cost adjustments to become compliant.

Data and economic analysis indicate no significant change in the size distribution of pork producers in California from the proposed regulations.

California Egg Operations: small and large farm potential differential impacts. Three data sources provide useful information on the distribution of egg farms in the US; WattAgNet, USDA, and the Department. WattAgNet publishes information on the largest table egg farms in the US, and the top two egg farms are located outside of California and each have about 45 million and 26.6 million egg-laying hens. According to WattAgNet the top 20 egg farms in the US represent 254.6 million egg-laying hens or 77% of the egg-laying hens producing eggs for shell and liquid egg purposes. The first California farm on the top 20 list is number 19 with 5 million egg-laying hens. Other relatively large egg farms in California have egg production operations with millions of egg-laying hens.

The 2017 USDA Census of Agriculture reports that about 94% of the egg-laying hens in California are on farms with more than 100,000 hens. This census data provides a breakdown of many different sized operations ranging from an average of 15 egg-laying hens per farm to almost 500,000 egg-laying hens per farm. Again, to qualify as a “farm” operation under the USDA definition, the operation only needs to have products that might have sold for more than \$1,000 in a year. According to the 2017 USDA Census data there are a total of 6,546 egg-laying farms, with a total of 14,194,957 egg-laying hens, giving an average of 2,168 egg-laying hens per farm. The category of farm with the smallest number of egg-laying hens is less than 50 hens and the 2017 USDA Census reported 5,717 of these small farms in California with an average of 15 hens per farm. The largest category of farms are operations with greater than 100,000 egg-laying hens and there are 28 farms that fall into that category housing a total of 13,344,294 hens with an average of 476,562 hens per farm.

The Department reported in 2019, based on its inspections of farms selling shell eggs in California, there were 728 farms with less than 3,000 egg-laying hens each. The total egg-laying hens on these small farms was 172,574 animals for an average of 237 hens per small egg-laying operation. The Department reported that in 2019 there were 95 farms with more than 3,000 hens each in the State. These large farms

had about 15.35 million hens total for an average of about 161,600 hens per operation.

This data indicates that most egg-laying hens raised in California are housed on relatively large farms. In addition, there are many small boutique farms with only a few hens each. A typical hen will lay between 20 and 25 dozen eggs per year. California compliant cage-free shell eggs will wholesale between \$1.50 and \$5 per dozen, therefore a hen may produce a gross revenue of between \$30 and \$100 each year. A large farm with one million egg-laying hens, which would likely be at the low end of the wholesale price spectrum, would then have a gross revenue of \$30 million. Margins are very tight for large commercial egg farms with most costs devoted to recurring costs for labor, feed, and pullets.

At the other end of the size spectrum, a small farm with 300 egg-laying hens marketing organic or pasture-raised eggs may generate a gross farm revenue of about \$30,000, and potential to increase their net income per hen if the small farm also had a distinct business structure to retail shell eggs directly to consumers like at a farmer’s market or egg delivery service.

Small egg farms are less likely to face the cage-free facility investment cost because the hens are more likely to be already cage-free, free-range, or pasture based. Small egg operations are also less likely to produce eggs to be sold as liquid eggs or a similar processed egg product. Therefore, the average compliance cost to convert to California cage-free is expected to be progressively lower per hen for the smaller sized egg farms.

Data and economic analysis indicate no significant change in the size distribution of egg farms in California from the proposed regulations.

Finance comment #2: Small businesses that rely on regulated products such as small restaurants, who tend to have a thin profit margin, might increase prices or close if cost increases cannot be absorbed.

a. Effects on restaurants that are small businesses

The National Restaurant Association estimates that there were about 76,200 eating and drinking establishments in California in 2018, with \$97 billion in retail sales, and employing 1.83 million food service workers. Of course, these statistics are pre-pandemic and the long-term effects of COVID on restaurant businesses in California is not known. The Small Business Association (SBA) has specific definitions to include these food services as a small business; full-service restaurants, mobile food services, “drinking places,” caterers, and Snack and Nonalcoholic Beverage Bars if they have less than \$8 million in annual revenues. Limited-service restaurants are small businesses if they have less than \$12 million in annual revenues. Cafeterias and buffets

are small businesses if they have less than \$30 million in annual revenues. And food service contractors are small businesses if they have less than \$41.5 million in annual revenues. Under these definitions established by the SBA, most restaurants in California are considered small businesses.

By National Restaurant Association estimates, average annual revenues of an “eating and drinking establishment” in California in 2018 were \$1.27 million, less than one-sixth of the maximum revenue for an (SBA-defined) “small business.” A restaurant in California with average revenue for its industry is thus considered a small business as defined by the SBA. Thus, most impacts on restaurants identified in the SRIA are primarily impacts on small businesses.

Within the restaurant category, sit-down family restaurants or “fine dining” restaurants tend to be smaller businesses than fast-casual or fast-food restaurants. Veal is unusual among most restaurant categories in that it is primarily consumed at high-end restaurants. Popular restaurant veal dishes include veal chop, veal parmigiana, and veal marsala and will cost more for restaurant patrons to enjoy after full implementation of the Act and proposed regulations because it is assumed the increase in veal meat wholesale prices will be passed along to the customer. Californians may not be willing to bear an increase in veal meal prices on the menu; alternatively, many restaurants may simply stop including veal on their menu or serve fewer portions of veal. Thus, the Act and this proposal will have a significant impact on those small businesses in California that have historically had veal dishes on their menus.

Restaurants or other food service places that purchase covered pork and egg products that are cage-free, crate-free, or otherwise already meet or almost meet the confinement standards in the Act would face lower costs of adjusting to the new standards. The impact for those restaurants serving pork is less severe because the price impact is small on menu prices, given the high share of whole pork meat in food service food prices. The other category of restaurants likely to be significantly affected are those with menu items that have significant covered egg product content. Certain large quick-serve chains, like McDonald’s, declared plans to shift to cage-free eggs independent of the Proposition 12 initiative, but few had completed that adjustment before the Act was passed into law. There is no data to indicate that their costs of shifting or maintaining confinement standards to meet the requirements outlined in the Act would be different per unit of sales than other independent food service places. There is no data to suggest that the Act’s standards have a particular impact by size of establishment.

b. Grocery stores and retail that are small businesses

A substantial portion of grocery stores and convenience stores in California sell covered pork and egg products and are also classified as “small businesses” under the SBA definition.

IBISWorld (2019) reports that there are about 8,000 supermarkets and grocery stores in California employing about 300,000 people. The California Grocers Association (2020) reports having about 6,000 member-businesses. The National Association of Convenience Stores (2020) reports that there are about 12,000 convenience stores in California.

Meat markets, fish and seafood markets, fruit and vegetable markets, baked goods stores, confectionery and nut stores, and other specialty food stores are classified by the SBA as small businesses if they have less than \$8 million in annual revenues. Convenience stores are small businesses if they have less than \$32 million in annual revenues. Supermarkets and other grocery stores are small businesses if they have less than \$35 million in annual revenues. Thus, a substantial portion of grocery stores and convenience stores are small businesses, although large chains have a greater presence in the grocery and convenience store category than in the restaurant category.

Consumers shopping at small or large grocery stores, or convenience stores, are likely to respond to higher shell egg, liquid egg, whole veal meat, and whole pork meat prices by buying less of the covered pork, veal and egg products, and are also likely to substitute some or all of their covered product spending for spending on other food products, including non-covered pork such as ready-to-eat or ground pork products. The covered egg, veal and pork products represent a small share of total consumer food spending at grocery stores and even less at convenience stores. Therefore, no disproportionate impact of the Act’s standards on small grocery or other retail companies is expected.

Finance comment #3: Effects on individual SNAP and food subsidy program benefits

a. SNAP: Low income Californians pay a higher share of their total income on food

Covered pork, and especially covered egg products will become more expensive to consumers starting in January 2022 because of the animal confinement standards mandated in statutes. Eggs are purchased by low-income consumers as a higher share of their food budgets compared to middle- and high-income consumers.

Many low-income consumers in California are enrolled in USDA food and nutrition service programs such as school meals, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Supplemental Nutrition Assistance Program (SNAP), which in California is administered as the Cal Fresh program. These programs enroll millions of Californians, many of whom participate in

several programs. For example, there were almost 4 million SNAP recipients (about 10% of the population in California in 2019). Supplemental Nutrition Assistance Program benefits averaged about \$1,700 annually per household member in 2019. However, not all low-income consumers are enrolled in programs and many face higher food costs with little assistance. It is not yet clear the extent, if any, to which federal program benefits will be adjusted to fully cover the added food costs of consumers beginning in 2022. For example, the typical consumer (across all ages and other characteristics) consumes about 21 dozen eggs and 40 pounds of pork meat annually, and estimated increase in food costs are approximately \$2 per dozen shell eggs and \$0.20 per pound of whole pork meat. This means covered egg and pork costs go up by \$42 and \$8 per year respectively for a total of \$50 per person per year starting in 2022. This increase in food costs does not include veal because it is assumed lower-income households are not purchasing veal. These calculations are based on economic results which repeatedly find that the quantity purchased by low-income households of broad food items like shell eggs or whole pork meat do not fall proportionately to when the price increase (demand is price inelastic). Meaning, when price rises, the expenditure on that item also rises. The increased cost of \$50 per person will need to be included in federal benefits for California recipients otherwise their real food purchasing power will fall.

Therefore, the Act will disproportionately reduce food purchasing power of low-income consumers. However, since some of the food budget of low-income consumers is covered by federal programs, they may not be differentially affected, as a group, relative to consumers with higher incomes that are not eligible for food assistance. Food consumers most affected will be those low-income consumers that are not enrolled in assistance programs.

Consumers least affected are those who already consume cage-free shell and liquid eggs and whole pork meat from hogs for whom the mother pig experienced additional space during gestation. These tend to be higher income consumers.

b. Other food subsidy benefit programs

In addition, as noted above, there are federal meal subsidy programs serving other populations such as daycare for younger children and eldercare facilities. A brief summary of the Federal Child and Adult Care Food Program is provided by the USDA Economic Research Service (USDA, ERS 2019). The program is designed to improve nutrition with meals and snacks for infants, children, and adults. Providers are reimbursed for meals and snacks. In 2018–19 Federal reimbursement for the California program was \$485 million and state reimbursement was about

\$2.1 million. Almost all the outlays were for childcare centers and in-home daycares. (CDE, 2020). In addition, the state cost of the Federal Child and Adult Care Food Program is \$2.1 million. The best estimate of added cost of these programs is about 0.5% times \$2.1 million, equaling an added cost due to the Act's confinement standards of about \$11,000 per year.

Finance comment #4: Fiscal cost calculations must be disclosed and include all costs to state and local governments. Costs should be broken down by category including but not limited to certification, registration, enforcement, and other administrative costs.

The Department's proposed program for implementation of Proposition 12 initiative is titled the Animal Care Program and total fiscal cost for 22/23 fiscal year for this program is \$4,936,485. This is the first full fiscal year after the Act's timelines are all in effect for covered animals and costs have been broken down into administration, compliance audits, investigations, and registration/certification/accreditation. Within each of these categories the expenses are further divided into personal services and operating expenses and equipment. More specifically, total administration costs are \$1,047,157 (\$557,661 for personal services and \$489,496 for operating expenses and equipment), total compliance audits costs are \$3,024,377 (\$1,858,393 from personal services and \$1,165,984 from operating expenses and equipment), total investigations costs are \$456,058 (\$349,186 from personal services and \$106,872 from operating expenses and equipment), and total registration/certification/accreditation costs are \$408,893 (\$350,021 from personal services and \$58,872 from operating expenses and equipment).

No fiscal costs to local governments.

Finance comment #5: The SRIA must evaluate impacts on other government agencies that are consumers of the covered products, such as schools and prisons.

a. Fiscal impact on California schools

Schools in California served 288 million breakfasts and 536 million lunches in the 2018–2019 academic year. Of those meals, 233 million breakfasts and 405 million lunches were served free of charge to needy children. The total funds expended for school meal programs were \$2.27 billion with the State contributing \$161 million or about 7% of this budget in 2018–2019. Of these state funds, \$103 million were expended for lunches, and \$58 million were expended for breakfast meals. In addition, summer meal programs in the 2018–2019 school year served 14.8 million meals, including 3.2 million breakfast meals and 9.5 million lunch meals. Total funds expended for the summer meal programs were \$46.1 million with State funds contributing \$1.7 million or about 3.7% of the total budget. Of these state funds for the summer

meal program, \$1.2 million were expended for lunches and \$495 thousand for breakfast meals (CDEa).

To estimate the increase in covered egg and pork costs beginning in 2022, the same average annual increase in food costs is used as in the SNAP explanation above of \$50 per person or $\$50 / (3 \times 365) = \0.0457 per meal increase in food costs. This estimate was then rounded down to \$0.04 per meal because these meals are mostly lunch and breakfast, the average consumption of children from 6 to 18 is less than the average person, and schools have access to bulk buying and economies in covered egg and pork purchases. Applying this \$0.04/meal to the free school-year meals of 638 million meals gives an increased cost of about \$25.5 million. The California budget pays about 7% of the total or about \$1.80 million ($\$25.5 \text{ million} \times 0.07$). For summer meals the added total cost is \$0.6 million, and the California cost is \$0.042 million ($\$0.6 \text{ million} \times 0.07$). In total, California state government costs for these school meals are about \$1.84 (\$1.80 million plus \$0.042 million) million in the 2022–23 school year.

Besides federal cash contribution to school meals programs USDA has provided direct food purchasing of egg products to some school districts at a discounted rate. Two frozen liquid egg products and an egg patty product have been available (USDA Foods) for schools to purchase. California egg producer housing standards have been distinct from those in the rest of the US for retail sales since 2015, but the California egg production is mainly for shell eggs which are not often used in school meal programs. Under the proposed regulations, liquid eggs and egg products included in the Egg Products Inspection Act are also included as covered product needing to come from cage-free hens and therefore California schools may not be able to purchase low-cost covered egg products from USDA Foods.

It is not known whether USDA will provide USDA egg products to California schools that meet California cage-free standards. If not provided, this source of benefit may be lost to school meal programs in California. If USDA is unwilling to use egg products that meet California standards this will reduce the benefit of school meal programs in California, unless menu planners avoid the use of covered egg products. Alternatively, USDA may use cage-free eggs to produce compliant USDA egg products for use in California schools.

b. Fiscal impact on California colleges and universities

The impact of the Act and this proposal on food costs for California state colleges and universities is small and accounted for in meal plan fees to students. The University of California system and the California State University system together enroll about 700 thousand undergraduates (The Regents

of the University of California 2020, The California State University 2020, USDE/NCES 2020). About 110 thousand UC and CSU students live on campus and most of those are enrolled in campus meal plans. The number of students living on campus is calculated using the average percentage of undergraduates living on campus for each UC and major CSU campus from Carnegie Dartlett (2020). On most campuses, basic meal plans are included in room and board fees and vary from about \$100 to over \$200 per week. Cost of meal plans for each campus was obtained from the corresponding campus website. On average, meal plans cost about \$175 per student, per week, for an equivalent of three meals per day, seven days a week. A typical school year not including summer school consists of about 32 weeks. Using 32 weeks as the length of an average school year, the total cost of meals per student amounts to \$5,600 per year. For the total student population living in campus housing on the UC and CSU campuses, student meal plans amount to \$616 million per year ($\$5,600 \times 110,000$).

Estimates of increased covered egg and pork costs (veal is not served on college campuses) for meals served beginning in 2022 take into account the nine-month academic year and a slight increase in total eggs consumed based on the demographic and ability to purchase in bulk. The total increase is \$40 per person annually for purchasing covered eggs and pork. This total uses college student consumption of 23 dozen eggs per year (shell and liquid), but average 3/4 of the year (9 months) on the meal plan so egg cost increase is $(0.75) \times 46 = \$34.50$ due to the price of cage-free eggs and rounded up to \$35 per year. Increase in costs due to increase in the price of whole pork meat is \$5 ($\$8 \times 0.75 = \6 , rounded down to \$5) because of slightly lower prices due to bulk purchases. The increase in food costs totals \$40 per person or a total of \$4.4 million per year for students living on campus taking part in a meal program ($\$40 \times 110,000$). The cost to the State of California due to this increase in cost of covered eggs and pork depends on the expenditure to cover meal plans for students on state-subsidized scholarships that include coverage of room and board fees.

About 30% of California public college and university students receive financial benefits that will be affected by meal plan costs and 70% of added meal plan costs are paid by the students or their families. Therefore, the estimated cost of the Act and this proposal on State costs for meal plan student subsidy is about 30% times \$4.4 million or \$1.32 million during the first academic year after full implementation in 2022 ($\$4.4 \text{ million} \times 0.30$).

c. California and local jurisdictions operate prisons and jails that provide meals

California's state prison population is projected to remain at about 117 thousand people for the next several years (California Department of Corrections and Rehabilitation 2020). About 117 thousand inmates is a five-year rolling average projection for 2021 and 2022 based on prison population for 2015–2019. This gives a total of 42.7 million prison-days per year, or just over 128 million meals (assuming three meals per person per day).

California county jail population is totaled at about 73 thousand in 2018 and 2019 (Board of State and Community Corrections Jail Profile Survey August 25, 2020 report). Using the same calculation for county jail inmates as state inmates yields about 80 million meals served each year.

An increase in the price of covered eggs and pork as a result of the mandated statute and proposed regulations will increase the annual costs of meals per prisoner by about \$40 per year starting in 2022, which is mostly the higher costs of cage-free shell eggs and liquid eggs, but with a small amount for cost of whole pork meat and no added cost for whole veal meat. This was calculated by estimating that the increase in meal costs provided to prisoners will be lower than for the average Californian by about 20%, so additional costs of covered eggs and pork would be \$40 per year (\$50 X 0.8). At the current and projected incarceration population numbers, this would increase the total costs of meals for the state prisons by about \$4.68 million per year (\$40 X 117,000). For county jails, this will be an added cost of about \$2.92 million per year (\$40 X 73,000) for meals served to its 73,000 inmates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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 action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing (if a hearing is requested) or during the written public comment period.

The two alternatives considered do not vary the basic requirements of the Act itself, for example, the alternatives did not consider whether eggs must be cage-free, or by when. The two alternatives considered the economic impacts of the Department's discretionary choices, namely through definitions and procedures, used to implement the Act. The two

alternative regulations considered and ultimately rejected include (1) lower-cost regulations and (2) higher-cost regulations:

Alternative 1: Under the lower-cost alternative, annual farm cost and consumer expenditure increases by \$982 million; = \$19.5 billion in present value at a 5% discount rate.

The lower-cost regulations apply a narrower interpretation of which food products are covered and which businesses are subject to annual registration and certification requirements. Intent of the Act is not fully applied across sales of covered products and therefore California residents would not be able to confidently purchase and consume covered products knowing they were sourced from covered animals raised according to the confinement standards of the Act, regardless of origin of product. The lower-cost alternative would be confusing for the California consumer because there would be a mix of compliant and non-compliant covered product for sale in California. The lower-cost regulations are defined in detail in SRIA 4.2.1, however some key variations in the lower-cost regulations, versus the proposed regulations, are as follows:

- “Shell eggs” include only raw or pasteurized eggs with the shell still intact, therefore, excluding all forms of hard-cooked eggs such as peeled, sliced, or chopped.
- “Liquid eggs” include only eggs broken from the shell with the yolks and whites in their natural proportions, or with the yolks and whites separated, mixed or mixed and strained as defined by the Code of Federal Regulations, therefore excluding other forms of liquid eggs such as frozen, dried, cooked, and prepared egg products (e.g. egg patties or egg “pucks” consisting of mostly eggs except for added seasoning and flavoring).
- The Act's confinement requirements are limited to sales of shell eggs, liquid eggs, whole veal meat, or whole pork meat at the retail level to a consumer.
- Restaurants, prepared food vendors, and food processing facilities are not required to source shell eggs, liquid eggs, whole veal meat, or whole pork meat compliant with the Act for their business of further processing those ingredients.

The Department rejected this option because the narrow definitions of shell eggs and liquid eggs did not coincide with the intent of the Act that was overwhelmingly passed by voters to ensure eggs purchased and consumed by Californians were not from egg-laying hens confined in a cruel manner. Whether the shell egg consumed is purchased raw or hardboiled, peeled, and included in a snack pack, the Department determined that hardboiled eggs need

from be from egg-laying hens confined according to the Act's standards to meet the expectations of Californians. Californians that voted to ensure liquid eggs purchased in California were from egg-laying hens not confined in a cruel manner are most likely not aware of all food manufacturing processes or the extensive list of egg products defined in the Egg Products Inspection Act. Due to the versatile use of liquid eggs in food processing, and food service, the Department adopted the definitions of liquid egg to include all products in the federal Egg Products Inspection Act. The Department feels confident this was the expectation of voters when they voted for the Proposition 12 initiative in 2018. Whether the liquid eggs are frozen, dried, or cooked into a patty, if the covered egg product is sold in California, then it must have originated from egg-laying hens not confined in a cruel manner.

The Department also rejected this lower-cost alternative option because there would be a mix of compliant and noncompliant covered products sold in California and it would be difficult for the consumer to know if they were purchasing shell eggs, liquid eggs, whole veal meat, and whole pork meat from animals not confined in a cruel manner. Also, the lower-cost alternative would be more difficult to regulate because wholesale and retail costs of covered products coming from covered animals not confined in a cruel manner are significantly higher than the prices of covered products from animals housed in a cruel manner. With a narrower scope of products included in the lower-cost alternative option and compliant and noncompliant covered products in the California marketplace, there would more opportunities for cheating, greater challenges for enforcement, and unfair cost burden put on California small businesses, mostly restaurants who purchase shell eggs, liquid eggs, whole veal meat, and whole pork meat from a retailer.

Alternative 2: Under the higher-cost alternative, annual farm and consumer expenditure increases by \$1.263 billion; = \$25.26 billion in present value at a 5% discount rate.

Higher-cost regulations impose more stringent restrictions on some covered products moving through California and expand the definition of covered products; they imply larger negative economic consequences, including reduced California port activity. Benefits may be larger under the higher-cost alternative if more covered animals are not raised in a cruel manner. The higher-cost regulations are defined in detail in SRIA section 4.2.2. Specifically, the higher-cost regulations include all the requirements of the proposed regulations plus the following additional requirements:

- Raw ground veal, raw ground pork, and their products (meaning foods composed of raw

ground veal or pork plus seasonings, coloring, curing agents, etc.) are considered cuts of "whole veal meat" and cuts of "whole pork meat," and thus subject to the Act's requirements.

- The Act's requirements apply to covered food products moving through California for sale and end-use in another state or country.
- Consumer-facing labeling is required for all covered products or prepared foods containing a covered product. Labels would allow the buyer to scan a QR code at retail or when consuming a prepared food made with covered product and see record of the Act's animal confinement certification and traceability of product back to farm of origin.

The Department rejected this option because in the Act definitions of whole veal meat and whole pork meat exclude processed or prepared foods such as hot dogs. Raw ground and comminuted products made from veal or pork are specifically identified in these regulations as not needing to be included under the definitions of covered products. This decision was made based on informal feedback from pork stakeholders and due to the definitions in statute. Analysis for the SRIA include calculations with and without ground pork because there has been mixed informal feedback from stakeholders regarding the exclusion of ground and comminuted products.

The higher-cost alternative option to apply the Act's confinement standards of covered products only moving through California and destined for export, use on cruise ships, or sale in other states was rejected because the Department did not think including these products under the Act's animal confinement standards was the intention of the law. California has busy ports for export and import and if all shell eggs, liquid eggs, whole veal meat, and whole pork meat moving through these ports had to be compliant with the Act and these regulations, then import/export business in California would be devastated and moved to other states. The Department specifically excluded covered products moving through the State for a destination outside of the State or country in these regulations for stakeholders to understand the processes and expectations for these types of products.

The final suggestion in the higher-cost alternative option was rejected by the Department because the requirement for a consumer facing labeling with a unique QR code was determined to be overly burdensome for stakeholders including restaurants which are often independently owned and classified as small businesses. Instead of putting the burden of proof to defend and communicate that a food is or contains covered product from covered animals not confined in a cruel manner to the Department on these

small businesses, the Department decided to move this compliance one level up in the supply chain to a distributor. In addition, many of the final consumer facing packaging of liquid eggs, whole veal meat, and whole pork meat are under inspection of USDA, FSIS and any labeling of those products would need to be approved by FSIS.

This proposal is necessary for compliance with section 25990, 25991, 25992, and 25993 of the HSC.

CONTACT PERSONS

Inquiries and any written comments concerning this proposal are to be addressed to the following:

Dr. Elizabeth Cox, Program Manager
Department of Food and Agriculture
Animal Care Program
1220 N Street, Sacramento, CA 95814
Telephone (916) 900-5000
E-mail: animalcare@cdfa.ca.gov

The back-up contact person is as follows:

Thami Rodgers, Associate Analyst
Department of Food and Agriculture
Animal Care Program
1220 N Street, Sacramento, CA 95814
Telephone (916) 204-9688
E-mail: thamarah.rodgers@cdfa.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND INFORMATION, AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an Initial Statement of Reasons for the proposed action, all the information upon which the proposal is based, and the express terms of the proposed regulations. A copy of the Initial Statement of Reasons and the proposed regulations in underline may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. Requests should be directed to Dr. Elizabeth Cox at the mailing or email address specified above.

AVAILABILITY OF CHANGED OR MODIFIED 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 the revised regulations. Any person interested may obtain a copy of any modified regulations prior to the date of adoption by contacting Dr. Elizabeth Cox at the mailing or email address specified above.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Dr. Elizabeth Cox at the mailing or email address specified above.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website <http://www.cdfa.ca.gov/ahfss/regulations.html>.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

SOUTHERN SUBDISTRICT AND BROADCAST BURNING AMENDMENTS

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board will hold a public hearing on July 14, 2021, at its regularly scheduled meeting commencing at 9:00 a.m., via the virtual meeting platform of GoToWebinar. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to Government Code (GOV) § 11125.1(b), writings that are public records pursuant to GOV § 11125.1(a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

Attendees may participate via GoToWebinar online meeting platform or telephone conferencing. To participate via GoToWebinar online meeting platform please email PublicComments@bof.ca.gov by 4:30

p.m. on July 13, 2021, to request a link to the meeting. A link to the meeting will also be posted under the “Webinar Information” heading on the front page of the Board website, no later than 8:00 a.m. the morning of the hearing.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends on at the conclusion of the public hearing on July 14, 2021.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attention: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244–2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506–14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653–0989

Written comments may also be delivered via e-mail at the following address:

PublicComments@BOF.ca.gov

AUTHORITY AND REFERENCE (pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14 and 14 CCR § 1122)

Authority cited: Sections 4551, 4551.5, 4553, 4527, 4562 and 4584 Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW (pursuant to GOV 11346.5(a)(3)(A)–(D))

Pursuant to the Z’berg–Nejedly Forest Practice Act of 1973, PRC § 4511, *et seq.* (FPA) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

PRC § 4551 requires the Board to “...adopt district forest practice rules... to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources...” and PRC § 4553 requires the Board to continuously review the rules in consultation with other interests and make appropriate revisions.

Furthermore, PRC § 4551.5 requires that these regulations adopted by the Board “...apply to the conduct of timber operations and shall include, but shall not be limited to, measures for fire prevention and control, for soil erosion control, for site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, for water quality and watershed control, for flood control, for stocking, for protection against timber operations that unnecessarily destroy young timber growth or timber productivity of the soil, for prevention and control of damage by forest insects, pests, and disease...”.

Timber Operations are further defined within PRC § 4527 as “...the cutting or removal, or both, of timber or other solid wood forest products...from Timberlands for commercial purposes, together with all the incidental work, including, but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, Landings, skid trails, and beds for the falling of trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities...”.

Within the regulation of those Timber Operations incidental to the cutting or removal of timber, the Board has adopted rules within the Forest Practice Rules (Rules)(Chapter 4, Division 1.5, Title 14 California Code of Regulations) related to both the treatment of surface fuels following timber operations (Article 7 “Hazard Reduction”, of Subchapters 4, 5, and 6) and site preparation (Article 5 “Site Preparation, of Subchapters 4, 5, and 6). Within this regulatory framework, the Board has adopted rules which impose prescriptive limits and prohibitions on certain activities, including a general prohibition on Broadcast Burning in the Southern Subdistrict of the Coast Forest District (14 CCR § 895.1).

The problem is that, since the adoption of the “Hazard Reduction” and “Site Preparation” regulations within

Articles 7 and 5, respectively, forest conditions have changed from those which existed over 3 decades ago and portions of the existing regulations are no longer suited to address those modern conditions.

Anthropogenic activity, including fire suppression without active forest management, as well as increases in human-caused wildfires, over the last several centuries has resulted in alterations to the natural fire regime, which has resulted in substantial ecosystem stress statewide, particularly in forest and shrub-dominated habitats¹. Additionally, due to fire suppression, the Sierra Nevada and northwestern California have experienced less frequent fires than have historically occurred, causing a buildup of forest fuels, and southern California is experiencing larger and more frequent fires than under historic conditions². Additionally, fire suppression in forested areas has resulted in dense forest stands and has caused a build-up of fuels resulting in higher-than-natural intensity and heat of wildfires, which can destroy otherwise fire-adapted plants and damage soil structure³. Furthermore, the recent and prolonged periods of drought throughout the state have resulted in forests which are more prone to fire due to tree mortality from both drought and pests, and are more vulnerable due to fires from the buildup of fuels resulting from these environmental and anthropogenic conditions.

This increased risk brought on by increased fuels has resulted in a need to provide as many appropriate fuel treatment methods as possible in order to reduce this hazard. One such appropriate method of fuels treatment is Broadcast burning, which is defined by the “Dictionary of Forestry” as “a prescribed fire allowed to burn over a designated area within well-defined boundaries to achieve some land management objective”⁴. The definition of this term in existing regulations in 14 CCR § 895.1 presents the term in strict relationship with site preparation activities, or those activities necessary to promote forest regeneration, and not including those activities specifically intended to reduce fuel hazard. While this adopted definition does serve the function of a comprehensive regulatory site preparation scheme, it also creates issues of clarity in application of the regulations related to Broadcast Burning.

¹ Ainsworth, J. and Doss, T. A. 1995. Natural history of fire & flood cycles. California Coastal Commission.

² Safford, H.D. and Van de Water, K.M. 2014. Using Fire Return Interval Departure (FRID) analysis to map spatial and temporal changes in fire frequency on National Forest lands in California. Research Paper PSW-RP-266, USDA Forest Service, Pacific Southwest Research Station, Albany, CA.

³ Baker, W.L. and Shinneman, D.J. 2004. Fire and restoration of pinyon-juniper woodlands in the western United States: a review. *Forest Ecology and Management* 189:1–21

⁴ Helms, John A. 1998. *The Dictionary of Forestry*. Bethesda, MD: Society of American Foresters.

Additionally, Broadcast Burning is currently prohibited in the Southern Subdistrict of the Coast Forest District, an area consisting of the Timberlands in the counties of Santa Cruz, Santa Clara, San Mateo, San Francisco, and Marin as situated within the boundaries of the Coast Forest District (14 CCR § 895.1), per 14 CCR §§ 917.3, and 917.4(d). While this prohibition was initially intended to serve multiple purposes, including reducing damage to Redwood regeneration, and reducing the risk of accidental fire in areas with generally high levels of development, those risks are now outweighed by the risks of excess fuels on the landscape and the threat they create with regard to damaging wildfire. The Timberlands within the Southern Subdistrict of the Coast Forest District have historically experienced minimally destructive wildfires due to the high levels of precipitation and humidity. This trend has not continued in recent years, however, as highlighted by the destruction which followed the CZU Complex fire in 2020, which burned over 86,000 acres and destroyed 7,000 buildings.⁵ Allowing the utilization of Broadcast Burning, including the expanded definition, within the Southern Subdistrict of the Coast Forest District would provide land managers an additional tool which could be utilized to reduce these fuels across the landscape, as applied appropriately.

Finally, the existing regulations related to surface fuel treatment generally lack clarity and consistency in their use of terminology and stated applicability of provisions.

The purpose of the proposed action is to: 1) revise and expand the definition of Broadcast Burning to reflect a more technically appropriate and widely-accepted definition; 2) eliminate the prohibition on Broadcast Burning, for any purpose, within the Southern Subdistrict of the Coast Forest District; 3) improve the efficacy of existing regulations related to surface fuel treatment; 4) improve the clarity of the existing regulations related to surface fuel treatment.

The effect of the proposed action is to provide an opportunity to utilize Broadcast Burning, for any purpose, within the Southern Subdistrict, as well as to develop a regulatory scheme related to the reduction of hazardous forest fuels generated by timber operations, both statewide and specific to the Southern Subdistrict of Coast Forest District, which is clear and effective.

The benefit of the proposed action an elimination on the prohibition on a certain method of treatment for potentially hazardous fuels. The elimination of this prohibition may provide an additional opportunity

⁵ CZU Lightning Complex (Including Warnella Fire)”. Cal Fire Incidents. California Department of Forestry and Fire Protection. October 27, 2020.

to treat fuels across a landscape thereby providing additional opportunity to reduce the potential for damaging wildfire in those areas, and improving public health and safety.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to the treatment of fuels resulting from timber operations within State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statute to which the proposed action was compared: 4512, 4513, 4527, 4551, 4551.5, 4554, Public Resources Code.

Regulations to which the proposed action was compared: Subchapter 13, Chapter 4, Division 1, Title 8 of the California Code of Regulations; Article 4, Subchapters 4, 5, & 6, Chapter 4, Division 1.5, Title 14, California Code of Regulations

**MANDATED BY FEDERAL
LAW OR REGULATIONS**

The proposed action is not mandated by Federal law or regulations.

The proposed action neither conflicts with, nor duplicates, Federal regulations.

There are no comparable Federal regulations related to management plans for the non-industrial harvesting of timber. No existing Federal regulations meeting the same purpose as the proposed action were identified.

**OTHER STATUTORY REQUIREMENTS
(pursuant to GOV § 11346.5(a)(4))**

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

**LOCAL MANDATE
(pursuant to GOV § 11346.5(a)(5))**

The proposed action does not impose a mandate on local agencies or school districts.

**FISCAL IMPACT
(pursuant to GOV § 11346.5(a)(6))**

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in Federal funding to the State.

The proposed action will not result in costs to any State agency. The proposed action represents a continuation of existing forest practice regulations related to the conduct of timber operations and will result in any direct or indirect costs or savings to any state agency.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

**HOUSING COSTS
(pursuant to GOV § 11346.5(a)(12))**

The proposed action will not significantly affect housing costs.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS, INCLUDING
ABILITY TO COMPETE
(pursuant to GOV §§ 11346.3(a),
11346.5(a)(7) and 11346.5(a)(8))**

The proposed action 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 (by making it costlier to produce goods or services in California).

FACTS, EVIDENCE, DOCUMENTS,
TESTIMONY, OR OTHER EVIDENCE
RELIED UPON TO SUPPORT INITIAL
DETERMINATION IN THE NOTICE THAT
THE PROPOSED ACTION WILL NOT HAVE
A SIGNIFICANT ADVERSE ECONOMIC
IMPACT ON BUSINESS

(pursuant to GOV § 11346.2(b)(5) and
GOV § 11346.5(a)(8))

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of contemplating forest practice in California that the Board brings to bear on regulatory development.

STATEMENTS OF THE RESULTS OF THE
ECONOMIC IMPACT ASSESSMENT (EIA)

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)–(D)**. The proposed action:

- Will not create jobs within California (GOV § 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A));
- Will not create new businesses (GOV § 11346.3(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)). For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the Informative Digest/Policy Statement Overview.

COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS

(pursuant to GOV § 11346.5(a)(9))

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. No adverse impacts are to be expected.

BUSINESS REPORT

(pursuant to GOV § 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS
(defined in GOV 11342.610)

Small businesses, within the meaning of GOV § 11342.610, are not expected to be affected by the proposed action.

Small business, pursuant to 1 CCR § 4(a):

- (1) Is legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

ALTERNATIVES INFORMATION

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, 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 provision of law.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attention: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244–2460
Telephone: (916) 653–8007

The designated backup person in the event Mr. Hedge is not available is Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Dias may be contacted at the above address or phone.

AVAILABILITY STATEMENTS
(pursuant to GOV § 11346.5(a) (16), (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.

2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board 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 Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board web site at: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>.

TITLE 15. PRISON INDUSTRY AUTHORITY

NOTICE IS HEREBY GIVEN that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2808, 2809 in order to implement, interpret and make specific Penal Code 2808, propose to amend Section 8006, Article 3, of the California Code of Regulations (CCR), Title 15,

Division 8, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed adoption to regulations. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than June 28, 2021.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided, including any of the following:

- An interpreter to be available at a hearing.
- Documents made available in an alternate format or another language.
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact Roxanna Leffel at CALPIA at (916) 358-1721 or Roxanna.Leffel@calpia.ca.gov as soon as possible, but no later than 10 business days before a scheduled hearing.

Para solicitador estas adaptaciones especiales o servicios de idioma, puede contactar a CALPIA at (916) 358-1721 or Roxanna.Leffel@calpia.ca.gov lo más pronto posible y a más tardar 10 días hábiles antes de la fecha de la audiencia de la Junta (Board).

PUBLIC COMMENT PERIOD

The public comment period will close on July 12, 2021, 45 days after the Publication in the Notice Register on May 28, 2021. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVER

Regulations Manager
CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

Due to limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by CALPIA. Therefore, emails larger than 15 MB should be submitted in

several separate emails or another form of delivery should be used.

CALPIA requests but does not require that reports or articles in excess of 25 pages be submitted in conjunction with the comments, that the commentator provide a summary of the report or article and describe the reason for which the report or article is being submitted or is relevant to the proposed regulation. Please note that under the California Public Records Act (Gov. Code Section 6250, *et. seq.*, your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

CONTACT PERSONS

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action, or for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the above-referenced persons to:

M. Doherty, Regulatory Manager
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

In the event the contact person is unavailable, inquiries should be directed to:

C. Pesce, Executive Secretary
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

Penal Code Section 2800: In 1982, the California Legislature restructured the Department of Corrections' industries and vocational training program for inmates abolishing the Correctional Industries Commission and replacing it with the newly created Prison Industry Authority (PIA) (subsequently renamed CALPIA) under the direction of the Prison Industry Board.

Penal Code Section 2807(a): Section 2807(a) provides that CALPIA is authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. By giving CALPIA these duties and power by statute, rulemaking authority is implicitly delegated to adopt

those rules and regulations necessary for the due and efficient exercise of a duty or power expressly granted.

Penal Code Section 2802: Section 2802 provides for the existence of a Prison Industry Board (PIB).

Penal Code Section 2808: Section 2808 provides the PIB, in the exercise of its duties, all of the powers and do all of the things that the board of directors of a private corporation would do.

State Departments have been given "Quasi-Legislative" powers to adopt rules (regulations) that are consistent with state law so that they can run the programs they that are responsible for. One court opinion described this as the power to "fill in the details" of the state statute(s) that empower a department to operate a program. *Helene Curtis, Inc. v. Assessment Appeals Bd.* (1999) 76 Cal.App.4th 124. By the implied terms of Penal Code Sections 2808, 2802, 2807, 2800, CALPIA has the authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of these statutes.

INFORMATIVE DIGEST

Section 8006 is amended to remove the word "work" from phrases in the text and add terms to eliminate any ambiguity and confirm that inmates in all types of CALPIA assignments are compensated.

Section 8006(a): The word "work" is removed from in front of "programs" to delete the limitation for work assignments only.

Section 8006(a): The words "quality and quantity of work" are removed to delete the limitation for work assignments only.

Section 8006(a): The phrasing "performed, and technical skills and abilities required for its performance" is changed to the phrasing "performance, technical skills and abilities required for performance". This change is essential to remove the limitation in this sentence which could be read to mean only those with a work assignment will receive pay.

8006(f)(1): The language "(quantity and quality of work)" are deleted as is the language "work/training" to further ensure the regulation does not appear to limit inmate pay only for work assignments, rather than participation in CALPIA programs.

8006(f)(1)(a): The word "work" is replaced with "participation" to clearly identify that participation in programs qualifies for pay and is not limited to work only.

8006(f)(2): The word "work" is removed from the phrase "satisfactory work performance" to delineate that program participation and performance is not limited to only to CALPIA work assignments, but also to participation in CALPIA programs.

8006(f)(3)(a): The phrase “one month of work in their current skill level” is changed to “one month of participation in their current skill level” as some CALPIA programs are not work only, but educational and vocational training.

8006(f)(4): The phrase “work assignment” is changed to remove the word work, to read “assignment” as some CALPIA assignments include other programs than only work.

CALPIA has education, vocational training, and work programs, and this amendment is necessary to ensure all inmates have this same opportunity for compensation when assigned with CALPIA.

POLICY STATEMENT OVERVIEW

The problem addressed by this regulatory amendment is to eliminate any ambiguity and confirm compensation for inmates in all types of CALPIA assignments. CALPIA has programs that are educational and vocational training in addition to work programs, and this amendment is necessary to affirm all inmates to have this same opportunity.

Anticipated Benefits of the Proposed Regulation:

A benefit of this regulatory action is to affirm compensation of CALPIA assigned inmates in any type of assignment, whether it is educational, vocational, or work. This amendment will also protect and maintain CALPIA’s purpose as an agency.

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

CALPIA evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations and has determined that no other state regulations address the same subject matter and that the proposed regulations are consistent and compatible with other existing state regulations.

During the process of developing this regulation, CALPIA has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing laws and regulations. After conducting a review for regulations that would relate to or affect this area, CALPIA has concluded that these are the only CALPIA regulations that concern this exact processes and procedures for the adoption, amendment, and repeal of regulations by California state agencies.

Mandated by Federal Law or Regulations

The proposed regulations are not federally mandated.

DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandates:

Mandate on local agencies and school districts: None. This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 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 in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the State: None

Cost impact on a representative private person or business: None.

CALPIA 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:

CALPIA has initially determined that the proposed action 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 because they are not affected by the internal management of CALPIA employees.

Effect of Housing Costs:

CALPIA has determined that the proposed action will have no significant effect of housing costs.

Results of the Economic Impact Analysis/Assessment

CALPIA concludes that it is unlikely that the proposed regulations will: (1) create or eliminate any jobs (2) create or eliminate any businesses; or (3) will result in the expansion of businesses currently doing business within the state.

In accordance with the Government Code Section 11346.3(b), the CALPIA has made the following assessments regarding the proposed regulation.

Benefits of Proposed Action:

As stated above under the Informative Digest and Policy Statement Overview, a benefit of this regulatory action is to affirm compensation of CALPIA assigned inmates in any type of assignment, whether it is educational, vocational, or work. This amendment will also protect and maintain CALPIA’s purpose as an agency. Thus, this proposed action benefits the public and general welfare.

Creation or Elimination of Jobs within the State of California

CALPIA has determined that these regulatory changes will have no impact on the creation or elimination of existing jobs within California because those jobs are not affected by the internal management of CALPIA employees.

Creation, Expansion, or Elimination of Existing Businesses (Small or Large) within the State of California

This action will not create or eliminate existing jobs within the State of California. It is determined that this action has no significant adverse economic impact on jobs within the State of California because these jobs are not affected by CALPIA's proposed regulatory changes any differently than exists presently or there is no impact on existing jobs and therefore there is no impact with the adoption of this section.

Reports Relied Upon

None.

Cost Impacts on Representative Private Persons or Businesses

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

Effect on Small Businesses

CALPIA has determined that this action has no significant adverse economic impact on small business because they are not affected the internal management of CALPIA inmate workers.

Consideration of Alternatives

PIB and CALPIA has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of PIB and CALPIA, 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 action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are invited to submit written statements or arguments with respect to any alternatives to the changes proposed during the written comment period.

In accordance with Government Code section 11346.5, subdivision (a)(13), CALPIA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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 person than the proposed action or would be more cost-effective to affected private persons and equally effective in

implementing the statutory policy or other provision of law.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulations to the aforementioned contact persons.

Availability of Statement of Reasons, Text of Proposed Regulations, and Rulemaking Documents, and other information upon which the rulemaking is based

CALPIA will have the rulemaking file available for inspection and copying throughout the rulemaking process through its aforementioned contact persons at the office location identified above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and all rulemaking documents (includes Form 399 and Form 400, special notice requests.)

As noted above, the Proposed Text, Initial Statement of Reasons, and all the information upon which this proposal is based have been placed in the rulemaking record, which is available to the public upon request directed to the CALPIA's contact person. The documents will also be made available on the CALPIA website: www.calpia.ca.gov.

Availability of Changes to Proposed Text

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA 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 PIB reviews and approves the regulations as revised. CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting CALPIA's website: www.calpia.ca.gov.

Availability of the Final Statement of Reasons

Following its preparation, a copy of the Final Statement of Reasons may be obtained from CALPIA's contact person or by visiting the CALPIA website: www.calpia.ca.gov.

Availability of the Documents on the Internet

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, other information upon which the rulemaking is based and the text of the regulations in underline and strikeout can be accessed through the website at www.calpia.ca.gov.

TITLE 15. PRISON INDUSTRY AUTHORITY

NOTICE IS HEREBY GIVEN that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2800, 2802, 2807, 2808, and 2809 in order to implement, interpret and make specific Penal Code 2808, propose to add Section 8003, Article 3, of the California Code of Regulations (CCR), Title 15, Division 8, concerning severability.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed regulatory action. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than June 28, 2021.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided, including any of the following:

- An interpreter to be available at a hearing.
- Documents made available in an alternate format or another language.
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact Roxanna Leffel at CALPIA at (916) 358-1721 or Roxanna.Leffel@calpia.ca.gov as soon as possible, but no later than 10 business days before a scheduled hearing.

Para solicitador estas adaptaciones especiales o servicios de idioma, puede contactar a CALPIA at (916) 358-1721 or Roxanna.Leffel@calpia.ca.gov lo más pronto posible y a más tardar 10 días hábiles antes de la fecha de la audiencia de la Junta (Board).

PUBLIC COMMENT PERIOD

The public comment period will close on July 12, 2021, 45 days after the Publication in the Notice Register on May 28, 2021. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVER
Regulatory Manager
CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX
(916) 358-2709

E-MAIL
PIAregs@calpia.ca.gov

Due to limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by CALPIA. Therefore, emails larger than 15 MB should be submitted in several separate emails or another form of delivery should be used.

CALPIA requests but does not require that reports or articles in excess of 25 pages submitted with any comments include a summary of the reports or articles. This summary should include a concise overview of the report or article, describe the reason for submitting the report and describe the relevance of the reports or articles to the proposed regulation. Please note that under the California Public Records Act (Gov. Code Section 6250, *et. seq.*, your written and oral comments, attachments, and associated contact information (*e.g.*, your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

CONTACT PERSONS

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action, or for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the above-referenced persons to:

M. Doherty, Regulatory Manager
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

In the event the contact person is unavailable, inquiries should be directed to:

C. Pesce, Executive Assistant
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

Penal Code Section 2800: In 1982, the California Legislature restructured the Department of Corrections' industries and vocational training program for incarcerated individuals abolishing the Correctional Industries Commission and replacing it with the newly created Prison Industry Authority

(PIA) (subsequently renamed CALPIA) under the direction of the Prison Industry Board.

Penal Code Section 2807(a): Section 2807(a) provides that CALPIA is authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. By giving CALPIA these duties and power by statute, rulemaking authority is implicitly delegated to adopt those rules and regulations necessary for the due and efficient exercise of a duty or power expressly granted.

Penal Code Section 2802: Section 2802 provides for the existence of a Prison Industry Board (PIB).

Penal Code Section 2808: Section 2808 provides the PIB, in the exercise of its duties, all of the powers and do all of the things that the board of directors of a private corporation would do.

State Departments have been given “Quasi-Legislative” powers to adopt rules (regulations) that are consistent with state law so that they can run the programs they that are responsible for. One court opinion described this as the power to “fill in the details” of the state statute(s) that empower a department to operate a program. *Helene Curtis, Inc. v. Assessment Appeals Bd.* (1999) 76 Cal.App.4th 124. By the implied terms of Penal Code Sections 2808, 2802, 2807, 2800, CALPIA has the authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of these statutes.

INFORMATIVE DIGEST

This provision is necessary to make clear CALPIA’s intention that if one or more provisions of these regulations is invalidated, either facially or as applied in a specific context, the remaining provisions shall continue in full force and effect to the extent possible without the severed provision(s). Although courts generally presume that statutes and regulations are severable — particularly where the scheme involved is long and complex — the severability statement is here intended to resolve any doubt as to the drafters’ intent in this regard. Pursuant to Government Code section 11342.2, the proposed amendment is consistent with, and not in conflict with, PC sections 2801 through 2818. The proposed regulatory action is reasonably necessary to effectuate the purposes of PC section 2801 through 2818.

POLICY STATEMENT OVERVIEW

As noted above in the benefits section, a severability clause is necessary to ensure that the portion of CALPIA’s regulations affected by a successful and

final legal challenge and severed does not affect the validity of the remaining portions of the regulations. The benefit is to avoid this type of problem in advance. In the 2018 case of *MJ Masters v. CDCR*, No. 1800580, Superior Court, County of Marin, a regulation was subject to challenge and remaining provisions did not survive challenge due to the lack of a severability clause.

Anticipated Benefits of the Proposed Regulation:

Anticipated benefits of the proposed regulatory action include the following. Severability clauses can help administrative agencies minimize the damage caused by judicial review and can make the regulatory environment more efficient, participatory, and predictable. Greater predictability in the law allows agencies to determine how to use rulemaking resources most efficiently. Without severability, the probability that a court will set aside any particular provision is partly a function of the probability that a court will set aside any other provision in the same rule. Thus, the assessment of how best to regulate or how best to comply is to some extent a function of how likely a court is to find potentially unlawful provisions severable.

The benefit of a severability clause is to ensure that the portion of CALPIA’s regulations affected by a successful and final legal challenge and severed does not affect the validity of the remaining portions of regulations. In the 2018 case of *MJ Masters v. CDCR*, No. 1800580, Superior Court, County of Marin, a regulation was subject to challenge and remaining provisions did not survive challenge due to the lack of a severability clause.

As noted by Charles W. Tyler & E. Donald Elliott, in “Administrative Severability Clauses”, *The Yale Law Journal*, 124: 2286–2352 (2015) citing Thomas W. Merrill, *The Mead Doctrine: Rules and Standards, Meta-Rules and Meta-Standards*, 54 ADMIN. L. REV. 807, 822–23 (2002):

“Judicial deference to administrative severability clauses also promotes greater stability in regulatory schemes. A “remand-and-repromulgation cycle,” ... occurs when a regulation passes back and forth between an agency and the courts. If an agency could reliably influence how a reviewing court would make the severability decision by including a severability clause in a rule, then it could reduce the number of times it must re-promulgate a regulatory remainder that a court has erroneously invalidated.”

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

During the process of developing this regulation, CALPIA has conducted a search of any similar regulations on this topic and has concluded that these

regulations are neither inconsistent nor incompatible with existing laws and regulations. After conducting a review for regulations that would relate to or affect this area, CALPIA has concluded that these are the only CALPIA regulations that concern this exact processes and procedures for the adoption, amendment, and repeal of regulations by California state agencies.

Mandated by Federal Law or Regulations:

The proposed regulations are not federally mandated.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

Local Mandates:

Mandate on local agencies and school districts: None. This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 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 in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the State: None.

Cost impact on a representative private person or business: None.

CALPIA 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:

CALPIA has initially determined that the proposed action 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.

Effect of Housing Costs:

CALPIA has determined that the proposed action will have no significant effect of housing costs.

**Results of the Economic Impact Analysis/
Assessment:**

CALPIA concludes that it is unlikely that the proposed regulations will: (1) create or eliminate any jobs (2) create or eliminate any businesses; or (3) will result in the expansion of businesses currently doing business within the state.

In accordance with the Government Code Section 11346.3(b), the CALPIA has made the following assessments regarding the proposed regulation.

Benefits of Proposed Action:

As stated above under the Informative Digest and Policy Statement Overview, the benefits of the regulatory action include the following. Severability clauses can help administrative agencies minimize the damage caused by judicial review and can make the regulatory environment more efficient, participatory, and predictable. Greater predictability in the law allows agencies to determine how to use rulemaking resources most efficiently. Without severability, the probability that a court will set aside any particular provision is partly a function of the probability that a court will set aside any other provision in the same rule. Thus, the assessment of how best to regulate or how best to comply is to some extent a function of how likely a court is to find potentially unlawful provisions severable.

The benefit of a severability clause is to ensure that the portion of CALPIA's regulations affected by a successful and final legal challenge and severed does not affect the validity of the remaining portions of regulations. In the 2018 case of *MJ Masters v. CDCR*, No. 1800580, Superior Court, County of Marin, a regulation was subject to challenge and remaining provisions did not survive challenge due to the lack of a severability clause.

As noted by Charles W. Tyler & E. Donald Elliott, in "Administrative Severability Clauses", *The Yale Law Journal*, 124: 2286–2352 (2015) citing Thomas W. Merrill, *The Mead Doctrine: Rules and Standards, Meta-Rules and Meta-Standards*, 54 ADMIN. L. REV. 807, 822–23 (2002):

"Judicial deference to administrative severability clauses also promotes greater stability in regulatory schemes. A "remand-and-repromulgation cycle," ... occurs when a regulation passes back and forth between an agency and the courts. If an agency could reliably influence how a reviewing court would make the severability decision by including a severability clause in a rule, then it could reduce the number of times it must re-promulgate a regulatory remainder that a court has erroneously invalidated."

Thus, this proposed action benefits the public and general welfare.

Creation or Elimination of Jobs within the State of California:

CALPIA has determined that these regulatory changes will have no impact on the creation or elimination of existing jobs within California because those jobs are not affected by the management of CALPIA or severability of its regulations which address operations, staff, and incarcerated individuals.

Creation, Expansion, or Elimination of Existing Businesses (Small or Large) within the State of California:

This action will not create or eliminate existing jobs within the State of California. It is determined that this action has no significant adverse economic impact on jobs within the State of California because these jobs are not affected by CALPIA's proposed regulatory changes any differently than exists presently or there is no impact on existing jobs and therefore there is no impact with the adoption of this section.

Reports Relied Upon:

None.

Cost Impacts on Representative Private Persons or Businesses:

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

Effect on Small Businesses:

CALPIA has determined that this action has no significant adverse economic impact on small business they are not affected by the management of CALPIA or severability of its regulations which address operations, staff, and incarcerated individuals.

Consideration of Alternatives:

In accordance with Government Code section 11346.5, subdivision (a)(13), CALPIA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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 person than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulations to the aforementioned contact persons.

Availability of Statement of Reasons, Text of Proposed Regulations, and Rulemaking Documents, and other information upon which the rulemaking is based:

CALPIA will have the rulemaking file available for inspection and copying throughout the rulemaking process through its aforementioned contact persons at the office location identified above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and all rulemaking documents (includes Form 399 and Form 400, special notice requests.)

As noted above, the Proposed Text, Initial Statement of Reasons, *and all the information upon which this*

proposal is based have been placed in the rulemaking record, which is available to the public upon request directed to the CALPIA's contact person. The documents will also be made available on the CALPIA website: www.calpia.ca.gov.

Availability of Changes to Proposed Text:

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA 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 PIB reviews and approves the regulations as revised. CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting CALPIA's website: www.calpia.ca.gov.

Availability of the Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from CALPIA's contact person or by visiting the CALPIA website: www.calpia.ca.gov.

Availability of the Documents on the Internet:

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, other information upon which the rulemaking is based and the text of the regulations in underline and strikeout can be accessed through the website at www.calpia.ca.gov.

TITLE 18. BOARD OF EQUALIZATION

REVISED NOTICE OF PROPOSED
REGULATORY ACTION
THE STATE BOARD OF EQUALIZATION
PROPOSES TO ADOPT
SECTION 462.520, *EXCLUSION*
FROM CHANGE IN OWNERSHIP —
INTERGENERATIONAL TRANSFERS

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt California Code of Regulations, title 18, section (Rule or Property Tax Rule) 462.520, *Exclusion from Change in Ownership — Intergenerational Transfers*. This Rule implements, interprets, and makes specific the change in ownership exclusion provisions under section 2.1 of article XIII A of the California Constitution (Section 2.1). Specifically, Section 2.1, subdivision (c) creates a new exclusion from change in ownership applicable to

transfers of family homes and family farms between parents and children, and, under certain circumstances, between grandparents and grandchildren. This new exclusion became operative on February 16, 2021 and is referred to as the “intergenerational transfer exclusion.” Additionally, Section 2.1, subdivision (e) provides relevant definitions for the interpretation of the intergenerational transfer exclusion. Pursuant to the changes enacted by Section 2.1, subdivisions (c) and (e), the proposed new Property Tax Rule 462.520 (Proposed Rule) clarifies the eligibility for and application of the new intergenerational transfer exclusion, provides specific filing requirements to claim the exclusion, and explains the calculation of the “New Taxable Value” for qualifying property, with examples.

PUBLIC HEARING

The Board will conduct a meeting on July 27–28, 2021 via teleconference, consistent with the Governor’s Executive Order N–29–20 (issued March 17, 2020). The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. on July 27, 2021, or as soon thereafter as the matter may be heard at the Board’s July 27–28, 2021 meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the new Property Tax Rule 462.520.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Article XIII A, section 2.1, California Constitution; and Revenue and Taxation Code section 60.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of one percent of the full cash value of real property. For purposes of this limitation, section 2 of article XIII A defines full cash value to mean a county assessor’s valuation of real property as shown on the 1975–76 tax bill, or thereafter, the appraised

value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Legislature codified the definition of “change in ownership” in Revenue and Taxation Code (RTC) section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership or is excluded from the definition of “change in ownership” in RTC sections 61 through 69.5.

Relevant to this Proposed Rule, voters amended Article XIII A of the constitution to add two exclusions from change in ownership. Specifically, Proposition 58, effective November 6, 1986, excluded from change in ownership transfers of real property between parents and children and Proposition 193, effective March 27, 1996, excluded from change in ownership transfers of real property from grandparents to grandchildren, provided that all of the parents of the grandchildren who qualify as children of the grandparents are deceased as of the date of transfer. These two constitutional amendments are reflected in section 2, subdivision (h) of article XIII A of the California Constitution, codified at section 63.1 of the RTC, and are referred to as the Parent–Child and Grandparent–Grandchild Exclusions, respectively.

In the November 3, 2020 general election, the voters amended the constitution by approving Proposition 19 (Prop 19), which, amongst other things, created a new intergenerational transfer exclusion (by adding Section 2.1, subdivisions (c) and (e) to article XIII A of the California Constitution) and adopted a sunset date of February 15, 2021 (pursuant to Section 2.1, subdivision (d)) for the Parent–Child and Grandparent–Grandchild Exclusions.

Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board proposes to adopt Property Tax Rule 462.520, *Exclusion from Change in Ownership — Intergenerational Transfers* to implement, interpret, and make specific the change in ownership provisions instituted by Prop 19. In particular, Property Tax Rule 462.520 implements, interprets, and makes specific California Constitution, Article XIII A, section 2.1, subdivision (c), which provides that:

(c) Property Tax Fairness for Family Homes. Notwithstanding any other provision of this Constitution or any other law, beginning on and after February 16, 2021, the following shall apply:

(1) For purposes of subdivision (a) of Section 2, the terms “purchased” and “change in ownership” do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, as defined by

the Legislature, if the property continues as the family home of the transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. The new taxable value of the family home of the transferee shall be the sum of both of the following:

(A) The taxable value of the family home, subject to adjustment as authorized by subdivision (b) of Section 2, determined as of the date immediately prior to the date of the purchase by, or transfer to, the transferee.

(B) The applicable of the following amounts:

(i) If the assessed value of the family home upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in subparagraph (A) plus one million dollars (\$1,000,000), then zero dollars (\$0).

(ii) If the assessed value of the family home upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in subparagraph (A) plus one million dollars (\$1,000,000), an amount equal to the assessed value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in subparagraph (A) and one million dollars (\$1,000,000).

(2) Paragraph (1) shall also apply to a purchase or transfer of the family home between grandparents and their grandchildren if all of the parents of those grandchildren, who qualify as children of the grandparents, are deceased as of the date of the purchase or transfer.

(3) Paragraphs (1) and (2) shall also apply to the purchase or transfer of a family farm. For purposes of this paragraph, any reference to a "family home" in paragraph (1) or (2) shall be deemed to instead refer to a "family farm."

(4) Beginning on February 16, 2023, and every other February 16 thereafter, the State Board of Equalization shall adjust the one million dollar (\$1,000,000) amount described in paragraph (1) for inflation to reflect the percentage change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The State Board of Equalization shall calculate and publish the adjustments required by this paragraph.

(5)(A) Subject to subparagraph (B), in order to receive the property tax benefit provided by this section for the purchase or transfer of a family home, the transferee shall claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home.

(B) A transferee who fails to claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home may receive the property tax benefit provided by this section by claiming the homeowner's exemption or disabled veteran's exemption within one year of the purchase or transfer of the family home and shall be entitled to a refund of taxes previously owed or paid between the date of the transfer and the date the transferee claims the homeowner's exemption or disabled veteran's exemption.

Property Tax Rule 462.520 also implements, interprets, and makes specific Section 2.1, subdivision (e), which provides, in relevant part, that:

(e) For purposes of this section:

(1) "Disabled veteran's exemption" means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) "Family farm" means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in Section 51201 of the Government Code as that section read on January 1, 2020.

(3) "Family home" has the same meaning as "principal residence," as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) "Full cash value" has the same meaning as defined in subdivision (a) of Section 2.

(5) "Homeowner's exemption" means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) "Natural disaster" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) "Primary residence" means a residence eligible for either of the following:

(A) The homeowner's exemption.

(B) The disabled veteran's exemption.

(8) "Principal residence" as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) "Replacement primary residence" has the same meaning as "replacement dwelling," as that term is defined in subdivision (a) of Section 2.

(10) "Taxable value" means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

Effects, Objectives, and Benefits of the Proposed Property Tax Rule

Here, the relevant Proposition 19 provisions became effective as of February 16, 2021. Under Government Code section 15606, subdivision (c), the State Board of Equalization (Board) is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. Consistent with this responsibility, the Board seeks to promulgate new Property Tax Rule 462.520 to provide clarity of the relevant provisions within Section 2.1 of article XIII A of the California Constitution. Specifically, the Board is proposing this Rule to implement, interpret, and make specific subdivisions (c) and (e) of section 2.1 of article XIII A of the California Constitution. Proposed Rule 462.520, subdivision (a) makes explicit or provides clarification for specific provisions of Section 2.1, subdivision (c), including:

- That the transferred property must continue to be the principal residence or family farm of an eligible transferee or the exclusion is removed;
- That the transferred property must become the principal residence or family farm of a subsequent eligible transferee within one year of the initial eligible transferee in order for the exclusion to be retained;
- That a claim for a family farm can be filed separately from a claim for a principal residence;
- That the parent of a child must be deceased for the transfer of the property, between a grandparent and grandchild, to be excluded, but not the son-in-law or daughter-in-law of the grandparent;
- That there is no limit on the number of principal residences or family farms of a transferor that may be transferred to an eligible transferee and excluded; and
- Filing requirements.

Importantly, the Proposed Rule provides clarification for valuation of real property under the intergenerational transfer exclusion. In subdivision (b) (1), the Proposed Rule explains that a new base year value is calculated upon transfer of real property, but subdivision (b)(2) explains that if the qualifications for exclusion enumerated in subdivision (a) are met, the property will be assessed at its New Taxable Value as provided in Section 2.1, subdivisions (c)(1) to (c) (3) rather than at its new base year value. Subdivision (b)(3) explains the consequences to taxable value when the real property is no longer the principal residence of an eligible transferee. Examples 1 and 2 demonstrate the calculation of the new base year value of the property. The calculation of the New Taxable Value, which applies when the requirements for the intergenerational transfer exclusion have been met, is

demonstrated under various scenarios in Examples 3 to 6.

The calculation of the assessed value when the intergenerational transfer exclusion is removed is explained in subdivision (d). Examples 7 and 8 illustrate the change in value when the eligible transferee no longer uses the property as a family home, when another eligible transferee moves in within one year and uses the property as a family home, when an eligible transferee transfers his interest to another eligible transferee, and when the transferor only transfers a portion of their property interest.

Subdivision (e) of the Proposed Rule provides definitions for terms used throughout the Rule and which are required for its implementation. It includes certain definitions (such as “family farm”, and “homeowner’s exemption”) or clarifies other definitions (such as “full cash value” and “principal residence”) that are found within Section 2.1, subdivision (e).

The Proposed Rule in subdivision (f) provides claim filing instructions, including: how an eligible transferee can file a claim for the intergenerational transfer exclusion; when the claim is considered timely; and that an untimely claim will only provide prospective relief. Finally, the Proposed Rule in subdivision (g) reiterates the provision within Section 2.1, subdivision (c)(4) requiring the Board calculate and publish an inflation adjustment factor. The above clarifications are reasonably necessary for the efficient and fair administration of the change in ownership provisions under section 2.1 of article XIII A of the California Constitution applicable to intergenerational transfers. The Board anticipates that the Proposed Rule will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, county assessors, and owners of property potentially eligible for the intergenerational transfer exclusion instituted by Proposition 19.

The Board has performed an evaluation of whether proposed Property Tax Rule 462.520 is inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Rule is not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the proposed new Rule. In addition, there is no comparable federal regulation or statute to proposed Property Tax Rule 462.520.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the Proposed Rule will not impose a mandate on local agencies or school districts, including a mandate

that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

**ONE-TIME COST TO STATE
AGENCIES, LOCAL AGENCIES, AND
SCHOOL DISTRICTS**

The Board has determined that the adoption of proposed new Property Tax Rule 462.520 will result in an absorbable \$856 one-time cost for the Board to update its website, issue letters regarding this Rule to interested parties, and train county assessors on how to assess property under this Rule after the Proposed Rule is completed. The Board has determined that the adoption of the Proposed Rule will result in no other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

**NO SIGNIFICANT STATEWIDE
ADVERSE ECONOMIC IMPACT
DIRECTLY AFFECTING BUSINESS**

The Board has made an initial determination that the adoption of the new Proposed Rule 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. The adoption of the proposed new Rule is not expected to affect the operation of small businesses because it applies only to the transfer of family farms owned by individuals. Therefore, the proposed new Rule may affect the transfer of individually-owned, family farms that meet the definition of “small business”.

**NO COST IMPACTS TO PRIVATE
PERSONS OR BUSINESSES**

Other than the filing requirement, the Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT REQUIRED
BY GOVERNMENT CODE
SECTION 11346.3, SUBDIVISION (b)**

The Board assessed the economic impact of proposed new Property Tax Rule 462.520 on

California businesses and individuals and determined that the Proposed Rule is not a major regulation as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Rule and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Rule will neither create nor eliminate jobs in the State of California, nor create new businesses or eliminate existing businesses within the state, nor expand businesses currently doing business in the State of California. Furthermore, the Board has determined that the adoption of the Proposed Rule will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state’s environment.

**NO SIGNIFICANT EFFECT ON
HOUSING COSTS**

The adoption of proposed Property Tax Rule 462.520 will not have a significant effect on housing costs.

**DETERMINATION REGARDING
ALTERNATIVES**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention 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 action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the Proposed Rule should be directed to Mr. Henry Nanjo, Chief Counsel, by telephone at (916) 274-3520, by e-mail at henry.nanjo@boe.ca.gov, or by mail at State Board of Equalization, Attention: Henry Nanjo, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121.

Written comments for the Board’s consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Lawrence Lin, Regulations Coordinator, by telephone at (916) 274-3527, by e-mail at lawrence.lin@boe.ca.gov, or by mail at State Board of Equalization, Attention: Lawrence Lin, MIC: 80, P.O.

Box 942879, Sacramento, CA 94279–0080. Mr. Lin is the designated backup contact person to Mr. Nanjo.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on July 27, 2021, or as soon thereafter as the Board holds the public hearing regarding the Proposed Rule during the July 27, 2021 Board meeting. Written comments received by Mr. Lin at the postal address or email address provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Rule. The Board will only consider written comments received by that time.

**AVAILABILITY OF INITIAL
STATEMENT OF REASONS AND
TEXT OF PROPOSED REGULATION**

The Board has prepared an underline version of proposed new Property Tax Rule 462.520 illustrating the express terms of the Proposed Rule and an initial statement of reasons for the adoption of the Proposed Rule, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Rule is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed new Rule and the Initial Statement of Reasons are also available on the Board's website at www.boe.ca.gov.

**SUBSTANTIALLY RELATED
CHANGES PURSUANT TO
GOVERNMENT CODE SECTION 11346.8**

The Board may adopt the Proposed Rule with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Lin. The Board will consider written

comments on the resulting regulation that are received prior to adoption.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

If the Board adopts the Proposed Rule, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

**TITLE 19. OFFICE OF THE STATE
FIRE MARSHAL**

**TITLE 19. PUBLIC SAFETY
DIVISION 1. STATE FIRE MARSHAL
CHAPTER 3. FIRE EXTINGUISHERS
ARTICLE 3. GENERAL PROVISIONS**

**FEE STRUCTURE FOR LICENSING AND
CERTIFICATION FOR THE SERVICING,
TESTING, AND MAINTENANCE OF
PORTABLE FIRE EXTINGUISHERS**

NOTICE IS HEREBY GIVEN pursuant to Government Code, § 11346.6, that the California Department of Forestry and Fire Protection — Office of the State Fire Marshal (“OSFM”) or (“SFM”) proposes to take the regulatory action described below in the Informative Digest implementing Title 19, Division 1, Chapter 3, Article 3 of the California Code of Regulations (CCR), related to the adoption of a new fee structure for licensing and certification for the servicing, testing, and maintenance of portable fire extinguishers, after considering public comments, objections, or recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person or his/her authorized representative may submit written comments relevant to the proposed regulatory action. Written comments will be accepted for 45 days **beginning May 28, 2021 through July 12, 2021**. All written comments received through the end of July 12, 2021 will be considered and responded to as part of the compilation of the rulemaking file and are subject to disclosure under the Public Records Act (Gov. Code § 6250, et seq.). Written comments should be directed to:

- **Email:** diane.arend@fire.ca.gov (include in the subject line of the email “Comments: Portable Fire Extinguisher Fees”).

- **Mail to:**
CAL FIRE/Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244–2460
Attention: Diane Arend, Code Development & Analysis
- **Hand–delivered between 8:00 a.m. and 5:00 p.m. (PDT) to:**
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Fourth Floor
Sacramento, California 95815
Attention: Diane Arend, Code Development & Analysis

Pursuant to Government Code § 11346.9, the SFM shall respond to comments submitted during the comment period containing objections and/or recommendations specifically directed at the SFM’s proposed action or to the procedures followed by the agency in proposing or adopting the action.

PUBLIC HEARING

The SFM has not scheduled a public hearing on this proposed action. However, the SFM will hold a public hearing to accept comments if a written request is received from any interested person or his/her authorized representative, no later than 15 days before the close of the 45–day written comment period, pursuant to Government Code Section 11346.8. Submit requests to the contact person indicated below.

STATUTORY AUTHORITY

The proposed action will adopt regulations to reflect legislative requirements found in Government Code, § 11346.6.

AUTHORITY AND REFERENCE

Health and Safety Code (HSC) § 13160 gave the SFM the authority to adopt the proposed regulation.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The regulations proposed in this rulemaking action implements interprets, clarifies, and/or makes specific Health and Safety Code §13160 by making the following changes:

Specifically, this action proposes a fee increase for portable fire extinguisher licensing and certifications and establishes requirements for application of service companies and service technicians.

This rulemaking action proposes the addition of Sections 560(d)(8), and 560.01, and amendment to Sections 560 (a), (b), (c) and (d)(1–7), 595.2, 595.4,

595.7 and 595.10 in Chapter 3, Article 3 and 8 of Title 19, CCR.

SUMMARY OF EXISTING LAWS:

Current law in HSC § 13160 requires all to apply for a license and certification with the SFM prior to performing service, testing, or maintenance of equipment on Portable Fire Extinguishers within the state. HSC §§ 13137 and 13189 authorized the SFM to charge fees which will not exceed the actual cost of administration of the program.

SUMMARY OF EXISTING REGULATIONS:

Existing regulations in CCR, Title 19, Division 1, Chapter 3, Article 3 require a fee for fire extinguisher licensing and certifications. Pursuant to HSC §§ 13137 and 13189, the SFM is proposing a fee increase. In 2017–18, the SFM initiated the process of fully assessing workload, analyzing business processes, and updating regulations and fees to create a fee structure that is commensurate with supporting each of the programs’ current operations. Throughout this process, it was identified the revenues generated by each of the Licensing and Certification (L&C) programs needed to be updated to support current and future program costs. Furthermore, additional positions were needed to reflect current workload demands to ensure full enforcement of HSC §§ 13137 and 13189, and L&C expenditures needed to be re–baselined.

SUMMARY OF EFFECT:

The proposed regulations will have a financial impact on applicants who have their licenses and certifications applications and annual renewals as required by the SFM.

COMPARABLE FEDERAL REGULATIONS OR STATUTE:

The proposed action does not duplicate or conflict with any federal regulations or statutes. No comparable federal regulations or statutes exist.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS:

The broad objective of the changes proposed in this rulemaking action is intended to ensure that the SFM has sufficient funding for its operational expenses to carry out the purposes and intent of HSC §§ 13137 and 13189.

The specific benefit anticipated from the regulation is public fire and life safety and protection of Californians by providing reliable and effective equipment, through SFM licensing and certification of companies and technicians, for the portable fire extinguisher industry, manufacturers, and businesses, and state and local fire authorities. The regulations also protect California citizens by ensuring licensees meet the minimum state codes and standards resulting in the reduction or risk of future loss of life due to fires.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The SFM has evaluated the proposed regulations and found that they are not inconsistent or incompatible with existing state and federal regulations.

**FORMS AND DOCUMENTS
INCORPORATED BY REFERENCE**

The following forms are incorporated by reference in the text of the proposed regulations. The application forms are used to record the information required for applying for a company, limited company, replacement Identification card, and the certification to perform service, testing or maintenance of equipment with the Portable Fire Extinguisher Program:

1. Application for Concern License or Change (FE-1 dated 10-2020)
2. Application for Limited Concern License or Change (FE-2 dated 10-2020)
3. Application for Certificate of Registration or Change (FE-3 dated 10-2020)
4. Application for Replacement Certificate of Registration Card (FE-4 dated 10-2020)

It would be cumbersome, unduly expensive or otherwise impractical to publish this document in the CCR. The documents are made available from the agency or are reasonably available to the affected public from a commonly known or specified source: Office of the State Fire Marshal website at: <https://osfm.fire.ca.gov>.

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

There are no other matters prescribed by statute applicable to the SFM, or to any specific regulation. There are no other matters to identify.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The SFM has made the following initial determinations concerning the adoption of the proposed regulations:

1. Mandates on local agencies and school districts: **None.**
2. Costs or savings to any state agency: **None.**
3. Cost to any local agency or school district that must be reimbursed in accordance with Government Code § 17500 through § 17630: **None.**
4. Other non-discretionary cost or saving imposed on local agencies: **None.**

5. Costs or savings in federal funding to the State of California: **None.**

6. Significant Statewide Adverse Economic Impacts Directly Affecting Businesses and Individuals: Although the proposed action may have an impact on businesses statewide that service, test, or maintain equipment with portable fire extinguishers, the SFM concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.

DECLARATION OF EVIDENCE:

The SFM has not relied on any other facts, evidence, documents, testimony, or other evidence to make its initial determination of no statewide adverse economic impact.

7. Significant effect on housing costs: **None.**

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS**

There are no significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Costs are towards licensed/certified fire extinguisher service technicians or service companies in California.

SMALL BUSINESS DETERMINATION

The SFM has identified no alternative which would lessen the adverse impact, if any, on small business and believes there are no reasonable alternatives to the proposed regulations which would reduce any adverse impact on small business and still allow the SFM to effectively enforce the regulations. The SFM has not identified any alternatives that would lessen any adverse impact, if any, on small businesses.

BUSINESS REPORT

The proposed regulations do not create any reporting requirements.

**RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT**

The SFM concludes that the adoption of these regulations will not:

- a) create or eliminate jobs within California;
- b) create new businesses or eliminate existing businesses within California, or
- c) effect the expansion of businesses currently doing business within California.

BENEFITS TO HEALTH AND
WELFARE, WORKER SAFETY, AND
THE ENVIRONMENT

The State Fire Marshal has assessed that this regulatory proposal will benefit the public health and welfare of California residents, worker safety, and the environment by ensuring consistency throughout the State with licensing, servicing, testing, or the maintenance of portable fire extinguisher throughout the state. The proposed regulations will have a positive impact on the ability of the SFM to carry out its licensing and certification mandates, improve the licensing and certification service and enforcement, and meet current and future work demands.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code §11346.5 (a)(13), the SFM must determine 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 provision of law.

The SFM considered reasonable alternatives to the proposed action and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons and small businesses than the proposed action. This conclusion is based on the SFM's determination that the proposed action is necessary to implement legislative enactments expanding the SFM's regulatory authority.

The SFM invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries or specific questions regarding the proposed rulemaking action may be directed to:

General inquiries:

Diane Arend, Regulations Coordinator
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Suite 400
Sacramento, CA 95815
diane.arend@fire.ca.gov
Phone: (916) 568-2917

For substantive or technical questions:

Jeff Schwartz, Program Coordinator
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Suite 400
Sacramento, CA 95815
jeffrey.schwartz@fire.ca.gov
Phone: (916) 568-2936

AVAILABILITY OF STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATIONS, AND RULEMAKING FILE

The SFM will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above Sacramento Harvard Street address. As of the date of this notice being published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and supporting information. Copies may be obtained through the contact persons at the address and/or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding a public hearing, if requested, and considering all timely and relevant comments received, the SFM may adopt the proposed regulations substantially as described in this notice. If the SFM 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 SFM adopts the regulations as revised. Requests for copies of any modified regulations should be directed to the contact person(s) at the address listed above. The SFM will accept written comments on the modified regulations for 15 days after the date on which the modifications are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Diane Arend at the above address and telephone number or by accessing the website listed below.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of this Notice of the Proposed Rulemaking ("NOPA"), the initial statement of reasons ("ISOR"), the text of the proposed regulations ("TEXT") and

any other materials or documents concerning this rulemaking can be accessed through the Office of the State Fire Marshal web address at: <http://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>.

PLAIN ENGLISH DETERMINATION

The proposed Regulations were prepared pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code § 11342.580 and § 11346.2(a)(1). The proposed regulations were written to be easily understood by the parties that will use them.

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DIVISION OF THE STATE ARCHITECT (DSA-SS & DSA-SS/CC) REGARDING THE 2022 CALIFORNIA PLUMBING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5

(DSA SS/CC 02/21)

Notice is hereby given that the California Building Standards Commission (CBSC or BSC) on behalf of 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 5. The DSA is proposing building standards related to California Plumbing Code (CPC).

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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) Sections 18930, 18934.5, 18938, 18944 and 18949.1 and Education Code (EDC) Sections 17280–17317, 81130–81147, 81052 and 81053. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code (HSC) Sections 18930, 18934.5, 18938, 18944 and 18949.1 and Education Code (EDC) Sections 17280–17317, 81130–81147, 81052 and 81053.

The Division of the State Architect is proposing this regulatory action based on HSC Section 16022 and EDC Sections 17310, 81142, and 81053.

INFORMATIVE DIGEST

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

Summary of Existing Laws

EDC Sections 17310 and 81142 authorize DSA to establish building standards for public elementary and secondary schools, and community colleges.

EDC Sections 81052 and 81053 authorize DSA to establish building standards which a community college may elect to use in lieu of those standards promulgated in accordance with EDC Section 81142.

HSC Section 16022 authorizes DSA to establish building standards for state-owned and state-leased essential services buildings.

HSC Section 18930 requires that any building standard proposed or adopted by state agencies be submitted to and approved or adopted by the Building Standards Commission, prior to codification.

HSC Section 18938 requires the filing of standards with the Secretary of State by CBSC only after they have been approved by the commissioners. It requires that the administrative regulations become effective 30 days after filing with the Secretary of State, and that they be published in Title 24.

Summary of Existing Regulations

Existing building standards which prescribe the plumbing system design and construction of public elementary and secondary schools, community colleges and state-owned or state-leased essential services buildings, are promulgated by the Division of the State Architect. These regulations are contained in Title 24, Part 5, California Plumbing Code.

Summary of Effect

The proposed action would update Title 24, Part 5, by repealing the adoption of the 2018 edition Uniform Plumbing Code and adopting the most recent edition of the selected model plumbing code (Uniform Plumbing Code, 2021 edition). The proposed action will also integrate currently adopted plumbing safety amendments into the updated Title 24, Part 5 and 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 the current edition of the model plumbing code and nationally-recognized plumbing design standards.

Evaluation of Consistency

There are no inconsistent or incompatible regulations being proposed.

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

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 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 AND 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.

No facts, evidence, documents, testimony or other evidence has been relied upon by the Division of the State Architect 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.

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.

DSA has determined that this proposed action has no effect.

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

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.

DSA has determined that this proposed action has no effect.

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 under DSA's authority, which covers public schools, community colleges and essential services buildings.

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: 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).

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 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:

Primary Contact:

Tav Commins
Department of General Services
Division of the State Architect
916-443-9841
Tav.commins@dgs.ca.gov

Back up Contact:

Paul Johnson, Senior Electrical Engineer
Department of General Services
Division of the State Architect
916-322-3579
Paul.johnson@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT REGARDING
THE 2022 CALIFORNIA MECHANICAL CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 4**

(HCD 01/21)

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 or BSC), 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 4. HCD is proposing building standards related to the adoption of the 2021 Uniform Mechanical Code (UMC).

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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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

Authority: Health and Safety Code Sections 17040, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17926, 17927, 17928, 17958.12, 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 Sections 12955.1 and 12955.1.1.

Reference(s): Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, 18938.3, 18938.6, 18941, 18941.5, 19890, 19891, 19892 and 19960 through 19997; Civil Code Sections 714, 801.5, 1101.4, 1101.5, 1954.201, 1954.202 and 5551; and Government Code Sections 8698.4, 12955.1, 12955.1.1, 65850.5 and 65852.2. California Code of Regulations, Title 20, Sections 1605.1, 1605.3 and

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

HSC section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by HSC section 18949.5.

HSC section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

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

HSC sections 18620 and 18873 require HCD to adopt building standards for permanent buildings in mobilehome parks and special occupancy parks.

Summary of Existing Regulations

The 2019 California Mechanical Code (CMC), CCR, Title 24, Part 4, adopted by reference the 2018 UMC with California amendments, effective on January 1, 2020.

Summary of Effect

HCD proposes to adopt by reference the 2021 UMC, with California amendments, into the 2022 CMC, CCR, Title 24, Part 4, for the following programs:

- State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC section 17921.
- Employee Housing Program: relative to any building or structure or outdoors on premises or property in accordance with HSC section 17040.
- 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 18620 and 18873.
- 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 California Building Standards Code (CCR, Title 24), 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. These updates will result in the 2022 California Building Standards Code.

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.

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: **None.**

HSC section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to CBSC pursuant to the provisions of Chapter 4 (commencing with section 18935) of GC Part 2.5. GC Part 2.5 requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location in the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.

B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

HSC section 17951 provides that local enforcement agencies may prescribe fees to defray the costs of enforcement of the State Housing Law including compliance with these regulations.

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: **None.**

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

Estimate: \$0; HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

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 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.

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to GC section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

Pursuant to GC section 11346.2(b)(5)(B)(ii) adoption of the model codes is exempt from identification of the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates in the Initial Statement of Reasons.

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.

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to GC section 11346.3(c) 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:

HCD 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).

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.

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.

The adoption of the 2021 UMC by reference with California amendments will provide stakeholders with requirements for installation and maintenance of heating, ventilating, cooling and refrigeration systems while allowing for innovation, new technologies, and accommodation of specialized requirements for the State of California. These regulations will also update and improve minimum existing 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 for those regulations that make only technical and nonsubstantive changes.
- GC section 11346.2(b)(5)(B)(ii) provides that the model codes adopted pursuant to section 18928 of the HSC shall be exempt from the requirements of section 11346.2(b)(5)(B) unless upon request as specified. The purpose of this rulemaking is to adopt the 2021 UMC which is a model code setting forth requirements for plumbing systems in structures.

- The potential benefits provide recognition and appropriate use of new technologies and materials, clarity for the code users and local enforcement agencies, and may increase business due to the adoption of new building standards.
- Protection of public health and safety, worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

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

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD 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).

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) 263-0916

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:

Primary Contact:

Brandon Estes, Codes and Standards
Administrator I
Department of Housing and Community
Development
State Housing Law Program
(916) 247-3095
Brandon.Estes@hcd.ca.gov

Back up Contact:

Emily Withers, Codes and Standards
Administrator II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-2998
Emily.Withers@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
2022 CALIFORNIA MECHANICAL CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 4

(OSHDPD 01/21)

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 or BSC) 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 4. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(15).

Written comments will be accepted by CBSC regarding the proposed changes from May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

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

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

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.

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 and intermediate care facilities, licensed clinics, 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 18949.3, transfers the responsibilities of OSHPD to adopt regulations relating to building standards, including but not limited to, responsibilities specified under the Alfred E. Alquist Hospital Facilities Seismic Safety Act to the California Building Standards Commission.

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 4, California Mechanical Code (CMC) is based on the Uniform Mechanical Code with California amendments. The CMC contains mechanical system requirements for the design and construction of hospitals, skilled nursing and

intermediate care facilities, licensed clinics, and correctional treatment centers.

Summary of Effect

OSHPD is adopting the 2021 Uniform Mechanical Code which will be a basis for the 2022 California Mechanical Code. The proposed action makes editorial and technical modifications to mechanical building standards with a definition for Zone to align with a national referenced standard; clarifications to Variable Air Volume and an update to Table 4–A; and code language for Economizers and Diffusers.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing and intermediate care 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 and alignment with ASHRAE 170.

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: **None.**
- 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: **None.**

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

Estimate: Not Applicable.

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.

OSHPD 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.

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 editorial and technical modifications to the existing code that are in alignment with health facility licensing requirements and national referenced 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 with 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).

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: 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).

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:

Enrique M. Rodriguez, Associate Construction
Analyst
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
enrique.rodriguez@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:

Primary Contact:

Richard Tannahill, Health Facilities Review,
Supervisor
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

Back up Contact:

Lori Campbell, Building Standards Unit
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
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
2022 CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 5

(OSHPD 02/21)

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 or BSC) 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 5. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing

and intermediate care 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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

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.

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 and intermediate care facilities, licensed clinics, 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 18949.3, transfers the responsibilities of OSHPD to adopt regulations relating to building standards, including but not limited to, responsibilities specified under the Alfred E. Alquist Hospital Facilities Seismic Safety Act to the California Building Standards Commission.

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 5, California Plumbing Code (CPC), is based on the Uniform Plumbing Code with California amendments. The CPC contains plumbing and mechanical system requirements for the design and construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

Summary of Effect

The proposed action makes editorial and technical modifications to plumbing building standards by providing a clear pointer to the National Fire Protection Association (NFPA) version that is adopted by OSHPD, the California State Fire Marshal, and other agencies.

Comparable Federal Statute or Regulations

There are no comparable Federal statutes or regulations related to this proposed action.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing and intermediate care 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 and alignment and national referenced standards.

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: **None.**
- 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: **None.**

- E. Cost or savings in federal funding to the state:
None.
 Estimate: Not Applicable.

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.

OSHDP 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.

OSHDP 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 editorial and technical modifications to the existing code that are in alignment with health facility licensing requirements and national referenced 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.

OSHDP 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:

OSHDP 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).

OSHDP 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 with 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 OSHDP or that has otherwise been identified and brought to the attention of OSHDP 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).

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:

Kevin Day, Staff Services Manager I Specialist
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:

Primary Contact:

Richard Tannahill, Health Facilities Review,
Supervisor
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

Back up Contact:

Lori Campbell, Building Standards Unit
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

NOTICE OF 45-DAY PUBLIC COMMENT
PERIOD FOR PROPOSED ACTION TO
BUILDING STANDARDS OF THE STATE
FIRE MARSHAL REGARDING THE
2022 CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 5

(SFM 02/21)

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 or BSC) 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 5. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(15).

Written comments will be accepted by CBSC regarding the proposed changes from May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

INFORMATIVE DIGEST

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

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

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a CBSC public meeting. CBSC will schedule the meeting 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).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code 18949.2. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Section 18928.

The State Fire Marshal is proposing this regulatory action based on Health and Safety Code 1250, 1569.72, 1569.78, 1568.02, 1502, 1597.44, 1597.45, 1597.46, 1597.54, 1597.65, 13108, 13108.5, 13114, 13143, 13143.2, 13143.6, 13146, 13210, 13211, 17921, 18949.2, 25500 through 25545, Government Code Section 51189, Public Education Code 17074.50

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

The State Fire Marshal shall establish 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 18897.3

The State Fire Marshal shall adopt fire safety regulations for organized camps.

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 5, 2019 California Plumbing 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 adopt the 2022 California Plumbing Code (California Code of Regulations, Title 24, Part 5) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 Uniform Plumbing 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 2022 California Plumbing Code that address inadequacies of the 2021 Uniform Plumbing Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2022 California Plumbing 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 2021 Uniform Plumbing Code and published as the 2022 California Plumbing Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Plumbing 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.

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 2022 California Plumbing 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: **None.**
- 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: **None.**
- E. Cost or savings in federal funding to the state: **None.**

Estimate: 0

**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.

SFM 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.

The SFM affirms that this rulemaking action complies specifically with the mandates of HSC

Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

**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:

SFM 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 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.**

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 update and improve minimum 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).

The SFM has determine 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.

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 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).

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:

Primary Contact:

Greg Andersen, Division Chief
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2915
Greg.andersen@fire.ca.gov

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/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 45-DAY PUBLIC
COMMENT PERIOD FOR PROPOSED
ACTION TO BUILDING STANDARDS OF THE
STATE FIRE MARSHAL REGARDING THE
2022 CALIFORNIA MECHANICAL CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 4**

(SFM 01/21)

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 or BSC) 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 4. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(15).

Written comments will be accepted by CBSC regarding the proposed changes from May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a CBSC public meeting. CBSC will schedule the meeting 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).

The State Fire Marshal is proposing this regulatory action based on 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, 18949.2, 25500–25545, Government Code Section 51189, Education Code 17074.50.

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 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 4, 2019 California Mechanical 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 adopt the 2022 California Mechanical Code (California Code of Regulations, Title 24, Part 4) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 Uniform Mechanical 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 2022 California Mechanical Code that address inadequacies of the 2021 Uniform Mechanical Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2022 California Mechanical 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 2021 Uniform Mechanical Code and published as the 2022 California Mechanical Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Mechanical 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

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 2022 California Mechanical 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: **None.**
- 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: **None.**
- E. Cost or savings in federal funding to the state: **None.**

Estimate: 0

**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.

SFM 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.

The SFM affirms that this rulemaking action complies specifically with the mandates of HSC Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

**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:

SFM 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 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.

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 update and improve minimum 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).

The SFM has determine 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.

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 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).

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:

Primary Contact:

Greg Andersen, Division Chief
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2915
Greg.andersen@fire.ca.gov

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/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 45-DAY PUBLIC COMMENT
FOR PROPOSED ACTION TO BUILDING
STANDARDS OF THE STATE FIRE
MARSHAL REGARDING THE 2022
CALIFORNIA ELECTRICAL CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 3

(SFM 01/20)

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 or BSC) 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 3. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(15).

Written comments will be accepted by CBSC regarding the proposed changes from May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a CBSC public meeting. CBSC will schedule the meeting 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).

The State Fire Marshal is proposing this regulatory action based on 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, 18949.2, 25500-25545, Government Code Section 51189, Education Code 17074.50.

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 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 3, 2019 California Electrical 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 adopt the 2022 California Electrical Code (California Code of Regulations, Title 24, Part 3) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2017 National Electrical 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 2022 California Electrical Code that address inadequacies of the 2020 National Electrical Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2022 California Electrical 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 2020 National Electrical Code and published as the 2022 California Electrical Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Electrical 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

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 2022 California Electrical 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: **None.**

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

Estimate: 0

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.

SFM 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.

The SFM affirms that this rulemaking action complies specifically with the mandates of HSC Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

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:

SFM 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 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.**

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 update and improve minimum 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).

The SFM has determine 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.

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 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).

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:

Primary Contact:

Greg Andersen, Division Chief
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2915
Greg.andersen@fire.ca.gov

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/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 OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT REGARDING THE 2022 CALIFORNIA ELECTRICAL CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 3

(OSHDPD 01/20)

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 or BSC) on behalf of Office of Statewide Health Planning and Development (OSHDPD) proposes to adopt,

approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 3. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing and intermediate care 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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

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.

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 and intermediate care facilities, licensed clinics, 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 18949.3, transfers the responsibilities of OSHPD to adopt regulations relating to building standards, including but not limited to, responsibilities specified under the Alfred E. Alquist Hospital Facilities Seismic Safety Act to the California Building Standards Commission.

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 3, California Electrical Code (CEC) contains regulations pertaining to electrical system requirements for the design and construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

Summary of Effect

OSHPD is adopting the 2020 National Electrical Code which will be the basis for the 2022 California Electrical Code. Amendments are proposed that will provide clarification and consistence with the code, define storage capacity of battery systems used as alternate power sources, allowances for Power over Ethernet wiring for hospital lighting systems, coordination with the California Building Code, and references to Centers for Medicare and Medicaid Services.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. The intent of this proposal is to adopt the most recent model code as mandated by statute, provide editorial and minor technical modifications for clarification and consistency within the code, coordinate with the California Building Code, and align the electrical code provisions with nationally recognized standards.

Evaluation of Consistency

The proposed regulation 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: **None.**

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

Estimate: Not Applicable.

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.

OSHPD 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.

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 editorial and technical modifications to the existing code that are in alignment with health facility licensing requirements and national referenced 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 with 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).

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: 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).

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

Primary Contact:

Richard Tannahill, Health Facilities Review,
Supervisor
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

Back up Contact:

Lori Campbell, Building Standards Unit
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.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 2022 CALIFORNIA
PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 5

(HCD 02/21)

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 of BSC) on behalf of the 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

5. HCD is proposing building standards related to the adoption of the 2021 Uniform Plumbing Code (UPC).

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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

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 Business and Professions Code division 5; HSC sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, 18938.3, and 19960 through 19997; Civil Code sections 1101.3, 1101.4, 1101.5, 1954.201, and 1954.202; and Government Code (GC) sections 12955.1, 12955.1.1 and 65852.2; Water Code sections 516 and 517; and California Code of Regulations, title 20, sections 1605.1, 1605.3, and 1607.

HCD is proposing this regulatory action based on HSC sections 17040, 17920.9, 17921, 17921.5, 17921.10, 17922, 17922.12, 17922.14, 17928, 18552, 18554, 18620, 18630, 18640, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1, 18873.2, 18873.4, 18873.5, 18938.3, 18944.11, and 19990; and GC sections 12955.1 and 12955.1.1.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

HSC section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. CBSC is authorized to adopt these building standards under the authority granted by HSC section 18949.5.

HSC section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

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

HSC sections 18620 and 18873 require HCD to adopt building standards for permanent buildings in mobilehome parks and special occupancy parks.

Summary of Existing Regulations

The 2019 California Plumbing Code (CPC), CCR, title 24, part 5, adopted by reference the 2018 UPC

with California amendments, effective on January 1, 2020.

Summary of Effect

HCD proposes to adopt by reference the 2021 UPC, with California amendments, into the 2022 CPC, CCR, title 24, part 5, for the following programs:

- State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC section 17921.
- Employee Housing Program: relative to any building or structure or outdoors on premises or property in accordance with HSC section 17040.
- 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 18620 and 18873.
- 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 California Building Standards Code (CCR, title 24), 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. These updates will result in the 2022 California Building Standards Code.

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.

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: **None.**

HSC section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to CBSC pursuant to the provisions of Chapter 4 (commencing with section 18935) of GC Part 2.5. GC Part 2.5 requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location in the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.

B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

HSC section 17951 provides that local enforcement agencies may prescribe fees to defray the costs of enforcement of the State Housing Law including compliance with these regulations.

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: **None.**

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

Estimate: \$0 HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

**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 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.

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to GC section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

Pursuant to GC section 11346.2(b)(5)(B)(ii) adoption of the model codes is exempt from identification of the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates in the Initial Statement of Reasons.

**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.

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code section 11346.3(c) 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:

HCD 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).

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.

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.

The adoption of the 2021 UPC by reference with California amendments will provide stakeholders with safe and sanitary plumbing systems while allowing for innovation, new technologies, and accommodation of specialized requirements for the State of California. These regulations will also update and improve minimum existing 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 for those regulations that make only technical and nonsubstantive changes.
- Government Code section 11346.2(b)(5)(B)(ii) provides that the model codes adopted pursuant to HSC section 18928 shall be exempt from the requirements of section 11346.2(b)(5)(B) unless upon request as specified. The purpose of this rulemaking is to adopt the 2021 UPC which is a model code setting forth requirements for plumbing systems in structures.
- The potential benefits provide recognition and appropriate use of new technologies and materials, clarity for the code users and local enforcement agencies, and may increase business due to the adoption of new building standards.
- Protection of public health and safety, worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

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

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD 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).

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) 263-0916

**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:

Primary Contact:

Emily Withers, Codes and Standards
Administrator II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-2998
Emily.Withers@hcd.ca.gov

Back up Contact:

Tom Martin, District Representative II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-3272
Thomas.G.Martin@hcd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
DIVISION OF THE STATE ARCHITECT
REGARDING THE 2022
CALIFORNIA MECHANICAL CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 4**

(DSA SS/C 01/21)

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 of BSC) on behalf of 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 4. The DSA is proposing building standards related to California Mechanical Code (CMC).

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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) Sections 18930, 18934.5, 18938, 18944 and 18949.1 and Education Code (EDC) Sections 17280–17317, 81130–81147, 81052 and 81053. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code (HSC) Sections 18930, 18934.5, 18938, 18944 and 18949.1 and Education Code (EDC) Sections 17280–17317, 81130–81147, 81052 and 81053.

The Division of the State Architect is proposing this regulatory action based on HSC Section 16022 and EDC Sections 17310, 81142, and 81053.

INFORMATIVE DIGEST

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

Summary of Existing Laws

EDC Sections 17310 and 81142 authorize DSA to establish building standards for public elementary and secondary schools, and community colleges.

EDC Sections 81052 and 81053 authorize DSA to establish building standards which a community college may elect to use in lieu of those standards promulgated in accordance with EDC Section 81142.

HSC Section 16022 authorizes DSA to establish building standards for state-owned and state-leased essential services buildings.

HSC Section 18930 requires that any building standard proposed or adopted by state agencies be

submitted to and approved or adopted by the Building Standards Commission, prior to codification.

HSC Section 18938 requires the filing of standards with the Secretary of State by CBSC only after they have been approved by the commissioners. It requires that the administrative regulations become effective 30 days after filing with the Secretary of State, and that they be published in Title 24.

Summary of Existing Regulations

Existing building standards which prescribe the Mechanical system design and construction of public elementary and secondary schools, community colleges and state-owned or state-leased essential services buildings, are promulgated by the Division of the State Architect. These regulations are contained in Title 24, Part 4, California Mechanical Code.

Summary of Effect

The proposed action would update Title 24, Part 4, by repealing the adoption of the 2018 edition Uniform Mechanical Code and adopting the most recent edition of the selected model Mechanical code (Uniform Mechanical Code, 2021 edition). The proposed action will also integrate currently adopted Mechanical safety amendments into the updated Title 24, Part 4, 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 the current edition of the model Mechanical code and nationally-recognized Mechanical design standards.

Evaluation of Consistency

There are no inconsistent or incompatible regulations being proposed.

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

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 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/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.

No facts, evidence, documents, testimony or other evidence has been relied upon by the Division of the

State Architect 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.

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.

DSA has determined that this proposed action has no effect.

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

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.

DSA has determined that this proposed action has no effect.

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 under DSA's authority, which covers public schools, community colleges and essential services buildings.

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: 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).

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 Nearman
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:

Primary Contact:

Tav Commins
Department of General Services
Division of the State Architect
(916) 443-9841
Tav.commins@dgs.ca.gov

Back up Contact:

Paul Johnson, Senior Electrical Engineer
Department of General Services
Division of the State Architect
(916) 322-3579
Paul.johnson@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
DIVISION OF THE STATE ARCHITECT —
STRUCTURAL SAFETY (DSA-SS & DSA-SS/
CC) REGARDING THE 2022 CALIFORNIA
ELECTRICAL CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 3

(DSA SS/CC 01/20)

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 or BSC) on behalf of DSA proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 3. The DSA is proposing building standards related to 2022 California Electrical 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 May 28, 2021, until Midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18930 and 18949.1. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and 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 and 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 16023 of the Health and 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 Section 81142.

Summary of Existing Regulations

Existing building standards which prescribe the requirements for electrical 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 3, and are based on provisions within the adopted model building code.

Summary of Effect

The proposed action would update Title 24, Part 3, by repealing the adoption of the 2017 edition National Electrical Code and adopting the most recent edition of the selected model electrical code (*National Electrical Code*, 2020 edition). The proposed action will also:

- Integrate currently adopted electrical safety amendments into the updated Title 24, Part 3.
- Make editorial changes to currently adopted amendments to improve clarity or intent.

Comparable Federal Statute or Regulations

There are no comparable statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain building regulations in conformance with current state law by adopting the most current edition of the model electrical code and nationally recognized electrical design standards.

Evaluation of Consistency

There are no inconsistent or incompatible regulations being proposed.

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

Estimate: \$0

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

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

DSA has made an initial determination that the adoption 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.**

DSA has determined this would have no effect.

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

DSA has determined this would have no effect.

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

DSA has determined this proposed action would have no effect.

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

DSA has determined this proposed action would have no adverse effect.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS
THAT WOULD IMPACT HOUSING

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

DSA has determined this proposed action would have 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: 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).

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.

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:

Primary Contact:

Paul Johnson, Senior Electrical Engineer
Department of General Services, Division of the
State Architect
Telephone Number: (916) 322-3579
Paul.johnson@dgs.ca.gov
Facsimile Number: (916) 445-3521

Back up Contact:

Tav Commings, Senior Mechanical Engineer
Department of General Services, Division of the
State Architect
Telephone Number: (916) 322-2250
Tav.commings@dgs.ca.gov
Facsimile Number: (916) 445-3521

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT REGARDING THE 2022 CALIFORNIA ELECTRICAL CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 3

(HCD 01/20)

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 or BSC) on behalf of the 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 3. HCD is proposing building standards related to the adoption of the 2020 National Electrical Code (NEC).

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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

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, 18938.3 and 19960 through 19997.

HCD is proposing this regulatory action based on HSC sections 17040, 17920.9, 17921, 17922, 18552, 18620, 18865, 18871.3, 18873, 18873.3, 18938.3, and 19990.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

HSC section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. CBSC is authorized to adopt these building standards under the authority granted by HSC section 18949.5.

HSC section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

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

HSC sections 18620 and 18873 require HCD to adopt building standards for permanent buildings in mobilehome parks and special occupancy parks.

Summary of Existing Regulations

The 2019 California Electrical Code (CEC), CCR, Title 24, Part 3, adopted by reference the 2017 NEC with California amendments, effective on January 1, 2020.

Summary of Effect

HCD proposes to adopt by reference the 2020 NEC, with California amendments, into the 2022 CEC, CCR, Title 24, Part 3, for the following programs:

- State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC section 17921.
- Employee Housing Program: relative to any building or structure or outdoors on premises or property in accordance with HSC section 17040.
- 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 18620 and 18873.
- 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 California Building Standards Code (CCR, Title 24), 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. These updates will result in the 2022 California Building Standards Code.

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.

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: **None.**

HSC section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to CBSC pursuant to the provisions of Chapter 4 (commencing with section 18935) of GC Part 2.5. GC Part 2.5 requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location in the California Building Standards Code to meet these

requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.

- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

HSC section 17951 provides that local enforcement agencies may prescribe fees to defray the costs of enforcement of the State Housing Law including compliance with these regulations.

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

Estimate: \$0. HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

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 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.

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to GC section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

Pursuant to GC section 11346.2(b)(5)(B)(ii) adoption of the model codes is exempt from identification of the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates in the Initial Statement of Reasons.

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.

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to GC section 11346.3(c) 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:

HCD 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).

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.

- 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.

The adoption of the 2020 NEC by reference with California amendments will provide practical safeguarding of persons and property from hazards arising from the use of electricity. The NEC contains provisions that are considered necessary for safety and compliance and proper maintenance will result in an installation that is essentially free from hazard. These regulations will also update and improve minimum existing 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 for those regulations that make only technical and nonsubstantive changes.
- GC section 11346.2(b)(5)(B)(ii) provides that the model codes adopted pursuant to HSC section 18928 shall be exempt from the requirements of GC section 11346.2(b)(5)(B) unless upon request as specified. The purpose of this rulemaking is to adopt the 2020 NEC which is a model code setting forth requirements for electrical systems in structures.
- The potential benefits provide recognition and appropriate use of new technologies and materials, clarity for the code users and local enforcement agencies, and may increase business due to the adoption of new building standards.
- Protection of public health and safety, worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

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

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD 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).

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) 263-0916

**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:

Primary Contact:

Emily Withers, Codes and Standards
Administrator II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-2998
Emily.Withers@hcd.ca.gov

Back up Contact:

Tom Martin, District Representative II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-3272
Thomas.G.Martin@hcd.ca.gov

US Mail postmarked no later than July 12, 2021:

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

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

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 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.

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION REGARDING THE 2022 CALIFORNIA PLUMBING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5

(BSC 02/21)

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 or BSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5. The CBSC is proposing building standards related to 2022 California Plumbing Code (CPC).

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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

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).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18928, 18928(b), 18928.1, 18930.5, 18934.5, 18940.5, 18949.6 and Water Code Section 14877.1. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 18928, 18928(b), 18928.1, 18930.5, 18934.5, 18938.5, 18938.6, 18940.5, 18941.8, 18949.6, and Water Code Section 14877.1.

The CBSC is proposing this regulatory action based on Health and Safety Code Sections 18928, 18928(b), 18928.1, 18930.5, 18934.5, 18938.5, 18938.6, 18940.5, 18941.8, 18949.6, and Water Code Section 14877.1.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code (HSC) 18928 authorizes CBSC to adopt the most recent edition of the Uniform Plumbing Code.

HSC Section 18928(b) sets forth that each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent edition of the model code, as amended or proposed to be amended by the adopting agency, within one (1) year after the date of publication of the model code, national standard, or specification.

HSC Section 18928.1 specifies that building standards adopted or approved by the commission shall incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions therefrom.

HSC Section 18930.5 states that if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

HSC Section 18934.5 sets forth that where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

HSC Section 18938.5 sets forth a permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 12 months from the date of the permit or the permittee has abandoned the work authorized by the permit.

HSC Section 18938.6 sets forth every permit shall remain valid for purposes of this part if the work on the site authorized by that permit is commenced within 12 months after its issuance, unless the permittee has abandoned the work authorized by the permit.

A permittee may request an extension of a permit. The building official may grant, in writing, one or more extensions of time for periods of not more than 180 days per extension. The permittee shall request an extension pursuant to this subdivision in writing and demonstrate justifiable cause for the extension.

HSC Section 18940.5 authorizes CBSC and other state agencies that propose green building standards for inclusion in Part 11 of the Title 24 of the California Code of Regulations to the extent that it is feasible, reference or reprint the green building standards in

other relevant portions of Part 2, 2.5, 3, 4, 5, or 6 of the Title 24 California Code of Regulations.

HSC Section 18941.8 authorizes CBSC to adopt building standards for the construction, installation, and alteration of graywater systems for indoor and outdoor uses in nonresidential occupancies.

HSC Section 18949.6 requires CBSC to adopt regulations setting forth the procedure for the adoption of building standards and administrative regulations that apply directly to the implementation or enforcement of building standards.

Water Code Section 14877.1 specifies that the authority of the Department of Water Resources (DWR) to adopt standards for nonresidential occupancies shall terminate upon the adoption of standards by the California Building Standards Commission pursuant to Section 18941.8 of the Health and Safety Code.

Summary of Existing Regulations

The existing 2019 California Plumbing Code (CPC) is Part 5 of the California Code of Regulations, Title 24, also referred to as the California Building Standards Code. The 2022 CPC incorporates, by adoption by the CBSC, the 2021 UPC of the International Association of Plumbing and Mechanical Officials (IAPMO), with amendments for state buildings and buildings constructed by the University of California and California State Universities. Additional CBSC amendments reference and/or reprint green building standards into the 2022 CPC, as appropriate, pursuant to HSC Section 18940.5. This notice of proposed action reflects CBSC's repeal of the 2019 CPC and adoption by reference the 2021 UPC, with California amendments, effective January 1, 2023. Relative to this proposal, CBSC maintains existing amendments to applicable to specified state buildings, as well as referenced and/or reprinted green building standards, as follows:

- Chapter 4: Flow rates, flush volumes, and plumbing fixture counts
- Chapter 6: Materials for building supply and water distribution.
- Chapter 15: Construction, alteration, discharge, use and repair of alternate water source systems for nonpotable application.
- Chapter 16: Installation, construction, alteration, and repair of nonpotable rainwater catchments systems.

Summary of Effect

This proposed action will make effective the 2021 UPC of IAPMO with necessary amendments to state buildings and all occupancies identified pursuant to HSC Section 18938, 180 days after the publication of the next triennial edition of the CPC. This includes amendments applicable to graywater systems for nonresidential construction, including green building

standards reprinted in the CPC pursuant to HSC 18940.5. This proposed action by CBSC will also make the 2019 CPC inoperative for state buildings, and for persons applying for a building permit upon the effective date of the next triennial edition of the CPC. The initial Statement of Reasons (ISOR) provides a complete description of the proposed building standards effect.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

This proposed adoption of the most current edition of the UPC makes it applicable to state building projects, or any person seeking a building permit at the local level, the most current edition of the UPC by reference through the California Code of Regulations, Title 24. The adoption of the most current edition of the UPC provides an up-to-date reference document for new building projects and existing buildings to be remodeled or otherwise altered under the next triennial edition of the CPC.

Evaluation of Consistency

The proposed regulation is 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).

CBSC 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).

CBSC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. CBSC does not have authority to impose building standards or regulations on school districts. While local agencies (e.g., city and county building departments) are required to enforce the CPC, this proposal does not impose new mandates that would require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal makes only clarifying changes to existing code language and would have no change in regulatory effect.

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

Estimate: CBSC has determined that this proposed action makes only clarifying changes to existing code language and would have no change in regulatory effect. This proposal does not impose new mandates on local agencies that would require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

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.

CBSC 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.

CBSC affirms that the rulemaking action complies with the mandates set forth by Health and Safety Code Sections 18928 and 18934.5.

CBSC, in coordination with the Department of Housing and Community Development (HCD) and the Department of Water Resources (DWR) held a public workshop on December 11, 2020 to discuss proposed changes for the 2022 CPC. In attendance were stakeholders from Plumbing Manufacturers International, International Association of Plumbing and Mechanical Officials, California Building Industry Association, Graywater Action, WaterReuse, City of Sacramento Public Works, El Dorado Irrigation District, Irvine Ranch Water District, and other members of the public. Based on comments and feedback received during this workshop, CBSC is proposing code changes in coordination with HCD and DWR. Workshop comments were considered, including follow-up with some stakeholders asking for further input.

Regarding the proposal to amend various sections within Chapter 15 and 16 of the CPC, CBSC coordinated with the HCD and the DWR to co-adopt clarifying code language with no intended change in regulatory effect. These proposed code changes will not have a significant adverse economic impact on businesses.

Other information relied upon was obtained from the Fact Sheet for Assembly Bill 2913 (Chapter 655, Statutes of 2018).

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 report is required for the adoption/amendment/repeal of these proposed 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:

CBSC 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 California Building Standards Commission 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 of or 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 of or elimination of existing businesses 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, 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).

CBSC has determined there would be no cost to comply with these proposed building standards. CBSC does not have authority to impose building standards or regulations applicable to housing.

CONSIDERATION OF ALTERNATIVES

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

CBSC has determined that no reasonable alternative considered by CBSC or that has otherwise been identified and brought to the attention of CBSC 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. In addition, no reasonable alternative considered by BSC or that has otherwise been identified and brought to the attention of BSC 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: 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).

CBSC 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
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
Michael.Nearman@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:

Primary Contact:

Beth Maynard, Architectural Associate
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
Beth.maynard@dgs.ca.gov

Back up Contact:

Kevin Day, Staff Services Manager 1 (Specialist)
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
Kevin.day@dgs.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION REGARDING THE 2022 CALIFORNIA MECHANICAL CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 4

(BSC 01/21)

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 or BSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 4. The BSC is proposing building standards related to 2022 California Mechanical 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 **May 28, 2021 until midnight on July 12, 2021.**

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 oral comments regarding the proposed action on building standards at a public meeting to be conducted by 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).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (H&SC) Sections 18928, 18928(b), 18928.1, 18930.5, 18934.5, 18940.5, and 18949.6. The purpose of these building standards is to implement, interpret, or make specific the provisions of H&SC Sections 18928, 18928(b), 18928.1, 18930.5, 18934.5, 18940.5, and 18949.6.

The California Building Standards Commission is proposing this regulatory action based on H&SC Sections 18928, 18928(b), 18928.1, 18930.5, 18934.5, 18940.5, and 18949.6.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code (HSC) 18928 authorizes BSC to adopt the most recent edition of the Uniform Mechanical Code.

HSC Section 18928(b) sets forth that each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent edition of the model code, as amended or proposed to be amended by the adopting agency, within one (1) year after the date of publication of the model code, national standard, or specification.

HSC Section 18928.1 specifies that building standards adopted or approved by the commission shall incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions therefrom.

HSC Section 18930.5 states that if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

HSC Section 18934.5 sets forth that where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

HSC Section 18938.5 sets forth a permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 12 months from the date of the permit or the permittee has abandoned the work authorized by the permit.

HSC Section 18938.6 sets forth every permit shall remain valid for purposes of this part if the work on the site authorized by that permit is commenced within 12 months after its issuance, unless the permittee has abandoned the work authorized by the permit.

A permittee may request an extension of a permit. The building official may grant, in writing, one or more extensions of time for periods of not more than 180 days per extension. The permittee shall request an extension pursuant to this subdivision in writing and demonstrate justifiable cause for the extension.

HSC Section 18940.5 authorizes BSC and other state agencies that propose green building standards for inclusion in Part 11 of the Title 24 of the California Code of Regulations to the extent that it is feasible, reference or reprint the green building standards in

other relevant portions of Part 2, 2.5, 3, 4, 5, or 6 of the Title 24 California Code of Regulations.

HSC Section 18949.6 requires BSC to adopt regulations setting forth the procedure for the adoption of building standards and administrative regulations that apply directly to the implementation or enforcement of building standards.

Summary of Existing Regulations

The existing 2019 California Mechanical Code is a part of the California Code of Regulations, Title 24, also referred to as the California Building Standards Code.

The 2022 CMC incorporates, by adoption by the California Building Standards Commission, the 2021 Uniform Mechanical Code of the International Association of Plumbing and Mechanical Officials (IAPMO), with amendments for state buildings and buildings constructed by the University of California and California State Universities. This notice of proposed action reflects BSC's repeal of the 2019 CMC and adoption by reference the 2021 UMC, with California amendments, effective January 1, 2023. Relative to this proposal, BSC maintains existing amendments to applicable specified state buildings.

Summary of Effect

This proposed action will make effective the 2021 UMC of IAPMO with necessary amendments to regulations pertaining to state-owned buildings and to all occupancies identified pursuant to H&SC 18938, 180 days after the publication of the next triennial edition of the California Mechanical Code. This proposed action by the California Building Standards Commission will also make the 2019 CMC inoperative for state-owned buildings, and for persons applying for a building permit upon the effective date of the next triennial edition of the CMC.

Comparable Federal Statute or Regulations

There are no comparable Federal statutes or regulations related to the proposed action by the California Building Standards Commission.

Policy Statement Overview

This proposed adoption of the most current edition of the UMC makes it applicable to state-owned building projects, or any person seeking a building permit at the local level, the most current edition of the UMC by reference through the California Code of Regulations, Title 24. The adoption of the most current edition of the UMC provides an up-to-date reference document for new building projects and existing buildings to be remodeled or otherwise altered under the next triennial edition of the California Mechanical Code.

Evaluation of Consistency

CBSC 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).

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

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 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 repeal of the 2019 CMC and adoption by reference of the 2021 UMC, with California amendments, 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.

The CBSC affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code, Section 18928 and 18934.5. This rulemaking adopts the 2021 UMC with minor editorial changes and no intended change in regulatory 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 BSC has assessed 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).

The California Building Standards Commission has assessed whether 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 of or 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 of or elimination of existing businesses 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, 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).

BSC has determined there would be no cost to comply with these proposed building standards. BSC does not have authority to impose building standards or regulations applicable to 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. In addition, no reasonable alternative considered by BSC or that has otherwise been identified and brought to the attention of BSC 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: 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:

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

Primary Contact:

Enrique M. Rodriguez, Associate Construction
Analyst
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
enrique.rodriguez@dgs.ca.gov

Back up Contact:

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

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
CALIFORNIA DEPARTMENT OF WATER
RESOURCES (DWR) REGARDING THE
2022 CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 5**

(DWR 01/21)

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 or BSC) on behalf of the California Department of Water Resources (DWR) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5. The DWR is proposing building standards related to 2022 California Plumbing Code (CPC).

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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

The California Department of Water Resources proposes to adopt these building standards under the authority granted by Water Code Section 13557. The purpose of these building standards is to implement, interpret, or make specific the provisions of Water Code Sections 13550, 13551, 13552.2, 13552.6, 13552.8, 13553, 13554, 13555.2 and 13555.3.

The DWR is proposing this regulatory action based on Water Code Section 13557.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Assembly Bill 371 (2006) (codified in Water Code, Section 13557) authorized DWR to adopt and submit to the CBSC regulations to establish a state version of a plumbing code to provide design standards to safely plumb buildings with both potable and recycled

water systems. Such regulations were first adopted by DWR in 2009. The regulations were last adopted by DWR in the 2019 Intervening Code Adoption Cycle and were codified in Chapter 15 in a Supplement to the 2019 California Plumbing Code (CPC). Water Code Section 13557(b) also authorizes DWR to update these standards as necessary. To accomplish this, DWR must consider other state laws that regulate the various uses and applications of recycled water and regulations stemming from these laws adopted by other state agencies.

Assembly Bill 2282 (2014) (codified in Health and Safety Code Sections 17921.5 and 18940.6) directed CBSC and the Department of Housing and Community Development (HCD) to adopt regulations regarding the plumbing of newly constructed commercial buildings, public buildings, and single family and multifamily residential buildings for recycled water. Specifically, CBSC and HCD are required to establish provisions for the mandatory installation of recycled water supply systems and the standards for installation in the California Green Building Standards Code and the CPC. These standards for installation of recycled water supply systems overlap to some extent the existing standards adopted by DWR in the CPC. The regulations to mandate installation in newly constructed buildings however, do not overlap DWR authority.

Water Code Sections 13550, 13551, 13552.2, 13552.6, 13552.8, 13553, 13554, 13555.2 and 13555.3 declare that the use of potable water for certain indoor uses in certain structures and in outdoor landscape irrigation is an "unreasonable" use of water if recycled water is available. A general condition of availability is that the use of recycled water from the proposed source will not be detrimental to public health. Section 13553(d)(1)(B) states "That any plumbing modifications in the condominium unit or any physical alteration of the structure will be done in compliance with state and local plumbing codes." Water Code Section 10951 authorizes use of recycled water for car washes.

Water Code Section 13521 authorizes the State Water Resources Control Board (SWRCB) to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health. These criteria are contained in Title 22 of the CCR and contain requirements related to plumbing installation and periodic inspection and testing for indoor and outdoor uses.

The agencies that treat and distribute recycled water to users are regulated by permits issued by the SWRCB or one of nine Regional Water Quality Control Boards as authorized by Water Code Sections 13523 and 13523.1. The CPC must take into consideration this permitting authority.

Health and Safety Code Section 116375 authorizes the SWRCB to adopt requirements for the control of cross-connections between potable and nonpotable water. Section 116800 authorizes local regulation of water users to control cross-connections. Section 116815 designates the use of the color purple for recycled water pipes. Health and Safety Code Sections 8117 and 8118 authorize hose bibs for recycled water in cemeteries. These laws and the regulations stemming from these laws found in the CCR, Titles 17 and 22, must be taken into consideration in the Plumbing Code.

Pursuant to AB 1671 (Chapter 533, Statutes of 2017) the SWRCB on or before January 1, 2020, shall adopt standards for backflow prevention and cross-connection control and may do this through the adoption of a policy handbook. Pursuant to AB 1180 (Chapter 455, Statutes of 2019), the policy handbook shall include provisions for the use of a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service.

Summary of Existing Regulations

Regulations adopted by DWR governing recycled water are found in Chapters 1, 2, 6 and 15 of the CPC. One other section relating specifically to recycled water is found in Chapter 16 of the Plumbing Code. The main provisions for recycled water are in Chapter 15, Section 1505.0. The CPC is now being amended based on the 2019 California Plumbing Code.

Regulations specifying authorized uses of recycled water, use practices, and inspections and cross-connection testing of recycled water systems are found in Title 22, California Code of Regulations, Division 4, Chapter 3, Section 60301.050 et seq. Regulations related to cross-connection control and backflow prevention are found in Title 17, Division 1, Chapter 5, Group 4, Articles 1 and 2, Section 7583 et seq.

When SWRCB adopts language in a policy handbook pursuant to AB 1180, cross-connection control and backflow prevention regulations in Title 17 will be transferred to the policy handbook. The policy handbook will include new provisions, regarding the certification of cross-connection control specialists and the use of a swivel ell or changeover device, that must be taken into consideration in the CPC.

Summary of Effect

The proposed Express Terms are intended (a) to identify all sections of the UPC and California amendments in the CPC that DWR has previously adopted and will be carried forward into the 2022 CPC and (b) to propose new amendments. The main effect of the proposed amendments by DWR, which are in Chapters 15 and 16, would be to make clarifying changes to existing requirements and add provisions in alignment with SWRCB regulations. These

amendments would have insignificant or no regulatory effect. The adoption of clear and effective regulations facilitates the expanded use of recycled water and its public acceptance. The effects of the new amendments would provide improved clarity and public health protection, allow new flexibility for use of a swivel ell or changeover device to use potable water during interruptions in recycled water supply, make reference to certification of persons conducting inspections and testing for cross-connections, and add consistency between Chapters 15 and 16 for makeup water. The use of recycled water may offset the cost of more expensive or less environmentally acceptable water supplies to meet the growing water needs of the state. Recycled water is also a more resilient source of water during water shortages and drought.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The primary benefits of the proposed amendments are improved clarity, flexibility, public health protection, and consistency within the CPC and with other state regulations. A secondary benefit is that by making clarifying changes to the plumbing code language with regard to recycled water, the regulations are clear, understandable, and implementable and thereby facilitate the expanded use of recycled water. Having consistent design standards which are easy to follow can improve the public acceptance of the use of recycled water. The benefit of incorporating new requirements to allow a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service is to ensure that users of the CPC are aware of this option upon approval by the SWRCB, providing more water supply reliability for recycled water users. The new reference to certification of cross-connection control specialists as regulated by the SWRCB is to make code users aware of these requirements to protect public potable water supplies. The use of recycled water may offset the cost of more expensive or less environmentally acceptable water supplies to meet the growing water needs of the state. Recycled water is also a more resilient source of water during water shortages and drought.

Evaluation of Consistency

The DWR has determined that the proposed amendments 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).
DWR 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: None.
 - 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: None.
 - E. Cost or savings in federal funding to the state: None.
- Estimate: \$0

**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.

DWR has made an initial determination that the amendment of this regulation would 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.

The proposed amendments of the CPC primarily make clarifying changes to existing standards on how to design, construct, maintain, and test a dual plumbed building in Chapter 15. Additionally, there are new provisions referencing SWRCB approvals to make code users aware of additional requirements.

The proposed amendments by DWR do not require any business or individual to install recycled water systems in a building. The authority for DWR's proposed amendments is in California Water Code Section 13557.

**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.

Not Applicable

**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:

DWR 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 California Department of Water Resources 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 amendments will not create or eliminate jobs.

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

The proposed amendments will not create or eliminate businesses.

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

The proposed amendments will not affect the expansion of businesses currently doing business with the State of California. The CPC as currently in effect and as changed by the proposed amendments facilitates the use of recycled water, and thereby could allow business to expand in areas that are constrained by water availability.

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

The proposed amendments will update and improve the clarity of CPC standards for the safe use of recycled water in buildings and surrounding landscape with both potable and recycled water.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS
THAT WOULD IMPACT HOUSING

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

The DWR has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

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

DWR has determined that no reasonable alternative considered by DWR or that has otherwise been identified and brought to the attention of DWR 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).

DWR 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
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:

Primary Contact:

Nancy King, Engineer, Water Resources
California Department of Water Resources
Division of Regional Assistance
(916) 651-7200
Nancy.King@water.ca.gov

Back up Contact:

Fethi BenJemaa, PhD, Program Manager II
California Department of Water Resources
Division of Regional Assistance
(916) 651-7025
Fethi.Jemaa@water.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION REGARDING THE 2022 CALIFORNIA ELECTRICAL CODE (CEC) CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 3

(BSC 01/20)

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 or BSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 3. The CBSC is proposing building standards related to 2022 California Electrical 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 May 28, 2021 until midnight on July 12, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than July 12, 2021:

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

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

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 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).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18928, 18928(b), 18928.1, 18930, 18930.5, 18934.5, 18938, and 18949.6. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 18928, 18928(b), 18928.1, 18930, 18934.5, and 18949.6.

The California Building Standards Commission is proposing this regulatory action based on Health and Safety Code Sections 18928, 18928(b), 18928.1, 18930, 18934.5, and 18949.6.

INFORMATIVE DIGEST

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

Summary of Existing Laws

HSC Section 18928 authorizes CBSC to adopt the most recent edition of model code, national standard, or specification. HSC 18916 defines the National Electrical Code of the National Fire Protection Association.

HSC Section 18928(b) sets forth that each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent edition of the model code, as amended or proposed to be amended by the adopting agency, within one (1) year after the date of publication of the model code, national standard, or specification.

HSC Section 18928.1 sets forth that each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent edition of the model code, as amended or proposed to be amended by the adopting agency, within one (1) year after the date of publication of the model code, national standard, or specification.

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

HSC Section 18930.5 states that if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

HSC Section 18934.5 sets forth that where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

HSC Section 18938 sets forth that building standards shall be filed with Secretary of State and codified only after they have been approved by the commission and shall become effective 180 days after its publication (or at a later date after publication established by the commission).

HSC Section 18949.6 requires CBSC to adopt regulations setting forth the procedure for the adoption of building standards and administrative regulations that apply directly to the implementation or enforcement of building standards.

Summary of Existing Regulations

The existing 2019 California Electric Code is a part of the California Code of Regulations, Title 24, also referred to as the California Building Standards Code and incorporates, by adoption, by the California Building Standards Commission, the 2020 National Electric Code (NEC) of the National Fire Protection Association (NFPA) with BSC and/or BSC-CG amendments, as applicable, for state owned buildings & buildings constructed by the University of California and California State Universities.

Summary of Effect

This proposed action will make effective the 2020 NEC of NFPA with necessary amendments to regulations pertaining to state owned buildings and to all occupancies identified pursuant to Health and Safety Code 18938, 180 days after the publication of the next triennial edition of the California Electrical Code (CEC). This proposed action by the California Building Standards Commission will also make the 2019 CEC inoperative for state owned buildings, and

for persons applying for a building permit upon the effective date of the next triennial edition of the CEC.

Comparable Federal Statute or Regulations

There are no comparable Federal statutes or regulations related to the proposed action by the California Building Standards Commission.

Policy Statement Overview

This proposed adoption of the most current edition of the NEC, makes it applicable to state owned building projects, or any person seeking a building permit at the local level, the most current edition of the NEC by reference through the California Code of Regulations, Title 24. The adoption of the most current edition of the NEC provides an up-to-date reference document for new building projects and existing buildings to be remodeled or otherwise altered under the next triennial edition of the California Electrical Code.

Evaluation of Consistency

The proposed regulation is 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).

The California Building Standards Commission 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).

CBSC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. CBSC does not have authority to impose building standards or regulations on school districts. While local agencies (e.g., city and county building departments) are required to enforce the CEC, this proposal does not impose new mandates that would require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal makes only clarifying changes to existing code language and would have no change in regulatory effect.

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

Estimate: CBSC has determined that this proposed action makes only clarifying changes to existing code language and would have no change in regulatory effect. This proposal does not impose new mandates on local agencies that would require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**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.

CBSC has made an initial determination that the repeal of the 2019 CEC and adoption of the 2022 CEC 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.

The CBSC affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code, Sections 18928 and 18934.5. This rulemaking adopts the NEC with minor editorial changes and no intended change in regulatory 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.

No report is required for the adoption/amendment/repeal of these proposed 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:

CBSC 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 California Building Standards Commission has assessed whether 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 of or 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 of 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 expansion of businesses currently doing business within the State of California.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS
THAT WOULD IMPACT HOUSING

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

CBSC has determined there would be no cost to comply with these proposed building standards. CBSC does not have authority to impose building standards or regulations applicable to housing.

CONSIDERATION OF ALTERNATIVES

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

CBSC has determined that no reasonable alternative considered by CBSC or that has otherwise been identified and brought to the attention of CBSC 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. In addition, no reasonable alternative considered by BSC or that has otherwise been identified and brought to the attention of BSC 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).

CBSC 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
Michael.nearman@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:

Primary Contact:

Beth Maynard, Architectural Associate
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
Beth.maynard@dgs.ca.gov

Back up Contact:

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

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653 CONSISTENCY DETERMINATION

REQUEST FOR
Klamath River Floodplain
Habitat Enhancement Project
(Tracking Number: 1653–2021–070–001–R1)
Siskiyou County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on May 18th, 2021, that the Mid Klamath Watershed Council proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the construction of four beaver dam analogs (BDAs) at two sites. The proposed project will be carried out on Stanshaw Creek and Sandy Bar Creek, Siskiyou County Road Mile 8 and 9 respectively, Siskiyou, California.

On April 2nd, 2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Klamath River Floodplain Habitat Enhancement Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. 1B21011WNME; ECM PIN No. CW–871967) for coverage under the General 401 Order on May 17, 2021.

The Mid Klamath Watershed Council is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the Applicant will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request

is not complete, Mid Klamath Watershed Council will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Public Notice Requirement for Issuance of Treated Wood Waste Variances

The week of April 5, 2021, the Department of Toxic Substances Control (DTSC) issued variances for the management of treated wood waste. The variances were issued pursuant to Health and Safety Code section 25143(b)(1) and California Code of Regulations, title 22, section 66260.210.

The variances authorize the recipients to manage treated wood waste, that is a California hazardous waste, in accordance with a set of alternative management standards. The variances are effective for six months and may be extended once for an additional six months.

The variance recipients are listed by variance type, and the information provided includes the variance identification number, recipient name, and recipient location.

Recipients of Disposal Facility Variances

- TWW–2021–DF–00247, Prima Deshecha Landfill, 32250 Avenida La Pata, San Juan Capistrano, CA 92675

Recipients of Handler / Transporter Variances

- TWW–2021–HT–00240, Tier Fencing, Inc., 805 Elfers Road, Patterson, CA 95363
- TWW–2021–HT–00261, C & W Construction Specialties, Inc., Hwy 101, PM 1.4–4.6, Carpinteria, CA — #19212; Hwy 1, PM 39.8–PM 74.6, Big Sur, CA 93920 — #19183; Route 99, PM 23.8–PM 28.4, Bakersfield, CA 93309 — #18119
- TWW–2021–HT–00269, Livermore Sanitation, Inc., 7000 National Drive, Livermore, CA 94550
- TWW–2021–HT–00278, Turlock Transfer Company, 1100 S Walnut Rd, Turlock, CA 95380

Recipients of Large Quantity Generator/Self-transporter Variances

- TWW–2021–LG–00245, Modesto and Empire Traction Company, 641 S McClure Rd, Modesto, CA 95357
- TWW–2021–LG–00288, McGrath Rentcorp/ Mobile Modular, 5698 Las Positas Rd, Livermore, CA 94551
- TWW–2021–LG–00301, Orange County Transportation Authority, 1000 E Santa Ana Blvd., Santa Ana, CA 92701

Recipients of Small Quantity Generator/Self-transporter Variances

- TWW-2021-SG-00195, EK Excavating, Inc., 22725 Eighth Street East, Sonoma, CA 95476
- TWW-2021-SG-00248, Bruce Bauer Lumber & Supply, 134 San Antonio Circle, Mountain View, CA 94040
- TWW-2021-SG-00250, Mendocino Railway, 100 West Laurel Street, Fort Bragg, CA 95437; 299 East Commercial Street, Willits, CA 95490
- TWW-2021-SG-00260, Dustin Roberts Construction, Inc., 9 Bournemouth Road, St Helena, CA 95422
- TWW-2021-SG-00281, Go Native, Inc., 333 Cypress Ave, Moss Beach, CA 94038
- TWW-2021-SG-00300, Dirt Farmer & Company, A California Corporation, 11011 Sonoma Hwy, Glen Ellen, CA 95442
- TWW-2021-SG-00319, Probuilt Construction, 1080 Via Tornasol, Aptos, CA 95003

Recipients of Transporter Variances

- TWW-2021-TR-00196, Gardenworks, Inc., 20325 Geyersville Avenue, Geyersville, CA 95441
- TWW-2021-TR-00139, Burrtec Waste and Recycling Services, LLC, 41575 Eclectic Street, Palm Desert, CA 92260
- TWW-2021-TR-00274, Athens Services, P.O. Box 91918, City of Industry, CA 91746
- TWW-2021-TR-00287, Burrtec Waste Industries, Inc., 9890 Cherry Avenue, Fontana, CA 92335
- TWW-2021-TR-00290, JFS Enterprises, 2787 W. Bullard Avenue, Ste 109B, Fresno, CA 93711
- TWW-2021-TR-00308, Sandstone Environmental Engineering, Inc., P.O. Box 3140, Oakley, CA 94561
- TWW-2021-TR-00215, Ezra Construction, 1156 Keeler Avenue, Berkeley, CA 94708
- TWW-2021-TR-00257, Dan Braudrick Services, Inc., P.O. Box 1749, Brentwood, CA 94513
- TWW-2021-TR-00267, City of Santa Cruz Resource Recovery Collection, 1125 River Street, Santa Cruz, CA 95060
- TWW-2021-TR-00296, Mountainside Disposal, Inc., 8665 S. Union Avenue, Bakersfield, CA 93307
- TWW-2021-TR-00312, Advance Disposal, Inc., P.O. Box 97, Standard, CA 95373

For additional information, contact Ryan Batty of the Department of Toxic Substances Control at (916) 823-7617 or by e-mail at Ryan.Batty@dtsc.ca.gov

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

**NOTICE OF PUBLIC MEETING
AND BUSINESS MEETING OF THE
OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING

On **July 15, 2021**, at 10:00 a.m. via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING

On **July 15, 2021**, at 10:00 a.m. via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE:

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California

Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE 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.

Board for Professional Engineers, Land Surveyors and Geologists
File # 2020-1202-04
Substantial Relationship/Rehabilitation Criteria

This action by the Board for Professional Engineers, Land Surveyors and Geologists adopts criteria to be used in determining whether a crime, act, or professional misconduct is substantially related to the qualifications, functions, or duties of an applicant or licensee, or when a licensee has made a showing of rehabilitation related to a crime, act, or professional misconduct when considering denial, suspension, or revocation of a license. The proposed amendments implement amendments to the Business and Professions Code made by Assembly Bill 2138 (Stats. 2018, Ch. 995).

Title 16
Amend: 416, 418, 3060, 3061
Filed 05/17/2021
Effective 05/17/2021
Agency Contact: Nancy Eissler (916) 263-2241

Board of Pharmacy
File # 2020-1210-02
Off-Site Storage Waiver

In this regular rulemaking action the Board of Pharmacy amends the basis for permitting a waiver for storage of records outside of the licensed area of a pharmacy.

Title 16
Amend: 1707
Filed 05/18/2021
Effective 07/01/2021
Agency Contact: Lori Martinez (916) 518-3078

Board of Pharmacy
File # 2021-0407-01
Automated Drug Delivery System

This action by the Board of Pharmacy amends regulations relating to automated drug delivery systems and adopts an "Automated Drug Delivery System Self-Assessment" which is incorporated by reference.

Title 16
Adopt: 1715.1
Amend: 1711, 1713
Filed 05/19/2021
Effective 07/01/2021
Agency Contact: Lori Martinez (916) 518-3078

Bureau of Cannabis Control
File # 2021-0407-04
Commercial Cannabis Billboard Advertisements on Interstate and State Highways

This action repeals the provision allowing placement of outdoor signs and billboards advertising cannabis products along Interstate Highways or State Highways, provided they are located further than 15 miles from the California border. This is a change without regulatory effect pursuant to section 100(a)(3) of title 1 of the California Code of Regulations.

Title 16
Amend: 5040
Filed 05/19/2021
Agency Contact: Kaila Fayne (916) 465-9120

Court Reporters Board of California
File # 2020-1130-01
Criminal Conviction Substantial Relationship and Rehab Criteria

This action amends the Board's regulation concerning criteria for determining whether a crime, professional misconduct, or other act committed by an applicant for a certificate or a certificate holder is substantially related to the qualifications, functions, and duties of a court reporter. The action also amends the

Board's regulation concerning criteria for determining whether an applicant for a certificate or a certificate holder has been rehabilitated after the commission of a crime or after disciplinary action has been taken by the Board against a certificate holder.

Title 16
Amend: 2470, 2471
Filed 05/12/2021
Effective 05/12/2021
Agency Contact: Yvonne Fenner (916) 263-4081

Department of Justice
File # 2021-0330-02
Ammunition

This action without regulatory effect reorganizes Title 11, Division 5, Chapter 10, regarding ammunition.

Title 11
Amend: 4300 (renumbered to 4280 and amended); 4301 (renumbered to 4281); 4302 (renumbered to 4282); 4303 (renumbered to 4283 and amended); 4304 (renumbered to 4284 and amended); 4305 (renumbered to 4285); 4306 (renumbered to 4286); 4307 (renumbered to 4287); 4308 (renumbered to 4288 and amended); 4309 (renumbered to 4289)
Filed 05/12/2021
Agency Contact: Kevin Sabo (916) 210-7639

Department of Motor Vehicles
File # 2021-0421-02
Conflict-of-Interest Code

This is a conflict of interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing only. OAL filed this regulation(s) or order(s) of repeal with the Secretary of State and will publish the regulation(s) or order(s) of repeal in the California Code of Regulations.

Title 13
Amend: 1
Filed 05/18/2021
Effective 06/17/2021
Agency Contact: Randi Calkins (916) 657-8898

Department of Public Health
File # 2021-0408-02
Reportable disease changes

This file and print only action by the Department of Public Health amends reportable diseases requirements related to SARS-CoV-2 (coronavirus). This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 120130, subdivisions (a) and (b).

Title 17
Amend: 2505
Filed 05/19/2021
Effective 05/19/2021
Agency Contact: Michael Boutros (916) 440-7822

Fair Political Practices Commission
File # 2021-0419-02
Gender Neutral Revisions

This action amends numerous sections of the Fair Political Practices Commission's regulation to replace gender-specific with gender-neutral pronouns and phrasing.

Title 02
Amend: 18110, 18215, 18215.2, 18215.3, 18216, 18217, 18225.7, 18229.1, 18232, 18235, 18237, 18239, 18310, 18310.1, 18316.5, 18316.6, 18324, 18329.5, 18360.1, 18360.2, 18361, 18361.2, 18361.6, 18361.7, 18401, 18404, 18404.1, 18405, 18406, 18423, 18426.1, 18427, 18430, 18431, 18432.5, 18438.1, 18438.3, 18438.4, 18438.6, 18438.7, 18450.11, 18523, 18525, 18530.8, 18531.10, 18531.6, 18531.61, 18531.62, 18535, 18539.2, 18540, 18542, 18543, 18550, 18572, 18603, 18603.1, 18611, 18615, 18616, 18624, 18700, 18700.1, 18700.3, 18701, 18702, 18702.5, 18703, 18704, 18705, 18707, 18722, 18723, 18728.5, 18730, 18732, 18733, 18735.5, 18736.1, 18737, 18740, 18741.1, 18746.1, 18746.3, 18746.4, 18747, 18750, 18751, 18901.1, 18931.2, 19932.5, 18940, 18941, 18942, 18942.1, 18942.2, 18943, 18944, 18944.1, 18945, 18946.2, 18946.3, 18950.1, 18950.3, 18951, 18960
Filed 05/12/2021
Effective 06/11/2021
Agency Contact: Daniel Vo (916) 322-5660

Osteopathic Medical Board of California
File # 2020-1202-02
Substantial Relationship Criteria

In this action, the Osteopathic Medical Board adopts and amends criteria to be used in determining whether a crime, professional misconduct, or other act is substantially related to the professional practice of its certificate holders for purposes of certificate denial, suspension, or revocation. The action also amends criteria for determining whether an applicant for a certificate, or for reinstatement of a certificate, or for the modification or termination of a penalty, has been rehabilitated subsequent to a criminal conviction, professional misconduct, or other act.

Title 16

Amend: 1654, 1655, 1657

Filed 05/17/2021

Effective 05/17/2021

Agency Contact: Mark Ito (916) 928-7639

**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.