



California Regulatory Notice Register

REGISTER 2021, NUMBER 33-Z

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AUGUST 13, 2021

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DECISION NOT TO PROCEED

*Editor’s Note: The Department of Justice is publishing the following Notice of Decision Not to Proceed to cancel a previously published Notice of Proposed Rulemaking Action that was originally published on January 29, 2021. The Department is publishing a new Notice of Proposed Rulemaking Action on this same topic in this Notice Register. Please see **PROPOSED ACTION ON REGULATIONS** above.*

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Editorial Correction: In the July 23, 2021 edition of the California Regulatory Notice Register (Notice Register 2021, Number 31–Z), under the weekly **Summary of Regulatory Actions, Regulations filed with the Secretary of State**, there was an erroneous entry for the Board of Behavioral Sciences, File No. 2021–0604–05, Title 16, which indicated that the file was filed with the Secretary of State on July 14, 2021. This is incorrect. This file was not approved by the Office of Administrative Law nor filed with the Secretary of State on that date and as of August 13, 2021, is still under review by the Office of Administrative Law. We apologize for the error.

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**

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

**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: Tahoe Forest Hospital District

ADOPTION

State Agency: California Privacy and Protection Agency

A written comment period has been established commencing on August 13, 2021 and closing on September 27, 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 September 27, 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 2. FAIR POLITICAL
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **September 16, 2021**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **September 15, 2021**.

BACKGROUND/OVERVIEW

The proposed regulations pertain to the Act's behested payment reporting provisions: Section 82004.5, defining a behested payment, Section 82041.3 defining "made at the behest of" and Section 84224, reporting requirements applicable to an elected officer or Public Utilities Commission member (hereinafter referred to collectively as "official"). The purpose of the behested payment reporting requirements is to capture payments that are not contributions or clear gifts to officials but are payments in which the public would have an interest given the official's role in the exchange.

Generally, under Section 84224 a payment made at the behest of an official and made "principally for charitable, legislative, or governmental purposes" is subject to reporting by the official within 30 days of the date a single source makes a payment or payments that aggregate or exceed \$5,000 in a calendar year. The official must report the names and addresses of the parties involved (payor and payee), the amount and

date of the payment(s), a brief description of any goods or services provided or purchased, and a description of the specific purpose or event for which the payments were made. Once the reporting threshold is met, all additional payments made by the single source in the calendar year must also be reported within 30 days after the payment was made. Additionally, within 30 days after receipt of a behested payment report, state agencies must forward a copy of the report to the Commission, and local agencies must send a copy to the local elections official. For transparency and accountability purposes, behested payments reported by state officials are posted on the Commission's website.

The Commission has identified three behested payment reporting issues that may be addressed through regulatory action to facilitate meaningful disclosures in reports, timely compliance, and provide clearer guidance to officials when involved in a charitable fundraising solicitation. Staff is directed to provide regulatory language that balances prompt, informative, and accurate public disclosure of behested payments involving officials with the need to not discourage the important public service that these payments can provide for the Commission's consideration.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18424. Behested Payment Reporting. Additional Information.

Adopt proposed Regulation 18424 to require additional disclosure in a behested payment report in two circumstances that raise questions of the payment's purposes and potential for influence: first, where the official has a relationship of control over, or is employed by, a payee nonprofit organization; and second, where the payor of a behested payment is involved in a proceeding before the official's agency at the time the behested payment is made or within the past 12 months.

Subdivision (a) requires in a brief description of the relationship where the official, the official's immediate family member, executive campaign staff or executive officeholder staff, is a founding member, a salaried employee, or an executive board member of the nonprofit organization payee, to the extent this information is known by the official. Subdivision (b) requires a brief description of any proceeding before the official's agency in which the payor is currently involved or was involved within the past 12 months to the extent the information is known to the official.

These are relationships that raise concerns about the self-interest or control of the official and the possibility of undue influence or access for the payee or payor as a result of the payment. The brief descriptions will provide information the public would want to see in the behested payment reports where there is a po-

¹The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

tential for influence in order to understand and assess the payment transaction, its purposes and the parties involved.

Adopt 2 Cal. Code Regs. Section 18424.1 Behested Payment Reporting. Good Faith Estimate.

Adopt proposed Regulation 18424.1 to provide a reporting procedure when an official is unable to obtain the necessary payment information from a behested payment payee within the 30 days required to file a behested payment report. Regulation 18424.1 allows for the use of a good faith estimate of the payment amount and the payment date. Subdivision (a) and (b) require that the official must have practiced reasonable efforts to obtain the required information from the payee prior to the reporting deadline and the amount must reflect the official's best efforts to ascertain an accurate information. This language is consistent with the statutory language for reports filed under the Act. (Section 81004.) Proposed subdivision (c) requires that the official must also file an amended report within 10 days of receiving the correct information from the payee, so that timely and accurate information is reported. Subdivision (d) requires that in the event the official is unable to obtain the accurate information, within 90 days of the original filing date the official must file an amended report stating their efforts and the circumstances under which the payee is unable to provide the information.

This regulation allows that an official may properly file a behested payment report with good faith estimates of payment amounts and dates, under certain conditions. This regulation facilitates timely reporting and provides a clear process for filing and then amending with accurate data.

Adopt 2 Cal. Code Regs. Section 18424.2. Behested Payment Reporting. Charitable Organization Fundraising Solicitations.

Repeal and Replace 2 Cal. Code Regs. Section 18215.3.

In response to requests to clarify the language in Regulation 18215.3, staff proposes to repeal Regulation 18215.3 and replace it with proposed Regulation 18242.2, addressing situations where a payment is in response to a charitable organization's fundraising solicitation, and the official is involved. Proposed Regulation 18424.2 subdivisions (a) and (b) are nonsubstantive changes to better word the current safe harbor provision in Regulation 18215.3(b). The proposed language makes it clear that when an official acts in concert with the charitable organization in a fundraising solicitation and is featured in the solicitation, the official must report all resulting payments in accordance with Section 84224. It also clarifies that being featured in a solicitation, by itself, does not raise behested payment reporting duties for an official.

Proposed subdivision (a) states that a payment made in response to a charitable organization fundraising solicitation is a reportable behested payment when the solicitation is sent under the control or at the direction of, in cooperation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of the official, or agent thereof; and the solicitation "features" the official. Proposed subdivision (b) restates the current definition of "features" in Regulation 18215.3(b)(1) and (2) with nonsubstantive changes.

Subdivision (c) would provide a bright line rule for officials who merely appear in a charitable fundraising solicitation and accompanying event as a guest speaker, and the official's involvement does not extend beyond the role of guest speaker. This language recognizes the limited role that a guest speaker typically has at an organization's event.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issue identified above or any related issue.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. None.

Fiscal Impact on State Government. None.

Fiscal Impact on Federal Funding of State Programs. None.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

The purpose of these regulations is to clarify and implement Sections 82004.5, 82041.3, and 84224.

CONTACT

Any inquiries should be made to L. Karen Harrison, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; email KHarrison@fppc.ca.gov; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 2. STATE ALLOCATION BOARD

THE STATE ALLOCATION BOARD
PROPOSES TO AMEND
REGULATION SECTION 1859.171,
RELATING TO LEROY F. GREENE SCHOOL
FACILITIES ACT OF 1998

REGULATION SECTION PROPOSED FOR
AMENDMENTS

- 1859.171

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation section, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. 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 Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17070.35 and 17078.64 of the Education Code. The proposal interprets and make specific reference Section 17078.62, of the Education Code.

**INFORMATIVE DIGEST/POLICY
OVERVIEW STATEMENT**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

At its June 23, 2021 meeting, the State Allocation Board adopted proposed regulatory amendments that would provide additional clarity on how to proceed with the selection of a successor Charter School under

the Charter School Facilities Program (CSFP). This would include notification of interested applicants and selecting a successor Charter School, while ensuring statutory intent for providing CSFP facilities is met.

Bond Funds Impacted

- Kindergarten–University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten–University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten–University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

Attached to this Notice is the specific regulatory language of the proposed regulatory action, along with the proposed regulatory amendments. The proposed regulation can also be reviewed on OPSC’s website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>. Copies of the proposed regulatory amendments will be mailed to any person requesting this information by using OPSC’s contact information set forth below in this Notice. The proposed regulation amends the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

Background and Problem Being Resolved

SFP Regulation Section 1859.171 already allows for a successor Charter School in the event a CSFP funded Charter School no longer occupies the facility. The authority for this is Education Code Section 17078.62. However, neither the current regulation section or the Education Code section provides specificity on the process by which charter schools would be notified or selected, nor was it clearly stated which entity would be responsible for the process. Successor charter schools must be financially sound, provide classroom-based instruction, and be able to take over the facilities on equal terms as the original occupant. Additionally, OPSC was notified of two scenarios requiring a successor charter school which illustrated the need for regulatory amendments. The process for notifying and selecting the successor Charter School for these impacted schools served as a reference point for adding several of the proposed requirements. These proposed amendments provide the additional clarity necessary for transparency and consistency in the process of selecting a successor Charter School.

OPSC and the California School Finance Authority held two virtual joint public stakeholder meetings; one on February 25, 2021 and one on May 26, 2021 to discuss

the proposed amendments. Stakeholders provided feedback regarding the proposed amendments at the February meeting. The comments were discussed at the May meeting; no additional comments were received after the May meeting.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that the proposed regulatory amendments are consistent and compatible with existing State laws and regulations. Proceeding with the proposed regulatory amendments aligns with the statute and carries out the will of the voters.

Anticipated Benefits of the Proposed Regulations

The proposed amendments promote transparency and consistency because the process will be clarified in regulation. This will benefit school districts and charter schools by ensuring equitability to all parties involved. The State of California will benefit because the State’s investment will be maintained; meaning that a CSFP funded facility will continue to operate once a successor Charter School has been selected. The proposed amendments do not have a direct impact on the State’s economy or job creation because the successor Charter School will take over the facility on equal terms as the original occupant.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments align with statute and carries out the will of the voters.

Summary of the Proposed Regulatory Amendments

Existing Regulation Section 1859.171 provides provisions for the use of or disposal of a charter school facility once a facility is no longer occupied by the original applicant or in cases where an applicant has received advance site acquisition funding but has not met the specified time limits in regulation. The proposed regulatory amendments provide specific guidance and additional clarity that promotes transparency and consistency necessary for the process of selecting a successor Charter School.

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or

apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

SFP Regulation Section 1859.171 already allows for a successor Charter School in the event a CSFP funded Charter School no longer occupies the facility. The authority for this is Education Code Section 17078.62. However, neither the current regulation section or the Education Code section provides specificity on the process by which charter schools would be notified or selected, nor was it clearly stated which entity would be responsible for the process.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed amendments are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendment is within the SAB’s authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulatory amendments do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts, or charter schools to incur additional costs in order to comply with the proposed regulatory amendments.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- There will be no non–discretionary costs or savings to local agencies.
- The proposed regulatory amendments create no costs to any local agency, school district, or charter school requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulatory amendments create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed amendments promote transparency and consistency because the process will be clarified in regulation. This will benefit school districts and charter schools by ensuring equitability to all parties involved. The State of California will benefit because the State’s investment will be maintained; meaning that a CSFP funded facility will continue to operate once a successor Charter School has been selected. The proposed amendments do not have a direct impact on the State’s economy or job creation because the successor Charter School will take over the facility on equal terms as the original occupant.

Proceeding with the implementation of the proposed amendments align with statute and carries out the will of the voters. Although the proposed amendments do not have a direct impact on the State’s economy, creation of jobs, creation of new businesses, or expansion of businesses, it will not eliminate jobs or eliminate existing businesses within California.

Benefits to Public Health and Welfare, Worker’s Safety, and the State’s Environment

- The proposed amendments promote transparency and consistency because the process will be clarified in regulation. This will benefit school districts and charter schools by ensuring equitability to all parties involved. The State of California will benefit because the State’s investment will be maintained; meaning that a CSFP funded facility will continue to operate once a successor Charter School has been selected. The proposed amendments do not have a direct impact on the State’s economy or job creation because the successor Charter School will take over the facility on equal terms as the original occupant.

- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local educational agencies utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker’s safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code–compliant and safer for use by pupils, staff, and other occupants on the site.
- There is no impact to the State’s environment from the proposed regulatory amendments.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulatory amendment will not have a negative impact on small businesses in the ways identified in subsections(a) (1)–(4) of Section 4, Title 1, CCR. Although the proposed regulatory amendments only apply to school districts, charter schools, and local education agencies for purposes of funding school facility projects, the proposed regulatory amendments do not have a direct impact on the creation of new [small] businesses, or expansion of [small] businesses and it will not eliminate jobs or eliminate existing [small] businesses within California. Further, the nature of the proposed regulatory amendments is to provide specific guidance and additional clarity that promotes transparency and consistency necessary for the process of selecting a successor Charter School.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e–mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e–mail or fax must be received at OPSC no later than September 27, 2021 end of day. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e–mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions

concerning the substance of the proposed regulatory action should be addressed to:

Mailing Address: Lisa Jones, Regulations Coordinator
 Office of Public School Construction
 707 Third Street, 6th Floor
 West Sacramento, CA 95605

E-mail Address: lisa.jones@dgs.ca.gov
 Fax Number: (916) 375-6721

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ms. Lisa Jones at (916) 376-1753. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376-1646.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations> then scroll down to School Facility Program, Pending Regulatory Changes, and look under Charter School Facilities Program for the above-noted bulleted documents.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulation substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB has determined 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. The alternative to these proposed amendments would be to take no action and not provide the guidance and clarity that is needed for the process. Without the proposed amendments, different processes would be followed leading to inconsistencies and ultimately a longer period of time for a CSFP funded facility to remain unoccupied.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulation with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the website listed above.

TITLE 4. HORSE RACING BOARD

RULE 1581.1, ENTRIES AND RULE 1878, WORKOUTS

The California Horse Racing Board (Board) proposes to amend the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1581.1, Entries, and Board Rule 1878, Workouts. The proposed regulation provides that a trainer's attending veterinarian shall examine a horse either for the express purposes of determining its fitness to race before it can be entered to race or examine a horse for the express purpose of determining its fitness to participate in a workout before it can be permitted to workout. Both types of examinations shall be conducted during the preceding 72 hours before the horse is either entered to race or permitted to workout, respectively.

The proposed amendment also provides that a horse cannot be entered to race unless the evaluation conducted by the attending veterinarian results in a determination that the horse is fit to race, and a horse cannot be permitted to workout unless the evaluation conducted by the attending veterinarian results in a determination that the horse is fit to workout.

Furthermore, the proposed amendment mandates that both the inspection to determine the horse's fitness to race and the inspection to determine the horse's fitness to workout shall include, but not be limited to, a close inspection of the eyes, examination of the legs, and observation of the horse at rest and while in motion. Following a determination that the horse is either fit to race or to workout, the attending veterinarian and trainer are obligated to inform the Official Veterinarian of any changes in the horse's fitness, either after entry but before race day in the case of the horse's fitness to race, or after the examination but before working out in the case of the horse's fitness to workout.

The evaluation that the horse is either fit to race or fit to workout shall be recorded in the Veterinarian Report, pursuant to Board Rule 1842, Veterinarian Report.

Lastly, the proposed amendment defines the term "workout" for clarity.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a

public hearing from any interested persons, or their authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes September 27, 2021. The Board must receive all comments at that time. Submit comments to:

Zachary Voss
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6036
Fax: (916) 263-6022
E-mail: zavoss@chr.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 19440, 19562 and 19590, Business and Professions Code (BPC).

Reference: Sections 19440 and 19562, BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Division 8, Chapter 4 of the BPC. BPC section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of Division 8, Chapter 4 of the BPC, under which all horse races with wagering on their results shall be conducted in the State of California. BPC section 19590 provides that the Board shall adopt rules governing, permitting, and regulating parimutuel wagering on horse races under the system known as the parimutuel method of wagering, and parimutuel wagering shall be conducted only by a person or persons licensed under this chapter to conduct a horse racing meeting or authorized by the Board to conduct advance deposit wagering.

Racing and training require racehorses to move at high speeds and exert large pressures on joints, tendons, and the suspensory apparatus. Athletic injuries are common and may result from the strenuous activity involved with racing and training. These injuries can occur more frequently or become exacerbated if a horse is already suffering from an existing injury or illness yet continues to race or participate in workouts. Such injuries or illnesses may disrupt further racing or

training, often necessitating prolonged periods of rest or, in severe cases, retirement or euthanasia.

Existing injuries or illness negatively impact a horse's fitness to race or train. A sick or injured horse is not capable of exerting its best effort during racing or training and cannot fully absorb the large pressures on the suspensory apparatus and respiratory system required from racing and participation in a workout during training. If a sick or injured horse does run a race or participate in a workout, that horse is at elevated risk of further injury, catastrophic breakdown, or death.

In an effort to minimize the risks of injury to horses present when racing or training when unfit to do so, many racing associations in California have already implemented rules and conditions for racing and training that prohibit horses from being entered to race unless the horse has been examined by the trainer's attending veterinarian preceding the race entry day for the express purpose of evaluating the horse's fitness to race, or that prohibit horses from participating in a workout unless the horse has been examined by the trainer's attending veterinarian for the express purpose of evaluating the horse's fitness to participate in a workout. The rules and conditions further stipulate that a determination following the evaluation must be positively made that the horse is either fit to race or participate in a workout before being permitted to do so, and if any changes to the horse's fitness occur prior to working out or racing, the trainer and attending veterinarian are obligated to inform the association's examining veterinarian.

However, these rules and conditions are private agreements between the racing associations and the horsemen participating in a race meeting. The agreements only apply to single or limited number of racetracks and are only applicable during the agreed upon race meeting. While these rules are effective for minimizing the risk of injury to racehorses by preventing unfit horses from racing or training, they are currently applied inconsistently across the Board's jurisdiction and not enforceable by the Board. In order to promote consistency and further safeguards that ensure racehorse safety and welfare, the Board has determined to codify these rules and conditions in regulation.

The Board proposes to amend Board Rule 1581.1 and Board Rule 1878 to promote consistency with the ongoing racing association efforts to further safeguards for racehorses entering to race and workout and to promote the safety and health of California's racehorses. The proposed amendment modifies Board Rule 1581.1 and Board Rule 1878 to provide that horses are examined to determine that they are fit to race or workout before being permitted to enter in a race or participate in a workout. The examination

and subsequent evaluation must result in a positive determination that the horse is indeed fit to race or workout before being allowed to do so. The resulting evaluation must be recorded in the Veterinarian Report, pursuant to Board Rule 1842, Veterinarian Report.

The proposed amendment also requires an attending veterinarian to examine the horse's eyes, legs, and observe the horse while at rest and in motion as components of the examination. The examination must take place during the 72 hours immediately preceding entry to race or workout, and if any change in the horse's fitness to race or workout occurs following the examination and before entry to race or participation in a workout, the trainer and attending veterinarian are obligated to inform the Official Veterinarian.

ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

The proposed amendment to Board Rule 1581.1 and Board Rule 1878 benefits California's horse racing industry, the horsemen, and the wagering public by ensuring that measures are implemented to minimize the risk to racehorses being injured or harmed when racing or training. The proposed amendment ensures that horses entered to race or permitted to workout have been thoroughly examined for their fitness to do so, that an evaluation has determined their fitness to do so, and that if any change to their fitness were to occur following that examination and determination, the Official Veterinarian would be notified and given the opportunity to intervene should continuing to allow the horse to race or train be detrimental to its wellbeing. Therefore, the proposed amendment has the benefit of promoting the health and safety of California's racehorses, and by extension, the health and safety of the jockeys and drivers who ride them. Thus, the proposed amendment benefits worker safety among horsemen.

CONSISTENCY EVALUATION

During the process of developing the amendment to Board Rule 1581.1 and Board Rule 1878, the Board has conducted a search of any similar regulations on this topic and has concluded that the regulation is neither inconsistent nor incompatible with existing State regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any State agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code (GC) sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

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

The Board has made the initial determination that the proposed amendment to Board Rule 1581.1 and Board Rule 1878 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.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The results of the Board's Economic Impact Assessment as required by GC section 11346.3(b) are as follows:

The adoption of the proposed amendment to Board Rule 1581.1 and Board Rule 1878 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The proposed amendment to Board Rule 1581.1 and Board Rule 1878 will provide consistency with existing efforts by California racing associations to implement safeguards that prevent horses unfit to race or workout from doing so at the risk of injury. The proposed amendment applies these safeguards across the Board's jurisdiction and enables the Board to enforce them as regulation, thereby promoting safer practices throughout California and promoting the health and welfare of California racehorses and their jockeys and riders.

The proposed amendment will impact Board-licensed trainers, attending veterinarians, and businesses offering the services of attending veterinarians. The proposed amendment may result in a modest increase in the responsibilities of trainers and, by extension, in the responsibilities of their attending veterinarians. However, the net economic impact of the proposed amendment will be minimal.

The proposed regulation will not impact the State's environment.

Cost impact on representative private persons or businesses: The proposed amendment may result in a modest increase in the responsibilities of attending veterinarians employed by trainers. Trainers may experience a slight increase in their need to acquire and pay for veterinary services to fulfill the requirements of the proposed amendment. However, many private racetracks and racing associations already require such responsibilities, so for most licensees the increase in responsibilities and required

services will be negligible. Therefore, the cost impact on representative private persons or businesses will likely be negligible.

Significant effect on housing costs: none.

Effect on small businesses: none. The proposal to amend Board Rule 1581.1 and Board Rule 1878 does not affect small businesses because horse racing is not a small business under GC section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board has determined 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 persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statement or arguments with respect to alternatives to the proposed regulation during the public hearing, should one be scheduled, or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Zachary Voss
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6036
Fax: (916) 263-6022
E-mail: zavoss@chr.ca.gov

If the person named above is not available, interested parties may contact:

Amanda Drummond, Manager
Policy, Regulations, and Administrative Hearings
Telephone: (916) 263-6033
E-mail: amdummond@chr.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF THE PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the

rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Zachary Voss or the alternative contact person at the address, phone number, or email address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Zachary Voss at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Zachary Voss at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is: www.chrb.ca.gov.

TITLE 11. DEPARTMENT OF JUSTICE

The Department of Justice (Department) proposes to amend section 4001 of Title 11, Division 5, Chapter 1 of the California Code of Regulations concerning the Dealer Record of Sale (DROS) Fee.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested

person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on September 28, 2021 at 5:00 p.m. Only written comments received by that time will be considered. Submit written comments to:

Kelan Lowney, Associate Governmental Program Analyst
 Department of Justice
 P.O. Box 160487
 Sacramento, CA 95816-0487(916) 210-2377
DROSfeeincrease@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Penal Code sections 28233 and 28240.
 Reference: Penal Code sections 28220, 28225, 28230, 28235 and 28240.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Existing law generally requires purchases and transfers of firearms to be conducted through a licensed firearms dealer. The firearms dealer must submit the purchaser or transferee's personal information to the Department, via the DROS system, for the purpose of conducting a background check on the purchaser or transferee prior to release of a firearm to that person. If the background check reveals that the person is prohibited by state or federal law from owning a firearm, the purchase or transfer is denied.

Existing law provides that certain fees may be assessed at the time of the application to purchase or transfer a firearm. These fees are paid by the purchaser or transferee, collected by the dealer, and remitted to the Department. One such fee, the DROS Fee, is used to fund various statutorily specified activities, primarily the background check.

Until January 1, 2020, the DROS Fee was set at \$19 per transfer of one or more firearms.

Authority for the DROS Fee was repealed by Assembly Bill (AB) 1669 (Bonta, 2019), effective January 1, 2020. As of that date, Penal Code section

28233 went into effect, authorizing a new fee of \$31.19. This new fee funds the same activities that had been funded by the previous DROS Fee. On December 30, 2019, the Office of Administrative Law approved the Department's emergency rulemaking to set the fee authorized by Penal Code section 28233 at \$31.19. Because the new fee funds the same activities that had been funded by the previous DROS Fee, the Department retained the DROS Fee name.

Effect of the Proposed Rulemaking:

This rulemaking makes permanent the emergency action that implemented the \$31.19 fee authorized by Penal Code section 28233. If adopted, this fee will continue to be charged to a firearm purchaser or transferee at the time of a purchase or transfer of one or more firearms.

Anticipated Benefits of the Proposed Regulations:

This rulemaking protects public safety by providing a consistent revenue stream for the activities of the Department's Bureau of Firearms. The Department anticipates that this rulemaking would result in revenue \$27,678,006 in Fiscal Year 2021–22, and then \$24,535,738 for Fiscal Year 2022–23 and each year thereafter. Specifically, those activities related to checking the background of potential firearm purchasers serve to protect public safety by ensuring that a person prohibited by state or federal law does not purchase, or maintain possession of, a firearm. The ownership or possession of a firearm by convicted felons, persons found to be a danger to self or others because of a mental illness, persons addicted to the use of narcotics, and other prohibited persons pose a risk of immediate, serious harm to the people of the state of California.

Other activities funded by the DROS Fee, such as the maintenance of the Automated Firearm System (AFS) and certain aspects of the Armed and Prohibited Persons Section (APPS), are directed toward the investigation and prosecution of firearms-related crimes. Addressing these important public safety issues requires a consistent revenue stream that is directly related to the number of firearms sold and possessed in the state. Penal Code section 28233, which this rulemaking implements, structures the DROS Fee in exactly this manner.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to the proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the

only regulations that concern the setting of the DROS Fee.

Forms Incorporated by Reference:

None.

Other Statutory Requirements:

The Department has determined that this is a "major regulation." The Department has prepared a standardized regulatory impact analysis ("SRIA") pursuant to Government Code section 11346.3 and has complied with the requirements of subdivision (f) of that code.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts:

None.

Cost or savings to any state agency:

By making permanent the fee authorized by Penal Code section 28233, the Department projects revenue of \$27,678,006 in Fiscal Year 2021–22, and then \$24,535,738 for Fiscal Year 2022–23 and each year thereafter.

Due to the potential decrease of retail firearm sales resulting from the fee increase, the Department anticipates a decrease in state sales tax collected, in a range between \$0 and \$3,351,054 in the first 12 months following full implementation of the proposed regulation.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:

None.

Other non-discretionary costs or savings imposed on local agencies:

Due to the potential decrease of retail firearm sales resulting from the fee increase, the Department anticipates a potential decrease in local sales tax revenue to local governments of between \$0 and \$1,256,645 in the first 12 months following full implementation of the proposed regulation.

Cost or savings in federal funding to the state:

None.

Cost impacts on representative person or business:

At the time of an application to purchase or transfer one or more firearms, a representative person would pay a fee of \$31.19.

Collection of statutorily authorized fees, and remission of such monies to the Department, is current practice for licensed firearms dealers. Only the dollar amount of the DROS Fee would change due to the proposed action. This dollar amount change

would be made automatically within the DROS Entry System (DES), the electronic system through which firearm purchaser information is communicated to the Department, and the means by which fees are remitted. The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs:

None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete:

The Department has made an initial determination 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.

Results of the Standardized Regulatory Impact Assessment (SRIA):

In the first 12 months following full implementation of the proposed regulation, the Department estimates a direct impact of \$23,396,056 on firearm purchasers, due to their payment of the DROS Fee. This direct impact may result in additional indirect and induced economic impacts; the total impact statewide due to payment of the proposed DROS Fee is estimated to be \$47,049,469 in the first 12 months following implementation.

The Department estimates further indirect economic impact of up to \$55,850,900 on firearms dealers, due to the potential decrease of demand for firearms because of the \$31.19 increase in the effective price. This indirect impact may result in additional indirect and induced economic impacts; the total impact statewide due to potential lost sales is estimated to be \$112,316,160 in the first 12 months following implementation.

The Department anticipates the possible elimination of between 0 and 1,011 jobs in the first 12 months following full implementation.

The Department does not anticipate that the new fee will lead to the elimination of existing businesses.

The Department does not anticipate the creation of businesses due to the new fee.

The Department does not anticipate that the new fee will put California businesses at a competitive disadvantage compared to businesses in other states.

The Department anticipates a possible decrease in investment in the state of between \$0 and \$68,344,746 in the first 12 months following full implementation.

The Department does not anticipate that the new fee will result in incentives for innovation in products, materials, or processes.

The Department anticipates the following benefits from the proposed action:

The revenue collected from the DROS Fee will fund the Department's public safety efforts. Specifically, the revenue will provide a consistent revenue stream for the Department's firearms-related regulatory and enforcement activities related to the sale, purchase, manufacture, possession, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

Activities related to checking the background of potential firearm purchasers protects public safety by ensuring that a person prohibited by state or federal law does not purchase, or maintain possession of, a firearm. The ownership or possession of a firearm by convicted felons, persons found to be a danger to self or others because of a mental illness, persons addicted to the use of narcotics, and other prohibited persons, pose a risk of immediate, serious harm to the people of the state of California.

Other activities funded by the DROS Fee, such as the maintenance of the Automated Firearms System and certain aspects of the Armed Prohibited Persons System, are directed toward the investigation and prosecution of firearms-related crimes. Addressing these important public safety issues requires a consistent revenue stream that is directly related to the number of firearms sold and possessed in the state. Penal Code section 28233, which this rulemaking implements, structures the DROS Fee in exactly this manner.

Summary of Department of Finance Comments to SRIA and Department's Response:

The Department of Finance ("Finance") generally agreed with the Department's SRIA, but had two comments. First, Finance commented that the SRIA should consider the economic impact of the fee increase on long gun sales, not just hand gun sales. Second, Finance commented that the SRIA should provide more information regarding the fiscal impact of the fee increase. In response to these comments, the Department revised the SRIA to include an analysis of how the price effect of the proposed DROS fee will influence long gun purchases, and to provide more detail regarding program costs.

Business report requirement:

None.

Small business determination:

The Department has determined that the proposed action affects small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is

proposed 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 Department has determined that the proposed regulation is the most effective way to implement this fee. Although Penal Code section 28233 grants authority to the Department to require a firearms dealer to charge a \$31.19 fee, the statute is not self-executing. At its discretion, the Department may promulgate regulations to implement the fee. Penal Code section 28233 does not grant the Department the discretion to set the initial fee at any other amount.

As an alternative, the Department could use its discretion to not implement a DROS fee at all. The Department has determined that this alternative is unreasonable, because not implementing the DROS Fee would remove the primary funding mechanism for the Department's firearms programs. If the fee implemented by the emergency regulation is not made permanent, the Department projects that the subsequent decrease in revenue would result in the insolvency of the Bureau of Firearms, as the operating budget would have a deficit of \$12,367,074 for Fiscal Year 2021-22, and a deficit of \$27,736,279 for each fiscal year thereafter.

A second alternative considered by the Department concerned the method of fee collection. The DROS Entry System (DES) is a web-based application used by dealers to report the purchase of firearms to the Department. (See Cal. Code Regs, tit. 11, § 4200 et seq.) Proposed Section 4001, subdivision (a) would require that DROS Fees be paid at the same time a dealer submits a purchaser's identifying information through DES for a background check. Proposed Section 4001, subdivision (b) would require that DROS Fees be remitted through DES as described in Section 4240. The Department considered alternative methods of collecting the fee, such as bypassing the current DES payment mechanism, or waiting to charge the fee until the time of the physical transfer of the firearm. The Department rejected alternative methods of collection as less effective in funding the program.

A third alternative considered by the Department would be to impose a DROS Fee for each firearm purchased, rather than once per transaction of one or more firearms, as proposed. Because some people purchase multiple firearms in a single transaction, the number of billable DROS transactions are fewer than the total number of DROS transactions. If the Department imposed the \$31.19 DROS Fee for each firearm purchased, rather than for each transaction of one or more firearms, the Department would collect additional revenue. The Department rejected this alternative due to statutory constraints. Per Penal

Code section 28240, for a single transaction of any number of firearms on the same date, only one billable fee may be charged.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Kelan Lowney, Associate Governmental Program Analyst
California Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487(916) 210-2377

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Matthew Mercado, Associate Governmental Program Analyst
California Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487(916) 210-2607

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of the Proposed Regulations (the "express terms" of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of the Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/firearms/regs>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt the regulations substantially as described in this notice or make modifications based on the comments. 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 regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department’s website at: <https://oag.ca.gov/firearms/regs>. Please refer to the contact information listed above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at <https://oag.ca.gov/firearms/regs>.

TITLE 24. CALIFORNIA BUILDING STANDARDS COMMISSION

REGARDING THE 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11 (BSC 03/21)

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) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. CBSC is proposing building standards related to the 2022 California Green Building Standards 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 August 13, 2021 until midnight on September 27, 2021.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than September 27, 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 18930.5.

The purpose of these building standards is to implement, interpret, or make specific the provisions

of Health and Safety Code (H&SC) Sections 18930.5, 18931.7(b), and 18941.10.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

H&SC 18931.7(b) Building Standards Administration Special Revolving Fund; availability of monies.

(b) Moneys deposited in the fund shall be available, upon appropriation, to the commission, the department, and the Office of the State Fire Marshal for expenditure in carrying out the provisions of this part, and the provisions of Part 1.5 (commencing with Section 17910) that relate to building standards, as defined in Section 18909, with emphasis placed on the development, adoption, publication, and updating of green building standards, the updating of verification guidelines for Tier 1 or Tier 2 green building standards and educational efforts, including, but not limited to, training for local building officials associated with green building standards.

H&SC 18941.10 Installation of future electric vehicle charging infrastructure for parking spaces in multifamily dwellings and nonresidential development; adoption of mandatory standards; consultation with interested parties.

In proposing and adopting mandatory building standards under this section, the Department of Housing and Community Development and the commission shall use Sections A4.106.6, A4.106.6.1, A4.106.6.2, A5.106.5.1, and A5.106.5.3 of the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations) as the starting point for the mandatory building standards and amend those standards as necessary, and shall actively consult with interested parties, including, but not limited to, investor-owned utilities, municipal utilities, manufacturers, local building officials, commercial building and apartment owners, and the building industry.

Summary of Existing Regulations

The California Green Building Standards Code, Part 11 of Title 24 of the California Code of Regulations (CCR), also known as the CALGreen Code, is amended for inclusion into the 2022 CALGreen Code effective January 1, 2023.

The CALGreen Code contains the green building standards for various mandatory and voluntary

regulations that will be amended as necessary based on the proposed code changes.

Summary of Effect

This proposed action will implement the proposed modifications to the California Green Building Standards Code for buildings within CBSC authority. The proposed amendments have some editorial and non-substantive changes with no intended change in regulatory effect. However, there are several amendments that are substantive. The substantive changes include increasing the Electric Vehicle infrastructure percentages for both the mandatory and the voluntary provisions and new requirements for the mandatory installed electric vehicle charging stations (EVCS) with the option for using direct current fast chargers. Also proposed are increased percentages for EVCS for both Tier 1 and Tier 2. Another proposed amendment is the requirement for EV infrastructure for medium- and heavy-duty zero emissions vehicles (ZEV).

Once filed with Secretary of State, the standards will be codified and published by July 1, 2022, and will become effective January 1, 2023.

The Initial Statement of Reasons (ISOR) provides a complete description of the proposed building standards and their effect.

Comparable Federal Statutes or Regulations

There are no federal statutes or regulations that are comparable to the proposed updates to the CALGreen Code.

Policy Statement Overview

The broad objectives of the regulation are to propose changes to the building standards for electric vehicle infrastructure for statewide application for both light-duty and medium- and heavy-duty zero emissions vehicles (ZEV). The specific benefits anticipated by the proposed amendment is to realize substantial environmental benefits through reduction in energy use, greenhouse gas emissions, criteria pollutants, and fossil fuel dependency leading to improved public health.

CBSC is responsible for the development of green building standards for nonresidential occupancies for which no other state agency has authority or expertise.

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).

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. Further, the proposed regulatory actions are administrative in nature and would not enact 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: All new state buildings are subject to these amendments. Based on a ten-year sequencing plan for state buildings in Sacramento, CBSC identifies a total of 4 new state buildings that are likely to be constructed between 2023 and 2025. Since Sacramento is the center of State government, these estimates represent total new construction planned in the 2023 to 2025 timeframe. Since the cost to typical businesses is \$675 to \$109,099 the total cost to state government over the 3-year life of the amendments is estimated at \$2,700 to \$436,396.
- 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.

CBSC 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.

Regarding the proposal to increase the electric vehicle infrastructure for both light-duty vehicle percentages in both the mandatory and voluntary code provisions and the proposed medium- and heavy-duty EV capable infrastructure, CBSC conducted two stakeholder workshops on January 7, 2021 and March 30, 2021, which were attended by state agencies, interested parties and stakeholder representatives such as the California Air Resources Board (CARB), California Energy Commission, Department of Housing and Community Development, California Department of Public Health, California Building Industry association, Electric Vehicle Charging Association, Tesla, Southern California Edison, Underwriters Laboratory, Energy Solutions, various local enforcing agencies, and private consultants. Based on testimony presented at the workshop and comments received from various stakeholders, CBSC proposes to increase the percentages as suggested at the workshop.

CBSC has made an initial determination of no significant adverse economic impact on businesses. However, this regulatory action for light-duty vehicles would marginally increase costs to California business enterprises representing up to 0.9 percent of the total new construction costs of nonresidential buildings over the 3-year life of the amendments and with significant benefits to Californians due to improved air quality and greenhouse gas (GHG) emissions reduction. The proposal will also help to alleviate expensive future retrofit costs for applicable building owners, saving them more than six times the cost of adding panel capacity and conduit in standalone retrofits of existing buildings. See rulemaking file number BSC-03-21-ISOR-PT11-45day.

CBSC has made an initial determination that this regulatory action for medium- and heavy-duty vehicles would have no significant increase costs to California business enterprises. These costs represent less than 0.5 percent of the total new construction

costs of nonresidential buildings over the 8–year life of the amendments and with significant benefits to Californians due to improved air quality and GHG emissions reduction. The proposal will also help to alleviate expensive future retrofit costs for applicable building owners, saving them up to seven times the cost of the proposed requirements.

This determination is based on comments received at the workshop and the cost benefit analysis provided by the California Air Resources Board. This analysis is based on the following: “Electric Vehicle (EV) Charging Infrastructure: Nonresidential Building Standards, CARB Technical and Cost Analysis, September 30, 2019” [ww2.arb.ca.gov/sites/default/files/2020-08/CARB Technical Analysis EV Charging Nonresidential CALGreen 2019 2020 Intervening Code.pdf](http://ww2.arb.ca.gov/sites/default/files/2020-08/CARB_Technical_Analysis_EV_Charging_Nonresidential_CALGreen_2019_2020_Intervening_Code.pdf);

“2021 National Construction Estimator 68th Edition”

“2012 Commercial Buildings Energy Consumption Survey Preliminary Results”; eia.gov/consumption/commercial/data/2012/index.php?view=characteristics

“Benefits and Considerations of Electricity as a Vehicle Fuel”; afdc.energy.gov/fuels/electricity/benefits.html

“2018 Grid Average Electricity Emissions Factor; EMFAC (ca.gov), arb.ca.gov/emfac/emissions-inventory/e2e58e924ef97f439a293441205c5121af7360e9

Assembly Bill 2127 Electric Vehicle Charging Infrastructure Assessment, efiling.energy.ca.gov/getdocument.aspx?tn=236237, and CARB staff estimated nonresidential new construction building projections from CEC. CBSC has shown in the Economic and Fiscal Impact Statement (399) and the Initial Statement of Reasons (ISOR) that the zero emissions vehicle infrastructure adjustments pose a marginal increase but do not pose a significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states.

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.

CBSC 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:

CBSC is aware of initial cost impacts that a representative private person or business could incur in reasonable compliance with the proposed action. The cost impact has been determined to be less than 0.5 percent of all new applicable construction totals for medium–and–heavy duty vehicle infrastructure provisions, and up to 0.9 percent of all new applicable construction totals for the light–duty vehicle infrastructure provisions. However, it is also anticipated that such costs would be recouped in long–range savings expressed in utility and transportation costs, worker productivity, health costs, and goodwill. The Initial Statement of Reasons and the Economic and Fiscal Impact Statement support this statement.

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 may cause some jobs to be created for the installation, maintaining and manufacturing of Electric Vehicle Supply Equipment (EVSE). These regulations will not affect 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 may cause the creation of businesses that expand the EV market. These regulations will not affect the elimination of jobs within the State of California.

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

These regulations will likely promote the expansion of businesses currently involved with EV manufacturing, installation, maintenance and technology development 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 increase the sustainability of California’s natural resources by reducing fuel use, GHG emissions, criteria pollutants, and fossil fuel dependence, and provide increased protection of public health and safety, worker safety and the environment.

Adopting proposed code changes for medium– and heavy–duty vehicles would also support the reduction of 19 million metric tons of carbon dioxide equivalent (MMTCO_{2e}) total by 2050 from the Innovative Clean Transit Regulation, 0.5 MMTCO_{2e} total by 2040 from the Zero–Emission Airport Shuttle Regulation, and 1.7 MMTCO_{2e} per year by 2040 from the Advanced Clean Trucks Regulation.

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).

1. CBSC considered the following alternative for EV vehicles in Sections 5.106.5.3 and A5.106.5.3 in an effort to further advance the potential for EV preparedness for EV vehicles. CBSC conducted a stakeholder workshop on January 7, 2021 in which it proposed to include a mandatory requirement for level 2 charging stations in new nonresidential buildings requiring one Level 2 charger for parking lots that had 10 or more parking spaces. Additionally, CBSC proposed a voluntary Tier 1 and Tier 2 requirement for Level 2 chargers. Tier 1 requires Level 2 chargers in 3 percent of the total parking spaces and 5 percent for Tier 2. Based on comments received at the workshop, this initial EV proposal was superseded by the more stringent current proposal which is needed further advance EV preparedness.
2. CBSC considered the following two alternatives for EV vehicle charging in voluntary Sections A5.106.5.3.1 and A5.106.5.3.2 in an effort to further advance the potential for EV preparedness

for EV vehicles as voluntary tier options which are currently being proposed for adoption in this rulemaking.

Alternative 1 Tier 1: Adopt an additional 5% Level 2 EV charging requirement for new nonresidential buildings with 10 or more actual parking spaces and adopt an additional 5% Level 2 EV capable space requirement.

Alternative 1 Tier 1 analysis: The proposed amendments require new nonresidential buildings with 0–9 actual parking spaces to install EV capable infrastructure in 30% of the total number of actual parking spaces with no requirement for EVSE. New nonresidential buildings with 10 or greater actual parking spaces shall install EV capable infrastructure in 30% of the total number of actual parking spaces and 33% of the number of required EV capable spaces need to be provided with electric vehicle supply equipment (EVSE). The net resulting percentage for the required EV capable infrastructure is 20% for 10 or more actual parking spaces. The net resulting percentage for the required EVSE is 10% for 10 or more actual parking spaces. The incremental percentage increase for EV capable spaces above the proposed mandatory respective code in Table 5.106.5.3.1 is from 20% (net 15%) to 30% (net 20%) and the incremental percentage increase for Level 2 EVSE above the proposed mandatory respective code in Table 5.106.5.3.1 is from net 5% to net 10%. This alternative was rejected at this time as a mandatory requirement at the state level because it is more costly. However, this alternative can still be adopted by local governments as mandatory at the local level as a Tier 1 option and is being proposed in this rulemaking by CBSC. This alternative would add 0.3 – 1.0 percent to total costs for nonresidential new construction above the proposed mandatory provisions. This requirement would result in the installation of an additional 56,135 to 69,248 Level 2 EV capable spaces and 62,924 to 75,778 Level 2 EV chargers over the proposed mandatory provisions during the 3–year life of the amendments. Initial construction costs for Alternative 1 were estimated to total an additional \$188 to \$353 million with avoided retrofit costs of \$833 to \$1,160 million resulting in a statewide benefit of \$481 to \$972 million over the 3–year life of the amendments compared to the proposed mandatory provisions. An additional 492,000 to 597,000 metric tons CO_{2e} emission reduction annually could be achieved compared to the proposed mandatory provisions.

Alternative 2 Tier 2: Adopt an additional 10% Level 2 EV charging requirement for new nonresidential buildings with 10 or more actual parking spaces and adopt an additional 15% Level 2 EV capable space requirement.

Alternative 2 Tier 2 analysis: The proposed amendments would require new nonresidential buildings with parking lots between 0–9 spaces to install EV capable infrastructure in 45% of the total number of actual parking spaces with no requirement for EVSE. Parking lots with 10 or greater parking spaces shall install EV capable infrastructure in 45% of the total number of actual parking spaces. 33% of the number of required EV capable spaces need to be provided with electric vehicle supply equipment (EVSE) triggered at 10 or greater parking spaces. The net resulting percentage for the required EV capable infrastructure is 30% for parking lots with 10 or more spaces. The net resulting percentage for the required EVSE is 15% for parking lots with 10 or more spaces. The incremental percentage increase for EV capable spaces above the proposed mandatory respective code in Table 5.106.5.3.1 is from 20% (net 15%) to 45% (net 30%) and the incremental percentage increase for Level 2 EVSE above the proposed mandatory respective code in Table 5.106.5.3.1 is from net 5% to net 15%. This alternative was rejected at this time as a mandatory requirement at the state level because it is more costly. However, this alternative can still be adopted by local governments as mandatory at the local level as a Tier 2 option and is being proposed in this rulemaking by CBSC. This alternative would add 0.6 – 2.1 percent to total costs for nonresidential new construction above the proposed mandatory provisions. This requirement would result in the installation of an additional 168,404 to 207,745 Level 2 EV capable spaces and 119,058 to 145,027 Level 2 EV chargers over the proposed mandatory provisions during the 3–year life of the amendments. Initial construction costs for Alternative 2 were estimated to total an additional \$398 to \$752 million with avoided retrofit costs of \$2,012 to \$2,822 million resulting in a statewide benefit of \$1,260 to \$2,424 million over the 3–year life of the amendments compared to the proposed mandatory provisions. An additional 1,047,000 to 1,280,000 metric tons CO₂e emission reduction annually could be achieved compared to the proposed mandatory provisions.

AVAILABILITY OF
RULEMAKING DOCUMENTS

Reference: Government Code Section
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 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

U.S. Mail postmarked no later than September 27, 2021:

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

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

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. CALIFORNIA BUILDING STANDARDS COMMISSION/DIVISION OF THE STATE ARCHITECT

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DIVISION OF THE STATE ARCHITECT (DSA-AC) REGARDING THE 2022 CALIFORNIA BUILDING CODE, CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2 (DSA-AC 01/21)

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

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.

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

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Division of the State Architect (DSA-AC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. DSA-AC is proposing building standards related to 2022 California Building Code.

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.

PUBLIC COMMENT PERIOD

AUTHORITY AND REFERENCE

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

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

A public hearing has not been scheduled; however, written comments will be accepted from August 13, 2021 until midnight on September 27, 2021.

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18928. For DSA-AC, the purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Sections 4450 through 4461, 12955.1 and 14679; Health and Safety Code Sections 18949.1 and 19952 through 19959; and Vehicle Code Section 22511.8.

Comments may be submitted to CBSC via:

The Division of the State Architect is proposing this regulatory action based on Government Code Section 4450.

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

INFORMATIVE DIGEST

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

Summary of Existing Laws

Government Code Section 4450 authorizes the State Architect to develop regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities.

Summary of Existing Regulations

Existing regulations promulgated by DSA-AC are contained in the California Building Code (Title 24, Part 2). These regulations are applicable to:

1. Publicly funded buildings, structures, sidewalks, curbs and related facilities;
2. Privately funded public accommodations and commercial facilities;
3. Public housing and private housing available for public use;
4. Any portable buildings leased or owned by a school district; and
5. Temporary and emergency buildings and facilities.

Summary of Effect

The proposed action would update the CCR, Title 24, Part 2 by:

- Adding requirements for maintenance of accessible features to include facilities regulated in Chapter 11B.
- Revising definition of access aisle.
- Revising requirements for accessible means of egress.
- Amendments to clarify multi-bedroom requirements for housing at a place of education.

Comparable Federal Statutes or Regulations

Comparable federal statutes and regulations include:

- Regulations for Title II and Title III of the Americans with Disabilities Act of 1990, as adopted by the U.S. Department of Justice. The regulations provide enforceable standards for accessible design, known as the 2010 ADA Standards for Accessible Design, in three parts:
 1. 2010 Standards for State and Local Government Facilities: Title II Regulations at 28 CFR Part 35.151;
 2. 2010 Standards for Public Accommodations and Commercial Facilities: Title III Regulations at 28 CFR Part 36, Subpart D; and
 3. 2010 Standards for Title II and III Facilities: 2004 ADAAG.
- Fair Housing Amendments Act of 1988.

Policy Statement Overview

The proposed building standards are intended to implement new accessibility provisions and clarify existing accessibility provisions contained in the 2019 California Building Code to ensure that publicly funded buildings, structures, sidewalks, curbs, and related facilities shall be accessible to and usable by persons with disabilities; privately funded public accommodations and commercial facilities shall be accessible to and usable by persons with disabilities; and public housing shall be accessible to and usable by persons with disabilities.

Evaluation of Consistency

There are no inconsistent or incompatible regulations 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 DSA-AC, 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-AC 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/peel 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-AC has made an initial determination that the adoption/amendment/peel 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 have 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-AC 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 DSA-AC 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-AC has determined that the proposed action has no effect.

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

DSA-AC has determined that the proposed action has no effect.

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

DSA-AC has determined that the 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-AC has determined that the proposed action has no effect.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS
THAT WOULD IMPACT HOUSING

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

DSA-AC has made an initial determination that this proposal would not have a significant effect on housing costs. DSA-AC is coordinating this proposal with the Department of Housing and Community Development.

CONSIDERATION OF ALTERNATIVES

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

DSA-AC has determined that no reasonable alternative considered by DAS-AC or that has otherwise been identified and brought to the attention of DSA-AC 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-AC 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:

Derek M. Shaw, Supervising Architect
Division of the State Architect
Headquarters
Phone: (916) 324-7178
Derek.Shaw@dgs.ca.gov

Back up Contact:

Susan Moe, Senior Architect
Division of the State Architect
Headquarters
Phone: (916) 323-1687
Susan.Moe@dgs.ca.gov

**TITLE 24. CALIFORNIA BUILDING
STANDARDS COMMISSION/DIVISION
OF THE STATE ARCHITECT**

NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE DIVISION
OF THE STATE ARCHITECT REGARDING
THE 2022 CALIFORNIA GREEN BUILDING
STANDARDS CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 11
(DSA-SS/CC 03-21)

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) on behalf of Division of State Architect proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. The DSA is proposing building standards related to Electric Vehicle Charging Stations, building standards related to carbon dioxide monitors in K-12 public school classrooms, and addressing clarity to existing green building standards.

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 August 13, 2021 until midnight on September 27, 2021. Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than September 27, 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 18928.

For Division of the State Architect (DSA–SS) the purpose of these building standards is to implement, interpret, or make specific the provisions of Education Code sections 17280–17317, and 81130–81147. DSA–SS is proposing this regulatory action based on Education Code sections 17310 and 81142.

For DSA–SS/CC the purpose of these building standards is to implement, interpret, or make specific

the provisions of Education Code section 81052, 81053, and 81130–81147. DSA–SS/CC is proposing this regulatory action based on Education Code section 81053.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Sections 17310, 81142, and 81053 of the Education Code authorize the State Architect to establish building standards for the design, construction and inspection of building systems for public elementary and secondary schools, and community colleges.

Summary of Existing Regulations

Existing green building standards apply to the planning, design, operation, construction, use and occupancy of every newly constructed building or structure throughout the State of California. It is not the intent that the green building standards substitute or be identified as meeting the certification requirements of any green building program. The green building standards for public elementary and secondary schools and community colleges are promulgated by the Division of the State Architect. These regulations are contained in the California Green Building Standards Code (Cal. Code of Regs., title 24, part 11) and incorporate the following:

California Code of Regulations, title 24, part 3 (California Electrical Code), which prescribe the design and construction requirements for electrical systems of public elementary and secondary schools, and community colleges.

California Code of Regulations, title 24, part 4 (California Mechanical Code), which prescribe the design and construction requirements for mechanical systems of public elementary and secondary schools and community colleges.

California Code of Regulations, title 24, part 5 (California Plumbing Code), which prescribe the design and construction requirements for plumbing systems of public elementary and secondary schools, and community colleges.

California Code of Regulations, title 24, part 6 (California Energy Code), which contains minimum energy efficiency standards for the non–residential buildings in California promulgated by the California Energy Commission (CEC).

California Code of Regulations, title 24, part 11 (California Green Building Standards Code (CALGreen)), which contains mandatory and voluntary green building standards for residential and non–residential facilities.

Other relevant provisions of the California Code of Regulations:

California Code of Regulations, title 17, includes regulations for air quality promulgated by the California Air Resources Board.

Summary of Effect

The proposed action will implement the proposed modifications to the California Green Building Standards Code for buildings within DSA authority. The proposed amendments contain substantive changes which include mandatory provisions for doubling the number of required electric vehicle (EV) spaces provided with EV capable infrastructure and requiring the installation of minimum level 2 electric vehicle supply equipment for 25% of EV capable spaces, the installation of carbon dioxide monitors in new public K–12 schools, and new provisions for indoor air quality by limiting the off-gassing of thermal insulation and acoustical ceiling and wall panels, clarifying amendments to the regulations for shade trees, and editorial and non-substantive amendments with no intended change in regulatory effect.

Once filed with Secretary of State, the standards will be codified and published by July 1, 2022, and will become effective January 1, 2023.

Comparable Federal Statutes or Regulations

There are no federal statutes or regulations that are comparable to the proposed editorial updates to the California Green Building Standards Code (CALGreen Code).

Policy Statement Overview

The broad objective of the proposed action is to maintain green building standards in conformance with current state law, by updating the 2022 California Green Building Standards Code (CALGreen Code).

Evaluation of Consistency

There are no inconsistent or incompatible regulations 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 impose a mandate on local agencies or school districts. The proposed regulatory action

would impose a mandate on school districts; however the mandate does not require reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4, Government Code.

ESTIMATE OF COST OR SAVINGS

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

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

- A. Cost or Savings to any state agency: **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: Any additional expenditure resulting from this proposed action would be minor and absorbable within the existing budget and resources of DSA.

**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–SS 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.

DSA Statement:

DSA has made an initial determination of no significant, statewide adverse economic impact directly affecting business in California and their

ability to compete with businesses in other states. This determination is based on comments received at the workshop on the proposed amendments to the electric vehicle regulations and the cost benefit analysis provided by the California Air Resources Board. DSA has shown in the Economic and Fiscal Impact Statement (399) documents and the Initial Statement of Reasons (ISOR) which are part of this rulemaking, that the electric vehicle regulations and the requirements for CO₂ monitors in new classrooms do not pose a significant adverse economic impact on businesses.

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

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

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

DSA Statement:

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

DSA Statement:

DSA–SS 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 DSA–SS 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 Statement: These regulations will not affect the creation or cause the elimination of jobs with the State of California.

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

DSA Statement: These regulations will not affect the creation of new or cause the elimination of existing businesses within the State of California.

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

DSA Statement: These regulations may promote the expansion of businesses currently involved in the manufacturing, installation, maintenance and technology development of electric vehicle supply equipment and CO₂ monitors 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.

DSA Statement: The proposed editorial amendments and adoptions to the regulations will have a positive benefit to California residents as they will add requirements to the design and implementation of sustainable facilities. The carbon dioxide (CO₂) monitoring requirements will improve indoor air quality and overall public health in the state learning environments. The EV regulations will also have a positive benefit to the state’s environment by reducing greenhouse gas emissions.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

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

DSA–SS has determined that this proposal would not have a significant effect on housing costs. DSA–SS does not have authority to impose building standards or regulations affecting housing.

CONSIDERATION OF ALTERNATIVES

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

DSA–SS has determined that no reasonable alternative considered by DSA–SS or that has otherwise been identified and brought to the attention of DSA–SS 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–SS shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Governments Code section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

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

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

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

Michelle Golden, Senior Architect
Department of General Services
Division of the State Architect(858) 674–5453
michelle.golden@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. CALIFORNIA BUILDING
STANDARDS COMMISSION/
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT**

NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
CALIFORNIA DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT
REGARDING THE 2022 CALIFORNIA
BUILDING CODE, CHAPTER 11A
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 2
(HCD 1–AC 04/21)

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), on behalf of the California Department of Housing and Community Development (HCD), proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), title 24, Part 2. HCD is proposing building standards related to the 2022 California Building Code (CBC), Chapter 11A.

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 August 13, 2021 until midnight on September 27, 2021.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than September 27, 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 17040, 17920.9, 17921, 17922, 18620, 18630, 18640, 18670, 18690, 18865, 18871.3, 18873, 18873.1 through 18873.5 and 19990; and Government Code Sections 12955.1 and 12855.1.1. The purpose of these building standards is to implement, interpret, or make specific the provisions of Reference(s): Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860

through 18874, 18941, and 19960 through 19997; and Government Code Sections 12955.1 and 12955.1.1.

The HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17920.9, 17921, 17922, 18620, 18630, 18640, 18670, 18690, 18865, 18871.3, 18873, 18873.1 through 18873.5 and 19990; and Government Code Sections 12955.1 and 12855.1.1. and Reference(s): Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, 18941, and 19960 through 19997; and Government Code Sections 12955.1 and 12955.1.1.

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.

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

Reference: HSC sections 17000–17062.5, 17910–17995.5, 18200–18700, 18860–18874, and 19960–19997; Civil Code sections 1101.4 and 1101.5; and Government Code 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 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 18300 and 18865 require HCD to adopt building standards for mobilehome parks and special occupancy parks.

Summary of Existing Regulations

The 2019 CBC, CCR, title 24, part 2, Chapter 11A, became effective on January 1, 2020.

Existing Chapter 11A regulations specifically related to the proposed changes:

- Application date of 11A
- Reference to chapter 10 regarding ramps
- Requirements for grab bar reinforcements in division IV of Chapter 11A

Summary of Effect

There is no change in regulatory effect as a result of these proposed changes.

Comparable Federal Statutes or Regulations

There are no comparable federal statutes or regulations. 2010 Americans with Disabilities Standards (ADAS). Fair Housing Act (FHA) Design Manual.

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.

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 the 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 will 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.

HCD has made an initial determination that the proposed amendments to 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. The proposed changes are only editorial and nonsubstantive changes.

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.

These proposed amendments are editorial and for clarification purposes with no change in regulatory

effect. The proposed changes do not include any new mandates resulting in additional costs.

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:

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.

The 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.

The 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 benefit California residents by ensuring protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

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

There is no anticipated increased cost of compliance for the proposed California amendments.

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:

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

Back up Contact:

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

**TITLE 24. CALIFORNIA BUILDING
STANDARDS COMMISSION/
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT REGARDING
THE 2022 CALIFORNIA GREEN BUILDING
STANDARDS CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 11
(HCD 03/21)**

Notice is hereby given that the California Building Standards Commission (CBSC) 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 11. HCD is proposing building standards related to the adoption of the 2022 California Green Building Standards 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 August 13, 2021 until midnight on September 27, 2021.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than September 27, 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 CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 17040, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17922.15, 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, 18941.10, 18944.11, 18949.5 and 19990; and Government Code Sections 12955.1 and 12855.1.1.

HCD is proposing this regulatory action based on Business and Professions Code Division 5; Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, 18938.6, 18941, 18941.5, 19890, 19891, 19892 and 19960 through 19997; Civil Code Sections 1101.3, 1101.4, 1101.5, 1954.201, 1954.202 and 5551; and Government Code Sections 8698.4, 12955.1, 12955.1.1

and 65852.2. California Code of Regulations, Title 20, Sections 1605.1, 1605.3 and 1607.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 17921 and Government Code Section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

Health and Safety Code 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.”

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory–built housing.

Health and Safety Code Sections 18620 and 18873 require HCD to adopt building standards for permanent buildings in mobilehome parks and special occupancy parks.

Health and Safety Code 17928 requires HCD to review and propose green building standards that the department determines to be cost–effective and feasible to promote greener construction.

Summary of Existing Regulations

The 2019 California Code of Regulations (CCR), Title 24, California Green Building Standards Code (CALGreen), Part 11, also known as the California Building Standards Code, became effective on January 1, 2020.

Existing CALGreen regulations specifically related to the proposed changes:

- Includes definitions to clarify terms as used within the text of CALGreen.
- Require specific infrastructure components for future charging of electric vehicles.
- The California Building Standards Code does not regulate the number of parking spaces for residential developments. The required number of parking spaces is addressed and enforced through local government ordinances. However, Assembly Bill 1100 (Chapter 819, Statutes of 2019) proposed changes to the Vehicle Code to count electric vehicle charging spaces as standard parking spaces.
- Requires an operation and maintenance manual in each dwelling unit with specified information.
- Requires that carpet systems, carpet cushions, resilient flooring systems and thermal insulation

products meet specific standards related to emission of volatile organic chemicals.

- Requires water flow rates for specified residential plumbing fixtures.
- Requires installation of water submeters for multifamily buildings and dwelling units and mixed-use residential/commercial buildings.
- Provides a Residential Occupancies Application Checklist identifying mandatory and voluntary measures in CALGreen.

The purpose of the California Green Building Standards Code, also known as CALGreen, is to improve public health, safety and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in the following categories: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental air quality. CALGreen also includes standards designed to address unique California conditions.

Summary of Effect

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

- Amendments are proposed to increase Electric Vehicle (EV) charging ability and infrastructure in new multifamily housing developments as well as new hotels and motels.
- Definitions are proposed to clarify conditions of electric vehicle charging scenarios, and to align with the California Plumbing Code.
- HCD proposes a modification to Section 4.410.1, Operations and Maintenance manual, requiring the locations of grab bar reinforcements to be included in the manual.
- HCD proposes to carry forward existing amendments.

Comparable Federal Statutes or Regulations

These regulations do not conflict with federal regulations. The State of California has preemptive authority to adopt more restrictive mandatory standards for the appliances addressed in these regulations.

Policy Statement Overview

The purpose of the adoption of the California Green Building Standards Code is to improve public health, safety and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in the following categories: planning and design; energy efficiency; water efficiency and conservation;

material conservation and resource efficiency; and environmental air quality.

The proposed regulations will adopt building standards that will affect the following: residential occupancies and buildings or structures accessory thereto, as provided by federal and state accessibility requirements; and the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto.

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). Health and Safety Code section 18941.10, subsection (a)(2) requires HCD to propose and submit mandatory building standards for the installation of future electric vehicle charging infrastructure for parking spaces in multifamily dwellings to the CBSC, and submit the proposed mandatory building standards to the commission for consideration. Subsection (b)(1) requires HCD to amend the standards as necessary.

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.** Health and Safety Code 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 Part 2.5 of the Government Code. Part 2.5 of the Government Code 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.**

Health and Safety Code 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.**

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

- D. 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. In fact, the regulations are likely to promote the expansion of businesses currently involved in EV manufacturing, charging, sales, maintenance, use and technology development. The regulations being brought to HCD from the California Air Resources Board regarding Electric Vehicle charging, however, will increase the cost of housing statewide for those who wish to rent or purchase a dwelling unit within multifamily housing developments.

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 Government Code 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.

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. 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:

The regulations in this rulemaking package regarding Electric Vehicle charging will increase the cost to design and construct multifamily housing developments throughout the state. These additional costs will ultimately be passed on to individuals who wish to rent or purchase dwelling units in multifamily property developments.

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

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

The 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 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 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 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 green 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).

HCD has made an initial determination that this proposal will have a significant effect on housing costs.

The cost for installing mandatory measures has an estimated cost increase of about 0.1 percent to 1.4 percent for multifamily buildings and 0.5 percent to 1.1 percent for hotels/motels. Initial construction costs in new buildings of \$104 - \$183 million may be incurred between the beginning of 2023 and the end of 2025 due to the adoption of this proposed mandatory measure, or \$35 million to \$61 million annually. Additional costs may be incurred for ADA compliance which can vary greatly from property to property. Installing the same levels of EV infrastructure as required by the proposed mandatory measure after construction would cost \$648 million to \$771 million over a three-year period if installed exclusively as standalone retrofits in existing buildings. An estimated statewide-avoided cost (benefit) of \$465 million to \$667 million may be achieved by adopting these revisions to the EV charging infrastructure provisions during new construction. Additional costs will be incurred for new requirements for existing buildings, depending on the nature and frequency of retrofit activities.

This measure will protect public health and safety, the environment, and the general welfare of California residents.

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) 263-5888

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

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

Primary Contact:

Emily Withers, Codes and Standards
Administrator II
Department of Housing and Community
Development
State Housing Law Program
Telephone: (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
Telephone: (916) 263-3272
Thomas.g.martin@hcd.ca.gov

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

CESA CONSISTENCY
DETERMINATION REQUEST FOR
STONE LAKES RESTORATION PROJECT:
SERRA PROPERTY
2080-2021-011-03
SACRAMENTO COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on July 27, 2021, that Ducks Unlimited proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves improving water conveyance and management capabilities onsite, along with seasonal wetland habitat conditions. Proposed activities will include, but are not limited to, recontouring the project area, creating pothole depressions and habitat islands, reconstruction of access berms, installation of a new water control structure, and vegetation clearing and grubbing. The proposed project also includes

post-construction management such as routine maintenance, vegetation management, and water management activities. The proposed project will occur on the privately owned Serra Property north of and adjacent to the Stone Lakes National Wildlife Refuge just outside the city of Elk Grove, Sacramento County, California.

The U.S. Fish and Wildlife Service (Service) issued a federal programmatic biological opinion (PBO) (subject: Intra-Service Formal Section 7 Consultation on Partners for Fish and Wildlife Program Proposed Actions, Fiscal Years 2010 Through 2020) in a memorandum to the Service's Conservations Partnership Program on April 27, 2010, which considered the effects of the proposed project on multiple species including state and federally threatened giant garter snake (*Thamnophis gigas*). This PBO was extended by one year in a memorandum dated August 25, 2020. On February 11, 2021, the proposed project was appended to the PBO via a species assessment prepared by the Stone Lakes National Wildlife Refuge management.

Pursuant to California Fish and Game Code section 2080.1, Ducks Unlimited is requesting a determination that the PBO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the PBO and its associated ITS are consistent with CESA for the proposed project, Ducks Unlimited will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF FISH AND
WILDLIFE**

CESA CONSISTENCY
DETERMINATION REQUEST FOR
2753 GYPSY CANYON ROAD PROJECT
2080-2021-009-05

The California Department of Fish and Wildlife (CDFW) received a notice on August 2, 2021 that Serenity Gypsy Canyon, LLC proposes to rely on a federal permit to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves cultivation activities on approximately 25 acres within a portion of a 127.5-acre parcel (assessor parcel number 099-610-014) located at 2753 Gypsy Canyon Road in Santa Barbara County, California.

The U.S. Fish and Wildlife Service (Service) issued a federal incidental take permit (ITP) (Permit No. ESPER0016083) under the General Conservation Plan (GCP) for Cultivation Activities in Santa

Barbara County to Serenity Gypsy Canyon, LLC on July 14, 2021 which considered the effects of the proposed project on state threatened and federally endangered California tiger salamander (*Ambystoma californiense*).

Pursuant to California Fish and Game Code section 2080.1, Serenity Gypsy Canyon, LLC is requesting a determination that the ITP and its associated GCP are consistent with CESA for purposes of the proposed project. If CDFW determines the ITP and its associated GCP are consistent with CESA for the proposed project, Serenity Gypsy Canyon, LLC will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF 30-DAY PUBLIC COMMENT PERIOD & WEBINAR AUGUST 13-SEPTEMBER 13, 2021 HOME AND COMMUNITY-BASED ALTERNATIVES (HCBA) WAIVER RENEWAL

NOTICE IS HEREBY GIVEN that the Department of Health Care Services (DHCS) is posting a draft of the 2022 HCBA Waiver Renewal Application for a 30-day Public Comment Period in August 2021, prior to submitting the final version to the Centers for Medicare and Medicaid Services (CMS) for reauthorization.

On August 24, 2021, DHCS will host a two-hour stakeholder Webinar to provide a summary of the key takeaways from the series of technical workgroup webinars DHCS hosted between October 2020 and February 2021. The Webinar will also be used to walk through the changes that have been incorporated into the 2022 HCBA Waiver Renewal Application based on stakeholder recommendations, and time will be reserved at the end of the Webinar to respond questions from the audience.

WRITTEN PUBLIC COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments to the Department relevant to the HCBA Waiver Renewal identified in this notice. All comments and input received during the 30-day public comment period will be considered for incorporation into the HCBA Waiver Renewal.

On August 13, 2021, the draft HCBA Waiver Renewal Application will be posted to the DHCS

HCBA Waiver webpage, at: <https://www.dhcs.ca.gov/services/ltc/Pages/HCBA-Waiver-Renewal.aspx>.

Public comments will be accepted from August 13, 2021 through 5:00 p.m. on September 13, 2021.

Public comments about the proposed HCBA Waiver Renewal may be submitted to DHCS in writing or by email, to the following addresses:

Department of Health Care Services
Integrated Systems of Care Division, MS 4502
P.O. Box 997437 Sacramento, CA 95899-7437
Attention: HCBS Section
Email: HCBAAlternatives@dhcs.ca.gov

The public comment period closes at 5:00 p.m. on September 13, 2021. Any written comments regardless of the method of transmittal must be received electronically by 5:00 p.m. or postmarked on this date, for consideration.

Webinar Information

On August 24, 2021, from 2:00 p.m. to 4:00 p.m., DHCS will be hosting the 2022 HCBA Waiver Renewal 30-Day Public Comment Period Webinar. Use the following link and login information to join the 2022 HCBA Waiver Renewal 30-Day Public Comment Period WebEx event: <https://dhcs.webex.com/dhcs/j.php?MTID=m4c203a7b3a24d4740149e4d0230e49b1>

Join by phone: +1-415-655-0001 U.S. Toll
Event access code: 145 559 0648
Event password: welcome

Updates, meeting information, and additional information on the Waiver Renewal will be posted on DHCS' website, at: <https://www.dhcs.ca.gov/services/ltc/Pages/HCBA-Waiver-Renewal.aspx>.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF 30-DAY PUBLIC COMMENT PERIOD AUGUST 13, 2021 THROUGH SEPTEMBER 13, 2021 MEDI-CAL WAIVER PROGRAM HIV/AIDS WAIVER RENEWAL APPLICATION

NOTICE IS HEREBY GIVEN that the California Department of Health Care Services (DHCS) in collaboration with the California Department of Public Health (CDPH) intends to submit the 1915(c) Home and Community-Based Services, Medi-Cal Waiver Program (MCWP), HIV/AIDS Waiver Renewal Application to the federal Centers for Medicare and Medicaid Services (CMS). This notice provides information of public interest with respect to DHCS and CDPH seeking approval from CMS to allow for the renewal of the current HIV/AIDS Waiver, which

expires on December 31, 2021. DHCS plans to submit the HIV/AIDS Waiver Renewal Application to CMS on or before October 1, 2021.

WRITTEN PUBLIC COMMENT PERIOD

Any interested person may submit written comments to CDPH, Office of AIDS (OA), relevant to the Waiver Renewal Application described in this notice. The public comment period is August 13 through September 13, 2021. The Companion Guide and Public Comment Template for submitting public comments will be posted at: https://www.cdph.ca.gov/Programs/CID/DOA/Pages/OA_care_mcwp.aspx.

Stakeholders may also e-mail comments or questions about the Waiver application to: MCWPWaiverRenewal@cdph.ca.gov.

The Companion Guide and Public Comment Template discussed above will be posted on August 13, 2021, on the CDPH OA MCWP webpage.

A hard copy of the full HIV/AIDS Waiver is also available upon request. **Hard copy requests and comments can be submitted in writing or through email at the following addresses:**

Mail Delivery:

Attention: Dennis Fleming
California Department of Public Health
Office of AIDS
Medi-Cal Waiver Program
P.O. Box 997426, MS 7700
Sacramento, CA 95899-7426

The public comment period will begin on August 13, 2021 and end at 5:00 pm on September 13, 2021. Any written comments regardless of the method of transmittal must be received by 5:00 p.m. or postmarked on September 13, 2021 for consideration.

For individuals with disabilities, CDPH will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of training or meeting materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please email or write:

Attention: Drew Young
California Department of Public Health
Office of AIDS
Medi-Cal Waiver Program
P.O. Box 997426, MS 7700
Sacramento, CA 95899-7426
Email: drew.young@cdph.ca.gov

NOTICE OF DECISION NOT TO PROCEED

Editor's Note: The Department of Justice is publishing the following Notice of Decision Not to Proceed to cancel a previously published Notice of Proposed Rulemaking Action that was originally published on January 29, 2021. The Department is publishing a new Notice of Proposed Rulemaking Action on this same topic in this Notice Register. Please see **PROPOSED ACTION ON REGULATIONS** above.

DEPARTMENT OF JUSTICE

PURSUANT TO GOVERNMENT
CODE SECTION 11347
DEPARTMENT OF JUSTICE
RE: NOTICE OF PROPOSED
RULEMAKING CONCERNING
DEALER RECORD OF SALE FEE

Pursuant to Government Code Section 11347, the Department of Justice hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on January 29, 2021, Register 2021, No. 5-Z. The proposed rulemaking concerned Dealer Record of Sale (DROS) Fee. (OAL Notice Z2021-0115-01.)

Any interested person with questions concerning this rulemaking should contact Julia Zuffelato at (916) 210-6040 or by e-mail at regulations@doj.ca.gov:

The Department will also post this Notice of Decision Not to Proceed on its website.

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.

State Allocation Board
File # 2021-0625-05
Surplus School Property; Use of Proceeds

This action makes permanent the emergency rulemaking action by the State Allocation Board which extended the applicability of the terms defined in section 1700 of Title 2 of the California Code of Regulations to sales of surplus properties by local education agencies (LEAs) which are made pursuant to Education Code section 17463.7. Education Code section 17463.7 was enacted in 2020 to authorize LEAs to use the proceeds from the sales of surplus properties purchased with non-state funds for any one-time general fund purpose in order to provide LEAs the resources and flexibility necessary to ensuring quality public education during the COVID-19 pandemic.

Title 02
Amend: 1700
Filed 08/04/2021
Effective 08/04/2021
Agency Contact: Lisa Jones (916) 376-1753

Department of Corrections and Rehabilitation
File # 2021-0708-01
Body-Worn Cameras

This emergency by operational necessity, pursuant to Penal Code 5058.3, adopts provisions governing the implementation of body-worn cameras at the California Institution for Women; California State Prison, Corcoran; Kern Valley State Prison; California State Prison, Los Angeles County; Richard J. Donovan Correctional Facility; and the Substance Abuse and Treatment Facility and State Prison, Corcoran.

Title 15
Adopt: 3270.3
Filed 07/28/2021
Effective 07/29/2021
Agency Contact: Renee Rodriguez (916) 445-2217

Department of Cannabis Control
File # 2021-0723-01
Authorization and Release of Applicant Information to Financial Institutions

This emergency rulemaking action by the Department of Cannabis Control readopts OAL File Nos. 2021-0122-01E, 2021-0122-03E, and 2021-0122-04E, which include procedures to share financial information of licensees under the Medicinal and Adult-Use Cannabis Regulation and Safety Act with specified financial institutions.

Title 04
Amend: 15037.1, 15037.2, 16410, 16411, 17123.1, 17123.2
Filed 08/02/2021
Effective 08/02/2021
Agency Contact: Kaila Fayne (916) 465-9120

California Tax Credit Allocation Committee
File # 2021-0625-01
CTCAC Regulations Implementing Federal and State LIHTC Laws

The California Tax Credit Allocation Committee's (CTCAC) request that the Office of Administrative Law (OAL) file with the Secretary of State and print in the California Code of Regulations amendments to the Low-Income Housing Tax Credit Program is granted. Pursuant to Health and Safety Code section 50199.17(a), these amendments are exempt from the rulemaking requirements of the Administrative Procedure Act so long as the CTCAC has complied with Health and Safety Code section 50199.17(b). CTCAC has certified to OAL that it complied with Health and Safety Code section 50199.17(b) in adopting these amendments.

Title 04
Amend: 10310, 10317, 10325, 10327, 10328
Filed 07/29/2021
Effective 06/16/2021
Agency Contact: Anthony Zeto (916) 214-6581

Division of Workers' Compensation
File # 2021-0616-03
Medical Treatment Utilization Schedule (MTUS)

This file-and-print action makes evidence-based updates to the medical treatment utilization schedule (MTUS). This action is exempt from the rulemaking provisions of the Administrative Procedure Act and OAL review pursuant to Labor Code section 5307.27(a).

Title 08
Amend: 9792.23.8
Filed 07/29/2021
Effective 07/19/2021
Agency Contact: John Cortes (510) 286-0519

Franchise Tax Board
File # 2021-0715-01
Referral and Hearings on Appeals of Penalties Imposed by CalSavers

This file and print action by the Franchise Tax Board (FTB) adopts regulations for referrals of penalties and hearings on appeals of such penalties imposed by the CalSavers Retirement Savings Board (CalSavers).

Title 18
 Adopt: 19285, 19286, 19288
 Filed 08/04/2021
 Effective 08/04/2021
 Agency Contact: L. Red Gobuty (916) 845-7855

Secretary of State
 File # 2021-0702-01
 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.

Title 02
 Amend: 45100, 45127, 45128
 Filed 08/03/2021
 Effective 09/02/2021
 Agency Contact: Mike Green

Board of Pilot Commissioners
 File # 2021-0426-02
 Amendments to Fitness Regulations

In this regular rulemaking action, the Board of Pilot Commissioners amends the regulations related to the evaluation and determination of mental and physical fitness of pilots and pilot trainees.

Title 07
 Adopt: 217.37
 Amend: 202, 217,217.5, 217.10, 217.15, 217.20, 217.25, 217.30, 217.40, 217.45
 Filed 07/29/2021
 Effective 10/01/2021
 Agency Contact: Brenda Pugh (415) 397-2253

Fish and Game Commission
 File # 2021-0618-01
 Klamath River Basin Sport Fishing

This action by the Fish and Game Commission amends quotas for Klamath River Basin adult fall-run Chinook Salmon for the 2021 season. Additionally, the Commission makes non-substantive stylistic changes to this section.

Title 14
 Amend: 7.40
 Filed 08/02/2021
 Effective 08/14/2021
 Agency Contact:
 Sherrie Fonbuena (916) 654-9866

Department of Alcoholic Beverage Control
 File # 2021-0616-01
 Administrative Emergency Decisions

The Department of Alcoholic Beverage Control (Department) has adopted a regulation authorizing the

Department to issue emergency decisions, pursuant to Government Code section 11460.10 et seq., for the temporary suspension of a license, temporary suspension of specific licensed privileges, or temporary imposition of conditions on a license in situations where licensee activity, as specified, involves an immediate threat to the public health, safety, or welfare that requires immediate action.

Title 04
 Adopt: 147
 Filed 07/29/2021
 Effective 10/01/2021
 Agency Contact: Robert de Ruyter (916) 419-8958

Naturopathic Medicine Committee
 File # 2021-0309-02
 Substantial Relationship and Rehabilitation Criteria

This rulemaking action by the Naturopathic Medicine Committee adopts criteria to evaluate the rehabilitation of an applicant or licensee when considering the denial, suspension, or revocation of a license or certificate. The action also includes criteria for determining when a crime is substantially related to the qualification, functions, and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed in compliance with Assembly Bill 2138 (Stats. 2018, ch. 995).

Title 16
 Adopt: 4259
 Amend: 4256, 4258
 Filed 08/04/2021
 Effective 08/04/2021
 Agency Contact:
 Rebecca Mitchell (916) 928-5862

**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.