



California Regulatory Notice Register

REGISTER 2021, NUMBER 36-Z

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SEPTEMBER 3, 2021

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STATE AGENCY: California Prison Industry Authority

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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: Shasta-Tehama-Trinity Joint
Community College District
State Agency: California Prison Industry Authority

A written comment period has been established commencing on September 3, 2021 and closing on October 18, 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 October 18, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING
COSTS AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

**AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from

the Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture (Department) proposes to revise Title 3 of the California Code of Regulations (CCR) Section 3591.2 pertaining to the Oriental Fruit Fly (OFF) Eradication Area.

PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulation to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on October 18th, 2021. The Department will consider only comments received at the Department offices by that date or postmarked no later than October 18th, 2021. Submit comments to:

Dean Kelch, Environmental Program Manager
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Drive, Suite #200
Sacramento, CA 95833
Dean.Kelch@cdfa.ca.gov
916.403.6650 916.651.2900 (FAX)

In Mr. Kelch's absence, you may contact Erin Lovig at (916) 654-1017 or erin.lovig@cdfa.ca.gov.

Unless there are substantial changes to the proposed regulation prior to adoption, the Department of Food and Agriculture may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to amend Section 3591.2 pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 407, 5322, 5761, 5762, 5763 and 5764 of the Food and Agricultural Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) adopted section 3591.2 to provide authority to the State to eradicate infestations of *Bactrocera dorsalis*, Oriental fruit fly, from within the declared eradication area by established means and methods. This rulemaking action would add Butte, Colusa, Humboldt, Imperial, Marin, Merced, Monterey, Napa, Nevada, Placer, San Francisco, Solano, Sonoma, Stanislaus, Sutter, and Yuba counties to the Oriental Fruit Fly Eradication Area. The effect of the amendment of this regulation is to provide authority for the State to perform eradication activities against Oriental fruit fly in Butte, Colusa, Humboldt, Imperial, Marin, Merced, Monterey, Napa, Nevada, Placer, San Francisco, Solano, Sonoma, Stanislaus, Sutter, and Yuba counties in a timely manner. Relying on modeling based on prior detections and human-based behavior to determine areas that are at high risk allows the Department to act quickly and effectively if an OFF is detected.

EXISTING LAWS AND REGULATIONS

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as they deemed necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322).

Existing law, FAC section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

Existing law, FAC section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of

this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in the Secretary's opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC section 5321.

Existing law, FAC section 5761, provides that regulations which are adopted pursuant to Article 2 (commencing with Section 5321) of Chapter 5, Part 1 of this division may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, FAC section 5762, provides that any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, FAC section 5763, provides that the director, or the commissioner acting under the supervision and direction of the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which they think is necessary.

Existing law, FAC section 5764, provides that if an eradication area has been proclaimed with respect to a species of fruit flies and the removal of host plants of such species is involved, the director may enter into an agreement with the owner of such host plants to remove and replace them with suitable nursery stock in lieu of treatment. Any expenditures for the replacement nursery stock shall not exceed an amount which is budgeted for the purpose or approved by the Director of Finance.

Existing law, CCR Section 3591.2, defines the state's eradication areas for OFF.

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution, but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. This proposed amendment provides the necessary regulatory authority in the case of a pest's introduction to prevent the spread of the pest, which is a mandated statutory goal.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENTS

This regulation will benefit the public's general welfare by providing authority for the State to perform detection, control, and eradication activities against Oriental fruit fly in Butte, Colusa, Humboldt, Imperial, Marin, Merced, Monterey, Napa, Nevada, Placer, San Francisco, Solano, Sonoma, Stanislaus, Sutter, and Yuba counties. By using modeling to determine which counties to add to the eradication areas, the Department increases the chances of being able to act quickly and effectively if an OFF is detected.

The implementation of this regulation will prevent:

- direct damage to the agricultural industry growing host fruits
- indirect damage to the agricultural industry growing host fruits due to the implementation of quarantines by other countries and loss of export markets
- increased production costs to the affected agricultural industries
- increased pesticide use by the affected agricultural industries
- increased costs to the consumers of host fruits
- increased pesticide use by homeowners and others
- the need to implement a State interior quarantine
- the need to implement a federal domestic quarantine

There is no existing, comparable federal regulation or statute regulating the intrastate movement.

There are no known specific benefits to worker safety or the health of California residents.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department considered any other possible regulations addressing OFF, and it found that these are the proposed amendments are the only regulations dealing with this subject, and the Department is the only State agency which can designate these eradication areas for plant pests. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of section 3591.2 and has determined that it is not inconsistent or incompatible with existing state regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Statewide Plant Pest Prevention and Management Program Environmental Impact Report (EIR) was

prepared by the Department as the lead agency under the California Environmental Quality Act. The EIR addresses the potential impacts and mitigations when implementing the Statewide Plant Pest Prevention and Management Program activities related to Oriental fruit fly.

The EIR may be accessed at the following website:
<http://www.cdffa.ca.gov/plant/peir/>.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: Compliance activities are currently being performed by existing state staff throughout quarantine areas within the State. The Department is currently monitoring for fruit flies, and thus there is no change to the cost due to this regulation. The Department has determined that no savings or increased costs to any state agency and no costs or savings in federal funding to the State will result from the amendment of section 3591.2. The adoption of this regulation would have no fiscal impact on the Department.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

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

Cost impacts on a representative private person or business: The amendment of section 3591.2 will provide authority for the Department to conduct eradication activities against Oriental fruit fly and there are no known private sector cost impacts. The agency is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The Department does not anticipate that these amendments will affect small businesses. The cost impacts are expected to be none and minimal/non-consequential if OFF is detected in one of the counties listed above and as described in the previous section. The Department makes the initial

determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department has concluded that this section 3591.2 amendment (1) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or elimination of businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) is not expected to have a direct effect on the health and welfare if California residents and (5) is not expected to have a direct impact on the state's environment.

Small business determination: The amendment of section 3591.2 will provide authority for the Department to conduct eradication activities against Oriental fruit fly and there are no known private sector cost impacts.

CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present alternatives during the written comment period.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is:

Dean Kelch, Environmental Program Manager
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Drive, Suite #200
Sacramento, CA 95833
Dean.Kelch@cdffa.ca.gov
916.403.6650
916.651.2900 (FAX)

In his absence, you may contact:

Erin Lovig, Senior Environmental Scientist
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Dr, Suite #200
Sacramento, CA 95833
Erin.Lovig@cdfa.ca.gov
916.654.1017
916.651.2900 (FAX)

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html). Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed at this website.

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

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. 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, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.

TITLE 11. DEPARTMENT OF JUSTICE

CONTROLLED SUBSTANCE UTILIZATION REVIEW AND EVALUATION SYSTEM (CURES)

The Department of Justice (Department) proposes to adopt new sections 822.1 through 822.6, and 824.1 through 824.9; amend sections 820 and 821.1 through 821.6, sections 822.1 through 822.6 (renumbered as 823.1 through 823.6), 823.1 through 823.5 (renumbered as 825.1 through 825.5), 824.1 through 824.6 (renumbered as 826.1 through 826.6), 825.1 through 825.6 (renumbered as 827.1 through 827.6), 826.1 through 826.6 (renumbered as 828.1 through 828.6), 827.1 and 827.2 (renumbered as 829.1 and 829.2), 828.1 through 828.3 (renumbered as 830.1 through 830.3); and repeal sections 821.7 and 822.7 of Title 11, Division 1, Chapter 8.5 of the California Code of Regulations (CCR) concerning the Controlled Substance Utilization Review and Evaluation System (CURES).

PUBLIC HEARING

The Department will hold a virtual public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to the proposed regulations, as follows:

Wednesday, October 20, 2021
from 9:00 a.m. – 1:00 p.m.
Online via BlueJeans
<https://bluejeans.com/254579643/8261>
Participant Passcode: 8261

(NOTE: You will be prompted to join via the BlueJeans app if you have it installed. You may also join via browser without installing the app.)

OR

Dial: (408) 317-9254
Meeting ID: 254 579 643

The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

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 October 19, 2021 at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

California Department of Justice
Justice Data and Investigative Services Bureau
Attn: Haylee James
P.O. Box 160447
Sacramento, CA 95816–0608
(916) 210–3180
CURESregulations@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: Section 11165, Health and Safety Code.
Reference: Sections 11030, 11165, 11165.1, 11165.3, 11165.4, 11165.6, and 11190, Health and Safety Code; and Sections 208 and 209, Business and Professions Code; and Section 1798.24, Civil Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

CURES is a database of Schedule II, III, IV, and V controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement. The purpose of CURES is to reduce prescription drug abuse and diversion without affecting legitimate medical practice or patient care.

CURES was first established in 1996 by Assembly Bill (AB) 3042 (Statutes of 1996, Chapter 738). AB 3042 effectuated a Controlled Substances Prescription Advisory Council recommendation that the Department develop a “technologically sophisticated data monitoring system to collect as much data as is needed and provide easy access to the data collected for educational, law enforcement, regulatory, and research purposes.” CURES was initially a provisional pilot project; the program collected Schedule II prescription data for law enforcement to identify cases of Diversion.¹ In 2002, AB 2655 (Statutes of 2002, Chapter 345) extended the pilot and authorized

licensed health care professionals to request CURES data for prescriptions dispensed to their patients.

In 2003, Senate Bill (SB) 151 (Statutes of 2003, Chapter 406) made CURES a permanent program. This bill enacted a number of other significant reforms to state laws governing the prescribing of Controlled Substances, intending to “increase patient access to appropriate pain medication and prevent the diversion of controlled substances for illicit use.” SB 151 replaced the triplicate prescription form requirement for Schedule II Controlled Substances with a new requirement that these prescriptions be issued on a special form obtained from an approved security printer. This bill also added Schedule III Controlled Substance data to CURES. In 2006, AB 2986 (Statutes of 2006, Chapter 286) added Schedule IV Controlled Substances.

In 2013, SB 809 (Statutes of 2013, Chapter 400) established a funding mechanism for CURES and called for an update of the database. New system features under SB 809 included the ability for a new “streamlined application and approval process” to replace the previous paper-based registration process and for licensees to delegate their authority to initiate a CURES query to an assistant. The bill also required all licensees authorized to prescribe, order, administer, furnish, or dispense substances to register for the system by 2016.

The improved database, which would come to be called “CURES 2.0,” featured a new user interface and the ability to automatically alert prescribers of patterns indicative of at-risk patient behavior. The new CURES 2.0 also allowed prescribers to flag exclusivity compacts, added peer-to-peer communication, and significantly improved user profile management.

In 2016, SB 482 (Statutes of 2016, Chapter 708) enacted the state’s first mandated use of CURES for prescribers. SB 482 required Health Care Practitioners to consult a patient’s history in CURES prior to prescribing them a Schedule II, Schedule III, or Schedule IV Controlled Substance for the first time, and then at least once every four months as long as the prescription continued to be renewed. The bill delayed implementation until six months following a certification by the Department that 1) CURES was ready for statewide use and 2) the program had adequate staff. On April 2, 2018, the Department certified that CURES was ready for statewide use and that there was adequate staffing, User support, and education. Mandatory CURES consultation became effective on October 2, 2018.

AB 40 (Statutes of 2017, Chapter 607) was chaptered in 2017, requiring the Department to facilitate interoperability between Health Information Technology (HIT) Systems and CURES, subject to a memorandum of understanding setting minimum

¹ Capitalized terms are defined in existing and proposed CURES regulations in Chapter 8.5 of the CCR.

security and privacy requirements. The bill intended to help seamlessly integrate the use of CURES into a busy practice setting by allowing for queries to be made within a Health Care Practitioner's native electronic health record system.

AB 1751 (Statutes of 2018, Chapter 478) required the Department, no later than July 1, 2020, to adopt regulations regarding the access and use of the information within CURES by consulting with stakeholders, and addressing certain processes, purposes, and conditions in the regulations. Specifically, AB 1751 implemented the Health and Safety Code (HSC) section 11165, subdivision (c)(3) requirement that the Department regulations address, at minimum, the following:

- The process for approving, denying, and disapproving individuals or entities seeking access to information in CURES;
- The purposes for which a Health Care Practitioner may access information in CURES;
- The conditions under which a warrant, subpoena, or court order is required for a Law Enforcement Agency to obtain information from CURES as part of a criminal investigation; and
- The process by which information in CURES may be provided for educational, Peer Review, statistical, or Research Purposes.

AB 1751 also authorized the Department, once final regulations had been issued, to enter into an agreement with any entity operating an interstate data-sharing hub, or any agency operating a prescription drug-monitoring program (PDMP) in another state, for purposes of interstate data sharing of PDMP information. The bill requires any agreement entered into by the Department for those purposes to ensure that all access to data obtained from CURES and the handling of data contained within CURES comply with California law and meet the same patient privacy, audit, and data security standards employed and required for direct access to CURES.

In response to AB 1751, the Department adopted Chapter 8.5 of the CCR, concerning CURES access and use. These regulations became effective on July 1, 2020.

More recently, AB 528 (Statutes of 2019, Chapter 677), chaptered on October 9, 2019, and codified in HSC 11165, 11165.1, and 11165.4, requires the Department to permit a licensed physician and surgeon who does not hold a Drug Enforcement Agency (DEA) registration certificate to submit an application to obtain approval to electronically access information regarding the controlled substance history of a patient under their care based on data contained in the CURES PDMP, which upon approval, shall be released to the physician and surgeon. Additionally,

AB 528 authorizes expanded access to delegates. These proposed regulations set forth the requirements and procedures surrounding the AB 528 addition of non-DEA licensed physicians and surgeons and the expansion of delegate functionality. They also offer additional clarity to existing requirements.

Specifically, these proposed regulations clarify policies, procedures, requirements, and limitations for individuals who are statutorily required or permitted to consult CURES in the course of patient care, who utilize the system in efforts to control the Diversion and Resultant Abuse of Schedule II, Schedule III, Schedule IV, and Schedule V Controlled Substances, and who wish to obtain access to CURES data for Research Purposes or to review their own CURES data.

Effect of the Proposed Rulemaking:

The proposed regulations update the requirements and procedures for approving individuals or entities seeking access to CURES information, and the purposes for which a Prescriber, Non-DEA Practitioner, Pharmacist, Delegate, Interstate Prescriber, Interstate Pharmacist, Interstate Non-DEA Practitioner, Regulatory Agency Official, Law Enforcement Official, Bona Fide Researcher, and individual requestor may access and use CURES data. In addition, the regulations include the procedures and security and privacy requirements necessary to facilitate interoperability between HIT Systems and CURES.

Anticipated Benefits of the Proposed Regulations:

The Department anticipates that these regulations would benefit the health, welfare, and safety of California residents because they contribute to safe prescribing and dispensing of Controlled Substances and protect the security of the patient information contained within CURES. By clearly detailing the requirements for access and use for each User type, including Delegates and Non-DEA Practitioners, these regulations would provide increased transparency, empower Users to confidently access the system as a tool to facilitate care and control the Diversion and Resultant Abuse of Controlled Substances, and ensure the information contained in CURES is used only for statutorily-authorized purposes. Furthermore, these regulations would improve researcher access to CURES data to promote informed public policy while maintaining security of the data.

Comparable Federal Regulations:

HSC 11165(c) requires that CURES operate in compliance with all applicable federal and state privacy and security laws and regulations. Applicable federal privacy and security regulations are as follows:

- Code of Federal Regulations, Title 45, Parts 160 and 164, governing the protection and

confidentiality of individuals' medical records and protecting patients' privacy rights in their health information.

This regulation is consistent with those federal regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these 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 CURES.

Documents Incorporated by Reference:

1. Department of Justice (DOJ) Consent for Use of Personal Information from CURES, CURES 0001, orig. 07/2021 (see subdivision (c)(11)(H) of section 828.6)
2. DOJ Research Center (DOJRC) Security Variance Form for Data Access Non-Compliance of Security Requirements, DOJRC 0001, orig. 07/2021 (see subdivision (d) of section 828.6)
3. DOJRC Researcher Confidentiality and Non-Disclosure (CND) Agreement, DOJRC 0003, orig. 07/2021 (see subdivision (d) of section 828.6)
4. DOJRC Researcher Data Access User Agreement, DOJRC 0002, orig. 07/2021 (see subdivision (d) of section 828.6)
5. DOJ CURES Information Exchange Web Service Onboarding Questionnaire, CURES 0002, rev. 07/2021 (see subdivision (c)(2) of section 830.2)
6. DOJ CURES Information Exchange Web Service Overview, rev. 07/2021 (see subdivision (d) of section 830.2)
7. Information Practices Act Individual Request Form, CURES 101, rev. 07/2021 (see subdivision (a) of section 829.2)
8. Information Practices Act Representative Request Form, CURES 201, rev. 07/2021 (see subdivision (b) of section 829.2)

Other Statutory Requirements:

HSC 11165 requires the Department to consult with all stakeholders identified by the Department during the rulemaking process when promulgating regulations governing CURES. (Health & Saf. Code, § 11165, subdivision (c)(3).) The Department consulted with the Department of Consumer Affairs in drafting these regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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: None.

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

Cost impacts on representative person or business:

The Department has determined that while not all Prescribers will establish a Delegate, the average cost incurred for a Prescriber to establish a Delegate would range from \$36.87–\$73.74 per person in reasonable compliance with the proposed action. The Department has determined that while not all Pharmacists will establish a Delegate, the average cost incurred for a Pharmacist to establish a Delegate would range from \$31.71–\$63.42 per person in reasonable compliance with the proposed action. The average cost incurred for a Delegate would be \$10.09 per person in reasonable compliance with the proposed action. The Department estimates that as few as 55,107 and as many as 110,213 Prescribers and Non-DEA Practitioners would enter into Delegate Agreements, and as few as 11,711 and as many as 23,421 Pharmacists would enter into Delegate Agreements. For each Prescriber, Non-DEA Practitioner, and Pharmacist who enters into a Delegate Agreement, there would be a corresponding Delegate. If there are a total of 267,268 Users and as many as 133,634 Delegates, the total cost ranges from \$747,279–\$9,239,156. This cost is a result of the requirement that an Authorizing User and Delegate must enter into a Delegate Agreement prior to authorizing a Delegate to access CURES on behalf of that Authorizing User.

The Department has determined that the cost incurred by each HIT System business to make the changes necessary to comply with the proposed action would range from \$1,074–\$4,198.

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 regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

For each HIT System business that would need to make system updates in order to continue to be connected to the IEWS, the Department anticipates that it would take as few as 20 hours and as many as 76 hours to make the additional changes necessary to meet the Departments' revised technology requirements. The Department determined that 47.3 percent of HIT Systems impacts would be to small businesses. In order to calculate the low range of costs that could be

incurred by small business HIT Systems as a result of the regulation, the Department used the low range estimate (\$54,500) to determine the total cost to HIT Systems, multiplied that total by 47.3 percent, then divided that total by the estimated number of small businesses (24 Hit Systems ((47.3 percent)) of the 50 HIT Systems). The same formula was applied to the high range of small business HIT Systems and both the low and high range of costs for typical business HIT Systems. Costs for a small business HIT System are estimated to be \$1,074–\$1,105.

Results of the Economic Impact Assessment (EIA):

The Department concludes that it is (1) unlikely that the proposal would create or eliminate jobs within the state, (2) unlikely that the proposal would create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposal would result in the expansion of businesses currently doing business within the state.

Benefits of the proposed action: The Department anticipates that these regulations would benefit the health, welfare, and safety of California residents because they contribute to safe prescribing and dispensing of Controlled Substances and protect the security of the patient information contained within CURES. By clearly detailing the requirements for access and use for each User, these regulations would provide transparency; empower Prescribers, Non-DEA Practitioners, Pharmacists, Delegates, Regulatory Agency Officials, and Law Enforcement Officials to confidently utilize the system as a tool to facilitate care or control the Diversion and Resultant Abuse of Controlled Substances; and ensure the information contained in CURES is used only for statutorily-authorized purposes. Furthermore, these regulations would improve researcher access to CURES data to promote informed public policy while maintaining security of the data.

Business report requirement: None.

Small business determination: The Department has determined that this 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 been brought to the attention of the Department would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than this proposed action or would be more cost-effective to affected persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that these proposed regulations are the most effective way to ensure the safe prescribing and dispensing of Controlled Substances and protect the security of the patient information contained within CURES.

CONTACT PERSONS

Inquiries concerning this proposed administrative action may be directed to:

California Department of Justice
Justice Data and Investigative Services Bureau
Attn: Haylee James
P.O. Box 160447
Sacramento, CA 95816–0608
(916) 210–3180
CURESregulations@doj.ca.gov

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

California Department of Justice
Justice Data and Investigative Services Bureau
Attn: Amber Davidson
P.O. Box 160447
Sacramento, CA 95816–0608
(916) 210–2486
CURESregulations@doj.ca.gov

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

**TITLE 14. DEPARTMENT OF
RESOURCES RECYCLING
AND RECOVERY**

**DIVISION 7: DEPARTMENT OF
RESOURCES RECYCLING
AND RECOVERY**

**CHAPTER 8.2: ELECTRONIC WASTE
RECOVERY AND RECYCLING**

**ARTICLES/SECTIONS: ARTICLE 1,
§ 18660.5, ARTICLE 2, § 18660.10; ARTICLE
2.2, § 18660.21; ARTICLE 2.3, § 18660.34.**

The Department of Resources Recycling and Recovery (CalRecycle) proposes to amend California

Code of Regulations (CCR), Title 14, Division 7, Chapter 8.2 commencing with Section 18660.5. The proposed regulations establish and clarify requirements related to participating in the Covered Electronic Waste (CEW) Recycling Program as an approved recycler, and CalRecycle's administrative responsibilities related to recycling payment rates and net cost reporting. CalRecycle intends to adopt the proposed regulations described herein after considering all recommendations, comments, and objections regarding the proposed action.

PUBLIC HEARING

A public hearing to receive public comments is scheduled for October 21, 2021. This hearing will be accessible through two formats: an interactive webinar and public webcast. The webcast can be accessed by visiting the following web address:

<https://video.calepa.ca.gov/#/>

Those wishing to make oral comments must first register for the webinar, after which they will receive a confirmation email containing information about joining the webinar hearing. The registration page can be accessed by visiting the following web address:

[https://register.gotowebinar.com/
register/4536742622872142864](https://register.gotowebinar.com/register/4536742622872142864)

Stakeholders who wish to make comments orally during the webinar hearing may raise their hand using the webinar functions and make oral comments when called upon. If persons experience technical difficulties during the pre-registration process or during the hearing, persons shall email written comments to ewaste@calrecycle.ca.gov.

CalRecycle will read the written comments received during the hearing at ewaste@calrecycle.ca.gov during the webinar.

The webinar hearing will begin at **10 a.m. on October 21, 2021**, and **will conclude at 3 p.m.**, or after all testimony is given. Any person may present statements or arguments, orally or in writing, with respect to the proposed action. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing no later than the close of the written comment period on **October 25, 2021**. If you have any questions, please contact:

Matt Sheehan

Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025, MS #9
Sacramento, CA 95812-4025
Phone: (916) 341-6344
E-mail: ewaste@calrecycle.ca.gov

INFORMATIVE DIGEST/POLICY
STATEMENT

The California Integrated Waste Management Act (CIWMA), Public Resources Code (PRC) Section 40000 et seq., gives the Department of Resources Recycling and Recovery (CalRecycle) authority to provide for the protection of public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC Section 40502(a) requires CalRecycle to adopt rules and regulations to implement the CIWMA, and PRC Section 42475(b) provides authority to CalRecycle to adopt regulations necessary to implement the covered electronic waste (CEW) recycling program (CEW Recycling Program).

The Electronic Waste Recycling Act of 2003 (PRC Section 42460, et seq.) established a funding mechanism to provide for convenient collection opportunities and waste processing capabilities for certain electronic products discarded in California. Covered electronic devices (CEDs) include video display devices with screen sizes greater than four inches that have been determined by the Department of Toxic Substance Control (DTSC) to be hazardous when discarded. When CEDs are discarded, they become CEW. Under the CEW Recycling Program, approved collectors document the recovery of the CEW before transferring that material to an approved recycler. Approved recyclers receive and dismantle (or “cancel”) the CEW, compliantly manage derived residuals, and subsequently submit claims for payment. CalRecycle pays approved recyclers the Standard Statewide Combined Recovery and Recycling Payment Rate for the weight of CEW cancelled and claimed, which includes a component for recovery costs and a component for recycling costs. Each year, approved recyclers are required to report the costs and revenues associated with processing CEW.

Historically, the majority of the CEW material entering into the payment system has been CRTs. CRTs remain the predominant waste stream, but non-CRT volumes are increasingly becoming a more significant portion of the stream. Non-CRT CEW volumes have grown from approximately 1% of the total CEW volume by weight (2.2 million pounds) in 2011 to 41% (30 million pounds) in 2020.

The management of non-CRT CEW poses numerous challenges to the recycling industry. Non-CRTs are more difficult to dismantle because they require a longer processing time and often have less intrinsic material value than CRTs. In addition, they contain residuals that: (1) are fully regulated hazardous waste, entailing high disposal costs (e.g., plasma panels); or (2) require special handling (e.g., fluorescent lamps). As non-CRTs are lighter and CEW recycling

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit to CalRecycle written comments relevant to the proposed regulations. **The written comment period for this rulemaking closes on October 25, 2021. CalRecycle will consider only comments received by CalRecycle by that time.** CalRecycle will also accept verbal comments during the public hearing, as described above. Please submit your written comments to:

Matt Sheehan

Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025, MS #9
Sacramento, CA 95812-4025
Phone: (916) 341-6344
E-mail: ewaste@calrecycle.ca.gov

AUTHORITY AND REFERENCES

Public Resources Code Sections (PRC) 42475 provides authority for the proposed regulations. The proposed regulations were previously adopted and readopted under emergency authority established by PRC Section 42475.2. PRC Section 42478 mandates CalRecycle to establish a CEW recycling payment schedule to cover the average net cost for each major category of CEW received, processed, and claimed. The purpose of the proposed action is to implement, interpret, and make specific laws related to the implementation and administration of the CEW Recycling Program. The following is a list of references cited in the proposed regulations: PRC Sections 42463, 42464, 42465.2, 42475(a), 42476, 42477, 42478 and 42479.

The following sections of the CCR are being implemented, interpreted, made specific, or repealed: Article 1, § 18660.5, Article 2, § 18660.10; Article 2.2, § 18660.21; Article 2.3, § 18660.34.

payments are weight based, recyclers are paid less for these devices although they are more costly to manage.

In March 2018, CalRecycle filed emergency regulations to address the issues identified above. These regulations provided a structure for pursuing multiple CEW recycling payment rates by splitting the CEW recycling payment rate to allow for multiple recycling payment rates (Differential Payment Structure): one payment rate for CRT CEW and another payment rate for non-CRT CEW (See **Exhibit One** for Office of Administrative Law Notice of Approval for File No. 2018-0502-04E). The emergency regulations were readopted in March 2020 (See **Exhibit Two** for Office of Administrative Law Notice of Approval for File No. 2020-0318-04EE). CalRecycle seeks to make final the existing regulations with no substantial changes.

Prior to the adoption of the Differential Payment Structure regulations, CalRecycle regulations: required payment to recyclers based on a single payment rate for both CRT CEW and non-CRT CEW (CCR, section 18660.34); did not require recyclers to differentiate between CRT CEW and non-CRT CEW in net cost reports (CCR, section 18660.10); and required recyclers to maintain records regarding net costs for handling all CEW, without specific information regarding net costs to manage CRT CEW separately from non-CRT CEW.

The language of the existing regulations, proposed for finalization, differs from the previously adopted Differential Payment Structure emergency regulations due to unrelated file and print Payment Rate regulations, which changed the payment rate

Following the adoption of the Differential Payment Structure regulations, CalRecycle filed a file and print regulations package to change the payment rate for non-CRT CEW (Payment Rate) in 2018 (see OAL File No. 2018-0523-01) and again in 2020 (see OAL File No. 2020-0527-02) ("Payment Rate"). The Differential Payment Structure and the Payment Rate regulations concern one overlapping section – California Code of Regulations (CCR) Section 18660.34. Upon readoption, the Differential Payment Structure will remain the same as in the previously adopted regulations, meeting the requirement in Government Code Section 11346.1(h).

In addition, CalRecycle intends to fix three non-substantial grammatical errors.

The Request for Approval to initiate the permanent rulemaking process, executed May 5, 2021, by CalRecycle's director, Rachel Machi Wagoner, is included as **Exhibit Three**.

Policy Statement Overview and Benefits (Gov. Code Section 11346.5 (a)(3)(C))

The objective of the proposed regulations is to establish the regulatory structure necessary to accommodate a differential payment rate for non-

CRT CEW. The proposed regulations split the existing CEW recycling payment rate into separate payment rates for CRT CEW and non-CRT CEW. The proposed rules benefit approved recyclers by creating a payment rate structure that reflects the different net costs associated with processing CRT CEW and non-CRT CEW. This enables approved recyclers to receive an adequate payment rate for recycling non-CRT CEW. In addition, the proposed regulations benefit the health and welfare of the residents of California by allowing for convenient and safe electronic waste collection activities. A separate payment rate for non-CRT reduces the likelihood of illegal disposal of hazardous materials because a recycler won't have to charge consumers an additional disposal fee to remain profitable.

Benefits of the Proposed Regulations

CalRecycle has the statutory authority pursuant to PRC Section 42478 to establish a recycling payment schedule to cover the average net cost to receive, process, and recycle each major category of CEW. At the inception of the CEW Recycling Program, CalRecycle adopted regulations that included one single recycling payment rate for all CEW. Net Cost Reports, required pursuant to CCR Title 14, Section 18660.10, are intended to describe the costs and revenues associated with the handling of CEW within the scope of the CEW Recycling Program.

CalRecycle conducted targeted outreach in 2017 to recyclers that processed non-CRT CEW to learn more about their operations and the costs and revenues associated with processing non-CRT CEW. At the time, only a portion of CA recyclers were processing non-CRT material due to the cost reasons listed previously. Thirteen CRT recyclers and seven non-CRT recyclers provided CalRecycle split cost and revenue reports in 2017 on a voluntary basis. The report data confirmed CalRecycle's expectation that CEW recyclers required a larger payment rate for the processing of non-CRT CEW to remain viable as CRT CEW volumes diminished.

In order to accomplish higher payment rates for non-CRT processing, a regulatory structure was needed, allowing for multiple payment rates. In 2018, CalRecycle split the single CEW recycling payment rate to allow for one payment rate for CRT CEW and another payment rate for non-CRT CEW. The payment rates were revised through a separate file and print package, to reflect differential values for CRT and non-CRT CEW, effective July 1, 2018.

Splitting the payment rate allowed CalRecycle to assess the Net Cost of processing CRT and non-CRT devices separately. Since the 2018 net cost reporting cycle, separate CRT and non-CRT CEW cost calculations were required. The results of those reports clearly show that the net cost to process non-

CRT CEW is significantly higher than CRT CEW. For additional information, please see the Net Cost data table provided on page four of the Initial Statement of Reasons.

Since the bifurcated rate was established, CalRecycle has taken advantage of this opportunity by setting a higher payment rate for non-CRT CEW. The payment rates were revised to their current values, through a second file and print package, effective July 1, 2020. For additional information, please see the CEW fee data table provided on page five of the Initial Statement of Reasons.

Since CalRecycle instituted the bifurcated rate, the CEW Recycling Program has seen a net gain in the number of approved recyclers that process non-CRT devices from thirteen in 2018 to eighteen in 2020.

PLAIN ENGLISH REQUIREMENTS

CalRecycle prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements set forth in Government Code Sections 11342.580 and 11346.2(a)(1). CalRecycle considers the proposed regulations non-technical and drafted to be easily understood by those parties that will use them.

FEDERAL LAW OR REGULATIONS MANDATE (Gov. Code Section 11346.5 (a)(3)(B))

CalRecycle has determined that the proposed regulations do not significantly differ from federal law because there are no existing comparable federal statutes or regulations in this subject area.

CONSISTENCY WITH STATE REGULATIONS (Gov. Code Section 11346.5 (a)(3)(D))

Pursuant to Government Code Section 11346.5(a)(3)(D), CalRecycle performed a search of existing state regulations and finds that this emergency rulemaking is not inconsistent or incompatible with existing state regulations.

OTHER MATTERS SPECIFIC TO CALRECYCLE (Gov. Code Section 11346.5 (a)(4))

CalRecycle has determined that no other matters, as prescribed by statute, need to be addressed.

MANDATES ON LOCAL AGENCIES AND SCHOOL DISTRICTS (Gov. Code Section 11346.5 (a)(5))

CalRecycle has determined that adoption of these regulations will create no new local mandates.

ESTIMATES OF POTENTIAL COSTS OR SAVINGS (Gov. Code Section 11346.5 (a)(6))

Cost or Savings to Any State Agency

CalRecycle has determined that adoption of these regulations will have indeterminable costs to state agencies. It is anticipated that CalRecycle will absorb all of the costs.

Local Agencies or School Districts Subject to Reimbursement

CalRecycle has determined that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to Government Code Section 17500 *et seq.*, or other non-discretionary costs or savings to local agencies or school districts.

Non-Discretionary Cost or Savings Imposed Upon Local Agencies

CalRecycle has determined that there are no non-discretionary costs or savings imposed upon any local agencies.

Cost or Savings in Federal Funding to the State

CalRecycle has determined that adoption of these regulations will have no impact on costs or savings in federal funding to the State.

Significant effect on housing costs

None.

ECONOMIC IMPACT STATEMENT

Estimated Private Sector Cost Impacts

CalRecycle is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action (Government Code section 11346.5(a)(9)). There are no new or separate costs incurred to participate in or comply with the Covered Electronic Waste (CEW) Recycling Program. The CEW Recycling Program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes.

The proposed regulations split the single CEW recycling payment rate into separate payment rates for CRT CEW and non-CRT CEW. The proposed regulations establish the regulatory structure necessary to accommodate a differential payment rate

for non-CRT CEW. This allows recyclers to receive an increased payment for processing/recycling non-CRT CEW given that the net cost of processing/recycling is higher for non-CRT CEW than CRT CEW.

The related emergency regulations that impacted approved recyclers were approved and became effective in May of 2018. These emergency regulations were readopted in May of 2020 and expire in May of 2022. The requirements of the proposed regulations that are now being finalized are no more burdensome than the emergency regulations already in effect. In effect, the requirements of the proposed regulations benefit the impacted businesses.

Creation or Elimination of Businesses within the State of California (Gov. Code. Section 11346.5(a)(10))

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The proposed regulations split the original payment rate for CEW into separate rates for CRT and non-CRT CEW. However, the rules do not create new and separate material management standards.

The related emergency regulations that impacted approved recyclers were approved and became effective in May 2018. They were readopted in May 2020 and expire in May 2022. The change in regulatory structure enabled CalRecycle to pursue different payments and, as such, significantly increase the payment rate for non-CRT CEW. This has resulted in a net gain in the number of approved recyclers that process and claim non-CRT CEW for payment from thirteen in 2018 to eighteen in 2020.

Creation or Elimination of Jobs within the State of California (Gov. Code. Section 11346.5(a)(10))

The requirements and options in the regulations will not create or eliminate jobs within the State of California. The proposed regulations split the single CEW recycling payment rate into separate payment rates for CRT CEW and non-CRT CEW pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards. Splitting the single rate into multiple rates has allowed additional recyclers to begin profitably processing non-CRT CEW. This has resulted in a net gain of recyclers that process and claim non-CRT CEW for payment from thirteen in 2018 to eighteen in 2020. These recyclers were not new to the CEW Recycling Program, as they were already approved recyclers processing CRT material. Since the volume of CRT processed by recyclers is decreasing annually due to depletion of legacy material, CalRecycle has no way of knowing if the five new non-CRT recyclers hired additional employees or shifted the duties of existing employees that were processing CRTs.

Creation of New Businesses or Elimination of Existing Businesses within California (Gov. Code. Section 11346.5(a)(10))

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The proposed regulations split the original payment rate for CEW into separate rates for CRT and non-CRT CEW. However, the rules do not create new and separate material management standards.

The related emergency regulations that impacted approved recyclers were approved and became effective in May 2018. They were readopted in May 2020 and expire in May 2022. The change in regulatory structure enabled CalRecycle to pursue different payments and, as such, significantly increase the payment rate for non-CRT CEW. This has resulted in a net gain of recyclers that process and claim non-CRT CEW for payment from thirteen in 2018 to eighteen in 2020.

Expansion of Businesses Doing Business within the State (Gov. Code. Section 11346.5(a)(10))

There are currently twenty approved recyclers in the CEW Recycling Program. Approved recyclers must apply to participate by submitting certain documents that demonstrate eligibility. Subsequently, approved recyclers conduct and document CEW recycling activities. Approved recyclers submit payment claims to CalRecycle. Since the recycling rate was split into two rates, there has been a net gain in the number of approved recyclers that process and claim non-CRT CEW for payment from thirteen in 2018 to eighteen in 2020.

Benefits to the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment (Gov. Code. Section 11346.5(a)(10))

The proposed regulations benefit the health and welfare of the residents of California by allowing for convenient and safe electronic waste collection activities. A separate payment rate for non-CRT reduces the likelihood of illegal disposal of hazardous materials because a recycler won't have to charge consumers an additional disposal fee to remain profitable. CalRecycle has determined that this regulatory proposal will not affect worker's safety and the state's environment.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code. Sections 11346.3(a), 11346.5(a)(7-8))

CalRecycle has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. CalRecycle 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 are no new or separate costs incurred to participate in or comply with the CEW Recycling Program. The CEW Recycling Program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already required recyclers to provide a combined report for all CEW processed.

Business Report (Gov. Code. Section 11346.5(a)(11))

The regulations require recyclers to provide a report regarding net costs to manage both CRT CEW and non-CRT CEW. Previously, recyclers were required to provide a report for all CEW combined, without separating costs into CRT and non-CRT CEW. The report requirement applies to businesses that are approved recyclers in the CEW Recycling Program. It is necessary for the health, safety, and welfare of the people of the state that the regulations and reporting requirements apply to businesses.

Small Business (1 CCR 4(a-b))

The majority of potentially affected businesses are small businesses. Only approved recyclers would be directly affected by these rules, and approximately 90 percent of these are small businesses.

CONSIDERATION OF ALTERNATIVES

Alternatives to the proposed rules have been considered. CalRecycle conducted targeted outreach in 2017 to recyclers that process non-CRT CEW to learn more about non-CRT operations. After drafting emergency regulations, CalRecycle solicited comments on the draft proposed regulatory text at a 2018 workshop. Stakeholders supported the proposed action and were looking forward to the actual determination of the payment rates.

CalRecycle primarily uses net cost data to set the Standard Statewide Combined Recovery and Recycling Payment Rates. Net Cost Reports, required pursuant to Title 14 of California Code of Regulations, section 18660.10, are intended to describe the costs and revenues associated with the handling of CEW within the scope of the CEW Recycling Program. Thirteen CRT recyclers and seven non-CRT recyclers provided CalRecycle split cost reports in 2017 on a voluntary basis. Since the 2018 net cost reporting cycle, separate CRT and non-CRT cost calculations were required.

In terms of reported numbers, CalRecycle has continued to see a significant difference in the cost per pound to process CRT and non-CRT CEW. Based on the weighted average of all recyclers in the CEW Recycling Program, the net cost to recycle CRT in

2019 was 27.7 cents per pound, while the net cost to recycle non-CRT in 2019 was 40.6 cents per pound.

CalRecycle considered three alternatives to the proposed rules: adding multiple rates for non-CRT CEW; having a per unit rate structure rather than a per pound rate structure; or continuing on with no changes (keep the single payment rate).

A per unit weight structure may work in the future as materials become lighter, but recyclers are still processing heavy legacy material. CalRecycle does not believe that it currently makes sense to pay the same recycling rate on a small non-CRT device such as a tablet and large, heavy devices such as plasma or CRT televisions. The latter devices can weigh over 100 pounds, take up more storage space and can require multiple employees or specialized equipment to unload them from trucks and to move them to storage areas and dismantling tables. They also produce greater volumes of hazardous residuals which adds additional disposal costs.

Having multiple rates for non-CRT devices would have added the burden of requiring recyclers to calculate the costs and revenues of additional non-CRT waste streams in the annual Net Cost Reports. This approach may have been effective, but it is not cost-effective and too burdensome on the recyclers. It should be noted that no stakeholder has supported this option at any of CalRecycle's previous workshops or public hearings.

Continuing with no changes would have negatively affected recyclers participating in the CEW Recycling Program. As stated in the Problem Statement, non-CRTs are more difficult to dismantle and require longer processing times than CRT devices. Non-CRTs also have less intrinsic material value than CRTs due to miniaturization (for e.g., the circuit boards are smaller and hence contain fewer precious metals). In addition, they contain residuals that are fully regulated hazardous waste that entail high disposal costs (e.g., plasma panels) or that require special handling (e.g., fluorescent lamps). As non-CRTs are lighter and CEW recycling payments are weight-based, recyclers are paid less for these devices even though they are more costly to manage. Hence, the single recycling payment rate that CalRecycle established at the inception of the CEW Recycling Program proved to be insufficient for non-CRTs.

CalRecycle determined that: (1) no alternative would be more effective in carrying out the purpose for which the action is proposed; (2) no alternative would be as effective and less burdensome to affected private persons, while at the same time protecting human health, safety, and the environment, and the integrity of public funds; and (3) no alternative would be more cost-effective to affected private persons and

equally effective in implementing the statutory policy or other provisions of law.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Matt Sheehan

Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
Phone: (916) 341-6344
E-mail: ewaste@calrecycle.ca.gov

The back-up contact person to whom inquiries concerning the proposed action may be directed:

Ana-Maria Stoian-Chu

Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
Phone: (916) 323-2872
FAX: (916) 319-7609
E-mail: ewaste@calrecycle.ca.gov

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

CalRecycle will have the entire rulemaking file, the express terms of the proposed regulations, and all information that provides the basis for the proposed action, available for inspection and copying throughout the rulemaking process at the address provided above and on the Structure for Pursuing Multiple Covered Electronic Waste Recycling Payment Rates webpage. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the text of the proposed regulations, the Initial Statement of Reasons (ISOR), the documents relied upon for the proposed action, and the economic and fiscal impact statement. Copies may be obtained by contacting Matt Sheehan at the address, e-mail, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

CalRecycle may adopt the proposed regulations substantially as described in this Notice after holding

the hearing and considering all timely and relevant comments. If CalRecycle makes modifications that 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 fifteen (15) days before CalRecycle adopts the regulations as revised. Requests for the modified text should be made to the contact person named above. CalRecycle will transmit any modified text to all persons who testify at the public webinar hearing, all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. CalRecycle will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

The Final Statement of Reasons (FSOR) will be available at the webpage listed herein, or you may contact the individuals listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website titled "Structure for Pursuing Multiple Covered Electronic Waste Recycling Payment Rates" at <https://www.calrecycle.ca.gov/laws/rulemaking/paymentrates>.

TITLE 16. BOARD OF PHARMACY

ADDRESS CHANGE NOTIFICATION

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (board) proposes taking the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office by October 18, 2021.

The board has not scheduled a public hearing on this proposed action. The board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or that person's authorized representative, no later than 15 days prior to the close of the written comment period.

The board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Section 4005 of the Business and Professions Code (BPC) authorizes the board to adopt this regulation. The proposed regulation implements, interprets, and makes specific sections 4003, 4013, and 4100 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, hospital pharmacies, clinics, wholesalers, third-party logistics providers, and outsourcing facilities. The board's mandate and its mission is to protect the public (BPC § 4001.1).

Existing pharmacy law requires a licensed facility to join the board's email notification list within 60 days of obtaining a license or at the time of license renewal and to update its email address with the board's notification list within 30 days of a change in the facility's email address (BPC § 4013). Additionally, existing pharmacy law requires that each pharmacist, intern pharmacist, pharmacy technician, designated representative, and designated representative-3PL licensed in California to join the board's email notification list within 60 days of obtaining a license or at the time of license renewal and to update their mail address with the board's notification list within 30 days of a change in the licensee's email address. This notification list is an automated listserv. The primary purpose of the listserv is to send licensees, and other interested parties who provide an email address, automated mass email alerts regarding general board information such as meetings, notices, important information, and product recalls. As it is a listserv generating automated emails, the board does not have direct access to obtain specific licensee email addresses for the purpose of direct communication to the licensee via email.

This proposal will require that each applicant and person holding a certificate, license, permit, registration or exemption to practice, who has an electronic mail (email) address, provide the board

with the email address and maintain a current email address, if any. Additionally, the proposal will require the individual to notify the board of any change in their email address within 30 days of the change. This requirement is consistent with the 30-day address change notification in subdivision (a) as well as BPC 4013. The board determined that communication through email is an efficient way to communicate with applicants and licensees regarding both application status and license status.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulatory action will continue to provide consumer protection per the board's mandates, which affects the protection of public health and safety. This means the pharmacy's license to practice is not affected, or discontinued because of the lack of communication, or mail getting lost. Ultimately, this benefits the health and welfare of California residents.

By requiring applicants and licensees to provide and maintain their electronic mail address with the board, the board can email application deficiency notices, renewal notices, and renewal deficiency notices to applicants and licensees. This will eliminate postal delays and reduce the possibility of notices being lost in the mail or misdelivered. If an applicant or licensee does not have an electronic mail address, the applicant and licensee would not have to provide one to the board.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

While developing these regulations and amendments, the board conducted a search of similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations. As noted above, these amendments make state law more consistent with federal law.

FISCAL IMPACT AND RELATED ESTIMATES

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board estimates 120 email address changes will be processed by an Office Technician per year at cost of \$1.80 per update (five minutes of workload) with total costs of \$220 per year.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The board has determined that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting businesses and/or employees. This initial determination is based on the absence of testimony to that effect during the development of the proposed regulation, which occurred over several months in numerous board and committee meetings. The board determined that electronic mail addresses are often free to obtain from numerous online companies and providing the electronic mail address to the board is as simple as writing it on an application when applying for a license or submitting a renewal application. Additionally, most applicants and licensees already provide an email address to the board as it is an effective method of communication.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

Effect on Small Business:

While the board does not have nor does it maintain data to determine if any of its licensees (pharmacies and clinics) are a “small business,” as defined in Government Code section 11342.610, the board has made an initial determination that the proposed regulatory action will not have a significant adverse economic impact directly affecting small businesses. The board determined that electronic mail addresses are often “free” to obtain from numerous online companies and providing the electronic mail address to the board is as simple as writing it on an application when applying for a license or submitting a renewal application. Additionally, most applicants and licensees already provide an email address to the board as it is an effective method of communication.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses:

For the reasons listed above, the Board concludes that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;

- (3) this proposal will not create new businesses within California;
- (4) this proposal will not eliminate existing businesses within California;
- (5) this proposal will not expand businesses currently doing business in the State of California.

Benefits of Regulation:

The regulatory proposal would ensure continued consumer protection per the board’s mandate. This means the pharmacy’s license to practice is not affected, or discontinued because of the lack of communication, or mail getting lost. Ultimately, this benefits the health and welfare of California residents.

The Board determined that this proposed regulatory action will not impact worker’s safety, or the state’s environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative that it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments in writing relevant to the above determinations at the address listed for the Contact Person during the written comment period.

INITIAL STATEMENT OF
REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Ste. 100, Sacramento, California 95833, or from the Board of Pharmacy’s website at <http://www.pharmacy.ca.gov>.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You 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 by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Lori Martinez
Address: 2720 Gateway Oaks Drive,
Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3078
Fax Number: (916) 574-8618
E-Mail Address: Lori.Martinez@dca.ca.gov

The backup contact person is:

Name: Debbie Damoth
Address: 2720 Gateway Oaks Drive,
Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3090
Fax Number: (916) 574-8618
E-Mail Address: Debbie.Damoth@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board of Pharmacy's website: https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

**TITLE 19. DEPARTMENT OF
FORESTRY AND FIRE PROTECTION/
OFFICE OF THE STATE FIRE
MARSHAL**

DIVISION 1. STATE FIRE MARSHAL
CHAPTER 14. HAZARDOUS LIQUID
PIPELINE SAFETY
ARTICLE 3. FEES
SECTION 2040
PIPELINE SAFETY — INTRASTATE FEES

NOTICE IS HEREBY GIVEN pursuant to Government Code, section 11346.6 that the California

Department of Forestry and Fire Protection – Office of the State Fire Marshal (“OSFM”, “SFM”) proposes to adopt regulations implementing Title 19, Division 1, Chapter 14 of the California Code of Regulations, related to the fees assessed on intrastate hazardous liquid pipeline operators. The fees fund the OSFM — Pipeline Safety Division, which is responsible for inspecting pipelines and pipeline operators for compliance with the Elder California Pipeline Safety Act, Government Code §51010 et seq.

WRITTEN COMMENT PERIOD

The OSFM will accept written comments regarding the proposed regulatory action for 45 days **beginning September 3, 2021 through October 18, 2021**. All written comments received on October 18, 2021 will be considered and responded to as part of the compilation of the rulemaking file and are subject to disclosure under the Public Records Act (Gov. Code § 6250, et seq.).

Written comments may be submitted to the OSFM via:

- **Email:** diane.arend@fire.ca.gov (Include in the subject line of the email “Comment: Pipeline Safety — Intrastate Fees)
- **Mail To:** (US postmarked no later than October 18, 2021):
CAL FIRE/Office of the State Fire Marshal
P.O. Box 944246
Sacramento, CA 94244-2460
Attn: Diane Arend, Code Development & Analysis
- **Hand-delivered between 8:00 a.m. and 5:00 p.m. (PDT) to:**
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Fourth Floor
Sacramento, California 95815
Attn: Diane Arend, Code Development & Analysis

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

PUBLIC HEARING

The State Fire Marshal has not scheduled a public hearing on this proposed action. However, the SFM will hold a public hearing if a written request is received from any interested party or their authorized representative no later than 15 days before the end of the 45-day comment period, pursuant to Government Code Section 11346.8.

If a public hearing is held, the SFM will provide notice of the hearing in accordance with the requirements of Gov. Code sec. 11346.8(a), in addition to posting the information on our website.

AUTHORITY AND REFERENCE

Authority cited: Sections 51015.1, 51019 and 51019.05, Government Code. Reference: Sections 51010, 51013.1, 51013.5, 51014.5, 51015.1, 51019, 51019.1 and 51019.05, Government Code.

Government code sections 51015.1, 51019, and 51019.05 allow the SFM to assess fees to pay for expanded inspection and jurisdictional requirements mandated through legislation. The proposed regulations implement, interpret, and make specific Government Code sections 51015.1, 51019, and 51019.05.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The regulations proposed in this rulemaking action implement, interpret, clarify, and/or make specific Government code sections 51015.1, 51019, and 51019.05.

Specifically, this rulemaking action will increase the amount of fees collected from hazardous liquid pipeline operators. The fees collected support the SFM's inspection program ensuring compliance and safety in pipeline operations. The pipeline fees have not been adjusted since 2007 and the program has seen additional inspection requirements delegated by the legislature. Due to the passage of time and the increased responsibilities placed on the SFM, a fee increase is necessary to continue funding the program.

This rulemaking action proposes amendments to the existing fee structure found in section 2040 under the California Code of Regulations Title 19, Division 1, Chapter 14 for intrastate pipelines. The SFM proposed regulations will increase two components of the fee schedule, a flat pipeline operator fee and a per-mile pipeline fee. The pipeline operator fee is assessed to all operators at a flat rate per year. Each operator must also pay a per mile fee that varies depending on how many miles of pipeline operated.

Summary of Existing Laws:

Current law in Government Code §§ 51015.1, 51019, and 51019.05 requires pipeline operators to contribute a flat fee of \$6000 per year and an additional \$550 per mile of pipe operated. The fees collected fund the program, cover staff and office costs, and allow the SFM to fulfill statutorily mandated inspections and investigations, among other requirements. The existing fee structure is insufficient to fund the program under

existing obligations, and recently mandated inspection requirements delegated by the Legislature.

Summary of Existing Regulations:

Existing regulations and fee structure found in section 2040, California Code of Regulations, Title 19, Division 1, Chapter 14, require a charge per mile of intrastate pipelines operated and a flat fee for pipeline operators. The regulatory amendments proposed in this rulemaking action would make increases to the fee structure to facilitate the continued fulfillment of the SFM's pipeline inspection program and place the program on sound financial footing for the foreseeable future. Absent a fee increase, the SFM pipeline inspection program could run out of funding as early as fiscal year 2022. At a minimum, the lack of funding could seriously impact the SFM's ability to conduct inspections and ensure safety compliance by hazardous liquid pipeline operators.

Summary of Effect:

The proposed regulations will require pipeline operators to contribute a flat fee of \$10,000 in 2022 and an additional \$1,280 per mile of pipe operated. The fee will then increase again with a flat fee of \$12,000 and an additional \$1,400 per mile of pipe operated. These fees will allow operators to effectively plan for increases over time and appropriately fund the SFM pipeline program.

Objective and Anticipated Benefits of the Proposed Regulation:

The broad objective of the proposed fee changes in this rulemaking action are intended to ensure the SFM can properly execute inspection and investigatory obligations directed at preventing and limiting the severity of hazardous liquid pipeline spills.

The specific benefit anticipated from the regulation are that the fees generated, benefit the public health and welfare of California residents, worker safety, and the environment by diminishing the number and severity of pipeline failures. Further protections extend to the protection of the environment and the use and enjoyment citizens obtain from reduced or eliminated hazardous liquid spills. The regulated community also benefits through the SFM inspection program by identifying potential issues and correcting them before an incident occurs.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The SFM conducted a review for any related state regulation that addresses the subject matter within the scope of the proposed regulations. The SFM determined that the proposed action does not duplicate or conflict with any existing state regulations and are not inconsistent or incompatible with existing law.

Comparable Federal Regulations or Statutes:

The SFM reviewed and determined that the proposed action does not duplicate or conflict with any existing federal regulations or statutes. No comparable federal regulation or statutes exist.

**DOCUMENTS INCORPORATED
BY REFERENCE**

Not applicable. There are no documents incorporated for this rulemaking action.

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

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

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The SFM has made the following initial determinations:

1. Mandate on local agencies and school districts: **None.**
2. Cost or savings to any other State agency: **None.**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Sections 17500–17630: **None.**
4. Other non–discretionary cost or savings imposed upon local agencies: **None.**
5. Cost or savings in federal funding to the State: **None.**
6. Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States: **None.**
7. Significant effect on housing costs: **None.**

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

The SFM does not believe impacts would be incurred by a private person in compliance with the proposed regulation. However, a small portion of pipeline operators have responded that any increase to regulatory fees will impact costs. This impact is not considered to be substantial. Those operators have also indicated that the costs will either be absorbed, passed on to consumers, or addressed through existing contracts. Ultimately the responses received indicated

that current SFM fees amount to between .5% and 5% of their annual costs. The proposed rulemaking uses a phased in approach of fees over several years to allow businesses to adapt.

DECLARATION OF EVIDENCE

The SFM conducted a survey on the economic and fiscal impact to the operators of intrastate hazardous liquid pipelines that incur by this rulemaking. The SFM has not relied on any other facts, evidence, documents, or testimony to make its initial determination of no statewide adverse economic impact.

EFFECT ON SMALL BUSINESS

Government Code §11342.610(b)(9) excludes pipelines from the definition of a small business. However, the SFM conducted additional analysis of small business impacts for thoroughness. The proposed regulations incorporate a phased approach to implementation allowing the entire regulated community time to adapt to increased fees and incorporate those additional costs into their business models regardless of size. The SFM has not identified any alternative that would lessen any adverse impact, if any, on small businesses.

BUSINESS REPORT

The proposed regulations do not create any reporting requirements.

**RESULTS OF THE ECONOMIC
IMPACT ANALYSIS**

The SFM concludes that it is (1) unlikely that the proposed regulations will eliminate any jobs, (2) unlikely that the proposed regulations will create jobs, (3) unlikely that the proposed regulations will create new businesses, (4) unlikely that the proposed regulations will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

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

The SFM anticipates that the regulations will benefit the public health and welfare of California residents, enhance public safety, and benefit the environment by protecting California’s vital natural resources and wildlife, and reducing the risk of future pipeline accidents/spills.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the SFM must determine that no reasonable alternative it considered to the regulation 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 described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

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

CONTACT PERSONS

Inquiries or specific questions concerning the proposed rulemaking action may be directed to the following contact persons:

General Inquiries:

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

Substantive or technical questions:

Doug Allen, Supervising Pipeline Safety Engineer
CAL FIRE/Office of the State Fire Marshal
Pipeline Safety Division
2180 Harvard Street, Suite 200
Sacramento, CA 95815
doug.allen@fire.ca.gov
916-263-6301

or

Josh Cleaver, Legal
Joshua.cleaver@fire.ca.gov
916-207-6874

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the contact person(s).

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

The SFM 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 is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and any documents relied upon. Copies may be obtained through the contact persons at the address and/or phone number listed above.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After holding a public hearing, if requested, and considering all timely and relevant comments received by the SFM, the SFM may adopt the proposed regulations substantially as described in this notice. If the SFM makes modifications that are sufficiently related to the originally proposed text, the SFM will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the SFM adopts the regulations as revised. Please send requests for copies of any modified regulations to the contact person. The SFM 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, copies of the Final Statement of Reasons may be obtained by making a written request to the contact person at the above address or by accessing the website listed below.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of the Proposed Rulemaking, Initial Statement of Reasons, the text of the regulations, and related documents concerning this rulemaking can be accessed on the Office of the State Fire Marshal Website at: <https://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>.

PLAIN ENGLISH DETERMINATION

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

**TITLE 24. BUILDING STANDARDS
COMMISSION/STATE FIRE MARSHAL**

NOTICE OF 45-DAY PUBLIC COMMENT
FOR PROPOSED ACTION TO BUILDING
STANDARDS OF THE STATE FIRE
MARSHAL REGARDING THE 2022
CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1

(SFM 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 State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title

24, Part 1. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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 18949.2. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 13108, 13143, 13145, 13146, 13211, 16022.5, 17921, 18949.2, Government Code Sections 51176, 51177, 51178 and 51179, Public Resources Code Sections 4201 through 4204.

The State Fire Marshal is proposing this regulatory action based on Health and Safety Code Sections 13108, 13108.5, 13113, 13113.5, 13114, 13132, 13143, 13143.2, 13143.6, 13145, 13146, 13210, 13211, 16022.5, 17921, 18949.2, Government Code Section 51189, Public Education Code 17074.50.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 13108 (a).

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

Health and Safety Code Section 13108.5.

(a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

Health and Safety Code Section 13113.

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

Health and Safety Code Section 13113.5.

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

Health and Safety Code Section 13114 (a).

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

Health and Safety Code Section 13132.

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

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

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

Health and Safety Code Section 13143.

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

Health and Safety Code Section 13143.2.

The State Fire Marshal shall enforce building standards published in the California Building Standards Code and those other rules and regulations adopted by the State Fire Marshal for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation, including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor.

Health and Safety Code Section 13143.6 (a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13145.

The State Fire Marshal, the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

Health and Safety Code Section 13146.

- (a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:
 - (1) The city, county, or city and county with jurisdiction in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:
 - (A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.
 - (B) The chief building official of the city, county, or city and county, or the official's authorized representative.

Health and Safety Code Section 13210.

- (a) "Existing high-rise structure" means a high-rise structure, the construction of which is commenced or completed prior to July 1, 1974.
- (b) "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250.

- (c) "New high-rise structure" means a high-rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 16022.5.

Following completion of construction of a state-owned or state-occupied essential services building, the State Fire Marshal may conduct regular inspections of those buildings for compliance with building standards relating to fire and panic safety.

Health and Safety Code Section 17921 (b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18949.2 (b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

- (c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Government Code Section 51176 through 51179.

The purpose of this chapter is to classify lands in the state in accordance with whether a very high fire hazard is present so that public officials are able to identify measures that will retard the rate of spread, and reduce the potential intensity, of uncontrolled fires that threaten to destroy resources, life, or property, and to require that those measures be taken.

Government Code Section 51189.

No later than January 31, 2020, the State Fire Marshal, in consultation with the director and the

Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures, based on information learned from the 2017 wildfire season.

Public Education Code 17074.50.

- (a) On and after July 1, 2002, all new construction projects submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection, alarm, and sprinkler system as set forth in Section 17074.52 and approved by the State Fire Marshal.

Public Resources Code 4201 through 4204

The purpose of this article is to provide for the classification of lands within state responsibility areas in accordance with the severity of fire hazard present for the purpose of identifying measures to be taken to retard the rate of spreading and to reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

Summary of Existing Regulations

The SFM currently has administrative provisions in Chapter 1 Division I in Parts 2, 3, 4, 5, 9, and 10 of Title 24.

Summary of Effect

The general purpose of this proposed action is principally intended to adopt the 2022 California Administrative Code (California Code of Regulations, Title 24, Part 1) based upon updated information or recent actions of the SFM. This proposed action:

Adopt and implement additional necessary amendments to the 2022 California Administrative Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act in accordance with Health and Safety Code section 13108, which requires the State Fire Marshal to define State Specified Buildings.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and

panic in occupancies addressed in and published as the 2022 California Administrative Code.

Pursuant to Health and Safety Code Sections (HSC) § 13108, the State Fire Marshal shall enforce regulations and standards and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

The State Fire Marshal is required as per passed in Senate Bill 85. Public resources: omnibus trailer bill. (2019–2020) to provide clarifying language regarding Specified State Occupied Occupancies. The regulations adopted by the State Fire Marshal will meet the intent of Health and Safety Code Sections 13108 and 13146.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

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

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

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2022 California Administrative Code.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

E. Cost or savings in federal funding to the state:
No.
 Estimate: 0

INITIAL DETERMINATION OF NO
 SIGNIFICANT STATEWIDE ADVERSE
 ECONOMIC IMPACT ON BUSINESSES

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

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

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

DECLARATION OF EVIDENCE

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

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

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

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states is supported by the actions taken by the State Legislations bill SB 85 of 2019. The Committee on Budget and Fiscal Review held on June 11, 2019 found that Office of the State Fire Marshal – Fire and Life Safety – Clarifies that a fee may be charged by various state and local entities for enforcement of building standards adopted by the State Fire Marshal relating to fire and panic safety and other regulations. Makes various other changes to define and clarify the Fire Life and Safety Division's mission and responsibilities.

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

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

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

N/A

COST IMPACT ON REPRESENTATIVE
 PRIVATE PERSON OR BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

These regulations will clarify specified state building standards, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF
 COMPLIANCE OF STANDARDS THAT
 WOULD IMPACT HOUSING

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

The SFM did not identify any impact on housing.

CONSIDERATION OF ALTERNATIVES

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

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

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

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

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

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

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

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

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

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

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

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

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

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

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2916
Crystal.sujeski@fire.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION/STATE FIRE MARSHAL**

**NOTICE OF 45-DAY PUBLIC COMMENT
FOR PROPOSED ACTION TO BUILDING
STANDARDS OF THE STATE FIRE
MARSHAL REGARDING THE 2022
CALIFORNIA BUILDING CODE CALIFORNIA
CODE OF REGULATIONS, TITLE 24, PART 2**

(SFM 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 State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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.

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 18949.2. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 13108, 13143, 13145, 13146, 13211, 16022.5, 17921, 18949.2, Government Code Sections 51176, 51177, 51178 and 51179, Public Resources Code Sections 4201 through 4204.

SFM is proposing this regulatory action based on Health and Safety Code Sections 13108, 13108.5, 13113, 13113.5, 13114, 13132, 13132.7, 13133, 13135, 13143, 13143.1, 13143.2, 13143.6, 13143.9, 13145, 13146, 13210, 13211, 16022.5, 17921,

The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Section 13108.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 13108 (a).

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

Health and Safety Code Section 13108.5.

(a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

Health and Safety Code Section 13113.

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

Health and Safety Code Section 13113.5.

The State Fire Marshal Shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care,

which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114 (a).

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

Health and Safety Code Section 13132.

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

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

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

Health and Safety Code Section 13132.7.

Shall require fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133 (a).

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

Health and Safety Code Section 13135.

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

Health and Safety Code Section 13143.

Grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy

of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1 (a).

The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.2.

The State Fire Marshal shall enforce building standards published in the California Building Standards Code and those other rules and regulations adopted by the State Fire Marshal for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation, including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor.

Health and Safety Code Section 13143.6 (a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9.

The State Fire Marshal shall establish minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13145.

The State Fire Marshal, the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

Health and Safety Code Section 13146.

- (a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:

- (1) The city, county, or city and county with jurisdiction in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:

- (A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.
- (B) The chief building official of the city, county, or city and county, or the official's authorized representative.

Health and Safety Code Section 13210.

- (a) "Existing high-rise structure" means a high-rise structure, the construction of which is commenced or completed prior to July 1, 1974.
- (b) "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250.
- (c) "New high-rise structure" means a high-rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 16022.5.

Following completion of construction of a state-owned or state-occupied essential services building, the State Fire Marshal may conduct regular inspections of those buildings for compliance with building standards relating to fire and panic safety.

Health and Safety Code Section 17921 (b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18897.3

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

Health and Safety Code Section 18928 (a).

Requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18949.2 (b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

- (c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Health and Safety Code Section 25500 through 25545.

- (a) The Legislature declares that, to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of a statewide environmental reporting system for these plans is a statewide requirement. Basic information on the location, type, quantity, and health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidentally released into the environment, is required to be submitted to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

Government Code Section 51176 through 51179.

The purpose of this chapter is to classify lands in the state in accordance with whether a very high fire hazard is present so that public officials are able to identify measures that will retard the rate of spread, and reduce the potential intensity, of uncontrolled fires

that threaten to destroy resources, life, or property, and to require that those measures be taken.

Government Code Section 51189.

No later than January 31, 2020, the State Fire Marshal, in consultation with the director and the Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures, based on information learned from the 2017 wildfire season

Public Education Code 17074.50.

- (a) On and after July 1, 2002, all new construction projects submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection, alarm, and sprinkler system as set forth in Section 17074.52 and approved by the State Fire Marshal.

Public Resources Code 4201 through 4204

The purpose of this article is to provide for the classification of lands within state responsibility areas in accordance with the severity of fire hazard present for the purpose of identifying measures to be taken to retard the rate of spreading and to reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 2, 2019 California Building Code with SFM amendments and additional building standards relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to adopt the 2022 California Building Code (California Code of Regulations, Title 24, Part 2) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 International Building Code and/or California Building Standards not addressed by the model code that are no longer necessary nor justified pursuant with Health and Safety Code 18930(a)(7).

Adopt and implement additional necessary amendments to the 2022 California Building Code

that address inadequacies of the 2021 International Building Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2022 California Building Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act in accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the 18-month adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2021 International Building Code and published as the 2022 California Building Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Building Code, establish and or maintain minimum requirements for the prevention of fire and panic for the protection of life and property against fire and panic in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

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

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

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2022 California Building Code.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: N/A

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

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

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

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

DECLARATION OF EVIDENCE

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

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

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

Therefore, the SFM 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 SFM'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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

These regulations will update and improve minimum building standards, which will provide

increased protection of public health and safety, worker safety and the environment.

**ESTIMATED COST OF
COMPLIANCE OF STANDARDS
THAT WOULD IMPACT HOUSING**

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

The SFM did not identify any impact on housing.

CONSIDERATION OF ALTERNATIVES

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

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

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

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

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

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

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

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

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

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

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

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

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

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

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

Primary Contact:

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

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2916
Crystal.sujeski@fire.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION/STATE FIRE MARSHAL**

**NOTICE OF 45-DAY PUBLIC COMMENT
FOR PROPOSED ACTION TO BUILDING
STANDARDS OF THE STATE FIRE
MARSHAL REGARDING THE 2022
CALIFORNIA RESIDENTIAL CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 2.5**

(SFM 05/21)

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 State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2.5. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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 18949.2. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 13108, 13143, 13145, 13146, 13211, 16022.5, 17921, 18949.2, Government Code Sections 51176, 51177, 51178 and 51179, Public Resources Code Sections 4201 through 4204.

The SFM is proposing this regulatory action based on: Health and Safety Code Sections 13108, 13108.5, 13113, 13113.5, 13114, 13132, 13132.7, 13133, 13135, 13143, 13143.1, 13143.2, 13143.6, 13145, 13146, 13210, 13211, 16022.5, 17921, 18897.3, 18928, 18949.2, 25500 through 25545, Government Code Section 51189, Public Education Code 17074.50.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 13108 (a).

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

Health and Safety Code Section 13108.5.

- (a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

Health and Safety Code Section 13113.

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

Health and Safety Code Section 13113.5.

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

Health and Safety Code Section 13114 (a).

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

Health and Safety Code Section 13132.

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

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

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

Health and Safety Code Section 13132.7.

Shall require fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133 (a).

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

Health and Safety Code Section 13135.

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

Health and Safety Code Section 13143.

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

Health and Safety Code Section 13143.1 (a).

The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.2.

The State Fire Marshal shall enforce building standards published in the California Building Standards Code and those other rules and regulations adopted by the State Fire Marshal for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation, including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor.

Health and Safety Code Section 13143.6 (a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9.

The State Fire Marshal shall establish minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13145.

The State Fire Marshal, the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations that have been

formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

Health and Safety Code Section 13146.

- (a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:
 - (1) The city, county, or city and county with jurisdiction in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:
 - (A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.
 - (B) The chief building official of the city, county, or city and county, or the official's authorized representative.

Health and Safety Code Section 13210.

- (a) "Existing high-rise structure" means a high-rise structure, the construction of which is commenced or completed prior to July 1, 1974.
- (b) "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250.
- (c) "New high-rise structure" means a high-rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 16022.5.

Following completion of construction of a state-owned or state-occupied essential services building, the State Fire Marshal may conduct regular inspections of those buildings for compliance with building standards relating to fire and panic safety.

Health and Safety Code Section 17921 (b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall

adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18897.3

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

Health and Safety Code Section 18928 (a).

Requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18949.2 (b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

(c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Health and Safety Code Section 25500 through 25545.

(a) The Legislature declares that, to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of a statewide environmental reporting system for these plans is a statewide requirement. Basic information on the location, type, quantity, and health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidentally released into the environment, is required to be submitted to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

Government Code Section 51176 through 51179.

The purpose of this chapter is to classify lands in the state in accordance with whether a very high fire hazard is present so that public officials are able to identify measures that will retard the rate of spread, and reduce the potential intensity, of uncontrolled fires that threaten to destroy resources, life, or property, and to require that those measures be taken.

Government Code Section 51189.

No later than January 31, 2020, the State Fire Marshal, in consultation with the director and the Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures, based on information learned from the 2017 wildfire season

Public Education Code 17074.50.

(a) On and after July 1, 2002, all new construction projects submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection, alarm, and sprinkler system as set forth in Section 17074.52 and approved by the State Fire Marshal.

Public Resources Code 4201 through 4204

The purpose of this article is to provide for the classification of lands within state responsibility areas in accordance with the severity of fire hazard present for the purpose of identifying measures to be taken to retard the rate of spreading and to reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 2.5, 2019 California Residential Code with SFM amendments and additional building standards relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to adopt the 2022 California Residential Code (California Code of Regulations, Title 24, Part 2.5) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 International Residential Code and/or California Building Standards

not addressed by the model code that are no longer necessary nor justified pursuant with Health and Safety Code 18930(a)(7).

Adopt and implement additional necessary amendments to the 2022 California Residential Code that address inadequacies of the 2021 International Residential Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2022 California Residential Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the annual code adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2021 International Residential Code and published as the 2022 California Residential Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Residential Code, establish and or maintain minimum requirements for the prevention of fire and panic for the protection of life and property against fire and panic in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

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

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

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2022 California Residential Code.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: 0

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

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

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

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

DECLARATION OF EVIDENCE

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

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

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

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

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

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

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

N/A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING**

Reference: Government Code Section 11346.5(a)(12).
The SFM did not identify any impact on housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).
SFM has determined that no reasonable alternative considered by SFM or that has otherwise been identified and brought to the attention of SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

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

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

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

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

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

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

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

Reference: Government Code Section 11346.5(a)(14).
General questions regarding procedural and administrative issues should be addressed to:

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

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

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2916
Crystal.sujeski@fire.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION/STATE FIRE MARSHAL**

**NOTICE OF 45-DAY PUBLIC COMMENT
OF PROPOSED ACTION TO BUILDING
STANDARDS OF THE STATE FIRE
MARSHAL REGARDING THE 2022
CALIFORNIA FIRE CODE CALIFORNIA
CODE OF REGULATIONS, TITLE 24, PART 9**

(SFM 06/21)

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 State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 9. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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 18949.2. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 13108, 13143, 13145, 13146, 13211, 16022.5, 17921, 18949.2, Government Code Sections 51176, 51177, 51178 and 51179, Public Resources Code Sections 4201 through 4204.

SFM is proposing this regulatory action based on Health and Safety Code Sections 13108, 13108.5, 13113, 13113.5, 13114, 13132, 13132.7, 13133, 13135, 13143, 13143.1, 13143.2, 13143.6, 13143.9, 13145, 13146, 13210, 13211, 16022.5, 17921, 18897.3, 18928, 18949.2, 25500 through 25545, Government Code Section 51189, Public Education Code 17074.50.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 13108 (a).

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

Health and Safety Code Section 13108.5.

(a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

Health and Safety Code Section 13113.

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

Health and Safety Code Section 13113.5.

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

Health and Safety Code Section 13114 (a).

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

Health and Safety Code Section 13132.

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

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

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

Health and Safety Code Section 13132.7.

Shall require fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133 (a).

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

Health and Safety Code Section 13135.

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

Health and Safety Code Section 13143.

Grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use

as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1 (a).

The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.2.

The State Fire Marshal shall enforce building standards published in the California Building Standards Code and those other rules and regulations adopted by the State Fire Marshal for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation, including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor.

Health and Safety Code Section 13143.6 (a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9.

The State Fire Marshal shall establish minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13145.

The State Fire Marshal, the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

Health and Safety Code Section 13146.

- (a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and

published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:

- (1) The city, county, or city and county with jurisdiction in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:
 - (A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.
 - (B) The chief building official of the city, county, or city and county, or the official's authorized representative.

Health and Safety Code Section 13210.

- (a) "Existing high-rise structure" means a high-rise structure, the construction of which is commenced or completed prior to July 1, 1974.
- (b) "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250.
- (c) "New high-rise structure" means a high-rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 16022.5.

Following completion of construction of a state-owned or state-occupied essential services building, the State Fire Marshal may conduct regular inspections of those buildings for compliance with building standards relating to fire and panic safety.

Health and Safety Code Section 17921 (b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is

not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18897.3

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

Health and Safety Code Section 18928 (a).

Requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18949.2 (b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

- (c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Health and Safety Code Section 25500 through 25545.

- (a) The Legislature declares that, to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of a statewide environmental reporting system for these plans is a statewide requirement. Basic information on the location, type, quantity, and health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidentally released into the environment, is required to be submitted to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

Government Code Section 51176 through 51179.

The purpose of this chapter is to classify lands in the state in accordance with whether a very high fire hazard is present so that public officials are able to

identify measures that will retard the rate of spread, and reduce the potential intensity, of uncontrolled fires that threaten to destroy resources, life, or property, and to require that those measures be taken.

Government Code Section 51189.

No later than January 31, 2020, the State Fire Marshal, in consultation with the director and the Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures, based on information learned from the 2017 wildfire season

Public Education Code 17074.50.

- (a) On and after July 1, 2002, all new construction projects submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection, alarm, and sprinkler system as set forth in Section 17074.52 and approved by the State Fire Marshal.

Public Resources Code 4201 through 4204

The purpose of this article is to provide for the classification of lands within state responsibility areas in accordance with the severity of fire hazard present for the purpose of identifying measures to be taken to retard the rate of spreading and to reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 9, 2019 California Fire Code with SFM amendments and additional building standards relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to adopt the 2022 California Fire Code (California Code of Regulations, Title 24, Part 9) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 International Fire Code and/or California Building Standards not addressed by the model code that are no longer necessary nor justified pursuant with Health and Safety Code 18930(a)(7).

Adopt and implement additional necessary amendments to the 2022 California Fire Code that address inadequacies of the 2021 International Fire Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2022 California Fire Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the annual code adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2021 International Fire Code and published as the 2022 California Fire Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Fire Code, establish and or maintain minimum requirements for the prevention of fire and panic for the protection of life and property against fire and panic in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

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

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

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2022 California Fire Code.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: 0

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

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

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

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

DECLARATION OF EVIDENCE

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

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

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

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

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

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

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

N/A

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).
The SFM did not identify any impact on housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).
SFM has determined that no reasonable alternative considered by SFM or that has otherwise been identified and brought to the attention of SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).
All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).
Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).
SFM shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).
General questions regarding procedural and administrative issues should be addressed to:

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2525 Natomas Park Drive, Suite 130
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Telephone: (916) 263-0916
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PROPOSING STATE AGENCY
CONTACT PERSON FOR
SUBSTANTIVE AND/OR TECHNICAL
QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS

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

Primary Contact:

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

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2916
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**TITLE 24. BUILDING STANDARDS
COMMISSION/STATE FIRE MARSHAL**

NOTICE OF 45-DAY PUBLIC COMMENT
PROPOSED ACTION TO BUILDING
STANDARDS OF THE STATE FIRE
MARSHAL REGARDING THE 2022
CALIFORNIA EXISTING BUILDING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 10

(SFM 07/21)

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 State Fire Marshal (SFM) proposes to adopt, approve, codify,

and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 10. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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 18949.2. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 13108, 13143, 13145, 13146, 13211, 16022.5, 17921, 18949.2, Government Code Sections 51176, 51177, 51178 and 51179, Public Resources Code Sections 4201 through 4204.

The State Fire Marshal is proposing this regulatory action based on Health and Safety Code Sections 13108, 13108.5, 13113, 13113.5, 13114, 13132, 13132.7, 13133, 13135, 13143, 13143.1, 13143.2, 13143.6, 13143.9, 13145, 13146, 13210, 13211, 16022.5, 17921, 18897.3, 18928, 18949.2, 25500 through 25545, Government Code Section 51189, Public Education Code 17074.50.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 13108 (a).

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

Health and Safety Code Section 13108.5.

(a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

Health and Safety Code Section 13113.

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

Health and Safety Code Section 13113.5.

The State Fire Marshal Shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care,

which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114 (a).

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

Health and Safety Code Section 13132.

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

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

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

Health and Safety Code Section 13132.7.

Shall require fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133 (a).

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

Health and Safety Code Section 13135.

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

Health and Safety Code Section 13143.

Grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy

of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1 (a).

The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.2.

The State Fire Marshal shall enforce building standards published in the California Building Standards Code and those other rules and regulations adopted by the State Fire Marshal for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation, including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor.

Health and Safety Code Section 13143.6 (a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9.

The State Fire Marshal shall establish minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13145.

The State Fire Marshal, the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

Health and Safety Code Section 13146.

- (a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:

- (1) The city, county, or city and county with jurisdiction in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:
 - (A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.
 - (B) The chief building official of the city, county, or city and county, or the official's authorized representative.

Health and Safety Code Section 13210.

- (a) "Existing high-rise structure" means a high-rise structure, the construction of which is commenced or completed prior to July 1, 1974.
- (b) "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250.
- (c) "New high-rise structure" means a high-rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 16022.5.

Following completion of construction of a state-owned or state-occupied essential services building, the State Fire Marshal may conduct regular inspections of those buildings for compliance with building standards relating to fire and panic safety.

Health and Safety Code Section 17921 (b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18897.3

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

Health and Safety Code Section 18928 (a).

Requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18949.2 (b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

- (c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Health and Safety Code Section 25500 through 25545.

- (a) The Legislature declares that, to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of a statewide environmental reporting system for these plans is a statewide requirement. Basic information on the location, type, quantity, and health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidentally released into the environment, is required to be submitted to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

Government Code Section 51176 through 51179.

The purpose of this chapter is to classify lands in the state in accordance with whether a very high fire hazard is present so that public officials are able to identify measures that will retard the rate of spread, and reduce the potential intensity, of uncontrolled fires

that threaten to destroy resources, life, or property, and to require that those measures be taken.

Government Code Section 51189.

No later than January 31, 2020, the State Fire Marshal, in consultation with the director and the Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures, based on information learned from the 2017 wildfire season.

Public Education Code 17074.50.

- (a) On and after July 1, 2002, all new construction projects submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection, alarm, and sprinkler system as set forth in Section 17074.52 and approved by the State Fire Marshal.

Public Resources Code 4201 through 4204

The purpose of this article is to provide for the classification of lands within state responsibility areas in accordance with the severity of fire hazard present for the purpose of identifying measures to be taken to retard the rate of spreading and to reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 10, 2019 California Existing Building Code with SFM amendments and additional building standards relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to adopt the 2022 California Existing Building Code (California Code of Regulations, Title 24, Part 10) based upon updated information or recent actions of the SFM. This proposed action:

Repeal certain amendments to the 2018 International Existing Building Code and/or California Building Standards not addressed by the model code that are no longer necessary nor justified pursuant with Health and Safety Code 18930(a)(7).

Adopt and implement additional necessary amendments to the 2022 California Existing

Building Code that address inadequacies of the 2021 International Existing Building Code as they pertain to California laws.

Codify non-substantive editorial and formatting amendments to the 2022 California Existing Building Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the Triennial code adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2021 International Existing Building Code and published as the 2022 California Existing Building Code.

The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Existing Building Code, establish and or maintain minimum requirements for the prevention of fire and panic for the protection of life and property against fire and panic in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the informative digest.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

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

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

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2022 California Existing Building Code.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: 0

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

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

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

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

DECLARATION OF EVIDENCE

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

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

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

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

Therefore, the SFM 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 SFM'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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ESTIMATED COST OF
COMPLIANCE OF STANDARDS
THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).
The SFM did not identify any impact on housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).
SFM has determined that no reasonable alternative considered by SFM or that has otherwise been identified and brought to the attention of SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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

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

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

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

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

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

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

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

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

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2916
Crystal.sujeski@fire.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION/STATE FIRE MARSHAL

NOTICE OF 45-DAY PUBLIC COMMENT FOR PROPOSED ACTION TO BUILDING STANDARDS OF THE STATE FIRE MARSHAL REGARDING THE 2022 CALIFORNIA REFERENCED STANDARDS CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 12

(SFM 08/21)

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 State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 12. The SFM is proposing building standards related to 2021 Triennial rulemaking code cycle.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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 18949.2. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 13108, 13143, 13145, 13146, 13211, 16022.5, 17921, 18949.2, Government Code Sections 51176, 51177, 51178 and 51179, Public Resources Code Sections 4201 through 4204.

The SFM is proposing this regulatory action based on Health and Safety Code Sections 13108, 13108.5, 13113, 13113.5, 13114, 13132, 13143, 13143.2, 13143.6, 13145, 13146, 13210, 13211, 16022.5, 17921, 18949.2, 25500 through 25545, Government Code Section 51189, Public Education Code 17074.50.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 13108 (a).

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

Health and Safety Code Section 13108.5.

- (a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community

Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

Health and Safety Code Section 13113.

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

Health and Safety Code Section 13113.5.

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

Health and Safety Code Section 13114 (a).

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

Health and Safety Code Section 13132.

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

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

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

Health and Safety Code Section 13143.

Grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the

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

Health and Safety Code Section 13143.2.

The State Fire Marshal shall enforce building standards published in the California Building Standards Code and those other rules and regulations adopted by the State Fire Marshal for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation, including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor.

Health and Safety Code Section 13143.6 (a).

The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13145.

The State Fire Marshal, the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

Health and Safety Code Section 13146.

(a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:

- (1) The city, county, or city and county with jurisdiction in the area affected by the standard or regulation shall delegate the enforcement of the building standards

relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:

- (A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.
- (B) The chief building official of the city, county, or city and county, or the official's authorized representative.

Health and Safety Code Section 13210.

- (a) "Existing high-rise structure" means a high-rise structure, the construction of which is commenced or completed prior to July 1, 1974.
- (b) "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250.
- (c) "New high-rise structure" means a high-rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211.

The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 16022.5.

Following completion of construction of a state-owned or state-occupied essential services building, the State Fire Marshal may conduct regular inspections of those buildings for compliance with building standards relating to fire and panic safety.

Health and Safety Code Section 17921 (b).

The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18949.2 (b).

The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing

agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

- (a) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Health and Safety Code Section 25500 through 25545.

- (a) The Legislature declares that, to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of a statewide environmental reporting system for these plans is a statewide requirement. Basic information on the location, type, quantity, and health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidentally released into the environment, is required to be submitted to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

Government Code Section 51176 through 51179.

The purpose of this chapter is to classify lands in the state in accordance with whether a very high fire hazard is present so that public officials are able to identify measures that will retard the rate of spread, and reduce the potential intensity, of uncontrolled fires that threaten to destroy resources, life, or property, and to require that those measures be taken.

Government Code Section 51189.

No later than January 31, 2020, the State Fire Marshal, in consultation with the director and the Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures, based on information learned from the 2017 wildfire season.

Public Education Code 17074.50.

- (a) On and after July 1, 2002, all new construction projects submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection, alarm, and sprinkler system as set forth in Section 17074.52 and approved by the State Fire Marshal.

Public Resources Code 4201 through 4204

The purpose of this article is to provide for the classification of lands within state responsibility areas in accordance with the severity of fire hazard present for the purpose of identifying measures to be taken to retard the rate of spreading and to reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

Summary of Existing Regulations

The SFM currently adopts California Code of Regulations, Title 24, Part 12, 2019 California Reference Standards Code that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to adopt the 2022 California Referenced Standards Code (California Code of Regulations, Title 24, Part 12) based upon updated information or recent actions of the SFM. This proposed action:

Adopt and implement additional necessary amendments to the 2022 California Referenced Standards Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The specific purpose of this rulemaking effort by the SFM is to act accordance with Health and Safety Code section 18929.1, which requires all proposed regulations to specifically comply with this section in regards to the 18 months code adoption cycle.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to update reference standard requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in and published as the 2022 California Referenced Standards Code.

Evaluation of Consistency

The proposed regulations are consistent with existing state regulations.

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

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

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the amendments and building standards relating to the 2022 California Referenced Standards Code.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: 0

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

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

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

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

DECLARATION OF EVIDENCE

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

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

The SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states is supported by the actions taken by the SFM WUI workgroup. The SFM WUI workgroup found that nationally recognized standards have become equivalent to SFM Referenced Standards.

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

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

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

N/A

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

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

The SFM did not identify any impact on housing.

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF RULEMAKING DOCUMENTS

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

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

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

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

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

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

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

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

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

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

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

Back up Contact:

Crystal Sujeski, Deputy State Fire Marshal III
Specialist
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
916-568-2916
Crystal.sujeski@fire.ca.gov

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

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE DIVISION
OF THE STATE ARCHITECT (DSA-SS
AND DSA-SS/CC) REGARDING THE 2022
CALIFORNIA ADMINISTRATIVE CODE,
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1**

(DSA-SS/CC 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 Division of the State Architect (DSA) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. The DSA is proposing building related to structural design and construction oversight of public elementary and secondary schools, community colleges and state-owned or state leased essential services buildings.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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 18949.1. The purpose of these building standards is to implement, interpret, or make specific the provisions of Education Code sections 17280, 17295, 17297, 17302, 17309, 17372, 81130, 81133, 81138, and 81141 and Government Code section 4454.

The Division of the State Architect is proposing this regulatory action based on Education Code sections 17310 and 81142 and Government Code section 4454.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code, Section 18949.1, transfers the responsibilities of DSA to adopt regulations relating to building standards, to the California Building Standards Commission.

Sections 17280–17317 and 81130–81147 are known and cited as the “Field Act”.

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

Section 17372 of the Education Code requires that buildings not constructed to “Field Act” standards shall not be used for elementary or secondary school purposes. It also stipulates that buildings examined and found to be unsafe for school use shall not be used until repaired or reconstructed in accordance with requirements.

Government Code section 4454 requires that projects receiving state funds be reviewed by DSA for access compliance prior to construction contract being issued.

Summary of Existing Regulations

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

Summary of Effect

The proposed action would adopt and amend the current 2019 edition of the California Administrative Code (CAC) (Title 24, Part 1, California Code of Regulations) in order to adopt the 2022 CAC. In addition to editorial updates, the proposed action will:

- Modify Section 4–330 to clarify the intent of the provision that construction must commence on all school buildings within an approved project within four years or else the approval is void for those school buildings which have not yet commenced construction. Given this proposed four-year rule, extensions no longer apply, which also alleviates an unnecessary administrative burden.
- Modify Sections 4–508 through 4–510 in order to repeal language requiring fee payment; DSA has eliminated the fee requirement related to the submission of the required landscape documentation.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

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

Evaluation of Consistency

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

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

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

DSA 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).

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: DSA has determined that this proposed action makes only clarifying changes to existing code language and would have no change in regulatory effect. This proposal does not impose new mandates on local agencies that would require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

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

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

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

DECLARATION OF EVIDENCE

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

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

DSA has not relied on any other facts, evidence, documents, testimony, or other evidence to make its initial determination of no statewide adverse economic impact. The scope of the proposed action is to make editorial and technical modifications to the existing code that are in alignment with statutory requirements and national referenced standards.

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

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

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

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

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

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

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

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

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

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

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

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

DSA has determined that this proposed action will not affect the creation of or elimination of jobs within the State of California.

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

DSA has determined that this proposed action will not affect the creation of nor the elimination of existing business within the State of California.

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

DSA has determined that this proposed action 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.

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

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

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

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

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting

the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

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

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

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

DSA shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Government 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 Nearman
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:

Diane Gould
Principal Structural Engineer
Division of the State Architect
916-324-6959
Diane.Gould@dgs.ca.gov

Back up Contact:

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

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

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE DIVISION
OF THE STATE ARCHITECT (DSA–SS
AND DSA–SS/CC) REGARDING THE 2022
CALIFORNIA BUILDING CODE CALIFORNIA
CODE OF REGULATIONS, TITLE 24, PART 2**

(DSA SS/CC 05/21)

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 Division of the State Architect (DSA) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), title 24, part 2. DSA is proposing building standards related to structural design and construction oversight of public elementary and secondary schools, community colleges and state-owned or state leased essential services buildings.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021** until midnight on **October 18, 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 **October 18, 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: dgs.ca.gov/BSC. 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 18930 and 18948. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code sections 16000–16023, and Education Code sections 17280–17317, 81130–81147 and 81052–81053.

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

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

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

Sections 81052 and 81053 of the Education Code authorize the State Architect to establish building

standards which a community college may elect to use in lieu of those standards promulgated in accordance with Education Code section 81142.

Summary of Existing Regulations

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

Summary of Effect

The proposed action would adopt CCR, title 24, part 2, by adopting the most recent edition of the selected model building code (International Building Code (IBC), 2021 edition) and carrying forward existing amendments. In addition to editorial updates, the proposed action will:

- Integrate currently adopted structural safety amendments into the updated CCR, title 24, part 2.
- Repeal currently adopted amendments deemed to be sufficiently addressed by the adopted model building code.
- Make editorial changes to currently adopted amendments to improve clarity or intent.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

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

Evaluation of Consistency

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

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

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

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

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

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

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

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

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

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

DECLARATION OF EVIDENCE

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

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

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

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

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

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

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

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

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

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

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

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

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

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

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

DSA has determined that this proposed action will not affect the creation of or elimination of jobs within the State of California.

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

DSA has determined that this proposed action will not affect the creation of new businesses nor the elimination of existing businesses within the State of California.

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

DSA has determined that this proposed action 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.

DSA has determined that the proposed regulatory action would have no adverse effect on the health and welfare of California residents, worker safety, and the state's environment.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

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

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

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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

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

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

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

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

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

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

Michael Nearman

2525 Natomas Park Drive, Suite 130

Sacramento, CA 95833

Telephone: (916) 263-0916

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:

Diane Gould

Principal Structural Engineer

Division of the State Architect

916-324-6959

Diane.Gould@dgs.ca.gov

Back up Contact:

Ryan P. Huxley

Supervising Structural Engineer

Division of the State Architect

916-323-9877

ryan.huxley@dgs.ca.gov

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

NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE DIVISION
OF THE STATE ARCHITECT (DSA-SS
AND DSA-SS/CC) REGARDING THE 2022
CALIFORNIA EXISTING BUILDING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 10

(DSA-SS/CC 06/21)

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 the State Architect (DSA) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), title 24, part 10. The DSA is proposing building standards related to structural design and construction oversight of public elementary and secondary schools, community colleges and state-owned or state leased essential services buildings.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 2021**:

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

INFORMATIVE DIGEST

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

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

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

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

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

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.1. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code sections 16000–16023, and Education Code sections 17280–17317, 81130–81147 and 81052–81053.

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

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

Summary of Existing Laws

Sections 16000–16023 of the Health & Safety Code are known and cited as the Essential Services Buildings Seismic Safety Act of 1986. Section 16022 of the Health & Safety Code authorizes the State Architect to establish building standards for state-owned and state-leased essential services buildings.

Health and Safety Code, Section 18949.1, transfers the responsibilities of DSA to adopt regulations relating to building standards, to the California Building Standards Commission.

Sections 17280–17317 and 81130–81147 of the Education Code are known and cited as the “Field Act”. Sections 17310 and 81142 of the Education Code authorize the State Architect to establish building standards for public elementary and secondary schools, and community colleges.

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

Summary of Existing Regulations

Existing building standards which prescribe the design and construction requirements for the repair, alternation, addition, and change of occupancy to existing state-owned or state-leased essential services buildings, public elementary and secondary schools, and community colleges are promulgated by the Division of the State Architect. These regulations are contained in title 24, part 10, California Existing Building Code.

Summary of Effect

The proposed action would adopt California Code of Regulations, title 24, part 10, by adopting the most recent edition of the selected model building code (International Existing Building Code (IEBC), 2021 edition) and carrying forward existing amendments. In addition to editorial and clarifying updates, the proposed action will:

- Adopt selected model code definitions and remove extraneous amendment definitions: Amendment definitions in Chapter 3 have been relocated to Chapter 2 as appropriate for consolidation and consistency, and removed where found to be contradictory, redundant or extraneous.
- Amendments are added to coordinate part 10 requirements with continuing regulations in the Chapter 4 of Part 1 (California Administrative Code) as well as ASCE 7 & ASCE 41.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

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

Evaluation of Consistency

There are no inconsistent or incompatible regulations being proposed.

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

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

DSA 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).

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

ESTIMATE OF COST OR SAVINGS

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

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

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

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

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

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

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

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

DECLARATION OF EVIDENCE

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

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

No facts, evidence, documents, testimony or other evidence has been relied upon by DSA to support the initial determination of no effect. 2021 CEBC regulations have been carried over, and new amendments are adoption of 2021 IEBC model code provisions. All revisions to existing amendments are clarifications with no fiscal or economic impact.

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

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

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

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

DSA is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action.

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

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

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

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

DSA has determined that this proposed action will not affect the creation of or elimination of jobs within the State of California.

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

DSA has determined that this proposed action will not affect the creation of or the elimination of existing business within the State of California.

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

DSA has determined that this proposed action 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.

DSA has determined the health and welfare of California residents, public school children in particular, benefit from the proposed regulations.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

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

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

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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

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

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

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

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

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

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

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

Diane Gould
Principal Structural Engineer
Division of the State Architect
916-324-6959
Diane.Gould@dgs.ca.gov

Back up Contact:

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

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE BUILDING STANDARDS COMMISSION REGARDING THE 2022 CALIFORNIA ADMINISTRATIVE CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1

(BSC 04/21)

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 1. The CBSC is proposing building standards related to administrative regulations.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. 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 Government Code Section 11346 et seq. and Health and Safety Code Sections 18929, 18930, 18931, 18934, 18935, and 18949.6.

The purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Section 11546.7(a) and Health and Safety Code Sections 18927, 18930.5, 18931(f), 18931.6, and 18931.7.

The California Building Standards Commission is proposing this regulatory action based on Health and Safety Code Sections 18909(c), 18929, 18929.1, 18930.5, 18931.6, 18931.7, 18935, and 18937.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

GOV Section 11546.7(a) establishes the state Internet Web site accessibility standards with which state agencies' Internet Web sites are required to comply.

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

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

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

HSC Section 18929.1 states that CBSC shall receive proposed building standards from state agencies for consideration in an 18-month code adoption cycle. The commission shall develop regulations setting forth the procedures for the 18-month adoption cycle.

HSC Section 18930 establishes approval or adoption of building standards; analysis and criteria; review consideration; factual determinations (AKA Nine-Point Criteria).

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

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

HSC Section 18931(f) states that CBSC can adopt any procedural regulation which it deems necessary to administer this part.

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

HSC Section 18931.7 states that CBSC can utilize the Building Standards Administration Special Revolving Fund for the updating of verification guidelines for Tier 1 or Tier 2 green building standards, and the requirements in Section 13159.5 of this code and subdivision (d) of Section 51189 of the Government Code.

HSC Section 18934 sets forth a mandate that authorizes CBSC and other state agencies proposing to adopt building standards to adopt and the commission to approve regulations establishing procedures to ensure public participation in the development of building standards and regulations.

HSC Section 18935 provides for CBSC authority to review and approve proposing and adopting agency

notices and initial statements of reasons; publish notices with the Office of Administrative Law; coordinate hearings held by adopting agencies.

HSC Section 18937 provides CBSC with authority to act on emergency building standards with specific conditions being met for filing and a timeframe.

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

Summary of Existing Regulations

Chapter 1 of the 2019 California Administrative Code (California Code of Regulations, Title 24, Part 1, Chapter 1) contains regulations that explain the various responsibilities and functions of CBSC addressing the development, adoption, and publication of building standards in Title 24, California Code of Regulations. It also includes requirements for state proposing agencies and state adopting agencies involved in the development of building standards.

Summary of Effect

The proposed additions and amendments to Chapter 1, of Part 1, Title 24, California Code of Regulations, are being made to clarify, implement, and make specific requirements relative to procedures for compliance with CBSC rulemaking processes by state adopting and proposing agencies and specific requirements relative to Code Advisory Committee applicants and fee payment methods. Specific rationale is provided for each item within the Initial Statement of Reasons (ISOR).

Comparable Federal Statute or Regulations

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

Policy Statement Overview

The proposed additions and amendments to Chapter 1 for the 2022 California Administrative Code address necessary procedures for compliance with CBSC rulemaking processes by state adopting and proposing agencies and specific requirements relative to Code Advisory Committee applicants and fee payment methods. This is necessary in order to bring the new requirement to the state agencies' attention and eliminate delays, corrections, and additional resubmittals of the rulemaking documents required to comply with Government Code section 11546.7(a).

Evaluation of Consistency

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

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

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

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: **Yes, see Form 399 and Attachment A.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**

Potential cost reductions for local jurisdictions due to electronic payment versus issuing a check. Potential cost reductions for CBSC due to reduced staff time processing physical checks.

- E. Cost or savings in federal funding to the state: **No.**

Estimate: See Form 399 and Attachment A.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

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

If the agency makes an initial determination that the amendment of this regulation will not have a

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

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

DECLARATION OF EVIDENCE

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

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

CBSC has determined that the regulations being proposed are administrative and will only impact Part 1 of Title 24 regarding procedures for compliance with CBSC rulemaking processes by state adopting and proposing agencies.

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

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

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

No report is required for the amendment of these proposed administrative regulations.

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

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

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

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

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

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

The California Building Standards Commission has assessed whether and to what extent this proposal will affect the following:

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

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

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

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

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

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

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

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

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

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

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

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

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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

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

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

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

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

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

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

Irina Brauzman, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
E-mail: Irina.Brauzman@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:

Irina Brauzman, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
E-mail: Irina.Brauzman@dgs.ca.gov

Back up Contact:

Michael L. Nearman, Deputy Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No: (916) 263-0916
E-mail: Michael.Nearman@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
CALIFORNIA BUILDING STANDARDS
COMMISSION REGARDING THE 2022
CALIFORNIA BUILDING CODE CALIFORNIA
CODE OF REGULATIONS, TITLE 24, PART 2

(BSC 05/21)

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

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from September 3, 2021, until midnight on October 18, 2021.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than October 18, 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: dgs.ca.gov/BSC. 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 Government Code Sections 14617 and Health and Safety Code Sections 18930, 18934.5, 18938.5(b)(2)(B), 18942(a) and 18942(b). The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 16600, 16601, 18928, 18928.1, 18930.5, 18331, 18932(c), 18934.5, 18938, 18938(b), 18938.3, 18940.5, 18941.8, 18942 and 18949.

The CBSC is proposing this regulatory action based on Health and Safety Code Sections 16600, 16601, 18928, 18928.1, 18930.5, 18331, 18932(c), 18934.5, 18938, 18938(b), 18938.3, 18940.5, 18941.8, 18942 and 18949.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

Government Code Section 14617 shall adopt regulations to establish a standard of lighting for

parking lots at the University of California, California State University, and California Community Colleges.

Health and Safety Code Section 16600 authorizes CBSC to develop and adopt building seismic retrofit guidelines for state buildings, including those owned by the University of California and by the California State University.

Health and Safety Code Section 16601 authorizes CBSC to review and approve the seismic retrofit building standards as developed by the State Architect and the State Building Standards Commission pursuant to Section 16600.

Health and Safety Code Section 18928 authorizes CBSC to adopt the most recent edition of model code, national standard, or specification.

Health and Safety Code Section 18928.1 sets forth that each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent edition of the model code, as amended or proposed to be amended by the adopting agency, within one (1) year after the date of publication of the model code, national standard, or specification.

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

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

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

Health and Safety Code 18932(c) establishes the contents and format of the building standards code.

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

Health and Safety Code Section 18938 sets forth that model codes as referenced in the California Building Standards Code, Title 24, CCR shall apply to all occupancies throughout the state and shall become effective 180 days after publication or a later date as established by the commission.

Health and Safety Code Section 18938.3 authorizes CBSC to adopt and publish the most recent editions of the model codes.

Health and Safety Code Section 18938.5 establishes the validity of permit; 12–month time period for permit extension.

Health and Safety Code Section 18938.6 establishes the validity of permits and the 180–day time period for permit extension that may be granted by the building official, as specified.

Health and Safety Code Section 18940.5 sets forth that agencies which propose green building standards for inclusion in the California Green Building Standards Code to the extent feasible, reference or re-print green building standards in other parts of Title 24.

Summary of Existing Regulations

The California Building Code, Part 2 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, adopted by reference the 2021 International Building Code (IBC), with California amendments, effective on January 1, 2023.

The purpose of the California Building Code is to establish minimum building standards to safeguard public welfare for local jurisdictions within the state of California and for state buildings and buildings constructed by the University of California and California State Universities. It contains references to other codes, such as the fire code, mechanical code, and plumbing code that are adopted for use in California.

Summary of Effect

CBSC is mandated to adopt the most current editions of the model codes. This proposed action by BSC will make effective the 2021 IBC for occupancies pursuant to Health and Safety Code Section 18934.5, 180 days after publication of the next triennial edition of the California Building Code. This proposed action will also:

- Repeal the 2018 IBC and adopt the 2021 IBC.
- Repeal all 2019 amendments related to mass timber, including cross-laminated timber (CLT), originating from International Code Council's (ICC) Tall Wood Building proposal, and adopt the 2021 IBC language without change.
- Correlate references to model codes that California does not adopt with those that California proposes for adoption.
- A thorough description of the amendment effects may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

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

Evaluation of Consistency

The proposed regulation is not inconsistent or incompatible with existing state regulations.

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

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

The California Building Standards Commission has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: Any additional expenditure resulting from this proposed action will be minimal and will be absorbed within the existing budget 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 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.

The CBSC affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code, Section 18928 and 18934.5. This rulemaking adopts the IBC with minor editorial changes and no intended change in regulatory effect.

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

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

The CBSC has determined that no report is required for this regulation.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

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

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

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

The BSC 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.

This regulation will not affect the creation or elimination of jobs within the State of California.

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

This regulation will not affect the creation or elimination of existing businesses jobs within the State of California.

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

This regulation will not affect the creation or elimination of existing businesses 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 clarify minimum building standards, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

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

The CBSC has determined this proposal would not have a significant effect on housing costs. CBSC does not have authority to impose building standards or regulations affecting housing.

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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

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

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

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

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

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

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

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

Irina Brauzman, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-5159
Irina.Brauzman@dgs.ca.gov

Back up Contact:

Brandon Estes, Associate Construction Analyst
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0677
Brandon.Estes@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE
CALIFORNIA BUILDING STANDARDS
COMMISSION REGARDING THE 2021
CALIFORNIA RESIDENTIAL CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 2.5

(BSC 06/21)

Notice is hereby given that the California Building Standards Commission (CBSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2.5. The CBSC is proposing building standards related to the 2022 California Residential Code, (California Code of Regulations, Title 24, Part 2.5).

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 **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

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

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

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

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

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

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Government Code Sections 14617 and Health and Safety Code Sections 18931, 18932(c), 18938.5(b)(2)(B), 18935.6(a)(b) and 18942(b). The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 16601, 18938.5, 18938.6, 18942, 115920, 115921, 115922, 115923, 115924, 115925, 115926, 115927, 115928 and 115929.

The CBSC is proposing this regulatory action based on Health and Safety Code Sections 18938.5, 18938.6, 115920, 18942, 115921, 115922, 115923, 115924, 115925, 115926, 115927, 115928 and 115929.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

Health and Safety Code Section 18931 establishes the duties of the commission regarding review and

approval, return for amendment with recommended changes, or reject the building standard; codify and publish the approved standards; resolve conflict; ensure consistency; hear appeals and adopt administrative procedures.

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

Health and Safety Code Section 18938.5 states that only those building standards approved by the commission, and that are effective at the local level at the time an application for a building permit is submitted, shall apply to the plans and specifications for, and to the construction performed under, that building permit.

Health and Safety Code Section 18938.6 establishes the validity of permit; 12-month time period for permit extension.

Health and Safety Code Section 18942 requires the commission publish the text of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104, within the requirements for single-family residential occupancies contained in Part 2.5 of Title 24 of the California Code of Regulations.

Health and Safety Code Section 115921 provides definitions related to the Swimming Pool Safety Act.

Health and Safety Code Section 115922 establishes the requirement of a new swimming pool to be equipped with two safety features when a building permit is issued for the construction of a new swimming pool or spa or the remodeling of an existing swimming pool or spa at a private single-family home.

Health and Safety Code Section 115923 establishes the required characteristics for a swimming pool enclosure.

Health and Safety Code Section 115924 requires the contractor to provide approved pool safety information for consumers to download.

Health and Safety Code Section 115928 establishes that whenever a building permit is issued for the construction of a new swimming pool or spa the pool or spa shall meet certain requirements.

Health and Safety Code Section 115929 encourages a private entity, in consultation with the Epidemiology and Prevention for Injury Control Branch of the department, to produce an informative brochure or booklet, for consumer use, explaining the child drowning hazards of possible safety measures for, and appropriate drowning hazard prevention measures for, home swimming pools and spas, and to donate the document to the department.

Summary of Existing Regulations

The 2019 California Building Standards Code, Title 24, California Residential Code (CRC), Part 2.5, adopted by reference the 2018 International Residential

Code with California amendments, became effective on January 1, 2020.

- Require permits to be based on building standards approved by the CBSC and in effect at the time of permit application.
- Require building permits to be obtained prior to the construction or alteration of buildings.
- Address local authority to enforce and provide a reference to the State Housing Law related to several actions available for enforcing unsafe buildings and structures.
- Appendix V reprints the Swimming Pool Safety Act found in Health and Safety Code 115920–115929.

Summary of Effect

This proposed action by CBSC will make effective amendments to the 2021 IRC for occupancies pursuant to Health and Safety Code Section 18934.5, 180 days after publication of the next triennial edition of the California Building Standards Code. This proposed action will also:

Amend administrative permitting expiration information of the 2021 IRC. HSC Section 18942 directs the California Building Standards Commission to reprint The Swimming Pool Safety Act (the Act) into Title 24.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

The objective of these proposed amendments to the California Residential Code are to comply with AB 2913 (Chapter 655, Statutes of 2018) and Health and Safety Code 115920–115929 to ensure the health, safety, and welfare of the public within specified jurisdictions.

Evaluation of Consistency

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

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

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

The California Building Standards Commission (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.

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: Any additional expenditure resulting from this proposed action will be minimal and will be absorbed within the existing budget 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 amendment of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

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

DECLARATION OF EVIDENCE

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

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

CBSC did not rely on any evidence to make this determination. The proposed amendments reprint existing California law.

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

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

CBSC has determined that no report is required for this regulation.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

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

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

Government Code Sections 11346.3(b)(1) and 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.

This regulation will not affect the creation or elimination of jobs within the State of California.

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

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

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

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

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

These regulations will update and clarify minimum building standards, which will provide

increased protection of public health and safety, worker safety and the environment.

**ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING**

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

CBSC has determined this proposal would not have a significant effect on housing costs. CBSC does not have authority to impose building standards or regulations affecting housing. CBSC does not have the authority to promulgate building standards for housing.

CONSIDERATION OF ALTERNATIVES

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

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

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

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

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

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

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

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

BSC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability

for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

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

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

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

Michael L. Nearman, Deputy Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
E-mail: 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 or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Veronica Turdean, Architectural Associate
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0353
E-mail: Veronica.Turdean@dgs.ca.gov

Back up Contact:

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

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION REGARDING THE 2022 CALIFORNIA FIRE CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9

(BSC 08/21)

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 9. The CBSC is proposing building standards related to the 2022 California Fire Code, (California Code of Regulations, Title 24, Part 9).

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 **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

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

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

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

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

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Government Code Section 11346 et seq. and Health and Safety Code Sections 18929, 18930, 18931, 18934, 18935, and 18949.6. The purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Section 11546.7(a) and Health and Safety Code Sections 18927, 18931(f), 18931.6, and 18931.7.

The California Building Standards Commission is proposing this regulatory action based on Health and Safety Code Sections 18909(c), 18929, 18929.1, 18931.6, 18931.7, 18935, and 18937.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

Health and Safety Code Section 16601 authorizes CBSC to review and approve the seismic retrofit building standards as developed by the State Architect and the State Building Standards Commission pursuant to Section 16600.

Health and Safety Code Section 18928 authorizes CBSC to adopt the most recent editions of the model codes, national standards or specifications within one year of publication.

Health and Safety Code Section 18928.1 sets forth that CBSC shall incorporate text of the model codes, applicable national standards or published specifica-

tions, in whole or in part, only by reference, with appropriate additions or deletions in a publication agreement between the commission and the model code organizations.

Health and Safety Code Section 18930 establishes approval or adoption of building standards; analysis and criteria; review consideration; factual determinations (AKA Nine–Point Criteria).

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

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

Health and Safety Code Section 18938 sets forth that model codes as referenced in the California Building Standards Code, Title 24, CCR shall apply to all occupancies throughout the state and shall become effective 180 days after publication or a later date as established by the commission.

Health and Safety Code Section 18938.3 establishes the basis of the building standards adopted and approved by the commission as those contained in the most recent editions of the adopted model codes.

Health and Safety Code Section 18938.5 establishes the validity of the building permit and 12–month time period for permit expiration from the effective date.

HSC Section 18938.6 establishes the extension of time for periods of a valid permit by the building official, of not more than 180 days per extension.

Health and Safety Code Section 18942 requires CBSC to publish, or cause to be published, editions of the code in its entirety once every three years and supplements as necessary during the intervening period.

Summary of Existing Regulations

The California Fire Code, Part 9 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, adopted by reference the 2021 International Fire Code (IFC), with California amendments, effective on January 1, 2023.

The purpose of the California Fire Code is to establish minimum building standards to safeguard public welfare for local jurisdictions within the state of California and for state buildings and buildings constructed by the University of California and California State Universities. It contains references to other codes, such as the fire code, mechanical code, and plumbing code that are adopted for use in California.

Summary of Effect

This proposed action by BSC will make effective administrative changes pursuant to Health and Safety Code Section 18934.5, 180 days after publication in

the California Building Standards Code. This proposed action will also:

Amend Chapter 1 to correct a reference to match text in Parts 2 and 10.

Amend Chapter 1 to change expiration time period of a valid building permit from 180 days to 12 months relative to the effective date.

Amend Chapter 1 to establish the extension of time for periods of a valid permit by the building official, of not more than 180 days per extension.

A thorough description of the amendment effects may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

The objective of these proposed additions and changes to the California Fire Code are to comply with Assembly Bill 2913 (AB 2913) (Chapter 655, Statutes of 2018) by providing standards by which buildings of specified construction types must comply in order to ensure the health, safety, and welfare of the public within specified jurisdictions.

Evaluation of Consistency

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

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

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

BSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

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

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

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: Any additional expenditure resulting from this proposed action will be minimal and will be absorbed within the existing budget 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 amendment of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

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

DECLARATION OF EVIDENCE

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

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

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

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

The CBSC has determined that no report is required for this regulation.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

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

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

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

The BSC has assessed whether and to what extent this proposal will affect the following:

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

This regulation will not affect the creation or elimination of jobs within the State of California.

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

This regulation will not affect the creation of new businesses or the elimination of existing businesses within the State of California.

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

This regulation will not affect the expansion of businesses current 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 clarify minimum building standards, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

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

The CBSC has determined this proposal would not have a significant effect on housing costs. CBSC does not have authority to impose building standards or regulations affecting housing. BSC does not have the authority to promulgate building standards for housing.

CONSIDERATION OF ALTERNATIVES

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

BSC has determined that no reasonable alternative considered by BSC or that has otherwise been identified and brought to the attention of BSC would be more effective in carrying out the purpose for which

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

AVAILABILITY OF RULEMAKING DOCUMENTS

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

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

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

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

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

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

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

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

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

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

Timothy O'Malley, Architectural Associate
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
E-Mail: Timothy.OMalley@dgs.ca.gov

Back up Contact:

Veronica Turdean, Architectural Associate
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0353
E-Mail: Veronica.Turdean@dgs.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION REGARDING THE 2022 CALIFORNIA EXISTING BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 10

(BSC 09/21)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of CBSC proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 10. The CBSC is proposing building standards related to 2022 California Existing Building Code.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

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

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

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

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

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 16601, 18928, 18929, 18930.5, 18934.5, 18934.7, 18940.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Section 14617; Health and Safety Code Sections 16600, 18928, 18928.1, 18929, 18930, 18934.5, 18938.5, 18938.6, 18941.6.

The California Building Standards Commission is proposing this regulatory action based on Government Code Section 14617; Health and Safety Code Sections 16600, 18928, 18930.5, 18934.5, 18934.7, 18938.5, 18938.6, 18940.5.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Government Code Section 14617 authorize BSC to establish a standard of lighting for parking lots at the University of California, California State University, and California Community Colleges.

Health and Safety Code Section (HSC) 16600 authorizes BSC and the Division of the State Architect to develop building seismic retrofit guidelines for existing state buildings.

HSC Section 16601 authorizes CBSC to review and approve the seismic retrofit building standards as developed by the State Architect and the State Building Standards Commission pursuant to Section 16600.

HSC Section 18928 authorizes CBSC to adopt the most recent editions of the model codes, national standards or specifications within one year of publication.

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

HSC Sections 18929 outlines the adoption of administrative regulations applying to implementation of enforcement of building standards; publication, certain Housing and Community Development Department regulations exempted.

HSC Section 18930 establishes approval or adoption of building standards; analysis and criteria; review consideration; factual determinations (AKA Nine-Point Criteria).

HSC 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.

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

HSC Section 18934.7 mandates the commission adopt by reference the building standards of Appendix Chapter 1 of the International Existing Building Code for Building Conservation for publication in

the California Building Standards Code, except for buildings subject to building standards adopted pursuant to Part 1.5 (commencing with Section 17910).

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

HSC Section 18938.6 sets forth every permit shall remain valid for purposes of this part if the work on the site authorized by that permit is commenced within 12 months after its issuance, unless the permittee has abandoned the work authorized by the permit. A permittee may request an extension of a permit. The building official may grant, in writing, one or more extensions of time for periods of not more than 180 days per extension. The permittee shall request an extension pursuant to this subdivision in writing and demonstrate justifiable cause for the extension.

HSC Section 18940.5 sets forth that agencies that propose green building standards for inclusion in the California Green Building Standards Code (Part 11, Title 24) to the extent feasible, reference or reprint green building standards in other parts of Title 24. For purposes of compliance with this section, the republication of the provisions of Part 11 of Title 24 of the California Code of Regulations in other parts of Title 24 of the California Code of Regulations shall not be considered duplication in violation of paragraph (1) of subdivision (a) of Section 18930.

HSC Section 18941.6 requires local jurisdiction to follow Appendix Chapter 1 of the IEBC with regular updates thereafter.

Summary of Existing Regulations

The existing 2019 California Existing Building Code (CEBC) is Part 10 of the California Code of Regulations, Title 24, also referred to as the California Building Standards Code. The 2019 CEBC incorporates, by adoption by the California Building Standards Commission, the 2018 IEBC of the International Code Council (ICC), with amendments for state-owned buildings and buildings constructed by the University of California and California State Universities. This notice of proposed action reflects CBSC's repeal of the 2019 CEBC and adoption by reference the 2021 IEBC, with California amendments, published as the 2022 CEBC and effective January 1, 2023.

Summary of Effect

This proposed action will make effective the 2021 IEBC of ICC, with necessary amendments to state-owned buildings and to all occupancies identified pursuant to Health and Safety Code Section 18938, 180 days after the publication of the 2022 triennial edition of the California Existing Building Code (CEBC). This proposed action by CBSC will also make the

2019 CEBC inoperative for state-owned buildings, and for persons applying for a building permit upon the effective date of the next triennial edition of the CEBC.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

This proposed adoption of the most current edition of the IEBC makes it applicable to state-owned building projects, or any person seeking a building permit at the local level, the most current edition of the IEBC by reference through the California Code of Regulations, Title 24. The adoption of the most current edition of the IEBC provides an up-to-date reference document for existing buildings to be repaired, relocated, altered, added to, or otherwise modified under the next triennial edition of the California Existing Building Code.

Evaluation of Consistency

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

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

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

BSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

BSC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. BSC does not have authority to propose building standards for schools. HSC Section 18928 requires the CBSC to adopt the most current edition of the model codes. HSC Section 18938(b) makes applicable the most current edition of the model existing building code to all occupancies throughout the State of California as prescribed.

ESTIMATE OF COST OR SAVINGS

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

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

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

Estimate: Any additional expenditure resulting from this proposed action will be minimal and will be absorbed within the existing budget 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 of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

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

DECLARATION OF EVIDENCE

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

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

BSC has determined that this regulatory action would not have a significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

Regarding the proposal to continue not to adopt IEBC Chapters 6–11 and 13, BSC has surveyed all proposing agencies and conducted a Code Adoption Committee meeting on April 16, 2021, which was attended by all proposing state agencies, interested parties and American Institute of Architects (AIA) representatives. Based on feedback from the meeting and subsequent conversations between BSC, Department of Housing and Community Development (HCD) and the Office of the State Fire Marshal (SFM), it has been determined that additional research and

stakeholder outreach should be conducted during the 2022 Intervening Code Adoption Cycle to ensure adopted or printed IEBC chapters for inclusion in the California Existing Building Code (CEBC) do not conflict with Health and Safety Code 18930 nine–point criteria, and other California statutes and regulations.

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

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

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

No report is required for the adoption of these proposed regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

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

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

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

The BSC has assessed whether and to what extent this proposal will affect the following:

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

This regulation will not affect the creation or elimination of jobs within the State of California.

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

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

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

This regulation will not affect the expansion of businesses currently doing business with the State of California.

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

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

**ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING**

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

BSC 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).

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

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

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

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

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

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

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

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

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

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

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

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

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

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

Primary Contact:

Irina Brauzman, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
Irina.Brauzman@dgs.ca.gov

Back up Contact:

Timothy O'Malley, Architectural Associate
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0916
Timothy.OMalley@dgs.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION REGARDING THE 2021 CALIFORNIA REFERENCED STANDARDS CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 12

(BSC 07/21)

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 12. The CBSC is proposing building standards related to the 2022 California Referenced Standards Code, (California Code of Regulations, Title 24, Part 12).

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 **September 3rd, 2021** until midnight on **October 18th, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18th, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

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

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

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

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

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Health & Safety Code Sections 18929 and 18932. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health & Safety Code Sections 18929 and 18932.

The CBSC is proposing this regulatory action based on Health & Safety Code Sections 18929 and 18932

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code Section 18929 outlines the adoption of administrative regulations applying to implementation of enforcement of building standards; publication, certain Housing and Community Development Department regulations exempted.

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

Summary of Existing Regulations

The California Referenced Standards Code (Part 12, Title 24, California Code of Regulations) contains standards that are not available by way of the model codes or other national sources, and thus are developed by state agencies. The standards are referenced throughout the other codes of Title 24.

Summary of Effect

This proposed action, upon approval by the commissioners, will amend a cross-referencing table by updating the Chapter titles and its associated sections to Title 24. ACKNOWLEDGEMENTS

section will also be amended to reflect the year of the code, Commissioners, and the Governor update. The adoption of these non-regulatory changes by CBSC is in the public interest, since they clarify, interpret, and provide a non-regulatory aid for designers, builders, and local enforcement agencies.

A thorough description of the amendment effects may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

CBSC is responsible for the development of Part 12 administrative/non-regulatory content.

Evaluation of Consistency

The proposed regulation is not inconsistent or incompatible with existing state regulations.

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

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

The CBSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

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

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

CBSC does not have authority to impose building standards or regulations on school districts. While these referenced standards are applicable for use by local agencies, they are intended as a nonregulatory aid to the code user.

ESTIMATE OF COST OR SAVINGS

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

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

- A. Cost or Savings to any state agency: **No.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**

- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**

- E. Cost or savings in federal funding to the state: **No.**

Estimate: Any additional expenditure resulting from this proposed action will be minimal and will be absorbed within the existing budget 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 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.

The CBSC affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code, Section 18929. This rulemaking has no direct economic impact and is only provided to enhance the clarity of Part 12, a benefit to the code user.

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

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

The CBSC has determined that no report is required for this regulation.

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

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

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

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

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

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

The CBSC 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.

This regulation will not affect the creation or elimination of jobs within the State of California.

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

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

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

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

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

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

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

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

The CBSC has determined this proposal would not have a significant effect on housing costs. CBSC does not have authority to impose building standards or regulations affecting housing.

CONSIDERATION OF ALTERNATIVES

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

CBSC has determined that no reasonable alternative considered by CBSC or that has otherwise been identified and brought to the attention of CBSC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the

proposed action. In addition, no reasonable alternative considered by CBSC or that has otherwise been identified and brought to the attention of CBSC would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

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

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

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

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

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

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

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

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

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

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

Veronica Turdean, Architectural Associate
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-0353
E-mail: Veronica.Turdean@dgs.ca.gov

Back up Contact:

Irina Brauzman, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263-5159
E-mail: Irina.Brauzman@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION/OFFICE OF
STATEWIDE HEALTHPLANNING AND
DEVELOPMENT**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE OFFICE
OF STATEWIDE HEALTH PLANNING AND
DEVELOPMENT REGARDING THE 2022
CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1**

(OSHDP 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 OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHDP) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. OSHDP is proposing building standards related to the construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

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

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

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

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

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code

Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Section 129850.

OSHPD is proposing this regulatory action based on Health and Safety Code, Sections 1275, 18928, 129790, and 129850.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

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

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

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

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

Summary of Existing Regulations

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

Summary of Effect

The proposed action is to carry forward existing California administrative regulations related to the enforcement of building standards for the safety of

hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers.

The proposal makes minor editorial and technical modifications for clarification; provides consistency within Title 24; provides coordination with Title 22, Licensing and Certification requirements; and adopts new provisions for Integrated Reviews.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. The proposal provides editorial and minor technical modifications to administrative regulations for clarification and consistency.

Evaluation of Consistency

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

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

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

There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

OSHPD has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

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

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

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

- E. Cost or savings in federal funding to the state:
No.
 Estimate: Not Applicable.

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

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

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

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

DECLARATION OF EVIDENCE

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

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

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

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

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

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

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

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

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

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

The amendments proposed may provide additional cost to a project. Phased Plan Review (1.64%) and Collaborative Review and Construction (1.95%) have been merged into a single program called Integrated Review. Fees for projects that choose to implement Integrated Review will be 1.95%. Added costs will only be for the projects that may have only been Phased Review and will now be Integrated Review. These projects will result in a .31% increase.

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

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

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

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

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

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

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

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

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

**D. The benefits of the regulation to the health and
 welfare of California residents, worker safety,
 and the state's environment.**

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state's environment.

**ESTIMATED COST OF
 COMPLIANCE OF STANDARDS THAT
 WOULD IMPACT HOUSING**

Reference: Government Code Section 11346.5(a)(12).

These proposed regulations will not result in any cost of compliance that would impact housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

OSHDP has determined that no reasonable alternative considered by OSHDP or that has otherwise been identified and brought to the attention of OSHDP would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

OSHDP shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
Michael.nearman@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Richard Tannahill, Health Facilities Review,
Supervisor
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

Back up Contact:

Lori Campbell, Building Standards Unit
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION/OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT REGARDING THE 2022 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2, VOLUME 2

(OSHDP 06/21)

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 OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHDP) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of

Regulations (CCR), Title 24, Part 2, Volume 2. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021**, until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time, and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Sections 1275, 18928, 129790, and 129850.

OSHPD is proposing this regulatory action based on Health and Safety Code, Section 129850.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code, Section 1275, authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

Health and Safety Code, Section 18928, requires OSHPD to adopt and reference the most recent edition of a model code. The model code, with amendments or proposed changes, shall be adopted within one year after the publication date.

Health and Safety Code, Section 18949.3, transfers the responsibilities of OSHPD to adopt regulations relating to building standards, including but not limited to, responsibilities specified under the Alfred E. Alquist Hospital Facilities Seismic Safety Act to the California Building Standards Commission.

Health and Safety Code, Section 129790, authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of Youth Authority.

Health and Safety Code, Section 129850, authorizes OSHPD to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. OSHPD is also authorized and responsible to submit building standards related to the seismic safety of hospital buildings to the California Building Standards Commission.

Summary of Existing Regulations

Title 24, Part 2, Volume 2, California Building Code (CBC) contains regulations pertaining to the design and construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Part 2, Volumes 1 and 2 of the 2019 California Building Code.

Summary of Effect

The proposed action is to carry forward existing California building regulations related to the enforcement of building standards for the safety of hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers.

The proposal makes minor editorial and technical modifications for clarification; provides consistency within Title 24; provides coordination with Title 22, Licensing and Certification requirements; and provides modified and reorganized regulations that are consistent with the national standards of 2014 FGI Guidelines for Design and Construction of Health Care Facilities.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to this proposed action.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. The proposal provides editorial and minor technical modifications to administrative regulations for clarification and consistency.

Evaluation of Consistency

The proposed regulation is consistent and compatible with existing state regulations.

**OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE
AGENCY OR TO ANY SPECIFIC
REGULATION OR CLASS OF REGULATIONS**

Reference: Government Code Section 11346.5(a)(4).

There are no other matters to identify.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

Reference: Government Code Section 11346.5(a)(5).

OSHPD has determined that the proposed regulatory action **WOULD NOT** impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

A. Cost or Savings to any state agency: **No.**

- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No.**
- E. Cost or savings in federal funding to the state: **No.**

Estimate: Not Applicable.

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

OSHPD has not relied on any other facts, evidence, documents, testimony, or other evidence to make its final determination of no statewide adverse economic impact. The scope of the proposed action is to make editorial and technical modifications to the existing code that are in alignment with health facility licensing requirements and national referenced standards.

**FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE**

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

OSHPD has made an assessment and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

OSHPD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The proposed regulations will not create or eliminate jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

The proposed regulations will not cause expansion of businesses currently doing business with the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state's environment.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

These proposed regulations will not result in any cost of compliance that would impact housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

OSHPD has determined that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to the attention of OSHPD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
Michael.Nearman@dgs.ca.gov

PROPOSING STATE AGENCY
CONTACT PERSON FOR
SUBSTANTIVE AND/OR TECHNICAL
QUESTIONS ON THE PROPOSED CHANGES
TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Richard Tannahill, Health Facilities Review,
Supervisor
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

Back up Contact:

Lori Campbell, Building Standards Unit
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION/OFFICE OF
STATEWIDE HEALTH PLANNING AND
DEVELOPMENT**

NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS OF THE OFFICE
OF STATEWIDE HEALTH PLANNING AND
DEVELOPMENT REGARDING THE 2022
CALIFORNIA EXISTING BUILDING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 10

(OSHPD 05/21)

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 OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of

Regulations (CCR), Title 24, Part 10. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time, and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Section 129850.

OSHPD is proposing this regulatory action based on Health and Safety Code, Sections 1275, 18928, 129790, and 129850.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code, Section 1275, authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

Health and Safety Code, Section 18928, requires OSHPD to adopt and reference the most recent edition of a model code. The model code, with amendments or proposed changes, shall be adopted within one year after the publication date.

Health and Safety Code, Section 18949.3, transfers the responsibilities of OSHPD to adopt regulations relating to building standards, including but not limited to, responsibilities specified under the Alfred E. Alquist Hospital Facilities Seismic Safety Act to the California Building Standards Commission.

Health and Safety Code, Section 129790, authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of Youth Authority.

Health and Safety Code, Section 129850, authorizes OSHPD to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. OSHPD is also authorized and responsible to submit building standards related to the seismic safety of hospital buildings to the California Building Standards Commission.

Summary of Existing Regulations

Title 24, Part 10, California Existing Building Code (CEBC) contains regulations pertaining to the design and construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Part 2, Volumes 1 and 2 of the 2019 California Building Code.

Summary of Effect

OSHPD is adopting the 2021 International Existing Building Code which will be the basis for the 2022 California Existing Building Code. The proposal makes minor editorial and technical modifications for clarification; provides consistency within Title 24; and provides coordination with Title 22, Licensing and Certification requirements.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to this proposed action.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. The intent of this proposal is to adopt the most recent model code as mandated by statute and provide editorial and minor technical modifications for clarification and consistency within the code.

Evaluation of Consistency

The proposed regulation is consistent and compatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

OSHPD has determined that the proposed regulatory action **WOULD NOT** impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **No.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**

D. Other nondiscretionary cost or savings imposed on local agencies: **No.**

E. Cost or savings in federal funding to the state: **No.**

Estimate: Not Applicable.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

OSHPD has not relied on any other facts, evidence, documents, testimony, or other evidence to make its final determination of no statewide adverse economic impact. The scope of the proposed action is to make editorial and technical modifications to the existing code that are in alignment with health facility licensing requirements and national referenced standards.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

OSHPD has made an assessment and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

OSHPD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The proposed regulations will not create or eliminate jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

The proposed regulations will not cause expansion of businesses currently doing business with the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state's environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

These proposed regulations will not result in any cost of compliance that would impact housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

OSHDP has determined that no reasonable alternative considered by OSHDP or that has otherwise been identified and brought to the attention of OSHDP would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

OSHDP 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:

Irina Brauzman, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
Irina.brauzman@dgs.ca.gov

**PROPOSING STATE AGENCY
CONTACT PERSON FOR
SUBSTANTIVE AND/OR TECHNICAL
QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Richard Tannahill, Health Facilities Review,
Supervisor
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

Back up Contact:

Lori Campbell, Building Standards Unit
Office of Statewide Health Planning and
Development
Facilities Development Division
(916) 440-8300
regsunit@oshpd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION/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 CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 2**

(HCD 05/21)

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 adoption of the 2021 International Building Code (IBC).

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 September 3, 2021 until midnight on October 18, 2021.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

U.S. Mail postmarked no later than October 4, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) section 18949.5.

The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, 18938.3, 18938.6, 18941, 18941.5, 19890, 19891, 19892, and 19960 through 19997; Business and Professions Code Sections 5537 and 6737.1; Civil Code sections 832, 1101.4, 1101.5, 1954.201, 1954.202, and 5551; and Government Code (GC) sections 8698.4, 12955.1, 12955.1.1, and 65852.2. California Code of Regulations (CCR), title 20, sections 1605.1, 1605.3, and 1607.

HCD is proposing this regulatory action based on HSC sections 17040, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17926, 17927, 17928, 17958.12, 18552, 18554, 18620, 18630, 18640, 18670, 18960, 18691, 18865, 18871.3, 18871.4, 18873.1 through 18873.5, 18938.3, 18944.11, and 19990; and GC sections 12955.1 and 12955.1.1.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

HSC section 17921 and GC section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC. HSC section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

HSC section 17922 states that the most recent editions of the uniform codes referred to in that section shall be considered to be adopted one year after the date of publication of the uniform codes.

HSC section 17040 requires HCD to adopt building standards for employee housing for "... the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing."

HSC section 19990 requires HCD to adopt building standards for factory-built housing.

HSC sections 18620 and 18873 require HCD to adopt building standards for permanent buildings in mobilehome parks and special occupancy parks.

HSC sections 18552 and 18871.3 require HCD to adopt building standards for accessory buildings or structures in mobilehome parks and special occupancy parks.

Summary of Existing Regulations

The 2019 California Building Code (CBC), CCR, title 24, part 2, adopted by reference the 2018 IBC with California amendments, became effective on January 1, 2020.

Summary of Effect

HCD proposes to adopt by reference the 2021 IBC, with California amendments, into the 2022 CBC, CCR, title 24, part 2, for the following programs:

- a) State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC section 17921.
- b) Employee Housing Program: relative to any building or structure on premises or property in accordance with HSC section 17040.
- c) Mobilehome Parks and Special Occupancy Parks Programs: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18552, 18620, 18871.3 and 18873.
- d) Factory-Built Housing Program: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance with HSC section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity, and give direction for the code user. A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations, as part of the update to the 2019 California Building Standards Code (CCR, title 24), will adopt, amend, or repeal existing building standards and establish new building standards, which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks.

These updates will result in the 2022 California Building Standards Code.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards on a statewide basis, as required by statute, results in uniformity in residential construction and promotes affordable costs.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

A. Cost or Savings to any state agency: **None.**

HSC section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to CBSC pursuant to the provisions of chapter 4 (commencing with section 18935) of HSC division 13, part 2.5. HSC division 13, part 2.5 requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location in the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.

- B.** Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

HSC section 17951 provides that local enforcement agencies may prescribe fees to defray the costs of enforcement of the State Housing Law including compliance with these regulations.

- C.** Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

- D.** Other nondiscretionary cost or savings imposed on local agencies: **None.**

- E.** Cost or savings in federal funding to the state: **None.**

Estimate: \$0 HCD believes that any additional expenditure resulting from this proposed action will be minimal and can be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to GC section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

Pursuant to GC section 11346.2(b)(5)(B)(ii), adoption of the model codes is exempt from identification of the estimated cost of compliance, the estimated potential

benefits, and the related assumptions used to determine the estimates in the Initial Statement of Reasons.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

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 GC section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

HCD has assessed whether or not and to what extent this proposal will affect the following:

- A. The creation or elimination of jobs within the State of California.**

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

- B. The creation of new businesses or the elimination of existing businesses within the State of California.**

These regulations will not affect the creation or the elimination of businesses within the State of California.

- C. The expansion of businesses currently doing business within the State of California.**

These regulations will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The adoption of the 2021 IBC by reference with California amendments will provide stakeholders with provisions that adequately protect public health, safety and welfare; that do not unnecessarily increase construction costs; that do not restrict the use of new materials, products or methods of construction; and that do not give preferential treatment to particular types or classes of materials, products or methods of construction. The adoption also allows for innovation, new technologies, and accommodation of specialized requirements for the State of California. These regulations will also update and improve minimum existing building standards, which will provide increased protection of public health and safety, worker safety, and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

- No increased cost of compliance for those regulations that make only technical and nonsubstantive changes.
- GC section 11346.2(b)(5)(B)(ii) provides that the model codes adopted pursuant to HSC section 18928 shall be exempt from the requirements of section 11346.2(b)(5)(B) unless upon request as specified. The purpose of this rulemaking is to adopt the 2021 IBC which is a model code setting forth requirements for the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.
- The potential benefits provide recognition and appropriate use of new technologies and materials, clarity for the code users and local enforcement agencies, and may increase business due to the adoption of new building standards.
- Protection of public health and safety, worker safety, and the environment.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
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:

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

**TITLE 24. 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
RESIDENTIAL CODE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 2.5

(HCD 06/21)

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 2.5. HCD is proposing building standards related to the adoption of the 2021 International Residential Code (IRC).

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 **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) Section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, 18938.6, 19890, 19891, 19892, 18941, 18941.5, 19890, 19891, 19892, and 19960 through 19997; Business and Professions Code Sections 5537 and 6737.1; Civil Code Sections 832, 1101.4, 1101.5, 1954.201, 1954.202, and 5551; Government Code Sections 8698.4, 12955.1, 12955.1.1, and 65852.2; and CCR, Title 20, Sections 1605.1, 1605.3 and 1607.

HCD is proposing this regulatory action based on HSC Sections 17040, 17920.9, 17921, 17921.5, 17921.6, 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, 18944.11, and 19990; 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 Section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

HSC Section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. CBSC is authorized to adopt these building standards under the authority granted by HSC Section 18949.5.

HSC Section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

HSC Section 17040 requires HCD to adopt building standards for employee housing for "...the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing."

HSC Section 19990 requires HCD to adopt building standards for factory-built housing.

HSC Sections 18620 and 18873 require HCD to adopt building standards for permanent buildings in mobilehome parks and special occupancy parks.

Summary of Existing Regulations

The 2019 California Residential Code (CRC), CCR, Title 24, Part 2.5, adopted by reference the 2018 IRC with California amendments, effective on January 1, 2020.

Summary of Effect

HCD proposes to adopt by reference the 2021 IRC, with California amendments, into the 2022 CRC, CCR, Title 24, Part 2.5, for the following programs:

- State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC Section 17921.
- Employee Housing Program: relative to any building or structure or outdoors on premises or property in accordance with HSC Section 17040.
- Mobilehome Parks and Special Occupancy Parks Programs: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC Sections 18620 and 18873.
- Factory-Built Housing Program: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance with HSC Section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity, and give direction for the code user. A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations, as part of the update to the 2019 California Building Standards Code (CCR, Title 24), will adopt, amend, or repeal existing building standards and establish new building standards, which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks. These updates will result in the 2022 California Building Standards Code.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods

and materials and applying those building standards on a statewide basis, as required by statute, results in uniformity in residential construction and promotes affordable costs.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

**OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE
AGENCY OR TO ANY SPECIFIC
REGULATION OR CLASS OF REGULATIONS**

Reference: Government Code Section 11346.5(a)(4).
None.

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

Reference: Government Code Section 11346.5(a)(5).
HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: No.**
HSC Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to CBSC pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Government Code Part 2.5. Government Code Part 2.5 requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location in the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: No.**
HSC Section 17951 provides that local enforcement agencies may prescribe fees to defray the costs of enforcement of the State Housing Law including compliance with these regulations.

- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: No.**
- D. Other nondiscretionary cost or savings imposed on local agencies: No.**
- E. Cost or savings in federal funding to the state: No.**

Estimate: \$0 HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

Reference: Government Code Section 11346.5(a)(8).
If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).
In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.
HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to 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.
Pursuant to Government Code Section 11346.2(b)(5)(B)(ii) adoption of the model codes is exempt from identification of the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates in the Initial Statement of Reasons.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

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:

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

HCD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The adoption of the 2021 IRC by reference with California amendments will provide stakeholders with provisions that adequately protect public health, safety and welfare; that do not unnecessarily increase construction costs; that do not restrict the use of new materials, products or methods of construction; and that do not give preferential treatment to particular types or classes of materials, products or methods of construction. The adoption also allows for innovation, new technologies, and accommodation of specialized requirements for the State of California. These regulations will also update and improve minimum existing building standards, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

- No increased cost of compliance for those regulations that make only technical and nonsubstantive changes.
- Government Code Section 11346.2(b)(5)(B) (ii) provides that the model codes adopted pursuant to HSC Section 18928 shall be exempt from the requirements of Government Code Section 11346.2(b)(5)(B) unless upon request as specified. The purpose of this rulemaking is to adopt the 2021 IRC which is a model code setting forth provisions for the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height.
- The potential benefits provide recognition and appropriate use of new technologies and materials, clarity for the code users and local enforcement agencies, and may increase business due to the adoption of new building standards.
- Protection of public health and safety, worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD would

be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
E-Mail: 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:

Tom Martin, District Representative II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-3272
Thomas.G.Martin@hcd.ca.gov

Back up Contact:

Emily Withers, Codes and Standards
Administrator I
Department of Housing and Community
Development
State Housing Law Program
(916) 263-2998
Emily.Withers@hcd.ca.gov

TITLE 24. 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
EXISTING BUILDING CODE CALIFORNIA
CODE OF REGULATIONS, TITLE 24, PART 10

(HCD 07/21)

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 10. The HCD is proposing building standards related to the adoption of the 2021 International Existing Building Code (IEBC).

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 **September 3, 2021** until midnight on **October 18, 2021**.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments

U.S. Mail postmarked no later than **October 18, 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: dgs.ca.gov/BSC. Use the e-Comment form to ensure accessibility.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) Section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, 18938.6, 18941, 18941.5, 19890, 19891, 19892, and 19960 through 19997; Civil Code Sections 1101.4, 1101.5, 1954.201, 1954.202, and 5551; Government Code Sections 8698.4, 12955.1, 12955.1.1, and 65852.2; and CCR, Title 20, Sections 1605.1, 1605.3, and 1607.

HCD is proposing this regulatory action based on HSC Sections 17040, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17926, 17927, 17928, 17958.12, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1 through 18873.5, 18938.3, 18944.11, and 19990; and Government Code Sections 12955.1 and 12955.1.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

HSC Section 17921 and Government Code Section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

HSC Section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. CBSC is authorized to adopt these building standards under the authority granted by HSC Section 18949.5.

HSC Section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

HSC Section 17040 requires HCD to adopt building standards for employee housing for "... the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing."

HSC Section 19990 requires HCD to adopt building standards for factory-built housing.

HSC Sections 18620 and 18873 require HCD to adopt building standards for permanent buildings in mobilehome parks and special occupancy parks.

Summary of Existing Regulations

The 2019 California Existing Building Code (CEBC), CCR, Title 24, Part 10, adopted by reference

the 2018 IEBC with California amendments, effective on January 1, 2020.

Summary of Effect

HCD proposes to adopt by reference the 2021 IEBC, with California amendments, into the 2022 CEBC, CCR, Title 24, Part 10, for the following programs:

- State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided in HSC Section 17921.
- Employee Housing Program: relative to any building or structure or outdoors on premises or property in accordance with HSC Section 17040.
- Mobilehome Parks and Special Occupancy Parks Programs: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC Sections 18620 and 18873.
- Factory-Built Housing Program: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance with HSC Section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity, and give direction for the code user. A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations, as part of the update to the 2019 California Building Standards Code (CCR, Title 24), will adopt, amend, or repeal existing building standards and establish new building standards, which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks. These updates will result in the 2022 California Building Standards Code.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards on a statewide basis, as required by statute, results in

uniformity in residential construction and promotes affordable costs.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).
None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).
HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

A. Cost or Savings to any state agency: **No.**

HSC Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to CBSC pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Government Code, Part 2.5. Government Code, Part 2.5, requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions for existing buildings 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: **No.**

HSC Section 17951 provides that local enforcement agencies may prescribe fees to defray the costs of enforcement of the State Housing Law including compliance with these regulations.

C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**

- D.** Other nondiscretionary cost or savings imposed on local agencies: **No.**
- E.** Cost or savings in federal funding to the state: **No.**

Estimate: \$0 HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to 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.

Pursuant to Government Code Section 11346.2(b)(5)(B)(ii) adoption of the model codes is exempt from identification of the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates in the Initial Statement of Reasons.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that

it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

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:

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

HCD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The adoption of the 2021 IEBC by reference with California amendments will provide stakeholders with provisions that adequately protect public health, safety and welfare; that do not unnecessarily increase construction costs; that do not restrict the use of new materials, products or methods of construction; and that do not give

preferential treatment to particular types or classes of materials, products or methods of construction. The adoption also allows for innovation, new technologies, and accommodation of specialized requirements for the State of California. These regulations will also update and improve minimum existing building standards, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

- No increased cost of compliance for those regulations that make only technical and nonsubstantive changes.
- Government Code Section 11346.2(b)(5)(B) (ii) provides that the model codes adopted pursuant to HSC Section 18928 shall be exempt from the requirements of Government Code Section 11346.2(b)(5)(B) unless upon request as specified. The purpose of this rulemaking is to adopt the 2021 IEBC which is a model code setting forth requirements for the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.
- The potential benefits provide recognition and appropriate use of new technologies and materials, clarity for the code users and local enforcement agencies, and may increase business due to the adoption of new building standards.
- Protection of public health and safety, worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD would be more effective in carrying out the purpose for which the action is proposed or would be as effective

and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
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:

Tom Martin, District Representative II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-3272
Thomas.G.Martin@hcd.ca.gov

Back up Contact:

Emily Withers, Codes and Standards
Administrator II
Department of Housing and Community
Development
State Housing Law Program
(916) 263-2998
Emily.Withers@hcd.ca.gov

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND
WILDLIFE

HABITAT RESTORATION AND
ENHANCEMENT ACT
CONSISTENCY DETERMINATION
NO. 1653-2021-075-001-R1

Project: Bond Creek Large Wood Augmentation Project
Location: Mendocino County
Applicant: Elise Ferrarese, Trout Unlimited

Background

Project Location: The Bond Creek Large Wood Augmentation Project (Project) is located within the Eel River Hydrologic Unit 111.32. The Project impacts Bond Creek, a tributary to Hollow Tree Creek, in Mendocino County. Coordinates for the Project are approximately latitude 39.553499° North and longitude 123.681135° West at property owned by Lyme Redwood Timber Company, Assessor Parcel Numbers 01515004, 01515012. Bond Creek supports

populations of Coho Salmon, Steelhead Trout, and other aquatic species.

Project Description: Trout Unlimited (Applicant) proposes to install approximately 69 key pieces of wood at 49 individual structure sites along 1.6 miles of Bond Creek. The project will increase stream complexity, pool frequency, pool depth, high flow refugia, and over-summer rearing habitat. The purpose of this project is to enhance instream habitat for Coho Salmon and Steelhead Trout. The Project will primarily use accelerated or rapid recruitment methods and generally be unanchored or anchored using non-traditional methods. Tree felling will occur through use of a chainsaw close to the river with the majority felled upslope and dragged into place, while some may be directionally felled into place in river. Additional small and medium woody debris may be placed at structures to increase complexity of individual structures and encourage retention of additional instream debris. Structures may be augmented with placement of appropriately sized salvaged or stockpiled logs and root wads. Structure placement may require the use of a rubber-tired skidder and cable winching techniques to retrieve riparian or upslope trees and to facilitate appropriate instream orientation.

Detailed Project plans, discussion of proposed work, species protection measures, site photos and maps are on file with California Department of Fish and Wildlife's (CDFW) Habitat Conservation Planning Branch (HCPB).

Project Size: The total area of ground disturbance associated with the Project is approximately 1.45 acres and 103.5 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 149 cubic yards of large woody material, (2) 4 cubic yards of streambank soil, (3) 8 to 10 anchor points including 1" diameter all-thread rebar; 3.5" hex nuts or lock nuts; square washers.

Project Timeframes:

Start date: September 2021

Completion date: October 2026

Work window: June 15 – October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in

California, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B21147WNME, Electronic Content Management Identification (ECM PIN) No. CW-875095 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided supplemental documents that set forth measures to avoid and minimize impacts to Coho Salmon, Steelhead Trout, and other aquatic and terrestrial species.

Receiving Water: Bond Creek, tributary to Hollow Tree Creek, tributary to South Fork Eel River

Filled/Excavated Area:

Permanent Area Impacted: none

Temporary Area Impacted: 1.45 acres

Length Permanently Impacted: none

Length Temporarily Impacted: 103.5 Linear feet

Latitude/Longitude:

39.553499° N, -123.681135° W (downstream end)

39.547534° N, -123.666214° W (upstream end)

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On August 9, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 9, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2021-0809-02) on August 20, 2021. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Erosion control measures; (2) Measures to minimize disturbance from instream construction; (3) Measures to minimize degradation of water quality; (4) Measures to minimize loss or disturbance of riparian vegetation; (5) General measures to avoid impacts on Environmental and Cultural Resources; (6) Equipment and Spill Prevention. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Bond Creek Large Wood Augmentation Project 401 Notice of Intent Supplementary Pages*.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *MONITORING AND REPORTING PLAN BOND CREEK LARGE WOOD AUGMENTATION PROJECT*.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries

and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: scott.monday@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subdivision (c).)

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2021-074-001-R1

Project: Middle Fork Ten Mile Large Wood Augmentation
Location: Mendocino County
Applicant: Elise Ferrarese, Trout Unlimited

Background

Project Location: The Middle Fork Ten Mile Large Wood Augmentation (Project) is located within the Mendocino Coast Hydrologic Unit 113.13, Middle Fork Ten Mile River. The Project impacts Middle Fork Ten Mile River, a tributary to the Ten Mile River, in Mendocino County. Coordinates for the Project are approximately latitude 39.553499° North and longitude 123.681135° West at property owned by Lyme Redwood Timber Company, Assessor Parcel Numbers 01515004, 01515012. Middle Fork Ten Mile River supports populations of Coho Salmon, Steelhead Trout, and other aquatic species.

Project Description: Trout Unlimited (Applicant) proposes to install approximately 39 key pieces of wood at 23 individual structure sites along 1.25 miles of

Middle Fork Ten Mile River. The project will increase stream complexity, pool frequency, pool depth, high flow refugia, and over-summer rearing habitat. The purpose of this project is to enhance instream habitat for Coho Salmon and Steelhead Trout. Instream structure will be provided by falling existing standing timber generally upslope directionally away from the creek and then placed/winchd into the active channel with rubber-tired equipment (skidder; no backhoe required). Many of these logs will require some long equipment winching and associated rigging. A relatively few trees will be directly fallen into the active channel. Additional structure may be provided by placing appropriately sized salvaged or stockpiled logs and rootwads with equipment, as appropriate. At appropriate structures, small woody debris (SWD) or medium woody debris (MWD) will also be placed by hand or with equipment to increase the complexity of individual structures and encourage retention of additional instream debris.

Detailed Project plans, discussion of proposed work, species protection measures, site photos and maps are on file with California Department of Fish and Wildlife's (CDFW) Habitat Conservation Planning Branch (HCPB).

Project Size: The total area of ground disturbance associated with the Project is approximately 1.19 acres and 85 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 328 cubic yards of large woody material, (2) 3 cubic yards of streambank soil, (3) 8 to 10 pieces of metal rebar.

Project Timeframes:

Start date: September 2021

Completion date: October 2026

Work window: June 15 – October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B21145WNME,

Electronic Content Management Identification (ECM PIN) No. CW-875002 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided supplemental documents that set forth measures to avoid and minimize impacts to Coho Salmon, Steelhead Trout, and other aquatic and terrestrial species.

Receiving Water: Middle Fork Ten Mile River, tributary to Ten Mile River

Filled/Excavated Area:

Permanent Area Impacted: none

Temporary Area Impacted: 1.19 acres

Length Permanently Impacted: none

Length Temporarily Impacted: 85 Linear feet

Latitude/Longitude: 39.553499° N, -123.681135° W (centerpoint)

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On August 9, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 9, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2021-0809-05) on August 20, 2021. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section

401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Erosion control measures; (2) Measures to minimize disturbance from instream construction; (3) Measures to minimize degradation of water quality; (4) Measures to minimize loss or disturbance of riparian vegetation; (5) General measures to avoid impacts on Environmental and Cultural Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Middle Fork Ten Mile Large Wood Augmentation Project 401 Notice of Intent Supplementary Pages*.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *MONITORING AND REPORTING PLAN MIDDLE FORK TEN MILE RIVER LARGE WOOD ENHANCEMENT PROJECT*.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: scott.monday@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subdivision (c).)

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2021-076-001-R1

Project: Neefus Gulch Fish Passage and
Habitat Improvement Project
Location: Mendocino County
Applicant: Elise Ferrarese, Trout Unlimited

Background

Project Location: The Neefus Gulch Fish Passage and Habitat Improvement Project (Project) is located within the Mendocino Coast Hydrologic Unit 113.50, Navarro River Hydrologic Area. The Project impacts Neefus Gulch, a tributary to the North Fork Navarro River, in Mendocino County. Coordinates for the Project are approximately latitude 39.17592° North and longitude 123.56846° West at property owned by Mendocino Redwood Company, LLC, and other private landowners, Assessor Parcel Numbers 12828009, 12828010, 02601042. Neefus Gulch supports populations of Coho Salmon, Steelhead Trout, and other aquatic species.

Project Description: Trout Unlimited (Applicant) proposes to restore fish passage conditions at the culverted stream crossing of Neefus Gulch, tributary to the North Fork Navarro River, on Appian Way which is currently a total barrier to Coho Salmon and Steelhead Trout. The project includes two treatment reaches. The Rancho Navarro Association (RNA) Treatment reach will restore hydraulic conditions

for fish passage by constructing a self-sustaining stream simulation channel bed and banks within an embedded culvert crossing and restore 200 feet of channel immediately downstream of the crossing with nine large wood grade control structures. Restoring access at this site is the first of two phases of fish barrier remediation in Neefus Gulch. The Mendocino Redwood Company treatment reach is immediately downstream from RNA reach and will address active incision and channel widening occurring via knick-point migration and bank failures that deliver sediment in a geomorphically unstable reach below the crossing. In this treatment reach 14 large wood structures will be installed in 1,600' of incising channel between the knickpoint and the Masonite Road. Detailed Project plans, discussion of proposed work, species protection measures, site photos and maps are on file with California Department of Fish and Wildlife's (CDFW) Habitat Conservation Planning Branch (HCPB).

Project Size: The total area of ground disturbance associated with the Project is approximately 2.58 acres and 365 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 342 cubic yards of large woody material, (2) 62 cubic yards of riprap, (3) 1 56-foot long multi-plate pipe arch with a 12'10" span and 8'4" rise, (4) 60 Rebar Anchors-(1"x4", steel nut and washer each), (5) 400 square yards of coir fabric, (6) 177 cubic yards of streambed gravel.

Project Timeframes:

Start date: September 2021

Completion date: October 2026

Work window: June 15 – October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B20222WNME, Electronic Content Management Identification (ECM PIN) No. CW-871374 for the Project. The NOA describes the Project and requires

the Applicant to comply with terms of the Order. Additionally, the Applicant has provided supplemental documents that set forth measures to avoid and minimize impacts to Coho Salmon, Steelhead Trout, and other aquatic and terrestrial species.

Receiving Water: Neefus Gulch, tributary to North Fork Navarro River

Filled/Excavated Area:

Permanent Area Impacted: 0.049

Temporary Area Impacted: 2.94 acres

Total Linear Impacts: Length Permanently Impacted: 150

Length Temporarily Impacted: 100 Linear feet

Latitude/Longitude: 39.17592° North, -123.56846° West (centerpoint)

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On August 9, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 9, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2021-0809-04) on August 20, 2021. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Erosion control measures; (2) Measures to minimize disturbance from instream construction; (3) Measures to minimize degradation of water quality; (4) Measures to minimize loss or disturbance of riparian vegetation; (5) General Measures to avoid impacts on cultural and biological resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Additional Pages for the GENERAL 401 WATER QUALITY CERTIFICATION ORDER FOR SMALL HABITAT RESTORATION PROJECTS*.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan — Neefus Gulch Fish Passage and Habitat Improvement Project*.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: scott.monday@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653

shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subdivision (c).)

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653–2021–073–001–R1

Project: Hayworth Creek Large Wood Augmentation Project
Location: Mendocino County
Applicant: Elise Ferrarese, Trout Unlimited

Background

Project Location: The Hayworth Creek Large Wood Augmentation Project (Project) is located within the Mendocino Coast Hydrologic Unit 113.20, Noyo River Hydrologic Area. The Project impacts Hayworth Creek, a tributary to the North Fork Noyo River, in Mendocino County. Coordinates for the Project are approximately latitude 39.47544° North and longitude 123.49197° West at property owned by Mendocino Redwood Company, LLC, Assessor Parcel Numbers 01532003, 01532022, 01530030. Hayworth Creek supports populations of Coho Salmon, Steelhead Trout, and other aquatic species.

Project Description: Trout Unlimited (Applicant) proposes to install approximately 89 pieces of wood at 40 individual structure sites along 1.5 miles of Hayworth Creek. The project will increase stream complexity, pool frequency, pool depth, high flow refugia, and over-summer rearing habitat. The purpose of this project is to enhance instream habitat for Coho Salmon and Steelhead Trout. Instream structure will be provided by falling existing standing timber on-site into or near the creek and placing instream with rubber-tired equipment (i.e. skidder and backhoe). The project will also require the use of an excavator to exhume and install whole trees with rootwads

attached. Additional structure may also be provided by placing appropriately sized salvaged or stockpiled logs and rootwads with equipment. Most project logs are intentionally wedged into existing riparian vegetation with the intent to minimize downstream movement while providing a collection point for additional project wood or pre-existing instream wood. Additional small woody debris (SWD) or medium woody debris (MWD) is also placed by hand or with equipment to increase the complexity of individual structures and encourage retention of additional instream debris. This reach also contains many existing spanner logs across the stream channel that can be enhanced with minimal equipment effort. Some trees may also be sourced from upslope locations near the project area, and some longer winching with the skidder may be required to place project wood.

The Project is funded through the State Water Resources Control Board Grant Agreement D1813110 pursuant to the Timber Regulation and Forest Restoration Fund — Public Resources Code Sections 4629, et seq Resolution No. 2018–0042. Detailed Project plans, discussion of proposed work, species protection measures, site photos and maps are on file with California Department of Fish and Wildlife’s (CDFW) Habitat Conservation Planning Branch (HCPB).

Project Size: The total area of ground disturbance associated with the Project is approximately 1.86 acres and 182 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 472 cubic yards of large woody material, (2) 4 cubic yards of streambank soil, (3) 31 anchor points with 1' diameter all-thread rebar; 3.5" hex nuts or lock nuts; square washers.

Project Timeframes:

Start date: September 2021

Completion date: October 2026

Work window: June 15 – October 31

Water Quality Certification Background: Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401

Water Quality Certification Order for Small Habitat Restoration Projects SBI2006GN (Order) (Waste Discharge Identification (WDID) No. 1B21141WNME, Electronic Content Management Identification (ECM PIN) No. CW-874813 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided supplemental documents that set forth measures to avoid and minimize impacts to Coho Salmon, Steelhead Trout, and other aquatic and terrestrial species.

Receiving Water: Hayworth Creek, tributary to North Fork Noyo River

Filled/Excavated Area:

Permanent Area Impacted: none

Temporary Area Impacted: 1.7 acres

Length Permanently Impacted: none

Length Temporarily Impacted: 182 Linear feet

Latitude/Longitude: 39.47544° North, -123.49197° West (centerpoint)

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On August 9, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 9, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2021-0809-06) on August 20, 2021. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the

eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Erosion control measures; (2) Measures to minimize disturbance from instream construction; (3) Measures to minimize degradation of water quality; (4) Measures to minimize loss or disturbance of riparian vegetation; (5) General measures to avoid impacts on Environmental and Cultural Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, Additional Pages for the Hayworth Creek Large Wood Augmentation Project 401 Notice of Intent Supplementary Pages.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *MONITORING AND REPORTING PLAN HAYWORTH CREEK LARGE WOOD AUGMENTATION PROJECT*.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: scott.monday@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subdivision (c).)

**DEPARTMENT OF FISH AND
WILDLIFE****FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
China Creek Woodloading Project
(Tracking Number: 1653–2021–077–001–R1)
Siskiyou County**

California Department of Fish and Wildlife (CDFW) received a Request to Approve on August 19, 2021, that Mid Klamath Watershed Council proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the construction of three to four wood structures in the mouth of China Creek to address fish passage issues. The proposed project will be carried out on China Creek, located at mile 8.2 China Grade Road, Happy Camp, Siskiyou, California.

On July 26, 2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the China Creek Woodloading Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. 1A21167WNSI; ECM PIN No. CW–875477) for coverage under the General 401 Order on August 17, 2021.

Mid Klamath Watershed Council is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the Mid Klamath Watershed Council will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, Mid Klamath Watershed Council will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF FISH AND
WILDLIFE****FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
Round Valley Meadow Restoration Project
(Tracking Number: 1653–2021–078–001–R1)
Tehama County**

California Department of Fish and Wildlife (CDFW) received a Request to Approve on August 19, 2021, that the U.S Fish and Wildlife Service proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the restoration of floodplain connectivity, backwatering, and abundant shallow water breeding habitat for Cascades frog through the construction of Process–Based Restoration structures in Round Valley Meadow. The proposed project will be carried out in Round Valley Meadow, Tehama, California.

On July 23, 2021, the Central Valley Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Round Valley Meadow Restoration Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 – Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. SB12006GN) for coverage under the General 401 Order on August 17, 2021.

U.S. Fish and Wildlife Service is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the U.S. Fish and Wildlife Service will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, U.S. Fish and Wildlife Service will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653 CONSISTENCY DETERMINATION REQUEST FOR

Mill Creek Ward Dam Sediment Removal Project
(Tracking Number: 1653–2021–079–001–R1)
Tehama County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on August 20, 2021, that the U.S. Fish and Wildlife Service proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the installation of three to five Bendway weirs in Mill Creek to help prevent cobble and gravel deposition at Ward Dam during high flow events. The proposed project will be carried out directly upstream of Ward Dam in Mill Creek, Los Molinos, Tehama, California.

On June 25, 2021, the Central Valley Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Mill Creek Ward Dam Sediment Removal Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. 5A52CR00213) for coverage under the General 401 Order on July 16, 2021.

U.S. Fish and Wildlife Service is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the U.S. Fish and Wildlife Service will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, U.S. Fish and Wildlife Service will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES Research on the Peninsular Bighorn Sheep

The Department of Fish and Wildlife (Department) received a request from James DeForge, principal investigator at the Bighorn Institute (Institute), requesting renewal of a memorandum of understanding (MOU) covering activities including the possession and monitoring of Peninsular bighorn sheep (PBS; *Ovis canadensis nelsoni*), a Fully Protected mammal, for scientific research and management purposes consistent with conservation and recovery of the species. The PBS is listed as Threatened under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Mr. DeForge is planning to monitor PBS throughout the Santa Rosa and San Jacinto Mountains, Riverside County, California, in accordance with a standard protocol approved by the Department and the U.S. Fish and Wildlife Service (Service). The proposed activities include radio-monitoring and ground surveys, managing the captive PBS currently within the Institute's custody and hazing of free-ranging PBS found in potentially dangerous areas (e.g., roadways). No adverse effects on individual PBS or PBS populations are expected to result from those activities.

The Department intends to issue, under specified conditions, an MOU authorizing qualified professional wildlife researchers, with Mr. DeForge as the Principal Investigator, to carry out the proposed activities. The applicant is also required to have a valid federal recovery permit for PBS.

Pursuant to California Fish and Game Code (FGC) Section 4700(a)(1), 2080 and 2081, the Department may authorize take of Fully Protected mammal species after a 30 day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 4700, 2080 and 2081 for take or possession of Fully Protected mammals, it will issue the authorization on or after October 3, 2021, for an initial and renewable term of up to, but not to exceed five years. Contact: Jeff Villepique, jeff.villepique@wildlife.ca.gov, (760) 937-5966.

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NO. 2080-2021-011-03

Project: Stone Lakes Restoration Project
Serra Property
Location: Sacramento County
Applicant: Ducks Unlimited

Background

Ducks Unlimited (Applicant) proposes to restore and enhance approximately 58 acres of freshwater emergent seasonal wetlands to improve shorebird, waterfowl, and sandhill crane habitat, and increase the diversity and extent of native wetland plants within existing managed seasonal wetlands. The Stone Lakes Restoration Project Serra Property (Project) includes the following: grading and creation of swales and interconnected pothole habitat features throughout the Project site (approximately 12-foot bottom widths with approximately 5:1 side slopes); construction of berms with access roads; and installation of a new water control structure to control water within the Project site. The Project is located adjacent to Stone Lake National Wildlife Refuge at latitude 38°20'51.59"North and longitude 121°29'39.96"West.

The Project activities described above are expected to incidentally take¹ giant garter snake (GGs) (*Thamnophis gigas*) where those activities take place within areas adjacent to existing aquatic habitat on the Project site. In particular, giant garter snake could be

incidentally taken as a result of the crushing during grading construction and equipment mobilization. GGS is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(4) (E).)

GGs individuals are documented as present 10 miles distance from the Project site and there is suitable GGS habitat within and adjacent to the Project site. Because of the proximity of the nearest documented GGS, dispersal patterns of GGS, and the presence of suitable GGS habitat within the Project site, the United States Fish & Wildlife Service (Service) determined that GGS may occur within the Project site and to the extent that GGS are present, that Project activities are expected to result in the incidental take of GGS.

According to the Service, the Project will result in the temporary and permanent loss of 0 acres of GGS habitat.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the Service conducted an Intra-Service consultation as required by the ESA. On April 27, 2010, the Service issued a biological opinion (*Programmatic Intra-Service Formal Section 7 Consultation on Partners for Fish and Wildlife Program*) (BO) to itself. On August 25, 2020, the Service extended the BO for an additional year. On July 22, 2021, the Service issued the Appendix F: Species Assessment specific to the Project which appended the Project to the BO, describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

On July 27, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from Ducks Unlimited requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS, its related BO, and Appendix F: Species Assessment are consistent with CESA for purposes of the Project and GGS (Cal. Reg. Notice Register 2021, No. 33-Z, p. 1063).

Determination

CDFW has determined that the ITS, its related BO, and Appendix F: Species Assessment are consistent with CESA as to the Project and GGS because the mitigation measures contained in the BO, and ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of GGS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITS, BO, and Appendix F: Species Assessment will minimize and fully mitigate the impacts of the authorized take; (3) adequate

¹ Pursuant to Fish and Game Code section 86, "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "take" means to catch, capture or kill").

funding is ensured to implement the required avoidance, minimization, and mitigation measures and to monitor compliance with, and effectiveness of those measures as part of the Project; and (4) the Project will not jeopardize the continued existence of GGS. The mitigation measures in the ITS, BO, and Appendix F: Species Assessment include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) The Service will review and approve biologists to conduct surveys and monitor activities. These biologists will be hereinafter referred to collectively as Service-approved biologists.
- 2) Contractors will receive an environmental awareness training program describing GGS, its status, and penalties for take.
- 3) Project related vehicles and equipment will be staged outside of giant garter snake, habitat, and in locations pre-approved by the Service-approved biologist.
- 4) Drainages/suitable aquatic habitat that have been dewatered will be allowed to dry for at least 15 days prior to ground disturbance.
- 5) In areas identified as having potential to support GGS and which cannot be adequately dewatered, a Service-approved biologist will be present for all vegetation removal and initial ground disturbance.
- 6) Work will be restricted in the project area to the period from May 1 to October 15 when GGS are active and easier to detect and avoid.
- 7) No monofilament or plastic netting will be used in erosion control materials.
- 8) To avoid entrapment of GGS, trenches will be covered overnight or escape ramps installed. Any pipes or hoses will be sealed with duct tape or equally effective means so that no GGS can enter them. Alternatively, pipes and hoses may be stored at least 3 feet above ground or within a part of the staging area surrounded by exclusionary fence.
- 9) Vehicles will observe a speed limit of 15 miles per hour when operating within or near GGS habitat and operators will remain vigilant with respect to the possibility that GGS could be in the project area when operating in these areas. Once areas have been designated as cleared by the Service-approved biologist, based on the area no longer being suitable for GGS, the speed limit will be eliminated.
- 10) To reduce potential for attraction of opportunistic predators of GGS, all food-related trash items such as wrappers, cans, bottles, and food scraps will be enclosed in sealed containers and removed at least once every week.
- 11) Earth moving activities will be restricted to May through October, during the majority of the GGS active period when snakes are able to escape and avoid danger.
- 12) All earth moving activities will occur within wetlands that have been drained because drained wetlands do not provide foraging habitat for GGS, and it is likely that GGS will not remain for extended periods after they are drained. Drained areas will be dry for at least 15 days prior to earth moving activities. Drained areas will also be checked for ponded areas that may concentrate prey and become an attractant to GGS. Ponded areas will be avoided and/or surveyed for GGS before any activity occurs within them.
- 13) Ditch excavation will be performed only from May 1 to November 1.
- 14) Excavation will typically occur from only one side of the ditch during a given year. When possible, one side of the ditch will be left undisturbed indefinitely.
- 15) Excavation above the high flow watermark will be avoided whenever possible to minimize disturbance to burrows and retreat sites.
- 16) Vegetation on the tops and sides of ditches will be left as undisturbed as possible.
- 17) Roads adjacent to GGS habitat will: a) not be mowed unless necessary for regular access; b) be mowed between March 1 and October 31; and c) be mowed with mowers adjusted to leave no less than six inches of standing vegetation. These measures will decrease the risk of injuring snakes and minimize loss and disturbance of vegetative cover.
- 18) Burning will be conducted during the spring, summer, and fall months on thoroughly dried wetlands or uplands. Where possible only one bank of vegetation will be subject to prescribed burns. Vegetation along ditch banks will be left undisturbed as much as possible and fire crews will not reignite bank vegetation passed over by fire. Surveys for GGS will be conducted prior to burning, and any GGS observed within prescribed burn areas will be captured and relocated by a Service-approved biologist, or attempts will be made to flush them away from areas where fire is likely to travel.
- 19) Disking will only take place during the GGS active period. Disking will be conducted in dried wetlands or in uplands. Disking activities will be avoided, to the extent practicable, directly adjacent to waterways and within wetlands

unless they have been allowed to dry. If diking must occur adjacent to waterways and within wetlands, these areas must first be surveyed for GGS before activities occur.

The BO requires submission of annual monitoring reports. Although not a condition of the BO, CDFW requests a copy of the monitoring reports as well. The reports should include dates construction occurred and the success of revegetation and restoration.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of giant garter snake, provided the Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITS and BO. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the ITS and BO, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c)).

CDFW's determination that the Service BO and ITS are consistent with CESA is limited to giant garter snake.

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NO. 2080-2021-010-03

Project: Stony Oaks Residential Development Project
Location: Sonoma County
Applicant: Stony Oaks, L.P.
Notifier: WRA, Inc.

Background

Stony Oaks, L.P. (Applicant) proposes to develop an economically feasible 142-unit apartment complex on a 4.39-acre property. The Stony Oaks Residential Development Project (Project) includes supporting resident amenity spaces including a large community room, indoor mail, and on-site management offices. Additional amenity spaces include a secure bike room, laundry, and a number of flex spaces. Multiple outdoor amenity spaces, including passive recreation under the existing oak trees (*Quercus* sp.), will be provided. An additional 0.10 acres will be developed on adjacent properties. Improvements adjacent to Hearn Avenue

including widening the apron of the drive aisle for the vehicular entrance on Hearn Avenue and public utility connections. Improvements adjacent to Old Stony Point Road include a new curb, gutter, and sidewalk. The Project is located at 2542 Old Stony Point Road in the City of Santa Rosa, Sonoma County. It is on Assessor's Parcel Number (APN) 125-551-016 at Latitude 38.413258, Longitude -122.738144. The improvements on the 0.10 acres adjacent to Hearn Avenue are on APN 125-551-018.

The Project activities described above are expected to incidentally take California tiger salamander (CTS; *Ambystoma californiense*), where those activities take place within the Project site. In particular, CTS could be incidentally taken as a result of crushing or entombing of individuals during construction; cut and fill grading; vehicular access; collapsing of burrows; and entrapment in excavated pits, trenches, or within construction materials. Incidental take may also occur in the form of pursue, catch, capture, or attempt to do so from CTS surveying and relocating operations. CTS is designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(3)(G).)

CTS individuals are documented as present at the Project site and approximately 420 feet to the east, and there is suitable CTS habitat within and adjacent to the Project site. Because of the documented presence of CTS at the Project site, proximity of the nearest documented CTS, dispersal patterns of CTS, and the presence of suitable CTS habitat within the Project site, the United States Fish & Wildlife Service (Service) determined that CTS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of CTS.

According to the Service, the Project will result in the permanent loss of 4.30 acres of CTS upland habitat and 0.18 acres of CTS breeding habitat.

Because the Project is expected to result in take of a species designated as endangered under the federal ESA, the U.S. Army Corps of Engineers (Corps) consulted with the Service as required by the ESA. On July 20, 2021, the Service issued a biological opinion (Service file No. 08ESMF00-2021-F-1198) (BO) to the Corps. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

The ITS also requires the Applicant to implement and adhere to measures contained within the Project Biological Assessment (BA).

On July 22, 2021, the Director of the Department of Fish and Wildlife (CDFW) received a notice from

WRA, Inc. on behalf of the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS and related BO are consistent with CESA for purposes of the Project and CTS. (Cal. Reg. Notice Register 2021, No. 32-Z, p. 1012.)

Determination

CDFW has determined that the ITS, along with its accompanying BO, is consistent with CESA as to the Project and CTS because the mitigation measures contained in the BO and ITS, as well as the conditions in the BA, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of CTS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITS, BO, and BA, will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of CTS. The mitigation measures in the ITS, BO, and BA include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) Prior to any earthmoving activities, the Applicant will purchase 13.44 acres of CTS habitat credits OR provide for both the off-site permanent protection and perpetual management of 13.44 acres of Habitat Management (HM) lands.
- 2) A qualified biological monitor will conduct a training session for all construction workers before work is started on the project. The training program is for all construction personnel including contractors and subcontractors. The training will include, at a minimum, a description of CTS, and the applicable listed plant(s) and their habitat within the Action Area; an explanation of the species' status and protection under state and federal laws; the avoidance and minimization measures to be implemented to reduce loss of these species; and communication and work stoppage procedures in case a listed species is observed within the Action Area. A fact sheet conveying this information will be prepared and distributed to all construction personnel. The Applicant shall provide interpretation for non-English speaking workers.
- 3) Access routes, number and size of staging areas, and work areas, will be limited to the minimum necessary to achieve the project goals. Routes and boundaries of the roadwork will be clearly marked prior to initiating construction/grading. Environmentally Sensitive Areas (ESA's) containing sensitive habitats adjacent

to or within construction work areas for which physical disturbance is not allowed will be clearly delineated using high visibility orange fencing. The final project plans will depict all locations where ESA fencing will be installed and will provide installation specifications. The bid solicitation package will include special provisions and clearly describe acceptable fencing material and prohibited construction-related activities including vehicle operation, material and equipment storage, access roads and other surface-disturbing activities within ESAs. The ESA fencing will remain in place throughout the duration of the proposed action, while construction activities are ongoing, and will be regularly inspected and fully maintained at all times. The orange fencing will be removed promptly after project completion.

- 4) Prior to the start of construction, Wildlife Exclusion Fencing (WEF) will be installed at the edge of the project footprint in all areas where CTS could enter the construction area. WEF with exit ramps, funnels, and cover boards may be required for one full rainy season to allow any CTS onsite to move into an adjacent habitat offsite and will be determined on a case-by-case basis. The location of the fencing shall be determined by the onsite project manager and the Service-approved biologist in cooperation with the Service prior to the start of staging or surface disturbing activities. A conceptual fencing plan shall be submitted to the Service for review and approval prior to WEF installation. The location, fencing materials, installation specifications, and monitoring and repair criteria shall be approved by the Service prior to start of construction. The Applicant shall include the WEF specifications on the final project plans. The Applicant shall include the WEF specifications including installation and maintenance criteria in the bid solicitation package special provisions. The WEF shall remain in place throughout the duration of the project and shall be inspected weekly and fully maintained. Repairs to the WEF shall be made within 24 hours of discovery. Upon project completion the WEF shall be completely removed, the area cleaned of debris and trash, and returned to natural conditions.

An exception to the foregoing fencing measure is that for work sites where the duration of work activities is very short (e.g., 3 days or less) and during the dry season. If installation will result in more ground disturbance than project activities, then the boundaries and access areas and sensitive habitats may be staked and flagged by the biological monitor prior to disturbance and

species monitoring would occur during all project activities at that site.

- 5) The Corps through its Applicant shall prepare and submit a Relocation Plan for the Service's written approval. The Relocation Plan shall be consistent with the Guidelines for the relocation of California tiger salamanders (*Ambystoma californiense*) (Shaffer et al. 2008). The Relocation Plan shall contain the name(s) of the Service-approved biologist(s) to relocate CTS, method of relocation, a map, and description of the proposed release site(s) and burrow(s), and written permission from the landowner to use their land as a relocation site. At various times, a conservation bank may be a desired location to relocate CTS from a salvage site; however, no conservation bank may receive relocated CTS until all the bank's credits have been sold to prevent interfering with their performance criteria and credit release schedule.
- 6) Ground disturbance will be conducted between April 15 and October 15, of any given year, depending on the level of rainfall and/or site conditions. However, grading and other disturbance in pools and ponds, if unavoidable, shall be conducted only when dry, typically between July 15 and October 15. Work within a pool or wetland may begin prior to July 15 if the pool or wetland has been dry for a minimum of 30 days prior to initiating work. Any work in pools and wetlands that are holding water shall be subject to approval of the Service. If work must continue when rain is forecast (greater than 40 percent chance of rain), a Service-approved biologist(s) shall survey the Project site before construction begins each day rain is forecast. If rain exceeds 0.5 inches during a 24-hour period, work shall cease until National Weather Service forecasts no further rain. This restriction is not applicable for areas within 1.3 miles of potential or known CTS breeding sites once the Applicant encircles the site with Wildlife Exclusion Fencing.

Monitoring and Reporting Measures

- 1) Qualified biological monitor(s) will be on site each day during all earth moving activities. The biological monitor(s) shall conduct clearance surveys at the beginning of each day and regularly throughout the workday when construction activities are occurring that may displace, injure, or kill CTS through contact with workers, vehicles, and equipment. All aquatic and upland habitat including refugia habitat such as small woody debris, refuse, burrow entries, etc., shall be duly inspected.

Where feasible and only on a case-by-case basis, rodent burrows and other ground openings

suspected to contain CTS that would be destroyed from project activities may be carefully excavated with hand tools. Pre-soaking the area prior to ground disturbance may also increase emergence of the species for translocation. The Service will consider the implementation of specific project activities without the oversight of an on-site biological monitor on a case-by-case basis.

Before the start of work each day, the biological monitor will check for animals under all equipment such as vehicles and stored pipes. The biological monitor will check all excavated steep-walled holes or trenches greater than one foot deep for any CTS. CTS will be removed by the biological monitor and relocated according to the Relocation Plan. To prevent inadvertent entrapment of animals during construction, all excavated, steep-walled holes or trenches more than 6 inches deep will be covered with plywood (or similar materials) that leave no entry gaps at the close of each working day or provided with one or more escape ramps constructed of earth fill or wooden planks. The Service-approved biologist shall inspect all holes and trenches at the beginning of each workday and before such holes or trenches are filled. All replacement pipes, culverts, or similar structures stored in the project footprint overnight will be inspected before they are subsequently moved, capped, and/or buried.

- 2) A Service-approved biologist will be present during all vegetation clearing and grubbing activities. Grasses and weedy vegetation should be mowed to a height no greater than 6 inches prior to ground-disturbing activities. All cleared vegetation will be removed from the project footprint to prevent attracting animals to the project site. Prior to vegetation removal, the Service-approved biologist shall thoroughly survey the area for CTS. Once the qualified biologist has thoroughly surveyed the area, clearing and grubbing may continue without further restrictions on equipment; however, the qualified biologist shall remain onsite to monitor for CTS until all clearing and grubbing activities are complete.
- 3) The biological monitor(s) shall maintain monitoring records that include: (1) the beginning and ending time of each day's monitoring effort; (2) a statement identifying the listed species encountered, including the time and location of the observation; (3) the time the specimen was identified and by whom and its condition; (4) the capture and release locations of each individual; (5) photographs and measurements (snout to vent

and total length) of each individual; and (6) a description of any actions taken. The biological monitor(s) shall maintain complete records in their possession while conducting monitoring activities and shall immediately provide records to the Service upon request. All monitoring records shall be provided to the Service within 30 days of the completion of monitoring work.

Although not a condition of the BO, CDFW requests a copy of the monitoring reports as well. The reports should include dates construction occurred.

- 4) Qualified biological monitor(s) will possess a working wireless/mobile phone whose number will be provided to the Service prior to the start of construction and ground disturbance. The biological monitor(s) shall keep a copy of the programmatic biological opinion and appendage in his/her possession when onsite. Through the Onsite Project Manager or his/her designee, the biological monitor(s) shall be given the authority to communicate verbally, by telephone, email, or hardcopy with the Applicant, project personnel, and any other person(s) at the project site or otherwise associated with the project to ensure that the Terms and Conditions of the programmatic biological opinion and appendage are met. The biological monitor(s) shall have oversight over implementation of the Terms and Conditions in the programmatic biological opinion and appendage, and shall have the authority to stop project activities if they determine any of the associated requirements are not being fulfilled. If the biological monitor exercises this authority, the Service shall be notified by telephone and email within 24 hours. The Service contact is the Coast Bay Division Chief of the Endangered Species Program, Sacramento Fish and Wildlife Office at telephone number (916) 414-6623.
- 5) If verbally requested before, during, or upon completion of ground disturbance and construction activities, the Applicant will ensure the Service can immediately and without delay, access and inspect the project site for compliance with the project description, Conservation Measures, and reasonable and prudent measures of the programmatic biological opinion and appendage, and to evaluate project effects to the CTS and its habitat.

Financial Assurances

- 1) Prior to any earthmoving activities, the Applicant will purchase 13.44 acres of CTS habitat credits OR provide for both the off-site permanent protection and perpetual management of 13.44 acres of Habitat Management (HM) lands.

Credits or HM lands will be from one or more conservation banks approved by the Service and CDFW. The Applicant will obtain written confirmation from the Service and CDFW that the conservation bank(s) is in good standing prior to purchasing the credits.

In the event that credits are not available for purchase, partly or entirely, prior to the start of ground disturbing activities, credits that are available will be purchased prior to the start of ground disturbing activities and a performance security will be established equivalent to the amount needed to:

- purchase the remaining credits, or
- purchase and implement start up activities (i.e., initial site protection and enhancement), interim management, and provide for the perpetual management of HM lands.

The security will be held in the form of an irrevocable letter of credit issued to CDFW to execute the purchase of the remaining needed credits or HM lands based on the estimated cost of \$220,000 per acre. All needed credits will be purchased and/or all needed HM lands will be permanently protected and funding for perpetual management provided within 18 months of the commencement of ground disturbing activities.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of CTS, provided the Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITS, BO, and BA. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the ITS and BO or the BA, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c)).

In making this determination, CDFW acknowledges that the BO addresses Sonoma sunshine (*Blennosperma bakeri*) and Sebastopol meadowfoam (*Limnanthes vinculans*), species designated as endangered under ESA and CESA. (See Cal. Code Regs., title 14, § 670.2, subdivisions (a)(2)(B) & (a)(18)(D)). Habitat for these species is known to occur within the Project site. The Applicant recognized that take of Sonoma sunshine and Sebastopol meadowfoam is unlikely. The Applicant will mitigate for the loss of the species habitat by purchasing 0.32 acres of these species habitat credits as required by the BO. The Applicant is aware that, for purposes of CESA, take of Sonoma sunshine and Sebastopol meadowfoam as defined by

state law is prohibited, except as authorized by the Fish and Game Code. (See generally Fish & Game Code, §§ 86, 2080.)

CDFW's determination that the Service BO and ITS are consistent with CESA is limited to CTS.

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH USING HOUNDS RESEARCH ON BOBCAT (*LYNX RUFUS*)

The Department of Fish and Wildlife (Department) is collaborating with the United States Department of Agriculture Animal and Plant Health Inspection Service — Wildlife Services (Wildlife Services) on a statewide assessment of bobcats in California for scientific research purposes.

For this project, Wildlife Services will partner with the Department to pursue bobcats using hounds to collect scientific data. The overall goal of the project is to gather data needed to produce a statewide bobcat population estimate, assess the overall health of the population, and improve our understanding of the species' home range, habitat use, and seasonal movements. Bobcats are designated as a nongame animal in California.

Standard methods will be undertaken. Bobcats will be located using specially trained hounds. Once encountered they will be anesthetized so they can be individually marked for population studies using radio-telemetry devices, passive integrated transponder (PIT) tags, and ear tags. Standard measurements, diagnostic samples, and genetic data may be collected. These scientific research methods will be undertaken across the species' range in California in accordance with conditions issued by the Department.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Mr. Dennis Orthmeyer as the Principal Investigator, to carry out the proposed activities.

Pursuant to California Fish and Game Code (FGC) Section 3960.4 the Department may authorize qualified entities to use dogs to pursue bobcats for scientific research purposes after a 30 days' notice has been provided to affected and interested parties through publication of this notice. The Department intends to issue the MOU on or after October 4, 2021, for a term of up to 14 months, consistent with the requirements of FGC Section 3960.4.

Contact: Erin Chappell, Erin.Chappell@wildlife.ca.gov, 916-708-2038.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING: On **October 21, 2021**, at 10:00 a.m. via the following:

- In person at the Auditorium of the State Resources Building 1416 9th Street, Sacramento, California
- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING: On **October 21, 2021**, at 10:00 a.m. via the following:

- In person at the Auditorium of the State Resources Building 1416 9th Street, Sacramento, California
- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a

modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

OAL REGULATORY DETERMINATION

DEPARTMENT OF STATE HOSPITALS

OFFICE OF ADMINISTRATIVE LAW
2021 OAL DETERMINATION NUMBER 3

(OAL MATTER NUMBER CTU2021-0216-01)

REQUESTED BY: Vadim Stanley Miesegaes
CONCERNING: Administrative Directive 810, Effective 6/24/2020, Titled "Unit Security" Section III, Subsections A. and B., issued by the California Department of State Hospitals

DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law ("OAL") evaluates whether an action or enactment by a state agency complies with California administrative law governing when state agencies must adopt regulations pursuant to the California Administrative Procedure Act ("APA"). Nothing in this determination evaluates the advisability, wisdom, or necessity of a challenged rule. OAL's review is limited to the sole issue of whether the challenged rule meets the definition of "regulation" as defined in

Government Code section 11342.600 and is not exempt from application of the rulemaking requirements of the APA. If a rule meets the definition of "regulation" and is not exempt from the APA, but it was not adopted pursuant to the APA, it is an "underground regulation" as defined in California Code of Regulations ("CCR"), title 1, section 250.¹

CHALLENGED RULE

The challenged rule is contained Administrative Directive No. 810, "Unit Security," Effective 6/24/2020, Section III, Subsections A. and B. (hereafter "AD 810") issued by the Department of State Hospitals — Atascadero (hereafter "Department" or "DSH-A") and states the following:

III. PROCEDURES RELATED TO THE HOSPITALIZED PATIENTS

A. Patient Rooms:

Patients may not have visitors in their rooms. Staff will respect privacy by knocking on the door or by announcing their presence before entering the patient's room or area whenever possible and appropriate.

B. Observation Rounds/Wellness Rounds:

1. Unit staff shall make observation/wellness rounds of all areas occupied by the patients at least three (3) times each hour at irregular intervals. Intervals between rounds shall not exceed 20 minutes. This does not preclude staff from making rounds more frequently based upon safety or security needs on the unit. It is the responsibility of the Unit Supervisor, through the Shift Leads, to ensure that observation/wellness rounds are documented in the unit Day Book with the staff initials and the time of the round. Unit Supervisors will ensure that rounds are not pre-printed in the Day Book. The insides of unit stairwells (including their vestibules) with unlocked doors that are accessible to the patients shall be visualized at each round by both the unit and the downstairs adjacent unit. At the time the entrance door to the unit is locked for the night, staff will inspect the stairwell to ensure it is clear of patients and that there are no materials attached to

¹ As defined by title 1, Cal. Code Regs., section 250(a), an "Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA."

the grating or rails.

2. Between scheduled rounds from 2300–0700, NOC shift staff are to be stationed so that the hallways where patients reside can be directly visualized. Staff who are observing the hallways may engage in work as long as movement can be detected in their peripheral vision and responded to.
3. NOC shift staff are responsible for conducting one (1) wellness round and a minimum of two (2) observation rounds every hour.
 - a. Between scheduled rounds from 2300–0700, the first round of every hour shall be a wellness round. Additional wellness rounds may be conducted per nursing judgment.
 - i. During the wellness round, the employee must see and identify the patient and either see movement or ascertain that the patient is breathing. Additional illumination, such as a flashlight, is to be used if necessary for proper visualization. If the patient’s face needs to be illuminated, the red/blue–lens flashlights are to be used.
 - ii. Staff assigned to wellness rounds will be accompanied by a second staff member for safety when entering dormitories or single rooms to ensure proper visualization of sleeping patients. If neither movement nor breathing is detected, staff will tap on the end of the bed and call the patient’s name.
 - iii. If there is still no sign of movement or breathing, additional staff will be alerted. Accompanied by a second staff member, the person conducting the rounds will approach the bed and draw the sheets and blankets down far enough to enable an assessment of life signs.
 - iv. If the patient remains unresponsive, staff will initiate emergency

resuscitative procedures per Nursing Procedure 100, “C a r d i o p u l m o n a r y Resuscitation. (CPR).”

- b. Staff assigned to observation/wellness rounds will observe patients through the window in the door of single rooms and dormitories. A second staff member will observe the whereabouts of the person assigned to rounds from the nurse’s station.
- c. Two (2) staff members shall remain out of shift change and assigned to make continuous observation rounds and be available to the patients.

AD 810 is attached hereto as Exhibit A.

DETERMINATION

OAL determines that these sections of AD 810 meet the definition of a “regulation” that should have been adopted pursuant to the APA but were not. To this extent, AD 810 is an underground regulation.

FACTUAL BACKGROUND

On February 16, 2021, OAL received the petition from Mr. Vadim Stanley Miesegaes (Petitioner). OAL accepted the petition for consideration on April 19, 2021.

OAL published a summary of the petition in the California Regulatory Notice Register on April 30, 2021 and solicited comments from the public until June 1, 2021. OAL did not receive any public comments.

A response, if any, to the petition from the Department was due no later than June 14, 2021, and a response was received from the Department on that date. The Department’s response indicates that it was personally served on the Petitioner on June 14, 2021.

A rebuttal, if any, from the Petitioner to the Department’s response was due no later than June 29, 2021. (Title 1 CCR section 270(i).) An untimely rebuttal to the Department’s response was received from the Petitioner on July 2, 2021.

RESPONSE OF THE DEPARTMENT TO THE PETITION

In its response, the Department asserts that AD 810 does not meet the definition of a regulation, because it is not applied generally and is not quasi–legislative, and because it is merely a guide to DSH–A staff on unit security. The Department asserts that AD 810 is exempt from the APA because it relates only to the internal management of DSH–A (Gov. Code section 11340.9(d)), and because it embodies the only legally

tenable interpretation of provisions of law (Gov. Code section 11340.9(f)). The Department also asserts that Section III. A. of AD 810 is exempt from the APA because it only restates Title 9 California Code of Regulations sections 883, 4300, and 4356. The Department further asserts that AB 810 should be treated as exempt from the APA pursuant to Penal Code section 5058(c)(1), which deems rules issued by the Director of the Department of Corrections and Rehabilitation applying solely to a particular prison or other correctional facility not to be “regulations” as defined by the APA. Lastly, the Department asserts that the petition concerning AD 810 does not raise an issue of considerable public importance, and, presumably, therefore, OAL should not issue a determination which finds AD 810 to be an underground regulation.

EXISTING STATUTES AND REGULATIONS RELATED TO THE CHALLENGED RULE

Existing laws related to AD 810, Section III. A. and/or B. are:

Welf. & Inst. Code section 4005.1: The [Department] ... may adopt and enforce rules and regulations necessary to carry out [its] ...duties under this division.

Welf. & Inst. Code section 4011(a): ...The [Department] shall have jurisdiction over the execution of the laws relating to care....and treatment of persons...under the custody of the [Department].

Welf. & Inst. Code section 4027: The [Department] may adopt regulations concerning patients’ rights and related procedures applicable to the inpatient treatment of mentally ill offenders...mentally disordered sex offenders, and inmates of jail psychiatric units.

Welf. & Inst. Code section 4109: The [Department] has general control and direction of the property and concerns of each state hospital... The department shall... [t]ake care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law.

Welf. & Inst. Code section 5325: ...Each person committed to a state hospital shall also have the following rights... (c) To see visitors each day...

Title 9 Cal. Code Regs. section 4300:

- (a) Facility visiting hours shall be scheduled seven days a week for a minimum of five hours each day.
- (b) The facility shall provide private areas for individual patients to consult with an attorney for confidential communications.
- (c) The facility may modify the visiting hours

or suspend visiting days when necessary for safety and security concerns and staffing limitations.

- (d) No conjugal visits shall be allowed.

Title 9 Cal. Code Regs. section 4330:

In order to maintain the security and safety of individual patients, staff and visitors at state hospitals, each such state hospital may implement a system of counting individual patients. If a hospital chooses to implement such a system, it shall include the following:

- (a) A counting of individual patients shall be conducted a minimum of three times per day or once per shift, whichever is more frequent.
- (b) The scope of the counting activities may be facility wide or focused on specific areas, subject to the discretion of the hospital staff based on safety and security concerns.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5, it creates an underground regulation as defined in section 250 of title 1 of the CCR.

OAL may issue a determination as to whether an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of “regulation” as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA. (Gov. Code sec.11340(b).)

An OAL determination is entitled to “due deference” and “due consideration” in subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422.

ANALYSIS

OAL’s authority to issue a determination extends only to the limited question of whether the challenged rule is a “regulation” as defined in and subject to the

APA. This analysis will determine: (1) whether the challenged rule is a “regulation” within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

1. AD 810 satisfies the elements of a regulation.

A regulation is defined in Government Code section 11342.600 as:

...every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571, the California Supreme Court found that:

A regulation subject to the [APA] has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency’s procedure.

As stated in *Tidewater*, the first element used to identify a “regulation” is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the State of California. The word “general” in rules of general application for purposes of the applicability of the APA means “pertaining to all of the members of a class, kind, or order.” *Roth v. Department of Veterans Affairs* (1980) 100 Cal.App.3d 622 at 630. AD 810 applies to all patients in DSH–A and, therefore, to a class of persons. Moreover, the class of persons impacted by AD 810 is an open class with individuals regularly committed to and discharged from the facility. The Department’s assertion that AD 810 does not apply generally because it only applies to units at DSH–A is without merit.

Also without merit is the Department’s argument that AD 810 is not a regulation because it does not declare how a certain class of cases will be decided. All cases of patients at DSH–A wishing to have visitors in their rooms are decided the same way under this rule: “Patients may not have visitors in their rooms.” All cases of patients desiring not to experience observation/wellness checks three times each hour, including between the hours of 2300 and 0700, will be decided the same way under this rule: “Unit staff shall make observation/wellness rounds of all areas occupied by the patients at least three times

each hour...” and “NOC shift staff are responsible for conducting one wellness round and a minimum of two observation rounds every hour. Between scheduled rounds from 2300–0700, the first round of every hour shall be a wellness round.” [Emphasis added.]

The second element of a “regulation” under *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency’s procedure.

The prohibition in AD 810, Section III. A. on visitors in patients’ rooms implements, interprets, and makes specific Welfare and Institutions Code sections 4005.1 and 4011(a), because it is a regulation presumably necessary to carry out the Department’s duty to execute the laws relating to care and treatment of persons under the Department’s custody. It implements Welfare and Institutions Code section 4027 because it concerns patients’ rights and related procedures applicable to the inpatient treatment of patients. It implements Welfare and Institutions Code section 4109 because it presumably relates to the concerns and interests of the hospital, and it clearly implements, interprets, and makes specific Welfare and Institutions Code section 5325(c) by qualifying the right to see visitors each day with the exclusion of patient rooms as a location for visitation. Lastly, Section III. A. implements, interprets and makes specific Title 9 California Code of Regulations section 4300 by adding a fifth condition on patient visitation.

The requirements and procedures in AD 810, Section III. B. for observation/wellness checks three times each hour of all areas occupied by patients and of each patient during the night implement, interpret, and make specific Welfare and Institutions Code sections 4005.1 and 4011(a), because they are regulations presumably necessary to carry out the Department’s duty to execute the laws relating to care and treatment of persons under the Department’s custody. Section III. B. also implements Welfare and Institutions Code section 4027, because it contains regulations concerning patients’ rights and related procedures applicable to inpatient treatment of patients, and Welfare and Institutions Code section 4109 because it presumably relates to the concerns and interests of the hospital. Lastly, Section III. B. implements, interprets, and makes specific Title 9 California Code of Regulations section 4330, because it acts as the patient counting system authorized by that regulation, which the Department acknowledged in its Response to the petition: “Section III.B. (Observation Rounds/Wellness Rounds) provides staff guidance to ensure rounds are completed pursuant to section 4330...”

AD 810 satisfies elements of a “regulation” under *Tidewater*.

2. AD–810 is not simply a guide for DSH–A staff on unit security.

In its Response to the petition, the Department asserts fifteen times that AD-810 is not a regulation but merely [or simply] a guide, guidance, instruction, or direction to DSH-A staff on safety and security issues. The Department's assertions are without merit. The prohibition on visitors in patients' rooms and the requirements of and procedures to be used during the three-times-per-hour observation/wellness checks are not suggestions to or discretionary for staff to implement.

As established above, AD 810 meets the requirements for it to be considered a regulation. Re-labeling the directive as a guide, instruction, or direction to staff does not lessen its mandatory nature as it relates to patient visitation and patient observations. Government Code section 11340.5(a) specifically prohibits the issuance of a "guideline" unless it is adopted pursuant to the APA.

3. AD 810 is not exempt from the APA.

A. The Government Code section 11340.9(d) exemption for a regulation that relates only to the internal management of the state agency does not apply to AD 810.

Government Code section 11340.9(d) states that "[a] regulation that relates only to the internal management of the state agency" is exempt from the APA. However, the exemption only applies if:

- The rule affects only the employees of the issuing agency (see *Stoneham v. Rushen* (1982) 137 Cal. App.3d 729, 736 and *Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 204), and
- The rule does not involve a matter of serious consequence involving an important public interest (see *Poschman v. Dumke* (1973) 31 Cal. App.3d 932, 943 and *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 436).

"The internal management exception...is a narrow one, as demonstrated by a line of cases consistently rejecting its application – even where the policies govern internal administrative matters – if the policies or procedures affect the interests of persons other than the agency itself." [citations omitted] *California School Boards Assn. v. State Board of Education* (2010) 186 Cal.App.4th 1298, 1334.

Any assertion that the challenged rules affect only the interests of state agency personnel is without merit. AD 810 directly impacts DSH-A patients in the contexts of both visitation and 24-hour observation.

B. AD 810 does not embody the only legally tenable interpretation of a provision of law.

"The exception for the lone 'legally tenable' reading of the law applies only in situations where the law 'can reasonably be read only one way' [citation omitted], such that the agency's actions or decisions in applying

the law are essentially rote, ministerial, or otherwise patently compelled by, or repetitive of, the statute's plain language." *Morning Star Co. v. State Board of Equalization* (2006) 38 Cal.4th 324, 336–337. "But to the extent any of the contents of the [statement of policy or procedure] depart from, or embellish upon, express statutory authorization, the [agency] will need to promulgate regulations." *Engelmann v. State Board of Education* (1991) 2 Cal.App.4th 47, 62.

The prohibition on visitors in patients' rooms is not the only legally tenable interpretation of Welfare and Institutions Code sections 4005.1, 4011(a), 4027, 4109, or 5325 or of Title 9 CCR section 4300 to the extent the implementation of those laws requires regulatory action on patient visitation rights and locations therefor. The Department could have adopted any number of other things to implement, interpret, and make specific the laws listed above regarding visitors and patients' rooms, such as not proscribing visitation in patients' rooms, limiting such visits to certain times or days, or otherwise imposing conditions and procedures under which visitors could visit patients in their rooms.

The specific procedures for observation and wellness rounds are not the only legally tenable interpretation of Welfare and Institutions Code sections 4005.1, 4011(a), 4027, or 4109, or of Title 9 CCR section 4330 to the extent the implementation of those laws requires regulatory action to: carry out the Department's duties; execute laws relating to care and treatment; adopt regulations concerning patients' rights and related procedures; control the property and concerns of DSH-A; or adopt a daily patient counting system. The Department could have adopted any number of other procedures, frequencies, and methods of accounting for and observing patients to ensure their safety and wellbeing.

C. The Penal Code section 5058(c)(1) exemption for rules issued by the Secretary of the Department of Corrections and Rehabilitation applying to a particular prison or other facility does not apply to the Department.

Government Code section 11346(a) prohibits the suspension or modification of the APA by any legislation except to the extent that the legislation does so expressly. "[A]ny doubt as to the applicability of the APA's requirements should be resolved in favor of the APA." *California School Boards Assn. v. State Board of Education* (2010) 186 Cal.App.4th 1298, 1328.

For the Penal Code section 5058(c)(1) APA exemption to apply to rules issued by the Department, it would have to apply expressly to the Department, or the Department would need another statute which creates the same or a similar exemption for the Department for its hospitals as the Legislature has

done for the California Department of Corrections and Rehabilitation (CDCR) for its facilities. AD 810 was not issued by the Secretary of CDCR but by an independent state agency. The Penal Code section 5058(c)(1) exemption does not apply.

D. AD 810, Section III. A. is not a restatement of Title 9 CCR sections 883, 4300, and 4356.

The prohibition on visitors in patients' rooms does not restate anything in Title 9 CCR sections 883, 4330, or 4356. Those regulations do not mention patients' rooms, much less prohibit visitation in them. The Department's assertion that AD 810, Section III. A. is a restatement of law is without merit.

E. The petition involves issues of considerable public importance.

In its response to the petition, the Department recognizes that "the state hospitals must ensure the safety of patients housed within its facilities and the staff that work within the hospital" and that "DSH-A must evaluate the safety and security not only for each individual patient, but for its staff as well." Consistent with its duties to ensure safety and security for patients and staff, the Department acknowledges in its response to the petition that AD 810 "provides guidance to staff on how to ensure safety and security on DSH-A's internal units..."

Despite these acknowledgements, the Department states in its response to the petition that "A.D. 810 does not address a matter of serious consequence involving an important public interest. Rather, it solely addresses the security of DSH-A's units." To the extent the Department believes that unit security and AD 810 do not involve matters of serious consequence involving an important public interest, OAL disagrees.

CONCLUSION

In accordance with the above analysis, OAL determines Section III. Subsections A. and B. of AD 810 meet the definition of a "regulation" that should have been adopted pursuant to the APA.

Date: August 18, 2021
/s/
Dale Mentink
Assistant Chief Counsel

For: Kenneth J. Pogue
Director

Copy: Stephanie Clendenin, Director
Sarah Lowell

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 Water Resources Control Board
File # 2021-0809-01
Emergency Reporting and Curtailment Regulations,
Delta Watershed

This action by the State Water Resources Control Board adopts emergency regulations to curtail water diversions in the Delta watershed when water is not available at water right holders' or claimants' priority of right or to protect releases of stored water.

Title 23
Adopt: 876.1, 878.2
Amend: 877.1, 878, 878.1, 879, 879.1, 879.2
Filed 08/19/2021
Effective 08/19/2021
Agency Contact: Dana Heinrich (916) 341-5188

Secretary of State
File # 2021-0812-01
Vote-by-Mail Drop Boxes and Vote-by-Mail Drop
off Locations

This action by the Secretary of State readopts emergency amendments that extend the time in which ballots must be retrieved from unstaffed vote-by-mail drop boxes from 24 hours to 48 hours. (See OAL file nos. 2020-0616-01E; 2021-0421-01EE.)

Title 02
Amend: 20136
Filed 08/18/2021
Effective 08/18/2021
Agency Contact:
Robbie Anderson (916) 216-6488

California Alternative Energy and Advanced
Transportation Financing Authority
File # 2021-0811-02
Residential Energy Efficiency Loan Assistance
Program

This action without regulatory effect changes the name of the Residential Energy Efficiency Loan Assistance Program, known as REEL, to the GoGreen Home Energy Financing Program, which may be referred to publicly as “GoGreen Home.”

Title 05
Amend: 10091.1, 10091.8, 10091.9, 10091.11
Filed 08/25/2021
Agency Contact: Susan Mills (916) 651-3760

Commission on Teacher Credentialing
File # 2021-0727-01
Teacher Credentialing Application Denials

The Commission on Teacher Credentialing (Commission) submitted this action without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to amend a definitions regulation. Specifically, the Commission proposes to amend the definition of “denial” by correcting a typographical error in a statutory cross reference and adding a statutory cross reference that pertain to denials of credentialing applications. Additionally, the Commission proposes to add reference citations that pertain to denials of credentialing applications and sexual misconduct to the definitions regulation.

Title 05
Amend: 80300
Filed 08/25/2021
Agency Contact: Katie Elliott (916) 324-8007

California Prison Industry Authority
File # 2021-0806-02
Reasonable Accommodation and Limited Term

The California Prison Industry Authority repealed two regulations addressing light-duty assignments and reasonable accommodations and limited-term light duty assignments.

Title 15
Repeal: 8111, 8112
Filed 08/23/2021
Effective 10/01/2021
Agency Contact: Moira Doherty (916) 413-1140

Naturopathic Medicine Committee
File # 2021-0709-01
Notice to Consumers

This action by the Naturopathic Medicine Committee adopts a regulation to provide notice to consumers that naturopathic doctors are licensed and regulated by the Naturopathic Medicine Committee.

Title 16
Adopt: 4255
Filed 08/20/2021
Effective 10/01/2021
Agency Contact: Rebecca Mitchell (916) 928-5862

Podiatric Medical Board of California
File # 2021-0316-01
Suspension and Revocation of Certificates to Practice
Podiatric Medicine

In this rulemaking action, the Board amends its regulations to establish substantial relationship criteria and rehabilitation criteria for crimes, professional misconduct, or acts considered substantially related to the qualifications, functions, or duties of a certificate holder. The regulatory changes align the regulations with Assembly Bill 2138 (Stats. 2018, Chapter 995).

Title 16
Adopt: 1399.659.1, 1399.659.2
Amend: 1399.659
Filed 08/25/2021
Effective 08/25/2021
Agency Contact: Kathleen Cooper (916) 263-0315

**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.