



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY:

Dinuba Unified School District
Peninsula Corridor Joint Powers Board

A written comment period has been established commencing on March 10, 2023 and closing on April 24, 2023. 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 codes 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 codes will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest codes, 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 codes 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 codes. Any written comments must be received no later than April 24, 2023. 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 codes 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 Com-

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

**TITLE 2. STATE
ALLOCATION BOARD**

**LEROY F. GREENE SCHOOL
FACILITIES ACT OF 1998**

**REGULATION SECTIONS
PROPOSED FOR AMENDMENTS**

- 1859.2, 1859.90, AND 1859.90.2

**PROPOSED AMENDMENTS TO THE
FOLLOWING DOCUMENT**

- *Grant Agreement*, (Rev. 09/22), which is incorporated by reference and referenced in Regulation Section 1859.2

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

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Section 17070.35 and 17078.64 of the Education Code. The proposal interprets and make specific reference Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.41, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.30, 17072.18, 17072.33, 17073.10, 17073.25, 17074.10, 17074.15, 17074.16, 17074.30, 17075.10, 17075.15, 17076.10, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17078.72(k), 17079, 17079.10, 17280, 56026 and 101012(a)(8) of the Education Code; Section 53311 of the Government

Code; and Sections 1771.3 in effect on January 1, 2012 through June 19, 2014 and 1771.5 of the Labor Code.

**INFORMATIVE DIGEST/POLICY
OVERVIEW STATEMENT**

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

At its meeting on September 21, 2022, the SAB approved proposed regulations, on an emergency basis, that would shorten the fund release deadlines with the direct Apportionment process for purposes of more efficiently distributing the General Fund proceeds, or any other available proceeds, to those projects that would be able to quickly use the funds. The Governor signed into law Assembly Bill (AB) 181, Chapter 52, Statutes of 2022, the Committee on Budget: Education Finance: Education Omnibus Budget Trailer Bill, on June 30, 2022. The bill appropriated, for the 2022/23 fiscal year, \$1.3 billion in one-time General Fund dollars to the SAB for allocation to eligible SFP projects, specifically new construction and modernization projects. In addition to the \$1.3 billion, the Legislature has declared its intent to appropriate an additional \$2,060,500,000 from the General Fund in the 2023/24 fiscal year and an additional \$875 million from the General Fund in the 2024/25 fiscal year for the same purposes, funding eligible new construction and modernization projects under the SFP until December 31, 2025. The Office of Administrative Law (OAL) approved the emergency regulations, filed them with the Secretary of State, with an effective date of November 7, 2022.

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

Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

Background and Problem Being Resolved

The problem being resolved is not a problem but a funding opportunity in which projects that are construction ready are able to receive an Apportionment outside the Priority Funding process. As stated above, AB 181, Chapter 52, Statutes of 2022 [Committee on Budget: Education Finance: Education Omnibus Budget Trailer Bill] was signed by the Governor on June 30, 2022 and included a one-time General Fund appropriation in the amount of \$1.3 billion. The SAB has been charged with allocating the one-time General Fund appropriation to eligible SFP new construction and modernization projects. In addition to the \$1.3 billion, the Legislature has declared its intent to appropriate an additional \$2,060,500,000 from the General Fund in the 2023/24 fiscal year and an additional \$875 million from the General Fund in the 2024/25 fiscal year for the same purposes, funding eligible new construction and modernization projects under the SFP until December 31, 2025.

Current Priority Funding Process

The Priority Funding Process is a process by which school districts submit certification requests for cash for projects that have received unfunded approvals and are sitting on the Unfunded List (Lack of AB 55 Loans). Priority Funding certification requests are submitted twice a year during two specific 30-day filing periods, are good for six months, and the requests indicate a school district’s desire to convert a project’s unfunded approval to an apportionment. For example, one of the 30-day filing periods for school districts to submit certification requests began May 11, 2022 and ended June 9, 2022. The certification requests received during this 30-day filing period are valid from July 1, 2022 through December 31, 2022 for school district projects to be eligible for cash from the Fall 2022 General Obligation Bond sale. The next 30-day filing period for school districts to submit certification requests began November 9, 2022 and ended December 8, 2022. The certification requests received during this 30-day filing period are valid from January 1, 2023 through June 30, 2023 for their projects to be eligible for cash from a Spring 2023 General Obligation Bond sale.

Direct Apportionment Process

In addition to the method of providing funding to convert unfunded approvals as noted above, the one-time \$1.3 billion General Fund appropriation is an opportunity for cash to be allocated quicker than expected for those projects that are construction ready. This process would allow the SAB to apportion funds on an on-going monthly basis.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that there are no other programs or regulations in existence that allow the SAB to allocate General Fund appropriations for the funding of school construction in an efficient manner. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations provides an efficient mechanism for providing apportionments to projects outside the typical Priority Funding timelines, while ensuring an equitable and streamlined process for school construction projects, as well as maintaining the integrity of the SFP funding process.

Anticipated Benefits of the Proposed Regulations

The proposed regulatory amendments promote transparency because the process of funding SFP projects with unexpected cash proceeds from sources other than bond funds is clarified in regulation. School districts will benefit because the General Fund appropriation will be made available to the SAB for Apportionments to school districts on an on-going basis. Because school districts can receive funding so quickly, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This is a positive impact on the state’s economy and may also create an unknown number of jobs. Overall, proceeding with the implementation of the proposed regulations provides an efficient mechanism for quickly using cash resources by providing apportionments to projects outside the typical Priority Funding timelines, while ensuring an equitable and streamlined process for school construction projects, as well as maintaining the integrity of the SFP funding process.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments aligns with the statute, maintains the integrity of the SFP funding process, as well as maintains equity amongst school district projects.

Summary of the Proposed Regulatory Amendments

A summary of the proposed regulatory amendments, including the Grant Agreement templates, are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. These definitions provide clarity to OPSC and school districts on program concepts and requirements. The proposed amendment reflects the revision date for the Grant Agreement templates.

Existing Regulation Section 1859.90 specifies the process for school districts to request the release of funds for SAB–approved apportionments and requires that the requests be submitted within 18 months of the SAB apportionment approval. The proposed regulatory amendments align the direct Apportionment process with the timelines of the existing Priority Funding process by eliminating the 18–month timeline to submit a valid Form SAB 50–05 and Grant Agreement and changing it to 180 days to request the release of funds for non–financial hardship school districts and 365 days for those school districts approved with financial hardship status. In addition to these amendments, the language referencing inactive apportionments is being removed because the SAB is providing actual Apportionments backed with General Fund and General Obligation Bond proceeds on hand. It is highly unlikely that the SAB will be in need of inactive apportionments as the SAB can provide unfunded approvals as an alternative. The language referenced to the Pooled Money Investment Board (PMIB) is being removed as the SFP has not received financing in advance of bond sales from the PMIB in 13 years and there is no indication that this will be a source of funds in the near future. Leaving this language in this section is not necessary for the direct Apportionment process and removing it does not prevent the SAB from using funds from the PMIB in the future.

Existing Regulation Section 1859.90.2 authorizes the SAB to establish 30–calendar day certification filing period to distribute available State school bond funding to school districts that request to convert an unfunded approval to an apportionment. The proposed amendment in subsection (a)(5) removes “18–month” in order to align with the proposed changes in Section 1859.90 above, as well as correct a cross reference.

The existing grant agreement templates include sections relevant to funding provided by the New Construction Program, the Modernization Program, the Charter School Facilities Program, and the Career Technical Education Facilities Program. The grant agreements are entered into for every future funding application that is processed; therefore, each grant agreement will contain the relevant program’s sections. The grant agreements were developed to address the Office of Statewide Audits and Evaluation’s audit findings by improving program oversight and expenditure accountability. The grant agreement also includes changes that implement the trailer bill language (AB 99, Chapter 15, Statutes of 2017), which the Governor signed into law on June 27, 2017. The grant agreements serve as binding documents and key resources that define the responsibilities of the state and school districts from the determination of the amount of eligible state funding to the reporting of all project funds, including any savings achieved. This ensures transparency and

accountability for the program grants being awarded under the SFP. The proposed amendments make subtle changes that align themselves with the amended direct Apportionment process.

Overall, the proposed regulations address the shortened direct Apportionment process of funding SFP projects with funds made available from unexpected cash proceeds from sources other than bond funds outside of the Priority Funding Process. The proposed regulations do not supersede the Priority Funding Process; rather, the proposed regulations streamline the funding process when cash proceeds are made available to fund projects under the SFP that are not dependent on the timing and occurrence of bond sales. However, in the event that bond funds are readily available, the proposed regulations allow for the shortened direct Apportionment process to apply to those funds as well.

Statutory Authority and Implementation

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

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

As stated above, AB 181, Chapter 52, Statutes of 2022 [Committee on Budget: Education Finance: Education Omnibus Budget Trailer Bill] was signed by the Governor on June 30, 2022 and included a one–time General Fund appropriation in the amount of \$1.3 billion. The SAB has been charged with allocating the one–time General Fund appropriation to eligible SFP new construction and modernization projects. In addition to the \$1.3 billion, the Legislature has declared its intent to appropriate an additional \$2,060,500,000 from the General Fund in the 2023/24 fiscal year and an additional \$875 million from the General Fund in the 2024/25 fiscal year for the same purposes, funding eligible new construction and modernization projects under the SFP until December 31, 2025.

The Priority Funding Process is a process by which school districts submit certification requests for cash for projects that have received unfunded approvals and are sitting on the Unfunded List (Lack of AB 55 Loans). Priority Funding certification requests are submitted twice a year during two specific 30-day filing periods, are good for six months, and the requests indicate a school district’s desire to convert a project’s unfunded approval to an apportionment. For example, one of the 30-day filing periods for school districts to submit certification requests began May 11, 2022 and ended June 9, 2022. The certification requests received during this 30-day filing period are valid from July 1, 2022 through December 31, 2022 for school district projects to be eligible for cash from the Fall 2022 General Obligation Bond sale. The next 30-day filing period for school districts to submit certification requests will begin November 9, 2022 and will end December 8, 2022. The certification requests received during this 30-day filing period are valid from January 1, 2023 through June 30, 2023 for their projects to be eligible for cash from a Spring 2023 General Obligation Bond sale.

In addition to the method of providing funding to convert unfunded approvals as noted above, the one-time \$1.3 billion General Fund appropriation is an opportunity for cash to be allocated quicker than expected for those projects that are construction ready. This process would allow the SAB to apportion funds on an on-going monthly basis.

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

Document Incorporated by Reference

Grant Agreement, (Rev. 09/22), referenced in Regulation Section 1859.2 and is incorporated by reference.

IMPACT ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

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

DISCLOSURES REGARDING THE
PROPOSED REGULATORY ACTION

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

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulatory amendments create no costs to any local agency, school district, or charter school requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulatory amendments create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulatory amendments promote transparency because the process of funding SFP projects with unexpected cash proceeds from sources other than bond funds is clarified in regulation. School districts will benefit because the General Fund appropriation will be made available to the SAB for Apportionments to school districts on an on-going basis. Because school districts can receive funding so quickly, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This is a positive impact on the state’s economy number and may also create an unknown of jobs.

The proposed regulations and the Grant Agreement master templates are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments will not have a negative impact to various business, manufacturing,

and construction–related industries such as architecture, engineering, trades and municipalities. In addition, the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

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

- The proposed regulatory amendments promote transparency because the process of funding SFP projects with unexpected cash proceeds from sources other than bond funds is clarified in regulation. School districts will benefit because the General Fund appropriation will be made available to the SAB for Apportionments to school districts on an on–going basis. Because school districts can receive funding so quickly, manufacturing and construction–related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This is a positive impact on the state’s economy number and may also create an unknown of jobs. Further, it is unlikely that the proposed amendments will eliminate new and/or existing businesses, including the elimination of jobs, within California.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local educational agencies utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker’s safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code–compliant and safer for use by pupils, staff, and other occupants on the site.
- There is no impact to the State’s environment from the proposed regulatory amendments.

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

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulatory amendments will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The proposed regulato-

ry amendments only apply to school districts, charter schools, and local education agencies for purposes of funding school facility projects. However, because school districts can receive funding so quickly, manufacturing and construction–related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This may include new [small] businesses, or the expansion of [small] businesses, which is a positive impact on the state’s economy and may also create an unknown number of jobs.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, email or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, email or fax must be received at OPSC no later than April 24, 2023 end of day. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, email or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator
Mailing Address:
Office of Public School Construction
707 Third Street, 4th Floor
West Sacramento, CA 95605
Email Address: lisa.jones@dgs.ca.gov
Fax Number: (916) 375–6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ms. Lisa Jones at (279) 946–8459. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (279) 946–8463.

ADOPTION OF REGULATIONS

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

for at least 15 days prior to the date on which the SAB adopts the regulations.

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

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

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

RULEMAKING FILE

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

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

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet Web site at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations> then scroll down to School Facility Program, Pending Regulatory Changes, and click on the links named 45-day Public Notice, Initial Statement of Reasons, Proposed Regulatory Text, and the Grant Agreement master templates.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB 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 alternative to these proposed regulatory amendments would be the SAB take no action and be in violation of the statute.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

TITLE 11. DEPARTMENT OF JUSTICE

DIVISION 1. ATTORNEY GENERAL CHAPTER 19. RACIAL AND IDENTITY PROFILING ACT OF 2015

Notice is hereby given that the California Department of Justice (Department) proposes to amend sections §§ 999.224–999.229 of Title 11, Division 1, Chapter 19, of the California Code of Regulations (CCR) concerning California's Racial and Identity Profiling Act of 2015 (Act or AB 953).

PUBLIC HEARING

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

Date: Thursday, April 27, 2023
Time: 12:00 p.m.–1:00 p.m.

To join the hearing via videoconferencing, please use the following link, meeting ID and passcode:

Link:

https://teams.microsoft.com/1/meetup-join/19%3ameeting_YmZmNjFiYTctODE4OS00YjkyLWIiNWYtNWNiMjQ2NTRjNjk4%40thread.v2/0?context=%7b%22Tid%22%3a%22883dc3c0-8ba7-4fe1-b5cd-c26645ed4a%22%2c%22Oid%22%3a%223c4ee43e-7325-4779-97dc-e3f4349a1882%22%7d

Meeting ID: 245 792 127 664

Passcode: mTxCJB

To dial in to the hearing, please use the following phone number and conference ID

Phone: 1-916-382-0506

Conference ID: 159580567#

At the hearings, any person may present statements or comments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that persons who make oral statements or comments at the hearing also submit a written copy of the comments made at the hearing.

A person may make a request for a reasonable accommodation, pursuant to the Americans with Disabilities Act, to the Contact Person listed below.

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact persons listed below. Comments may also be submitted by facsimile (FAX) at (213) 897-7605 or by email to Tanya.Koshy@doj.ca.gov. The written comment period closes on April 25, 2023. The Department will consider only comments received by that time. Please address comments to:

Tanya Koshy
Deputy Attorney General
Civil Rights Enforcement Section
California Office of the Attorney General
1515 Clay Street
Oakland, CA 94612
Phone: (510) 897-1983
Email: Tanya.Koshy@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

Government Code section 12525.5, subdivision (e) authorizes the Department to adopt these regulations

which implement, interpret, and make specific the provisions of Government Code section 12525.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

California's Racial and Identity Profiling Act of 2015 (AB 953) took effect on January 1, 2016.

AB 953 enacted multiple provisions to uncover and address the unlawful practice of racial and identity profiling. Among other things, AB 953 enacted Government Code section 12525.5, which requires state and local law enforcement agencies (LEAs), as specified, to collect detailed data regarding stops of individuals, including perceived demographic information on the person stopped. Government Code section 12525.5, subdivision (g)(2) defines "stops" to mean "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control."

Government Code section 12525.5, subdivision (b) provides a non-exclusive list of the information that must be reported for each stop:

The reporting shall include, at a minimum, the following information for each stop:

- (1) The time, date, and location of the stop.
- (2) The reason for the stop.
- (3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.
- (4) If a warning or citation was issued, the warning provided or violation cited.
- (5) If an arrest was made, the offense charged.
- (6) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (7) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for him or her.
- (7) Actions taken by the peace officer during the stop, including, but not limited to, the following:
 - (A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.
 - (B) Whether the peace officer searched the person or any property, and, if so, the basis for

the search and the type of contraband or evidence discovered, if any.

Finally, Government Code section 12525.5, subdivision (e) requires LEAs to report this data to the California Attorney General, whose duty is to issue regulations regarding this data collection and submission.

On November 7, 2017, the Attorney General issued regulations, which set forth the data elements and data values required to be reported by officers, definitions of terms used in the regulations, and specific guidance regarding the reporting required under Government Code section 12525.5, subdivision (b).

In August 2022, the Attorney General amended the 2017 regulations to add new and improve existing data elements and data values; to allow reporting agencies to disclose their stop data, on a confidential basis, to advance public policy and/or scientific study; and to ease administrative burdens on the Department.

Also in 2022, the Governor signed into law Assembly Bill 2773, which requires that law enforcement agencies collect a new data element. Beginning January 1, 2024, all law enforcement agencies must report to the DOJ “[t]he reason given to the person stopped at the time of the stop.” (Government Code, § 12525.5, subdivision (b)(3).)

Effect of the Proposed Rulemaking

This proposed action includes a proposal to add a new data element, to fulfill the statutory obligation under Assembly Bill 2773.

This proposed action also includes explanatory language which makes existing reporting obligations clearer and the striking of language to align the regulations with existing reporting practices.

Finally, this proposed action includes language regarding the release of stop data consistent with statutory language making such data publicly available notwithstanding any other law.

Anticipated Benefits of Proposed Regulations

The benefit of this regulatory action is that it would enable agencies to fulfill the new statutory obligation to report the reason for the stop given to the stopped person. By adding the new requirement and aligning existing requirements with current practice, this regulation proposal will help officers understand what they should report for each data element and ensure more uniform, accurate data. Uniform and accurate data allows the Racial and Identity Profiling Advisory (RIPA) Board to better serve its function specified by law, including: “analyz[ing] the data[,]” producing “detailed findings on the past and current status of racial and identity profiling” in California, “mak[ing] policy recommendations for eliminating” profiling, and working with “state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas

in California.” (Penal Code, § 13519.4, subdivision (j)(3).)

Comparable Federal Regulations

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

Determination of Inconsistency/Incompatibility with Existing State Regulations

Government Code section 11346.5(a)(3)(D) requires the Department to evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this subject matter, the Department has determined these proposed regulations are not inconsistent or incompatible with existing state regulations implementing the Act.

Other Statutory Requirements

Section 12525.5 requires the Attorney General to consult with a variety of stakeholders in drafting regulations implementing the Racial and Identity Profiling Act of 2015. These stakeholders include the Board, “federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations.” (Government Code, § 12525.5, subdivision (e).) Consistent with the Attorney General’s obligations, the Attorney General’s office solicited feedback from the Board’s Stop Data Analysis Subcommittee during a meeting held on January 26, 2023.

DISCLOSURES REGARDING
THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts:

None. The regulations implement recent amendments to Government Code section 12525.5, which were originally enacted by AB 953. AB 953 requires the Department to draft and issue regulations to implement the stop data reporting requirements of Government Code section 12525.5. The Legislative Counsel’s Digest of AB 953 notes that costs incurred by local agencies because of this state–mandated program are reimbursable:

By imposing a higher level of service on local entities that employ peace officers, the bill would impose a state–mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

(Legis. Counsel’s Dig., Assem. Bill No. 953, Stats. 2015, ch. 466, pp. 4153–4154.) Further, Section 5 of AB 953 provides: “If the Commission on State Mandates determines that this act contains costs mandated by

the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.” (Stats. 2015, ch. 466, § 5, p. 4159.)

Accordingly, the costs incurred as a result of the proposed amendments to existing regulations are mandated by statute, and not created as a result of them.

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

None.

Costs or savings to any state agency:

None or negligible. State agencies that are subject to reporting requirements (the Department of Justice, the California Highway Patrol, the University of California, the California State University, and California Community Colleges) and are already reporting stop data would incur negligible costs, if any, to modify existing stop data reporting systems. For any state agencies that are still developing their stop data collection systems, there would no costs to incorporating these amendments.

Other nondiscretionary costs of savings imposed on local agencies:

None or negligible. Local agencies that are subject to reporting requirements and are already reporting stop data would incur negligible costs, if any, to modify existing stop data reporting systems. For agencies that are still developing their stop data collection systems, there would no costs to incorporating these amendments.

Cost or savings in federal funding to the state:

None.

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

The Department has made an initial determination that this proposed action will not have a significant, statewide adverse impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private person or businesses:

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

Small businesses determination:

The Department has determined that these proposed amendments may have a positive impact on some small businesses in the information technology sector.

Significant effect on housing costs:

None.

Business reporting requirement:

None. The reporting requirements in the proposed amendments do not apply to businesses. Rather, only law enforcement agencies, as specified in Government Code section 12525.5 and the existing regulations, will be required to collect and report stop data to the Department.

Results of Economic Impact Analysis

The Department concludes that it is unlikely the proposed amendments will (1) create or eliminate jobs in California, (2) create new businesses or eliminate existing businesses in California, or (3) result in the expansion of businesses currently doing business in California. The proposed amendments will not adversely impact the health and welfare of California residents, worker safety, nor the State’s environment.

Benefits of the proposed action:

- (1) The proposed amendments benefit the health and welfare of California residents by enabling agencies to fulfill the new statutory obligation to report the reason for the stop given to the stopped person, which in turn will help California understand and work towards eliminating racial and identity profiling by (1) enabling officers to carry out a new statutory reporting obligation; (2) clarify existing reporting obligations; and (3) make the regulations consistent the statutory requirement that stop data be publically available.
- (2) These proposals would not benefit worker safety because it does not regulate workers or working conditions.
- (3) These proposals may have a slight benefit on the state’s environment because the use of the electronic reporting may reduce paper consumption and waste.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), 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, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The proposed amendments to the existing regulations impose no costs or requirements on private persons. As a result, there are no less burdensome or more cost-effective alternatives to these proposed amendments with respect to their impact on private persons,

because these regulations will impose no costs on private persons.

The Department has determined that there are no reasonable alternatives to the proposed amendments that would be more effective in carrying out the intent of AB 953. Government Code section 12525.5 requires the Department to issue regulations for the collection and reporting of stop data, which must be reported to the Department and analyzed by the Board. In order to ensure accurate and uniform reporting, the information collected must be uniform both in its categories of information collected and in the responses to these categories, in order for this information to be submitted electronically and for the data to be accessible to law enforcement agencies, the Board, researchers and the public, and so that meaningful review and analysis of this data is possible.

CONTACT PERSON

Inquiries concerning the proposed administrative action, including general or substantive comments concerning this proposed rulemaking, including requests for copies of documents associated with this action such as the text of the proposed amendments, initial statement of reasons, may be directed to:

Tanya Koshy
Deputy Attorney General
Civil Rights Enforcement Section
California Office of the Attorney General
1515 Clay Street
Oakland, CA 94612
Phone: (510) 897-1983
Email: Tanya.Koshy@doj.ca.gov

The backup contact person for these inquiries is:

Nancy Beninati
Supervising Deputy Attorney General
Civil Rights Enforcement Section
California Office of the Attorney General
1515 Clay Street
Oakland, CA 94612
Phone: (510) 897-0010
Email: Nancy.Beninati@doj.ca.gov

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 Tanya Koshy or Nancy Beninati at above address.

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

The Department will make copies of the following documents available on the Department’s website at www.oag.ca.gov/AB953: this notice, the text of the proposed modified regulations, the initial statement of reasons, the economic and fiscal impact statement (STD 399) and addendum, and the notice of publication/regulations submission (STD 400). The entire rulemaking file is available for inspection and copying throughout the rulemaking process during business hours at the following locations:

California Office of the Attorney General
1515 Clay Street
Oakland, CA 94612

Copies of these documents are also available upon request by contacting Tanya Koshy, Deputy Attorney General, at the contact information above (Contact Person).

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department considers 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. Copies of any modified text will be available on the Department’s website at www.oag.ca.gov/AB953. Please send requests for copies of any modified regulations to Tanya Koshy, Deputy Attorney General, at the contact information above (Contact Person). 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 Tanya Koshy, Deputy Attorney General, at the contact information above (Contact Person), or by visiting the Department’s website at www.oag.ca.gov/AB953.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of this notice, the initial statement of reasons, and the text of the proposed modified regulations will be posted and available for downloading on the Department's website at: www.oag.ca.gov/AB953.

**TITLE 16. BOARD OF
VOCATIONAL NURSING AND
PSYCHIATRIC TECHNICIANS**

**AB 1536: NEW SCHOOL PROGRAM
APPROVAL PROCESS**

NOTICE IS HEREBY GIVEN that the Board of Vocational Nursing and Psychiatric Technicians (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than Tuesday, April 25, 2023, by 5:00 p.m.**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2854, 2881.2, 4504, and 4531.1 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 2866, 2880, 2881, 2881.2, 2881.3, 2883, 4511, 4515, 4530, 4531, 4531.1, 4531.2, and 4532, the Board is proposing adopting sections 2537.2 and 2590.2 and amending section(s) 2525, 2526, 2580, and 2581 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Summary of Existing Laws and Effect of the Proposed Action

Existing law provides that the Board is authorized to approve schools or programs of vocational nursing and psychiatric technicians ("schools") in California. Pursuant to BPC sections 2880 and 4530, the Board prepares and maintains a list of approved schools whose graduates, if they have the necessary qualifications, shall be eligible to apply for a license with the Board to practice as a vocational nurse or psychiatric technician.

AB 1536 (Assembly Committee on Business and Professions, Chapter 632, Statutes of 2021) enacted BPC sections 2881.2 and 4531.1, which require the Board to follow a timeline for approving schools and establishes statutory caps for charging fees for schools seeking approval. BPC sections 2881.2 and 4531.1 do not provide specifics on the Board's new school approval process itself, or the necessary items required for obtaining or maintaining approval, including the contents of the initial approval application, the process for calculating the initial application, final and continuing approval fees, the requirements for obtaining a reduction in the continuing approval fee based upon a reduction in state funding, and the criteria for maintaining continuing approval. These sections also use specific terminology such as "affiliated with an approved school or program," "letter of intent," "reasonable costs for providing oversight and review," but do not define these terms.

Adopt sections 2537.2 and 2590.2

These sections are proposed to implement, interpret, and make specific BPC sections 2881.2 and 4531.1 for schools or programs of vocational nursing or for the preparation of psychiatric technicians seeking approval by the Board. These sections would adopt a new section entitled "Prelicensure Education Provider Fees" for easier comprehension of the purpose of this section and for better organization within the article. It would include an introductory sentence that would clarify the purpose of these new sections: to establish the listed fees pursuant to BPC section 2881.2 and 4531.1.

Specifically, this proposal would adopt a new fee schedule for applicants and approved schools of vocational nursing or for the preparation of psychiatric technicians, as follows:

- (1) the initial application fee of \$5,000;
- (2) the final approval fee of \$15,000 unless the institution is entitled to a decrease in fees due to actual costs being less proportionate to the actual costs associated with that school or program,

or due to affiliation with another Board approved school or program;

- (3) the final approval fee of \$5,000 for any applicant providing documentation of its affiliation with another approved school or program. Such documentation would include proof of a formal collaborative agreement between the applicant institution and an approved school or program that is in good standing as specified;
- (4) the method for calculating the initial determination by the Board for the reasonable costs for providing oversight and review of an institution;
- (5) the method and documentation requirements for calculating a reduction in fees to \$2,500 for schools or programs experiencing a reduction in state funding resulting in reduced enrollment capacity; and,
- (6) the process the Board will use to provide a school or program a fee payment statement that shows the Board's initial determination of the reasonable costs for providing oversight and review for the school or program's continuing approval application.

Amend sections 2525, 2526, 2580, and 2581

This proposal would establish such standards and definitions and seeks to adopt regulations specifying the Board's requirements for obtaining and maintaining a school approval for schools or programs of vocational nursing or for the preparation of psychiatric technicians. This proposal would also specify the initial and continuing approval application requirements, including a letter of intent form, applications and forms for initial and continuing approval (listed below), and require the Board to follow a timeline for processing applications and approving schools. This proposal would set minimum requirements for the following:

- (1) the content of the Letter of Intent document (the document that begins the approval process for a new school) and the required format for submission;
- (2) the method and process for notifying a school or program of the next steps in the approval process;
- (3) the form and method of submitting a completed application, including required forms and fee;
- (4) the method and process for notifying a school or program when its initial application is complete and the "good cause" criteria for requesting an extension to complete the application;
- (5) the grounds for denying an application (initial or continuing), including for noncompliance with the Board's regulations and on grounds specified in section 480 of the Business and Professions Code (substantially-related criminal convictions,

disciplinary action by another state board, knowingly false statements on the application);

- (6) the procedures for notifying an institution of the action taken on the initial application;
- (7) the process for submitting the final approval fee and an invoice for the reasonable costs incurred by the Board in the approval process for the institution;
- (8) the standards for notifying the Board of any material change in circumstances affecting any information contained in any application or submitted in support of any application;
- (9) the method for determining when an approval will expire and the steps the school or program would need to take to apply for continuing approval;
- (10) the form and method for submitting a continuing approval application, including required forms and fee;
- (11) the method and process for notifying a school or program when its continuing approval application is complete, and,
- (12) alternate student criteria if the school or program elects to admit alternate students to its program (moves existing text to a new subsection).

The Board's current emergency regulations implement these requirements through June 28, 2023; the Board has therefore drafted this proposal that would specify the Board's new school or program approval process incorporating all of the above-referenced requirements in permanent regulation.

Anticipated Benefits of Proposal

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents. Qualified preclicensure programs must be approved consistently and timely to ensure that the workforce pipeline of licensed vocational nurses and psychiatric technicians can support the health and well-being of Californians. This regulatory proposal would create consistent standards for the review and approval of new schools of vocational nursing or programs for the preparation of psychiatric technicians and specified timelines for Board review, response, and approval of applications. This will help alleviate applicant confusion and help ensure that applications are processed in a timely manner, thus helping increase the likelihood of a greater number of educational institutions approved by the Board and greater access to educational opportunities for those seeking to enter the workforce as a licensed vocational nurse or psychiatric technician. Adopting standards for notice of, and the method for calculation of, fees relative to the actual costs of providing oversight and review for final approval and continuing approval will

also help ensure accountability and transparency in the Board’s fee calculation process.

This regulatory proposal does not affect worker safety or the state’s environment.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

Vocational Nursing Programs

Form #	Form Name
55M-1	Letter of Intent to Submit Application for Initial Approval of New School or Program — Vocational Nursing (New 04/2022)
55M-2	Application for Approval of New School or Program of Vocational Nursing (New 04/2022)
55M-3A	Clinical Facility Verification Form — VN (New 04/2022)
55M-2E	Summary of Instructional Plan Program Hours Vocational Nursing Program (New 04/2022)
55M-15	Continuing Approval Application for a Vocational Nursing School or Program (New 04/2022)

Psychiatric Technician Programs

Form #	Form Name
56M-1	Letter of Intent to Submit Application for Initial Approval of New School or Program — Psychiatric Technician (New 04/2022)
56M-2	Application for Approval of a New Psychiatric Technician School or Program (New 04/2022)
56M-3A	Clinical Facility Verification Form — PT (New 04/2022)
56M-2E	Summary of Instructional Plan Program Hours Psychiatric Technician Program (New 04/2022)
56M-15	Continuing Approval Application for a Psychiatric Technician School or Program (New 04/2022)

Forms for All Programs

Form #	Form Name
55M-3	Intent for Clinical Placement (New 04/2022)
55M-2W	Vocational Nursing or Psychiatric Technician Program Curriculum Content — Instructional Plan (New 04/2022)
55M-10	Verification of Faculty Qualifications Form (New 04/2022)

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The implementation of these requirements do not result in a fiscal impact to the state in the form of federal funding to any state agency. However, the Board anticipates the following costs to the state.

The proposed regulations help to provide a structured timeline for the approval of prelicensure schools of vocational nursing and schools for preparation of psychiatric technicians. The proposal clarifies the approval requirements and imposes a fee on prelicensure and continuing approval applicants.

Expenditures: Notwithstanding the fees anticipated from the proposed regulations, the Board currently incurs workload costs of approximately \$23,355 related to application review and final approval and workload costs of approximately \$31,645 for continuing approval.

The proposed regulations establish registration fees, which the Board will need to process and cashier with estimated costs of \$20 per transaction, which results in estimated workload costs ranging from \$1,040 to \$2,255 per year and up to \$15,540 over a ten-year period.

The Board notes, the remaining costs (cashiering excluded) to review and approve applications (\$23,335) and continuing approval applications (\$31,645) would be incurred by the Board regardless of the regulations because the Board is required to approve and regulate these institutions. As a result, these current costs are not included in this analysis.

The Board will also incur information technology costs of approximately \$11,000 to reconfigure existing licensing, cashiering, and accounting systems.

Any workload and costs are anticipated to be absorbed within existing resources.

Revenues: The proposed regulations are anticipated to result in revenues ranging from \$480,000 to \$650,000 per year and up to \$5,730,000 over a ten-year period.

Additionally, the Board acknowledges schools may opt to pass on costs to students resulting from the proposed regulations, but any operational decisions made by an individual institution is unknown at this time and therefore not included in this analysis.

The Board also notes, the proposed regulations provide for a continuing approval fee reduction to \$2,500 related to reduced student enrollment and state funding, as specified. However, the Board does not anticipate employing these provisions because student enrollment rates are projected to increase in the future.

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate Imposed on Local Agencies or School Districts, if so, Whether the Mandate is Reimbursable by the State: None.

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

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard): None.

BUSINESS IMPACT ESTIMATES

This regulation may have an economic impact on businesses, specifically, schools or educational programs seeking Board approval or continuing approval. However, the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination is based upon the following facts.

This initial determination is based on the following estimates:

- The Board estimates that approximately 250 businesses will be impacted by this proposal.
- The Board estimates that the economic impact of this proposal will be below \$10 million.

Pursuant to AB 1536, the proposed regulations establish fees charged to schools as follows:

- Initial Application: Up to \$5,000
- Final Approval: (Option #1) Up to \$5,000 for schools and programs affiliated with a currently registered school in good standing, or (Option #2) Up to \$15,000 for all other schools and programs
- Continuing Approval: Up to \$5,000 once every four years for registered schools and programs

Initial Application/Final Approval: The Board anticipates initial applications, final approval rates, and costs as follows:

- Year–1: 11 Unaffiliated (\$220,000) & 4 Affiliated (\$40,000)
- Year–2: 21 Unaffiliated (\$420,000) & 5 Affiliated (\$50,000)
- Year–3: 18 Unaffiliated (\$360,000) & 2 Affiliated (\$20,000)
- Ongoing: 13 Unaffiliated (\$260,000) & 2 Affiliated (\$20,000)

Total estimated costs range from \$260,000 to \$470,000 per year and up to \$3,070,000 over a ten-year period.

Continuing Approval: The Board currently has 156 registered schools scheduled to submit a continuing approval application per the four-year renewal cycle and incur costs as follows:

- Year–1: 44 schools (\$220,000)
- Year–2: 29 schools (\$145,000)
- Year–3: 29 schools (\$145,000)
- Year–4: 54 schools (\$270,000)
- Year–5: 59 schools (\$295,000)
- Year–6: 55 schools (\$275,000)
- Year–7: 49 schools (\$245,000)
- Year–8: 69 schools (\$345,000)
- Year–9: 74 schools (\$370,000)
- Year–10: 70 schools (\$350,000)

Total estimated costs related to continuing approval range from \$145,000 to \$370,000 per year and up to \$2,660,000 over a ten-year period.

Total Costs: The proposed regulations result in total costs ranging from \$480,000 to \$650,000 per year and up to \$5,730,000 over a ten-year period.

The Board notes, notwithstanding the proposed regulations, these schools would have otherwise incurred costs (including facilities, staffing, clinical placement, and other) as part of normal business operations. As a result, these costs are not included in this analysis.

The Board further notes, any student enrolling in these schools would have otherwise incurred costs (including tuition, books, and other) as part of enrollment, and paid examination and license fees to apply for licensure with the Board. As a result, these costs are not included in this analysis.

Additionally, the Board acknowledges schools may opt to pass on costs to students resulting from the proposed regulations, but any operational decisions made by an individual institution is unknown at this time and therefore not included in this analysis.

The Board also notes, the proposed regulations provide for a continuing approval fee reduction to \$2,500 related to reduced student enrollment and state funding, as specified. However, the Board does not antic-

ipate employing these provisions because student enrollment rates are projected to increase in the future.

Cost Impact on Representative Private Person or Business: Please see “Business Impact” section for a description of the cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board. The Board anticipates that businesses and individuals may incur costs of \$5,730,000 to comply with this regulation over a ten-year period.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. As explained more completely in the Business Impact Estimate section of this notice, the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Benefits of Regulation

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents by creating consistent standards for the review and approval of new schools of vocational nursing and programs for the preparation of psychiatric technicians, with specified timelines for Board review, response, and approval of applications. This will help alleviate applicant confusion and help ensure that applications are processed in a timely manner, thus helping increase the likelihood of a greater number of educational institutions approved by the Board and thus increasing the number of qualified professions to enter the healthcare workforce. Adopting standards for notice of, and the method for calculation of, fees relative to the actual costs of providing oversight and review for final approval and continuing approval will also help ensure accountability and transparency in the Board’s fee calculation process.

This regulatory proposal does not affect worker safety or the state’s environment.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations may affect small businesses. Although small businesses owned by applicants and/or licensees of the Board may be impacted, the Board does not collect

or maintain data relating to the number or percentage of licensees or applicants who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board 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 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 submit comments to the Board in writing relevant to the above determinations at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

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 Vocational Nursing and Psychiatric Technicians at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment 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 comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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 PERSONS

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

Name: Doris Pires
Address:
Board of Vocational Nursing and Psychiatric
Technicians
2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone Number: (916) 263-7864
Fax Number: (916) 263-7866
Email Address: bvnpt.rulemaking@dca.ca.gov

The backup contact person is:

Name: Mark Ito
Address:
Board of Vocational Nursing and Psychiatric
Technicians
2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone Number: (916) 263-7851
Fax Number: (916) 263-7866
Email Address: bvnpt.rulemaking@dca.ca.gov

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at https://www.bvnpt.ca.gov/about_us/bvnpt_regulations.shtml.

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

2022 CALIFORNIA BUILDING CODE,
TITLE 24, PART 2 (DSA-AC 01/22)

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

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(1) and 11346.8.

DSA-AC will hold a public hearing live on Zoom at 10:00 am, on March 23, 2023, during which time any person may present statements or arguments relevant to the proposed regulatory action summarized below. Reference: Government Code Section 11346.5(a)(15).

Written comments will be accepted by CBSC regarding the proposed changes from March 10, 2023, until midnight on April 24, 2023.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than April 24, 2023:

California Building Standards Commission
Attention: Public Comments
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

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

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

POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS

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

Following the public comment period, CBSC may adopt the proposed building standards substantially as

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.1. The purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Sections 4450 through 4452, 4455.5, 4456, 4457, 4459, 12955.1 and 14679, Health and Safety Code Sections 19952 through 19959 and Vehicle Code Section 22511.8.

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

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

Government Code Section 4451 limits the application to buildings and facilities intended for use by the public, with reasonable availability to persons with disabilities, including educational facilities and including those buildings and facilities constructed with state, county, or municipal funds, including any political subdivision thereof. Includes temporary and emergency construction.

Government Code Section 4452 states that it is the intent of the Legislature that the building standards relating to disabled access are intended to be used as minimum requirements to ensure that buildings and facilities are accessible to, and functional for, disabled persons.

Government Code Section 4455.5 establishes the need for elevators to have braille and raised numerals at buttons and door casings.

Government Code Section 4456 establishes that buildings and facilities constructed prior to Nov.

13, 1968 must comply with accessibility provisions when undertaking an alteration, structural repair, or addition.

Government Code Section 4457 requires that portable school buildings be accessible, with some exceptions.

Government Code Section 4459 directs the State Architect to develop amendments to building regulations as necessary to meet state regulations and minimum federal accessibility standards.

Government Code Section 12955.1 requires that building standards for public housing must meet minimum requirements of this section and meet or exceed the requirements of the federal Fair Housing Act and implementing regulations; and gives the Division of the State Architect authority to propose regulations as deemed appropriate and necessary to implement, interpret, or make specific the provisions contained therein.

Government Code Section 14679 requires the State Architect to develop regulations for parking facility accessibility.

Health and Safety Code Section 18949.1 transfers responsibility to adopt regulations relating to building standards from the Division of the State Architect to the Building Standards Commission.

Health and Safety Code Section 19952 requires certain places of public amusement to provide accessible features and elements.

Health and Safety Code Section 19952.5 requires certain places of public amusement to provide adult changing facilities for the use of people with disabilities.

Health and Safety Code Section 19955 requires certain public accommodations and facilities be accessible to persons with disabilities.

Health and Safety Code Section 19956.5 requires that public walks and curbs be accessible.

Health and Safety Code Section 19957 provides exceptions from the literal building standards in the cases of unnecessary hardship or technical difficulty and sets enforcement and equivalent facilitation standards.

Health and Safety Code Section 19958 provides authority for enforcement of building regulations.

Health and Safety Code Section 19959 requires existing public accommodations to provide accessible features when alterations, structural repairs, or additions are undertaken.

Vehicle Code Section 22511.8 requires off street parking facilities to provide accessible parking and directs the State Architect to develop appropriate regulations to ensure compliance.

Summary of Existing Regulations

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

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

Summary of Effect

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

- Adding technical requirements for wheelchair spaces at Safe Dispersal Areas.
- Clarifying scoping and technical requirements for accessibility at multi-user all-gender toilet rooms.
- Adding technical requirements for accessibility at urinals in compartments.
- Revising existing scoping requirements for public housing to match scoping at federal Fair Housing Act.
- Revising existing requirements for Adult Changing Facilities to match Health and Safety Code requirements.
- Removing duplicative text for site impracticality tests.
- Adding technical requirements for privacy latches at individual toilet room compartments.
- Clarifying existing references to Chapters 11A and 11B.
- Clarify existing terminology for indicating a slope.

Comparable Federal Statute or Regulations

Comparable federal statutes and regulations include:

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

3. 2010 Standards for Title II and III Facilities: 2004 ADAAG

- Fair Housing Amendments Act of 1988.

Policy Statement Overview

The proposed building standards are intended to implement new accessibility provisions and clarify existing accessibility provisions contained in the 2022 California Building Code to ensure that publicly funded buildings, structures, sidewalks, curbs, and related facilities shall be accessible to and usable by persons with disabilities; privately funded public accommodations and commercial facilities shall be accessible to and usable by persons with disabilities; and public housing shall be accessible to and usable by persons with disabilities.

Evaluation of Consistency

There are no inconsistent or incompatible regulations proposed.

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

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

There are no other matters prescribed by statute applicable to DSA-AC, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

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

DSA-AC has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

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

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

- A. Cost or Savings to any state agency: **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.
DSA-AC has made an initial determination that the adoption of this regulation will make specific the effective date as required by statute (Ref. H&S 19952.5) for alterations to places of public amusement. The adoption of these regulations will not create adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states beyond the requirements as established by legislation.

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 relied upon to support its initial determination of no effect.
No facts, evidence, documents, testimony or other evidence were submitted during pre-cycle outreach workshops indicating that there would be a significant statewide adverse economic impact to business.

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

Reference: Government Code Section 11346.5(a)(11).
Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.
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:
The Division of the State Architect estimates that the cost of compliance with these proposed regula-

tions will be minimal. Clear and consistent scoping and technical requirements benefit code users, building officials, and building and facility owners.

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

Reference: Government Code Section 11346.5(a)(10).
The DSA-AC has assessed whether and to what extent this proposal will affect the following:
A. The creation or elimination of jobs within the State of California.
DSA-AC has determined that the proposed action has no effect.
B. The creation of new businesses or the elimination of existing businesses within the State of California.
DSA-AC has determined that the proposed action has no effect.
C. The expansion of businesses currently doing business within the State of California.
DSA-AC has determined that the proposed action has no effect.
D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.
The Division of the State Architect has determined that the proposal establishes the minimum requirements to safeguard the public health, safety and general welfare through access to persons with disabilities.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS THAT
WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).
DSA-AC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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

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

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

DSA-AC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. The statement shall note that providing the accessible 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

PROPOSING STATE AGENCY
CONTACT PERSON FOR SUBSTANTIVE 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:

Eric Driever, Principal Architect
Division of the State Architect
Headquarters, Codes and Policies
(916) 443-9829
eric.driever@dgs.ca.gov

Back up Contact:

Michelle Davis, Supervising Architect
Division of the State Architect
Headquarters, Codes and Policies
(279) 799-3835
michelle.davis@dgs.ca.gov

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

TITLE 24, PART 2 (HCD 1-AC 01/22)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of California Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), title 24, part 2. HCD is proposing building standards related to the 2022 California Building Code (CBC), chapters 10 and 11A.

PUBLIC COMMENT PERIOD

Reference: Government Code (GC), section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from March 10, 2023, until midnight on April 24, 2023.

Comments may be submitted to CBSC via:

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

U.S. Mail postmarked no later than April 24, 2023:

California Building Standards Commission
Attention: Public Comments
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

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

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

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

The public will have an opportunity to provide 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: GC, 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: GC, 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, 18941, 19960 through 19997 and 19990; and GC, sections 12955.1 and 12955.1.1.

HCD is proposing this regulatory action based on HSC, sections 17040, 17920.9, 17921, 17922, 18300, 18620, 18630, 18640, 18670, 18691, 18865, 18871.3, 18873, and 18873.1 through 18873.5; and GC, sections 12955.1 and 12955.1.1.

INFORMATIVE DIGEST

Reference: GC, section 11346.5(a)(3).

Summary of Existing Laws

GC, section 12955.1, requires HCD to propose the adoption, amendment, or repeal of building standards by the CBSC for the “design and construction of covered multifamily dwellings that are not public housing that allow access to, and use by, disabled persons”. The

CBSC is authorized to adopt these building standards under the authority granted by HSC section 18949.5.

GC, section 12955.1.1, provides a clear definition for the terms “covered multifamily dwelling” and “multistory dwelling unit.”

HSC, section 17000 through 17062.5, Employee Housing Act, requires HCD to develop and adopt building standards for employee housing.

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 17910 through 17995.5, State Housing Law, requires HCD to develop and adopt regulations for buildings used for human habitation.

HSC, section 17920.9, requires HCD to propose the adoption, amendment, or repeal by the CBSC of regulations necessary for the provision of minimum fire safety and fire-resistant standards relating to the manufacture, composition, and use of foam building systems manufactured for use, or used, in construction of buildings subject to State Housing Law (Part 1.5 (commencing with section 17910) of Division 13 of the HSC), mobilehomes or factory-built housing, for the protection of the health and safety of persons occupying those buildings, mobilehomes, or factory-built housing.

HSC, section 17921, requires 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 international or uniform industry codes. In the absence of adoption by regulation, the most recent editions of the international or uniform codes shall be considered to be adopted one year after the date of publication of the uniform codes. The CBSC is authorized to adopt these building standards under the authority granted by HSC section 18949.5.

HSC, section 18200 through 18700, Mobilehome Parks Act, requires HCD to develop and adopt building standards for mobilehome parks.

HSC, section 18300, requires HCD to adopt building standards for mobilehome parks.

HSC, section 18620, establishes HCD’s authority to propose the adoption of a building standard to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC regarding the construction of buildings in mobilehome parks that it determines are reasonably necessary for the protection of life and property and to carry out the purposes of the Mobilehome Parks Act (Part 2.1 (commencing with section 18200) of Division 13 of the HSC).

HSC, section 18630, establishes HCD’s authority to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC regarding plumbing in mobilehome parks that are reasonably necessary for the protection of life and property and to carry out the purposes of the Mobilehome Parks Act (Part 2.1 (commencing with section 18200) of Division 13 of the HSC).

HSC, section 18640, authorizes HCD to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC for toilet, shower, and laundry facilities in mobilehome parks.

HSC, section 18670, authorizes HCD to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC regarding electrical wiring, fixtures, and equipment installed in mobilehome parks that it determines are reasonably necessary for the protection of life and property and to carry out the purposes of the Mobilehome Parks Act (Part 2.1 (commencing with section 18200) of Division 13 of the HSC).

HSC, section 18691, authorizes HCD to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC regarding fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in parks.

HSC, section 18860 through 18874, Special Occupancy Parks Act, requires HCD to develop and adopt building standards for special occupancy parks.

HSC, section 18865, requires HCD to adopt building standards for special occupancy parks.

HSC, section 18871.3, establishes HCD’s authority to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC to adopt regulations regarding the construction, location and use of accessory structures in parks.

HSC, section 18873, establishes HCD’s authority to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC to adopt regulations regarding the construction of buildings in special occupancy parks that it determines are reasonably necessary for the protection of life and property and to carry out the purposes of the Mobilehome Parks Act (Part 2.1 (commencing with section 18200) of Division 13 of the HSC).

HSC, section 18873.1, establishes HCD’s authority to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC regarding plumbing in special occupancy parks that are reasonably neces-

sary for the protection of life and property and to carry out the purposes of the Special Occupancy Parks Act (Part 2.3 (commencing with section 18860) of Division 13 of the HSC).

HSC, section 18873.2, authorizes HCD to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC for toilet, shower, and laundry facilities in special occupancy parks.

HSC, section 18873.3, authorizes HCD to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC regarding electrical wiring, fixtures, and equipment installed in special occupancy parks that it determines are reasonably necessary for the protection of life and property and to carry out the purposes of the Special Occupancy Parks Act (Part 2.3 (commencing with section 18860) of Division 13 of the HSC).

HSC, section 18873.4, establishes HCD’s authority to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC to adopt regulations regarding fuel gas equipment and installation within permanent buildings and parks.

HSC section 18873.5, establishes HCD’s authority to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC to adopt regulations regarding the prevention of fire or for the protection of life and property against fire in parks.

HSC section 18941, requires HCD to administer building standards, written on a performance basis consistent with state and nationally recognized standards for building construction in view of the use and occupancy of each structure to preserve and protect the public health and safety

HSC section 19960 through 19997, requires HCD to adopt building standards for factory–built housing.

HSC section 19990, authorizes HCD to propose the adoption of building standards to the CBSC pursuant to Chapter 4 (commencing with section 18935) of Part 2.5 of the HSC regarding requirements related to factory–built housing to include the most recent editions of the international or uniform industry codes.

Summary of Existing Regulations

The 2022 California Building Code, CCR, title 24, part 2 (CBC), chapters 10 and 11A, became effective on January 1, 2023.

Summary of Effect

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

- Two editorial modifications to section numbers in CBC, chapter 10, and one in chapter 11A that

were omitted during the 2021 Triennial Code Adoption Cycle.

- Adopt language from the Fair Housing Act Design Manual to allow a half-inch tolerance for installation of standard countertops that may project from the back wall for a maximum dimension of 25 1/2 inches (647.7 mm).

These changes will impact the following HCD programs:

- a) State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided for through the Federal Fair Housing Amendments Act of 1988 (FHA) (Public Law, 100-430 — and its implementing regulations — title 24 of the Code of Federal Regulations, 100.1 et seq.) and state law accessibility requirements, except where the application is for public use only.
- b) Employee Housing Program: relative to the use of any buildings or structures on the property in accordance with HSC section 17040.
- c) Mobilehome Parks and Special Occupancy Parks Programs: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18300, 18620, 18865 and 18873.1.
- 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. However, CBC, chapter 11A is modeled after the FHA and also selected sections of the FHA Design Manual.

Policy Statement Overview

The proposed regulations as part of the update to the 2022 CBC will amend existing building standards affecting residential occupancies and building or structures accessory thereto, as provided for by federal and state accessibility requirements.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment, and the general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards

on a statewide basis, as required by statute, results in uniformity in residential construction and promotes affordable costs.

Evaluation of Consistency

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

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

Reference: GC, section 11346.5(a)(4).

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: GC, section 11346.5(a)(5).

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

ESTIMATE OF COST OR SAVINGS

Reference: GC, section 11346.5(a)(6).

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

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

Estimate: The proposed changes do not result in costs to state agencies, local agencies, or school districts.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

Reference: GC, section 11346.5(a)(8).

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

HCD has made an initial determination that the amendment of 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: GC, section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence that the agency relied 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.

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

Reference: GC, 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: GC, 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. HCD's proposed changes provide clarification and may save costs related to compliance.

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

Reference: GC, section 11346.5(a)(10).

HCD 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.

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

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

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

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

These regulations benefit California residents by ensuring the building standards HCD proposes provide advancement to the accessibility needs of Californians, protection of public health and safety, worker safety, and the environment.

ESTIMATED COST OF COMPLIANCE
OF STANDARDS THAT WOULD
IMPACT HOUSING

Reference: GC, section 11346.5(a)(12).

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

CONSIDERATION OF ALTERNATIVES

Reference: GC, 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. In addition, no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD 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: GC, 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: GC, 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: GC, 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. The statement shall note that providing the accessible 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: GC, 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

**PROPOSING STATE AGENCY
CONTACT PERSON FOR SUBSTANTIVE 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, Associate Construction Analyst
California Department of Housing and Community Development
State Housing Law Program
(916) 841-7609
Veronica.Turdean@hcd.ca.gov

Back up Contact:

Mitchel Baker, Assistant Deputy Director
California Department of Housing and Community Development
Codes and Standards
(916) 214-8097
Mitchel.Baker@hcd.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION/BOARD OF STATE AND
COMMUNITY CORRECTIONS**

**MINIMUM STANDARDS FOR THE DESIGN
AND CONSTRUCTION OF LOCAL AND
JUVENILE DETENTION FACILITIES**

(BSCC 01/22)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Board of State and Community Corrections (BSCC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1 and 2. The BSCC is proposing building standards related to minimum standards for the design and construction of local detention facilities.

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 **March 10, 2023**, until midnight on **April 24, 2023**.

Comments may be submitted to BSCC via:

Email: regulations@bscc.ca.gov
US Mail postmarked no later than April 24, 2023:
Board of State and Community Corrections
Attention: Public Comments
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833

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 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, BSCC 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 BSCC adopts, amends, or repeals the regulation(s). BSCC will accept written comments on the modified building standards during the 15-day period.

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

AUTHORITY AND REFERENCE

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

The purpose of these building standards is to implement, interpret, or make specific the provisions of Penal Code Sections 6029 and 6030.

The BSCC is proposing this regulatory action based on Penal Code 6030.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Penal Code Section 6030 authorizes the BSCC to establish minimum standards for local detention facilities. The minimum standards include but are not limited to, health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities and personnel training. Penal Code Section 6030 also requires the BSCC to review those standards biennially and make any appropriate revisions.

Summary of Existing Regulations

The BSCC promulgates the existing standards which prescribe requirements for local detention facilities. These existing standards are codified in Title 24 Minimum Standards for the Design and Construction

of Local Detention Facilities, Part 1, and Part 2 of the California Code of Regulations; and Title 15 Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations.

Summary of Effect

The proposed regulations will update adult Title 24, Part 1 and 2, by amending and adopting new definitions and requirements that align with requirements in adult Title 24 Minimum Standards for the Design and Construction of Local Detention Facilities. Among other various updates, the proposed revisions will update existing definitions and requirements to reflect current best practices, update outdated and inappropriate terminologies, specify design criteria, provide further protection against suicide risk, and ensure consistency with the proposed changes in Title 15.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed regulations is to update the regulatory requirements for local detention facilities in alignment with current industry practices, consistency with the proposed changes in Title 15; these proposed regulations also enhance the safety and security of staff and incarcerated persons.

Evaluation of Consistency

The BSCC has determined the proposed regulations are 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).

The BSCC has determined that there are no other matters prescribed by statute applicable to the BSCC or to any specific regulations or class of regulations.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

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

The BSCC 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.

The BSCC 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 relied upon to support its initial determination of no effect.

The proposed regulations are specific to the design and construction of adult local detention facilities owned and operated by counties and cities in California. No facts, evidence, documents, testimony or other evidence have been relied upon to support the initial determination of no effect.

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

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

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

N/A.

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

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

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

The BSCC 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 BSCC 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.

The BSCC has determined that 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 BSCC has determined that the proposed regulations will not create or eliminate existing businesses within the State of California.

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

The BSCC has determined that the proposed regulations will not result in 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 BSCC has determined that there will be positive impacts on the health and welfare of incarcerated adults in local detention facilities, and the proposed revisions will ensure alignment with the intent of rehabilitation and an improved safety; provide more clarity and consistency of the language throughout the regulations; significant improvement to the health and welfare of incarcerated adults in local detention facilities, and an increased overall safety for facility staff, incarcerated persons and visitors at each facility.

ESTIMATED COST OF COMPLIANCE
OF STANDARDS THAT WOULD
IMPACT HOUSING

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

BSCC has determined there would be no cost to comply with these proposed building standards. The BSCC does not have authority to impose building standards or regulations applicable to housing.

CONSIDERATION OF ALTERNATIVES

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

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

BSCC 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. The statement shall note that providing the accessible description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

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

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

Kevin Day
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY
CONTACT PERSON FOR SUBSTANTIVE 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:

Lindsay Tu, Staff Services Manager I
Board of State and Community Corrections
Facilities Standards and Operations Division
(916) 324-1959
lindsay.tu@bscc.ca.gov

Back up Contact:

Ginger Wolfe, Staff Services Manager II
Board of State and Community Corrections
Facilities Standards and Operations Division
(916) 621-2886
ginger.wolfe@bscc.ca.gov

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

HABITAT RESTORATION AND
ENHANCEMENT ACT
CONSISTENCY DETERMINATION
NUMBER 1653-2023-107-001-R1

Project: Salt Creek Gravel Project

Location: Shasta County, CA

Applicant: William Vanderwaal

Notifier: Reclamation District Number 108

Background

Project Location: The Project is located in Shasta County on the Sacramento River, immediately downstream of the confluence of Salt Creek with the Sacramento River. Approximate site location: Latitude: 40.591667° and Longitude: -122.433611°.

Project Description: The purpose of the project is to improve spawning conditions through the placement of spawning gravel into the Sacramento River. The proposed project components are described below.

- A. Delivery of Gravel to Site. Dump trucks will be utilized to deliver approximately 12,000 cubic yards of spawning gravel to the site. The trucks will dump their loads near the edge of the embankment. All gravel utilized will be washed and have a cleanliness value of 85 or higher, based on CalTrans Test #227, and the gravel will be completely free of oils, clay, debris, and organic material.
- B. Moving Gravel into River. A bulldozer will push the gravel over the edge of the embankment into the river. In previous iterations of this project, gravel was spread to about 1/3 the width of the river and is anticipated to be the same during this iteration. Once sufficient gravel is placed to rise above the water’s surface, equipment will work on top of the gravel pad to place gravel further into the river. Two bulldozers may be utilized simultaneously to push gravel into the river. Applicant has a suite of cleanliness protocols that will be

implemented on any equipment operating near or over the river, including daily checks for leaks and utilization of biodegradable hydraulic fluids where possible.

- C. Project Completion. Upon completion of the gravel placement into the river, the staging area will be regraded to as close to original conditions as possible. There will be no removal of vegetation, therefore no plantings or site restoration is proposed beyond regrading and general cleanup.
- D. Construction Access and Site Access. Access for equipment and materials will either be from the west utilizing Middle Creek Road or the Middle Creek Trail Right of Way. Staging will be done on the City of Redding property. Unpaved pre-existing roads within the project boundaries will be reworked as necessary. A temporary culvert of 24" by 20' will be installed over Salt Creek and backfilled with spawning gravel. The culvert will be removed at the end of the project and the spawning gravel utilized as backfill will be distributed in the stream channel and/or removed.
- F. Water Quality Monitoring. During in-river work, turbidity will be monitored and construction pace slowed if turbidity exceeds criteria established by the Regional Water Quality Control Board.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.255 acres and 220 linear feet of riverbank. 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).

Temporary Impacts to jurisdictional resources: 0.255 acres, 220 linear feet of streambed, bank, and/or channel.

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: Importation and placement of up to 12,015 cubic yards of spawning gravel.

Project Timeframes:

Start date:

February 15, 2023 (proposed, actual start date will be upon execution of this Consistency Determination)

Completion date: March 31, 2023

Seasonal work window:

February 15–March 31, 2023

Number of work days:

Anticipated to be 15–24 work days

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the Central Valley 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) Number 5A45CR00629 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 fish and wildlife.

Receiving Waters: Sacramento River.

Filled or Excavated Areas: Temporary Fill/Excavation Impact Information: 0.255 acres, 220 linear feet.

Discharge volume: 12,015 cubic yards of spawning gravel.

Project location: Within Shasta County, Latitude: 40.591667° and Longitude: -122.433611. The Project is located on City-owned Land, on the Sacramento River. The project area is on the western/southern bank of the river, immediately downstream of the confluence of Salt Creek with the Sacramento River.

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 2/14/2023, 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 February 17, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0217-01) on March 3, 2023. 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 addendum to the NOI. The specific avoidance and minimization measures as well as water quality protection measures are found in the addendum titled: *BMP_SaltCreek_9.21.2022*

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a description of the monitoring and evaluation objectives for the project, as well as a reporting outline for the data generated. Specific requirements of the plan are found in the supplemental document titled: *MonitoringPlan_SaltCreek-2023*

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 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 and WDID 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: R1HABCONRedding@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).)

PETITION DECISIONS

AIR RESOURCES BOARD

Sent via email:

February 24, 2023

Jonathan Evans
Senior Attorney & Environmental Health Program
Legal Director

jevans@biologicaldiversity.org

Camilla Getz
Law Fellow, Environmental Health Program
cgetz@biologicaldiversity.org
Center for Biological Diversity

Jane Sellen
Co-Director, Californians for Pesticide Reform
jane@pesticidereform.org

RE: RESPONSE TO PETITION TO REGULATE SULFURYL FLUORIDE TO REDUCE THE USE OF THE HIGH GLOBAL WARMING POTENTIAL PESTICIDE

Dear Mr. Evans, Ms. Getz, and Ms. Sellen:

Thank you for submitting a petition for rulemaking¹ on behalf of the Center for Biological Diversity and Californians for Pesticide Reform on October 27, 2022, to the California Air Resources Board (CARB or Board). CARB staff initially acknowledged receipt of the petition on October 27, 2022.² We appreciate that petitioners agreed to extend the deadline for response to the petition to February 24, 2023.

In your petition, you requested that CARB initiate a rulemaking and other appropriate actions to add

sulfuryl fluoride to CARB's annual greenhouse gas emissions inventory and phase out the use of sulfuranyl fluoride in California pursuant to Assembly Bill (AB) 32 (Núñez and Pavley, Chapter 488, Statutes of 2006). The petition correctly identifies CARB as California's state agency "charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases"³ and tasked with developing and adopting the specific rules and regulations needed to achieve healthful air quality. CARB is committed to carrying out this mandate and staying at the forefront of the fight against climate change. We thank petitioners for their ideas on continuing that fight and would like to build upon this dialogue moving forward.

Summary

CARB is a global leader in developing and implementing actions to mitigate climate change by regulating, incentivizing, and otherwise encouraging actions to reduce greenhouse gas (GHG) emissions. Partners around the world look to California as a model for decarbonization across all economic sectors. Cost-effectively reducing greenhouse gas emissions in California not only benefits the State's residents and economy, but also supports and encourages other jurisdictions to take similar action to mitigate human-induced climate change. The latest report on climate change from the International Panel on Climate Change shows the world is not doing enough to avoid the worst climate impacts.⁴ It is essential that California continue to strengthen its climate mitigation efforts, including by continuing to expand knowledge of alternative energy and products that are less greenhouse gas intensive.

Sulfuryl fluoride is both a greenhouse gas and a pesticide. The safe, effective use of pesticides is important for the State and many stakeholders, including homeowners impacted by termite infestations and the agricultural interests that need to ensure the food they produce is pest-free. Although sulfuranyl fluoride is a greenhouse gas, as acknowledged in the petition, sulfuranyl fluoride is not listed in Health and Safety Code section 38505, subdivision (g), which defines a list of "greenhouse gases" that CARB includes in the statewide GHG emissions inventory.

CARB is committed to further dialogue and further study of this issue. We note ongoing efforts—which we further discuss below—to address pesticides that pose human health risks; these efforts provide an important forum for considering next steps.

³ Health & Safety Code, § 38510.

⁴ CARB. 2022. 2022 Scoping Plan for Achieving Carbon Neutrality, available at <https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf>; IPCC. 2022. Climate Change 2022: Mitigation of Climate Change, available at <https://www.ipcc.ch/report/sixth-assessment-report-working-group-3/>.

¹ Submitted pursuant to Government Code, § 11340.6.

² See email exchange between David Hults, Assistant Chief Counsel at CARB, to Camilla Getz, counsel for petitioners, attached as Exhibit A.

With respect to the inventory request: CARB does not have a regulation governing its GHG emissions inventory. Further, CARB does not currently plan to adopt a regulation or to take other, non-regulatory steps to add sulfuryl fluoride to that inventory. CARB has, to date, only included gases listed in Health and Safety Code section 38505, subdivision (g) in its inventory. Adding an unlisted greenhouse gas to the inventory would be a new step for CARB and would require further study and discussion with stakeholders and partner agencies.

As to the requested phase-out of sulfuryl fluoride: CARB lacks sufficient information at this time to determine whether a sulfuryl fluoride phase-out is warranted given its use and overall impact on global temperature changes, the limited information available on cost-effective GHG emissions mitigation approaches, and the pest-control and economic consequences of phasing-out sulfuryl fluoride. For that reason, CARB declines to initiate a regulatory process to phase-out sulfuryl fluoride at this time.

In summary, CARB grants this petition in part as to providing other relief—namely further study and dialogue—to address sulfuryl fluoride and its impacts. However, CARB denies this petition and at present will not initiate a rulemaking either proposing to add sulfuryl fluoride to its AB 32 greenhouse gas emissions inventory or to phase out sulfuryl fluoride.

We provide background and further discussion below.

Background on Sulfuryl Fluoride and California Department of Pesticide Regulation

Sulfuryl fluoride (SO₂F₂) is a fluorinated gas with a lifetime of 36 years and a 20-year global warming potential (GWP) of 7510.^{5,6} It is used in California as a pesticide for building fumigation to respond to dry-wood termites in California homes and buildings, and for commodity fumigation to ensure dried fruits, nuts, and other agricultural commodities are kept pest-free during storage prior to shipping. According to the University of California, Riverside, more than 100,000 structural fumigations with sulfuryl fluoride are conducted in California annually.⁷ In 2020, the California Department of Pesticide Regulation (DPR) reported that approximately 2.82 million pounds of sulfuryl fluoride was applied in California, with approximately

80% used as a structural fumigant, and the remainder in agricultural applications.⁸ It is one of the most common fumigant replacements for methyl bromide, an ozone-depleting substance that has been phased out for most uses, and is the only fumigant registered for treating structural pests in California. Sulfuryl fluoride is not registered for use in agricultural fields.

Pesticides, including sulfuryl fluoride, are regulated under both federal and state law. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the U.S. Environmental Protection Agency (EPA) has authority to regulate pesticide registration, distribution, labeling, sale, and use. DPR is the agency responsible for regulating the sale and use of pesticides in California under state law.⁹ Prior to being distributed, sold, or used in California, pesticides must first be registered (licensed) with U.S. EPA and subsequently registered with DPR. Registration ensures that pesticides will be properly labeled and will not cause significant adverse effects to human health or the environment. Neither U.S. EPA nor DPR regulate sulfuryl fluoride as a greenhouse gas.

DPR listed sulfuryl fluoride as a toxic air contaminant (TAC) in 2006.¹⁰ Because of its designation as a registered pesticide and TAC, its use is strictly controlled. U.S. EPA released a draft report on sulfuryl fluoride mitigation in residential fumigation to prevent deaths and serious injuries.¹¹ The proposed practices are largely in place in California. DPR's control of sulfuryl fluoride and similar pesticides of concern includes requirements for labeling, usage, and pesticide user's employer obligations to protect health and safety.¹² In 2008, DPR placed structural fumigants containing sulfuryl fluoride as an active ingredient into reevaluation based on identification of several scenarios where human exposure to sulfuryl fluoride is of concern and cannot be mitigated using known miti-

⁵ IPCC. 2022. Climate Change 2022: Mitigation of Climate Change, available at <https://www.ipcc.ch/report/sixth-assessment-report-working-group-3/>.

⁶ Global warming potential is a measure of how a greenhouse gas's warming effect over a period compares to the warming effect of carbon dioxide over the same period.

⁷ Sulfuryl Fluoride Structural Fumigation, Personal Chemical Exposure Program, Department of Entomology, University of California, Riverside. Available at: <http://faculty.ucr.edu/~krieger/SF%20Web%20Presentation%20Krieger%207%202019.pdf>.

⁸ DPR, Pesticide Use Annual Report, 2020 Data Summary, available at https://www.cdpr.ca.gov/docs/pur/pur20rep/pur_data_summary_2020.pdf; DPR, California Pesticide Information Portal (CalPIP), available at <https://calpip.cdpr.ca.gov/main.cfm>.

⁹ See, Food & Agricultural Code §§ 11401–12408, 12500–15340, 14021–14027.

¹⁰ California Code Regulations (Cal. Code Regs.), Title 3, section 6860.

¹¹ In 2021, U.S. EPA released a draft report on mitigation measures to ensure the safe use of sulfuryl fluoride in residential fumigation to prevent deaths and serious injuries. The early report on proposed mitigation included recommendations to remove ineffective clearance devices from product labels, require Fumigant Management Plans, and enhance signage, stewardship, and aeration procedures for residential fumigations. U.S. EPA. May 2021. Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures, available at <https://www.epa.gov/ingredients-used-pesticide-products/sulfuryl-fluoride>.

¹² See e.g., title 3, Cal. Code Regs., § 6780.

gation strategies at the time.¹³ The reevaluation ended in 2013. Under a 2010 California Aeration Plan (CAP), fumigators can take measures to reduce impacts from use of sulfuryl fluoride.¹⁴ In 2021, DPR issued a sulfuryl fluoride structural fumigation mitigation scoping document that describes how DPR will use an updated modeling system to simulate uses of sulfuryl fluoride in structures under different conditions¹⁵ The goal is to identify the effects of changes in these parameters in the ambient air concentrations of sulfuryl fluoride including to what extent individual or combinations of parameters will result in lower ambient concentrations, to support consideration of next steps.

Sulfuryl fluoride was believed to have a negligible GWP until 2009, when new research assigned a 100-year GWP of 4090 and a 20-year GWP of 6840. Sulfuryl fluoride was not included as an AB 32 GHG and is not annually inventoried as a part of CARB's state-wide GHG emissions inventory. CARB's 2017 Short-Lived Climate Pollutant (SLCP) Reduction Strategy acknowledged sulfuryl fluoride as a short-lived climate pollutant.¹⁶

Research has sought to identify alternatives to replace sulfuryl fluoride¹⁷ or methods of absorbing before being released into the atmosphere.¹⁸ As described further below, CARB and other agencies need further information about alternatives as well as the impacts and usage trends of sulfuryl fluoride in California and around the world to better evaluate appropriate actions in response.

Sustainable Pest Management Work Group

In early 2021, DPR, in collaboration with CalEPA and CDFA, convened the Sustainable Pest Management Work Group (SPM Work Group) to develop a roadmap to guide implementation of ambitious, measurable goals and strategies to accelerate the transition

to a more sustainable pest management system in California. The members included stakeholders of pest management from agricultural industry, community representatives, environmental organizations, advisory bodies, and academia, among others. The group also included an urban subgroup to specifically consider urban pest management practices.

The SPM Work Group released a Roadmap for "Accelerating Sustainable Pest Management" in California (Roadmap) in January 2023.¹⁹ This Roadmap builds upon years of work by DPR through many public processes with stakeholders to seek to understand the research about the usage and impacts of various pesticides as well as viable alternatives. As a partner with DPR on many pesticide air quality impacts, CARB is also reviewing the 2050 goals and recommended actions in the Roadmap.

CARB notes that the Roadmap sets goals that, by 2050, (1) priority pesticides will have been eliminated from use and (2) sustainable pest management will have been adopted as the de facto pest management system in California. This supports the priority outcome of eliminating adverse human health and environmental impacts associated with pesticide use. The Roadmap lists five keystone actions, which include prioritizing prevention, coordinating state-level leadership, investing in building Sustainable Pest Management knowledge, improving California's pesticide registration process and bringing more alternative products to market, and enhancing monitoring and data collection. DPR will identify priority pesticides with the advisement of the SPM Advisory Committee.

CARB will be working with DPR to understand how CARB can support implementation of the SPM Work Group's Roadmap.

Greenhouse Gas Emissions Inventory

Since 2006, CARB has prepared, adopted, and regularly updated a statewide emissions inventory of the greenhouse gases listed in statute.²⁰ CARB, other state agencies, stakeholders, and the public use the inventory to monitor California's greenhouse gas emissions trends and progress in meeting the State's climate goals. Emissions estimates rely on regional, State, and national data sources and facility-specific emissions data reported through the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions.

The Legislature has only updated the statutory list of greenhouse gases to include in the inventory once since 2006, and that occurred in 2009.²¹ The green-

¹³ DPR. Active Ingredient: Sulfuryl Fluoride Human Health Risk Assessment and Mitigation Documents and Activities, available at https://www.cdpr.ca.gov/docs/whs/active_ingredient/sulfuryl-fluoride.htm.

¹⁴ DPR. October 26, 2010. Enforcement CAC Letter 2010-20, Implementation of California Aeration Plan for Structural Fumigations. Available at <https://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2010/2010020.htm>.

¹⁵ DPR. January 22, 2021. Sulfuryl Fluoride Structural Fumigation Mitigation Scoping Document, available at https://www.cdpr.ca.gov/docs/whs/pdf/sulfuryl_fluoride_mitigation_012221.pdf.

¹⁶ CARB. 2016. Short-Lived Climate Pollutant Strategy, Appendix C: California SLCP Emissions, available at https://ww2.arb.ca.gov/sites/default/files/2020-07/SLCP_Appendix_C.pdf.

¹⁷ Volatile Essential Oils Can Be Used to Improve the Efficacy of Heat Treatments Targeting the Western Drywood Termite: Evidence from Simulated Whole House Heat Treatment Trials" Perry et al, Journal of Economic Entomology, 113(5), 2020, 2448-2457.

¹⁸ Nie, Yong & Liang, Xiaojiang & Ji, Jianbing & Lu, Meizhen & Yu, Fengwen & Gu, Dayong & Xie, Qinglong & Min, Min. (2015). Harmless Treatment of Sulfuryl Fluoride by Chemical Absorption. Environmental Engineering Science. 32. 789-795. 10.1089/ees.2015.0021.

¹⁹ SPM Work Group. January 2023, *Accelerating Sustainable Pest Management: A Roadmap for California*, available at https://www.cdpr.ca.gov/docs/sustainable_pest_management_roadmap/.

²⁰ Health & Safety Code §§ 39607.4, 38505.

²¹ See Senate Bill 104 (Oropeza, Chapter 331, Statutes 2009); Health & Safety Code § 38505.

house gas emissions required to be inventoried include those of carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and nitrogen trifluoride (NF₃). There is no regulation for the inventory and CARB does not intend to adopt an inventory-related regulation. Adding an unlisted greenhouse gas to the GHG inventory would be a new step for CARB which would necessitate study of many issues and engagement with other agencies and stakeholders.

In 2015, separate from the greenhouse gas emissions inventory, CARB developed a one-time inventory of SLCP emissions that included sulfuryl fluoride emissions, and this information was reflected in the SLCP Reduction Strategy.²² This SLCP emissions inventory used DPR data showing that 3 million pounds of sulfuryl fluoride were used in 2013, which equates to 9.4 MMTCO₂e emissions (using 20-year GWP values), or approximately 20 percent of all fluorinated gas emissions.²³

2022 Scoping Plan

Throughout 2021 and 2022, CARB and partner agencies worked in a public process to develop an update to the state's Scoping Plan, which included discussions of pesticides in the climate policy context. While DPR is the primary regulator of pesticide usage, CARB plays a role in consideration of regulatory, research, and incentive actions to respond to public health issues related to usage of pesticides that are toxic air contaminants, greenhouse gases, or precursors to criteria pollutants. The State's air quality agency leaders understand the critical priority of ensuring public health in the usage of pesticides. In addition to the SPM Work Group, there is also an effort by the California Environmental Protection Agency (CalEPA), DPR, and Office of Environmental Health Hazard Assessment (OEHHA) to address pesticide and environmental justice issues.

CARB has recognized community concerns with pesticide use impacts and is committed to ongoing work with partners on pesticides issues. During public processes to develop major state air quality policy planning efforts led by CARB, CARB Board members have encouraged and supported staff to continue its work with CalEPA, DPR, and other agencies, and to otherwise consider appropriate actions to help address potential air quality impacts related to pesticide use. These public conversations with impacted stakeholders arose specifically during the development of the 2022 climate change scoping plan updates.

²² CARB. March 2017, Short Lived Climate Pollutant Reduction Strategy, available at, <https://ww2.arb.ca.gov/resources/documents/slcp-strategy-final>.

²³ *Id.*, Appendix C: California SLCP Emissions, available at https://ww2.arb.ca.gov/sites/default/files/2020-07/SLCP_Appendix_C.pdf.

Under state law, CARB is required to update at least every five years the State's climate change Scoping Plan, which outlines strategies for the state to meet its climate commitments.²⁴ The most recent Scoping Plan Update was approved by the Board in December 2022. In multiple Board meetings during the development of that 2022 Scoping Plan update (2022 Scoping Plan), including joint meetings with the Board and the Environmental Justice Advisory Committee, Board members raised the need for interagency collaborations and other efforts to respond to pesticide impacts while also keeping the State's climate strategy focused on GHG emissions reductions.²⁵ At the June 2022 informational Board hearing on the draft Scoping Plan, former CalEPA Secretary for Environmental Protection Jared Blumenfeld testified about the importance of keeping California's climate strategy focused on addressing the most significant sources of greenhouse gas emissions, noting that "watering down the focus of [the 2022 Scoping Plan] will have a negative effect of distracting us from the very real challenge of implementing emissions reductions."²⁶ The former Secretary's comments, and the Board member's feedback, reflected the need to continue multi-agency efforts to address environmental challenges like pesticides through the appropriate agency efforts.

Following approval of the 2022 Scoping Plan, CARB is now working to develop implementation measures identified in the plan as appropriate, including both climate smart land management strategies that may also reduce pesticide use on croplands as well as collaborating with CDFA and DPR on additional research on the intersection of pesticides, soil health, and GHGs.²⁷ While the 2022 Scoping Plan actions relate to pesticides used on croplands, CARB will be considering what information and research is needed for addressing impacts of pesticides, including sulfuryl fluoride, that are used in other contexts beyond natural and working lands.

In its high-level planning context, the 2022 Scoping Plan referenced pesticide use broadly. There are many registered pesticides in California that support the state's agricultural system and control urban pests, but that do or may require action to avoid unwanted associated impacts. The work of identifying and implementing such action will continue as state agencies and others implement the 2022 Scoping Plan, includ-

²⁴ Health and Safety Code § 38561.

²⁵ CARB, Board Meeting Transcript, December 15, 2022, <https://ww2.arb.ca.gov/sites/default/files/barcu/board/mt/2022/mt121522.pdf>.

²⁶ CARB, Board Meeting Transcript, June 23, 2022, <https://ww2.arb.ca.gov/sites/default/files/barcu/board/mt/2022/mt062322.pdf>.

²⁷ CARB. 2022. 2022 Scoping Plan for Achieving Carbon Neutrality, pages 256, 264, available at <https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf>.

ing by considering recommendations from the SPM Work Group Roadmap to achieve California’s sustainable pest management goals.

Research

To better understand the gas and its emissions trends, CARB will continue to review DPR data and literature on California sulfuryl fluoride emissions and discuss with DPR options for potential sulfuryl fluoride emissions reductions. This initiative should improve CARB’s understanding of what gaps exist in the research, and how CARB might utilize its own research planning efforts to support DPR and fill these gaps.

To date, research indicates that alternatives are not sufficiently viable to replace sulfuryl fluoride for its necessary uses for residential termite fumigation and agricultural commodity fumigation. An alternative fumigant, phosphine (PH₃), with a GWP of 0, is also used as an alternative to methyl bromide and sulfuryl fluoride. However, reported insect tolerance to phosphine has limited its widespread usage.²⁸ Non-chemical commodity treatment has been studied since 1995, including thermal irradiation, and controlling the atmosphere to “suffocate” insects in either low-oxygen or high-carbon dioxide environments.²⁹ Chemical treatment remains dominant due to cost and feasibility issues for these non-chemical alternatives. Structural fumigation generally includes tenting the entire structure and treating it to kill termites, or more rarely, wood-boring beetles and other pests living in the structure.

While many termite control companies only use sulfuryl fluoride, many others have begun using alternative termite control methods, including orange oil, structure heating, or extreme cooling, microwaves, and electricity. Additionally, some research has been conducted that could lead to the development of engineering control strategies that would reduce post-treatment sulfuryl fluoride concentrations in fumigated environments before venting into the atmosphere.³⁰

More research is needed on alternatives to sulfuryl fluoride or potential sulfuryl fluoride mitigation

²⁸ Phosphine Fumigation of Stored Agricultural Commodity — Programmatic Environmental Assessment. November 2013. United States Agency for International Development (USAID), prepared under USAID’s Global Environmental Management Support (GEMS) project. Available at: http://www.usaidgems.org/documents/fumigationpea/fumigationpeafeb24_2014.pdf.

²⁹ DPR. September 1995. Alternatives to Methyl Bromide: Research Needs for California — Report of the Methyl Bromide Research Task Force To The Department of Pesticide Regulation and The California Department of Food and Agriculture.

³⁰ Nie, Yong & Liang, Xiaojiang & Ji, Jianbing & Lu, Meizhen & Yu, Fengwen & Gu, Dayong & Xie, Qinglong & Min, Min. (2015). Harmless Treatment of Sulfuryl Fluoride by Chemical Absorption. *Environmental Engineering Science*. 32. 789–795. 10.1089/ees.2015.0021.

approaches, including on effectiveness and impacts, to understand whether any alternative will better balance meeting the goals described in the 2022 Scoping Plan, and SPM Work Group Roadmap to mitigate climate change, support a strong agricultural economy, practice safe urban pest management, and protect public health. As described in the SCLP Reduction Strategy’s discussion of fluorinated gases, peer-reviewed research indicates that sulfuryl fluoride fumigation is more effective than alternatives for termite eradication.³¹

In addition to alternatives or engineering controls, as part of the overarching approach to pesticides, it is important for DPR and CARB to understand specific trends in sulfuryl fluoride usage. Understanding and tracking the locations, types, and amounts of use of sulfuryl fluoride will allow the agencies to be able to consider what alternatives and options for actions to address impacts may exist. CARB will continue to work with DPR and will also look for data or research on sulfuryl fluoride use outside of California to assess trends in usage as well as alternatives to sulfuryl fluoride.

Determination and Conclusion

After careful consideration of the petition for rulemaking, the relevant law, and the current context of ongoing policy development and anticipated implementation activity, the petitioners’ petition for rulemaking, pursuant to Government Code section 11340.7³² is denied in part and granted in part as to other relief. This code section provides that CARB “may grant or deny the petition in part and may grant any other relief or take any other action it may determine to be warranted by the petition.”³³

Specifically, I am:

- (1) Denying the petition in part by declining to initiate a rulemaking at this time to include sulfuryl fluoride in CARB’s AB 32 greenhouse gas

³¹ CARB. March 2017. Short Lived Climate Pollutant Strategy, Appendix D: Research Related to Mitigation Measures, available at https://ww2.arb.ca.gov/sites/default/files/2020-07/SLCP_Appendix_D.pdf. https://ww2.arb.ca.gov/sites/default/files/2020-07/SLCP_Appendix_D.pdf.

³² The Board may delegate any duty it deems appropriate to its Executive Officer (Health & Safety Code, § 39515(a)). The Board is conclusively presumed to have delegated any of its powers to the Executive Officer unless it has expressly reserved that power to itself (Health & Safety Code, § 39516). The Board has not reserved the power to act on rulemaking petitions and it is, therefore, appropriate for me to act on this petition pursuant to my delegated authority.

³³ Government Code, § 11340.7 provides that an agency addressing a petition shall “identify the agency, the party submitting the petition, the provisions of the California Code of Regulations requested to be affected, reference to authority to take the action requested, the reasons supporting the agency determination, an agency contact person, and the right of interested persons to obtain a copy of the petition from the agency.” This response fulfills those requirements.

emissions inventory and to regulate a phase down of sulfuryl fluoride use in California.

- (2) Granting other relief by affirming that CARB will continue to engage with petitioners, other stakeholders, and partner agencies on the programmatic and climate impact concerns, as well as environmental justice concerns, related to the use of sulfuryl fluoride in the State raised in the petition and by other stakeholders as described above. This engagement can occur through CARB directly and through the consideration and implementation of the recommendations of the SPM Work Group’s Roadmap for “Accelerating Sustainable Pest Management” in California. Other state agencies have roles to play in the process, as noted above. CARB is committed to climate change mitigation and will continue to focus on actions it and its partners can take that can improve air quality and health in impacted communities and support the State and various partners to make progress in reducing GHG emissions and achieving State climate goals.

The record upon which this decision is based includes the petition and its exhibits, this letter, and the materials referenced herein. While CARB is denying the petition to initiate a rulemaking, CARB appreciates and welcome petitioners’ continued engagement and information sharing within these ongoing public processes to improve our programs and the achievement of our shared important policy goals. In accordance with Government Code section 11340.7, subdivision (d), a copy of this letter is being transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. The agency contact person in this matter is Gabriel Monroe, Senior Attorney, available at (916) 324–2132 or Gabriel.Monroe@arb.ca.gov and Abigail D. May, Senior Attorney, available at (279) 208–7125 or Abigail.may@arb.ca.gov. Interested parties may obtain a copy of the petition upon request to Chris Hopkins, available at (279) 208–7347 or Chris.Hopkins@arb.ca.gov. Upon request, physical copies may be obtained from 1001 I Street, Sacramento, California, 95814.

Sincerely,
Steven S. Cliff, Ph.D., Executive Officer

Attachments

cc: (via email only)
Liane M. Randolph, CARB Chair
Edie Chang, CARB Deputy Executive Officer
Chanell Fletcher, CARB Deputy Executive Officer
Rajinder Sahota, CARB Deputy Executive Officer
Ellen M. Peter, CARB Chief Counsel
Julie Henderson, DPR Director
Karen Morrison, DPR Chief Deputy Director and Science Advisor

**CALIFORNIA ENERGY
CONSERVATION AND
DEVELOPMENT COMMISSION**

ORDER NO: 23–0228–05
IN THE MATTER OF:

STEVE UHLER PETITION FOR
RULEMAKING ORDER DENYING
PETITION FOR RULEMAKING

I. INTRODUCTION AND PROCEDURAL HISTORY

On January 29, 2023, Steve Uhler filed a letter requesting that the California Energy Commission (CEC) initiate a rulemaking. The letter stated that a petition to initiate rulemaking was attached to the letter. As a result of the CEC’s Docket System not detecting an attachment embedded in the letter, the Executive Director determined that Mr. Uhler’s petition was incomplete, and the determination was emailed to Mr. Uhler on February 6, 2023.

On February 6, 2023, Mr. Uhler responded that he had filed the petition (TN 248592) with the CEC and noted that the attached “Rulemaking Petition to amend 20 CCR section 1104.pdf” file was overlooked. Chief Counsel’s Office staff identified the hidden attachment by using a different version of Adobe Acrobat to access the petition, and confirmed that Mr. Uhler had in fact filed a petition requesting that the CEC initiate rulemaking pursuant to California Code of Regulations (CCR), title 20, section 1221.

Mr. Uhler’s petition requests that the CEC initiate a rulemaking to amend CCR, title 20, section 1104, subsection (e) in two separate regards. First, Mr. Uhler’s petition requests that section 1104(e) be amended to

require CEC staff to file documents submitted in proceedings for commission business meetings in time to allow members of the public to file written comments regarding such documents in compliance with section 1104, subsection (e)'s requirement that, unless otherwise directed by the presiding member, they be filed at least three days before the commission meeting. Second, Mr. Uhler's petition requests that section 1104(e) be amended to require the CEC to provide an opportunity for members of the public to directly address the state body on each agenda item before or during the CEC's discussion or consideration of the item.

On February 14, 2023, the Executive Director determined that Mr. Uhler's petition met the requirements of CCR, title 20, section 1221 and certified that the petition was complete. The Executive Director's determination and certification was sent to Mr. Uhler via email.

On February 17, 2023, the CEC published the Business Meeting Agenda for its business meeting scheduled on February 28, 2023. The agenda included consideration of Mr. Uhler's petition for a rulemaking hearing.

On February 28, 2023, the CEC held a hearing to consider Mr. Uhler's petition for a rulemaking.

II. CEC FINDINGS

Based on the entirety of the record, the CEC finds that:

- 1) CCR, title 20, section 1104, subsection (e) provides that: any person may file comments in writing on any agenda item. Unless otherwise directed by the presiding member, all written comments shall be filed at least three days before the commission meeting. Any person present shall be given an opportunity to make oral comments on any agenda item; provided however, that the presiding members may limit or preclude such comments as necessary for the orderly conduct of business.
- 2) Public Resources Code sections 25213 and 25218(e) mandate and authorize the CEC to adopt rules and regulations, as necessary, to carry out its statutory duty. Thus, the CEC has the authority to initiate a rulemaking to amend CCR, title 20, section 1104, subsection (e), as requested in the Mr. Uhler's petition.
- 3) Mr. Uhler's petition for a rulemaking meets the requirements of CCR, title 20, section 1221.
- 4) The Chief Counsel's Office evaluated Mr. Uhler's petition and found that the CEC is following existing law.
- 5) CEC staff makes documents available to the public before business meeting as required by law.
- 6) CEC has already made changes to the conduct of its business meeting to provide the public opportunity to comment before discussion of

information items (non-voting items) and continues to provide the public opportunity to comment during discussion of voting items.

- 7) Thus, the requested rulemaking is not necessary and does not warrant the expenditure of resources.
- 8) CCR, title 20, section 1221(c), requires that, within 30 days of the filing of the petition, the CEC shall deny the petition, stating the reason for the denial in writing, or grant the petition, directing staff to prepare an order instituting a rulemaking.

III. CONCLUSIONS AND ORDER

- 1) For the reasons stated above, the CEC hereby DENIES Mr. Uhler's petition for a rulemaking to amend CCR, title 20, section 1104, subsection (e).
- 2) CEC staff is directed to file this Order and supporting documentation with the Office of Administrative Law in accordance with Government Code section 11340.7(d).

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on February 28, 2023.

AYE: Hochschild, Gallardo, Gunda, McAllister, Monahan

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: February 28, 2023

SIGNED BY:

/s/
Liza Lopez
Secretariat

DEPARTMENT OF MOTOR VEHICLES

**DECISION ON PETITION
TO AMEND REGULATIONS**

**TITLE 13, CALIFORNIA CODE
OF REGULATIONS
DIVISION 1, CHAPTER 1, ARTICLE 2.1 —
COMMERCIAL DRIVER'S LICENSES**

SECTIONS 25.06, 25.19, 25.22, AND 28.18

Petitioner

Brandon Coker, President
Mission Bay, Inc.

Authority

Vehicle Code section 15250 and 15250.1
 Parts 380, 383, 384, Title 49, Code of Federal
 Regulations.

Contact Person

Please direct inquiries or regarding this action to
 Randi Calkins, Regulations Specialist, Department
 of Motor Vehicles, Legal Affairs Division, PO Box
 932382, Sacramento, CA 94232–3820.

Availability of Petition

The petition to amend regulations is available upon
 request by contacting the department’s contact person.

Summary of Petition

The Department of Motor Vehicles (department) re-
 ceived Mr. Coker’s Petition to Amend Regulations via
 email on January 30, 2023.

In his letter, the Petitioner requests the department
 include Class C Commercial license with 11–15 pas-
 senger endorsement to be tested through a third party
 tester. The petitioner also states that commercial vehi-
 cles carrying 11–15 passengers have the same charac-
 teristics of the Class B 11–15 passenger vans.

The Petitioner also claims the Commercial Class
 C driver’s license does not require 15 hours in per-
 son class training and claims that, because the Class
 B 11–15 passenger has not been accurately updated
 throughout the regulations, there are two types of ap-
 plicants. One being required complete in–class driver
 training while the other does not.

Department’s Decision

The Petitioner’s request is denied.

Section 383.91 in Title 49, Code of Federal Regula-
 tions, identifies the commercial motor vehicle groups
 for which a driver applicant must possess and be tested
 on his or her knowledge and skills. The commercial
 motor vehicle groups identified by the federal rules are
 Commercial Class A, Commercial Class B, and Com-
 mercial Class C when the vehicle is a single vehicle
 that does not meet the definitions of a Class A or Class
 B, but that either is designed to transport 16 or more
 passengers including the driver or is used in the trans-
 portation of hazardous materials.

In California, a driver who has a Class C driver’s
 license and receives either a passenger endorsement
 or a hazardous materials endorsement is considered to
 hold a Commercial Class C driver’s license. Howev-
 er, because the Commercial Class C driver’s license
 applicant is not required to complete the same knowl-
 edge and skills tests required of Commercial Class A
 and B applicants, Commercial Class C license appli-
 cants are not tested through third party testers, com-
 monly known as the Employer Testing Program. For
 this reason, the department will not make changes to

expand the Employer Testing Program to Commercial
 Class C applicants.

Section 384.230 requires, beginning February 7,
 2022, successful completion of entry level driver
 training for applicants who are obtaining an original
 Commercial Class A or B driver’s license, upgrading
 a Commercial Class A or B driver’s license, or obtain-
 ing a school bus, passenger, or hazardous materials
 endorsement. Vehicle Code section 15250.1 requires
 Class A and Class B drivers to complete a minimum
 of fifteen hours of behind–the–wheel training with at
 least ten hours being on a public road. In May 2020,
 the department adopted Section 26.03 in Title 13, Cal-
 ifornia Code of Regulations, adopting the federal re-
 quirement that entry level driver training be completed
 by Class A, Class B, and Class C with passenger and
 hazardous materials endorsements, and adopted the
 in–class time requirements of Vehicle Code Section
 15250.1. The only difference being commercial Class
 C applicants do not have to complete the behind–the
 wheel training certification form specified in the rule.
 Because the department has no discretion other than
 to adopt rules in accordance with the requirements of
 state law and federal rules, the department will not
 make changes related to the entry level driver training
 requirements.

Lastly, the assertion that the department’s field offi-
 ces are not giving a Class B license for a bus carrying
 11–15 passengers is untrue. When a ETP participant
 submits the Certificate of Driving Skill documenting
 the driver’s successful completion of the driving test
 to the department, the department issues the Class B
 license with restriction 74 or 75.

**SUMMARY OF
 REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE
 SECRETARY OF STATE**

This Summary of Regulatory Actions lists regula-
 tions filed with the Secretary of State on the dates in-
 dicated. 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.

California Tax Credit Allocation Committee
 File # 2023–0202–01
 CTCAC Regulations implementing federal and state
 LIHTC laws

This emergency rulemaking by the California
 Tax Credit Allocation Committee (CTCAC) amends

the Low-Income Housing Tax Credit Program (LIHTC). Pursuant to Health and Safety Code section 50199.17(d), this action is a deemed emergency presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.

Title 04
Amend: 10327, 10328
Filed 02/08/2023
Effective 02/08/2023
Agency Contact:
Anthony Zeto (916) 214-6581

California Debt Limit Allocation Committee
File # 2023-0130-01
Readoption of 2022 QRRP Emergency Regulations

This is a readoption of emergency rulemaking action number 2022-0721-01E, which amended definitions and requirements pertaining to the Qualified Residential Rental Project Program (QRRP).

Title 04
Amend: 5000, 5020, 5022, 5035, 5036, 5052, 5054,
5100, 5105, 5133, 5144, 5146, 5170, 5190, 5193,
5200, 5230, 5231, 5240, 5241
Filed 02/09/2023
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Agency Contact:
Emily Burgos (916) 952-7161

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

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