



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:

Shasta Tehama Trinity Joint Community College District
Winters Cemetery District

STATE AGENCY:

Natural Resources Agency

A written comment period has been established commencing on March 31, 2023 and closing on May 15, 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 May 15, 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 Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 4. HORSE RACING BOARD

DIVISION 4. ARTICLE
4. OCCUPATIONAL LICENSES
RULE 1500. APPRENTICE JOCKEY, AND
ARTICLE 6. ENTRIES AND
DECLARATIONS
RULE 1619. APPRENTICE ALLOWANCE

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1500, Apprentice Jockey, and Board Rule 1619, Apprentice Allowance, to align with proposed language for the Association of Racing Commissioners International (ARCI) model rule by specifying general license eligibility to include modified requirements for five-pound and seven-pound allowances.

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.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **May 15, 2023**. The Board must receive all comments by that time. Submit comments to:

Nicole Lopes-Gravelly,
Policy and Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6042
Email: nlgravelly@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19460, and 19562, Business and Professions Code (BPC). Reference: Sections 19440, 19460, and 19562, BPC.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

BPC section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Horse Racing Law. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and control of horse racing and parimutuel wagering. BPC section 19460 provides that all licenses granted under this chapter shall be in writing, subject to all rules, regulations, and conditions prescribed by the Board, and shall contain such conditions as deemed necessary or desirable by the Board for the best interests of horse racing and the purposes of this chapter. BPC section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of Horse Racing Law, under which all horse races with wagering on their results shall be conducted in California.

The Board is constantly looking for areas to both improve animal and human welfare and ensure that rules established by the Board are effectively serving the purposes of their intent. As humans evolve and nutrition and dieting are better understood, the ability for apprentice jockeys to realize the benefit of specified weight allowances is increasingly difficult and unhealthy when achieved. In fact, at the lower end of the assigned weight for particular races, most apprentice jockeys simply cannot ride at that weight and are therefore not able to realize the intended benefit of the allowances provided. Furthermore, the current jockey apprentice allowance rule is difficult to implement effectively due its complexity and specificity. The proposed amendment to Board Rule 1500 will specify the eligibility requirements under which a license as an apprentice jockey is granted. The proposed amendment to Board Rule 1619 will modify the requirements for the five-pound and seven-pound allowances to ensure rider safety.

ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

The proposed amendment to Board rules 1500 and 1619 will improve human welfare by ensuring specific, realistic standards are set for apprentice jockey weight allowances, and specifying the eligibility requirements under which a license as an apprentice jockey is granted. These changes will align with proposed language for the ARCI model rule, provide clarity and make less complicated these required specifications for apprentice jockeys, and will benefit the health and welfare of riders by creating more realistic weight limits.

CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the amendment, the Board conducted a search for any similar regulation on this topic and has concluded that Board rules 1500 and 1619 are the only regulations that address apprentice jockey license requirements and weight allowances. Therefore, the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or saving to any state agency: none.

Cost to local agencies and school districts that must be reimbursed in accordance with Government Code (GC) sections 17500 through 17630: none.

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

Cost or saving in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Board rules 1500 and 1619 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed amendment will specify the eligibility requirements under which a license as an apprentice jockey is granted and modify requirements for the five-pound and seven-pound allowance to ensure rider safety. These changes will benefit the health and welfare of racehorses and California riders by ensuring both the humans and the horses maintain good health and realistic expectations for safety.

The following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: none. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The adoption of the proposed regulatory action **will not** create or eliminate jobs within the state, **will not** create new businesses or eliminate existing businesses within the state, **will not** result in the expansion of businesses currently doing business with the state, and **will not** benefit worker safety or the state's environment. However, it **will** benefit the health and welfare of California riders by ensuring they maintain good health and realistic expectations for safety.

Effect on small business: none. The proposal to amend Board rules 1500 and 1619 does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, 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 Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

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

Nicole Lopes–Gravely,
Policy and Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263–6397
Fax: (916) 263–6042
Email: nlgravely@chr.ca.gov

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

Amanda Drummond, Manager
Policy, Regulations, and Administrative Hearings
Telephone: (916) 869–3255
Email: amdrummond@chr.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Nicole Lopes–Gravely or the alternative contact person at the address, phone number, or email address listed above.

AVAILABILITY OF MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current

or modified form, should be sent to the attention of Nicole Lopes–Gravely at the address stated above.

BOARD WEB ACCESS

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

TITLE 7. BOARD OF PILOT COMMISSIONERS FOR THE BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN

Notice is hereby given that the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

The Board proposes to amend the following sections of the California Code of Regulations, Title 7, Harbors and Navigation, Division 2, State Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun:

- § 202. Other Definitions.
- § 210. Incident Review Process.
- § 214. Pilot Trainee Training Program.
- § 215. Pilot Training.
- § 220. Duties of Pilot Trainees.

The Board proposes to add a new section to its regulations:

- § 218.1. Fatigue Risk Management.

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, not later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (415) 397–9463 or by email to bopc@bopc.ca.gov. The written comment period closes at **5:00 p.m. on May 31, 2023**. The Board will consider only

comments received at the Board office by that time. Submit comments to:

Allen Garfinkle, Executive Director
 Board of Pilot Commissioners for the Bays of
 San Francisco, San Pablo, and Suisun
 660 Davis Street
 San Francisco, California 94111

AUTHORITY AND REFERENCE

Authority: Harbors and Navigation Code (HNC) §§ 1144, 1154, and 1196.5 authorize the Board to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific HNC §§ 1144 and 1196.5.

**INFORMATIVE DIGEST/POLICY
 STATEMENT OVERVIEW**

Existing Law and Effect of Proposed Amendments

HNC § 1196.5 requires the Board to evaluate factors that contribute to pilot fatigue and to adopt regulations that will prevent pilot fatigue and thereby ensure the safe operation of vessels. As required by § 1196.5, the Board contracted for an independent study of the effect of work and rest periods on the ability of pilots to safely perform their duties. The study was performed by the San Jose State University Research Foundation in collaboration with the Ames Fatigue Countermeasures Laboratory of the National Aeronautics and Space Administration. The study made recommendations to the Board on how to prevent pilot fatigue and ensure the safe operation of vessels. These regulations are the Board’s response to those recommendations.

The principal feature of the regulations is the requirement that the Port Agent prepare, and submit for Board approval, a fatigue risk management system (FRMS) with prescribed elements. The Port Agent is a member of the San Francisco Bar Pilots Association (San Francisco Bar Pilots), a private business staffed by pilots licensed by the Board. Its pilots provide piloting services to vessels transiting the Golden Gate and adjacent bays and tributaries. The Port Agent is a pilot appointed by the pilots, subject to Board confirmation, to carry out the orders of the Board. Proposed § 218.1 of the regulations sets forth the required elements of the FRMS.

Some of these elements are mandatory, imposing specific requirements:

- Maximum work periods for both day and night–time work
- Maximum night–time hours worked during any 72–hour period
- A limit on the number of consecutive days on–call

- Minimum rest periods between work periods
- Reports to the Board concerning these requirements

Other required elements direct the Port Agent to submit for Board approval proposals that deal with various subjects identified by the Board, including:

- A plan for recalling off–call pilots that minimizes disruption of their recovery rest periods
- Minimum advance notice by those ordering pilot services, to increase predictability of schedules for pilots awaiting assignment
- A plan to increase the number of pilots available at any given time
- A plan to educate pilots on the importance of reporting fatigue and removing themselves from the roster when they are significantly fatigued
- Measures to mitigate fatigue caused by long–distance travel to and from mandated training

Other proposed amendments include:

- A requirement that investigation reports concerning navigational incidents include a determination whether fatigue contributed to the incident
- Educational requirements for both pilots and pilot trainees concerning the hazards of fatigue and how to avoid it

The Port Agent must submit the FRMS for review and reapproval by the Board one year after the initial approval, every 24 months thereafter, and whenever the Port Agent makes substantive changes to the FRMS.

Anticipated Benefits of the Proposed Regulations

The objective of the proposed regulations is to prevent pilot fatigue and thereby further the safe operation of vessels on waters within the Board’s jurisdiction. The result will be to reduce the potential for personal injury, property damage, and harm to the environment.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Board has determined that the proposed amendments are not inconsistent or incompatible with existing state regulations or statutes. After conducting a review for any state regulations that would relate to or affect the sections proposed to be added and amended, the Board has concluded that these are the only state regulations that concern prevention of fatigue among pilots and pilot trainees under the jurisdiction of the Board.

DISCLOSURES AND DECLARATIONS
REGARDING THE PROPOSED ACTION

The Board has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district: None.
- Cost or savings in federal funding to the state: None.
- The amendments will not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Other non-discretionary cost or savings imposed upon local agencies: None.
- Housing costs: None.
- Effect on small business: None. The regulations will have an effect on the San Francisco Bar Pilots Association, which is not a small business. It is engaged in providing services in transportation. Its annual gross receipts exceed two million dollars (\$2,000,000). It is therefore excluded from the definition of “small business” contained in Government Code section 11342.610, subdivisions (c)(6) and (c)(7).

Results of the Economic Impact Analysis/Assessment

The Board has concluded that the proposed regulations will not facilitate the creation or elimination of jobs within California. The proposed regulations will not affect the creation or elimination of businesses within California or the expansion of businesses currently doing business within California.

Benefits of the Proposed Action: The proposed regulations will benefit the health and welfare of California residents, the state’s environment, and worker safety by preventing pilot fatigue from affecting the safe operation of vessels, including oil tankers, on the waters within the Board’s jurisdiction, thereby protecting persons, property, and the environment from damage.

CONSIDERATION OF ALTERNATIVES

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

be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons, and equally effective in implementing the statutory policy or other provisions of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing, if one is held, or during the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory actions to the Board. Written comments will be accepted by the Board until 5:00 p.m. on May 31, 2023. Submit comments to:

Allen Garfinkle, Executive Director
Board of Pilot Commissioners for the Bays of
San Francisco, San Pablo, and Suisun
660 Davis Street,
San Francisco, California 94111
bopc@bopc.ca.gov

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Name: Alethea Wong
Email: bopc@bopc.ca.gov
Phone: (415) 397-2253

The backup contact person for these inquiries is:

Name: Allen Garfinkle
Email: bopc@bopc.ca.gov
Phone: (415) 397-2253

Please direct requests for copies of the proposed text (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 Ms. Cristia-Plant at the above address.

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

The Board has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the above address during normal business hours (9:00 a.m. to 5:00 p.m.). Please contact Alethea Wong at the above email address to arrange a date and time to inspect the files. As of the date this Notice is published in

the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the regulations. Copies of these items are available upon request from the Board Contact Person designated in this Notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the 45-day public comment period, the Board may adopt the proposed regulations. As a result of public comments, either oral or written, that are received by the Board regarding this proposal, the Board may determine that changes to the proposed regulations are appropriate. If the Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. The Board will provide notification of any such modifications to all persons whose comments were received during the public comment period, all persons whose comments (written or oral) were received at the public hearing (if one is held), and all persons who requested notice of such modifications. Otherwise, please send requests for copies of any modified regulations to the attention of Ms. Wong at the above email address. The Board will accept written comments on the modified regulations for 15 days after the date on which the modified regulations are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Board is required to prepare a Final Statement of Reasons. Once the Board has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy. Requests for copies should be addressed to the Board Contact Person identified in this Notice.

BOARD INTERNET WEBSITE

The Board maintains an Internet website for the electronic publication and distribution of written material. Copies of the Notice of Proposed Rulemaking, the Initial Statement of reasons, and the text of the regulations in underline and strikethrough can be accessed through the Board's website at www.bopc.ca.gov.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

GENERAL INDUSTRY SAFETY ORDERS NEW SECTION 3396

HEAT ILLNESS PREVENTION IN INDOOR PLACES OF EMPLOYMENT

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt the foregoing provisions of title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **May 18, 2023** in **Room 310** of the **County Administration Center, 1600 Pacific Highway, San Diego, California 92101**, as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **March 31, 2023** and closes at 5:00 p.m. on **May 18, 2023**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By email sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code (LC) section 142.3 establishes the Board as the only agency in the State authorized to

adopt occupational safety and health standards. In addition, LC section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards and permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

LC section 144.6 requires the Board to adopt standards regarding harmful physical agents (e.g. heat) that most adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the harmful physical agent for the period of the employee's working life.

This rulemaking was undertaken in response to Senate Bill (SB) 1167 (2016), which added section 6720 to the LC in which the Legislature specifically directs the Board to create and implement these standards for indoor heat illness prevention.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

On September 29, 2016, the Governor approved SB 1167 Employment safety: indoor workers: heat regulations. From February 2017 through February 2018, the Division of Occupational Safety and Health (the Division or Cal/OSHA) held three advisory meetings to develop a proposed regulation for minimizing heat-related illness and injury among workers in indoor places of employment. In addition, Cal/OSHA presented multiple discussion drafts, provided numerous opportunities for stakeholder comments and for solicitation of alternatives to the proposed regulation.

Currently, a number of existing title 8 standards address related requirements with respect to key factors in control of heat-related illness, including the development of an Injury and Illness Prevention Program (IIPP), provision of drinking water, and emergency first aid and medical response preparedness. These standards, which apply to various industry sectors, include sections 1512, 1524, 3203, 3363, 3395, 3400, 3439, 3457, 6251, 6512, 6969, 6975, 8420 and 8602(e). However, none of these standards specifically identify indoor heat as a hazard. The proposed standard includes a reference to the existing requirements of these standards along with specific control and training measures to reduce the risk of heat-related illness in indoor places of employment.

The proposal will ensure that employers with indoor places of employment will take preventive steps to require that workers have access to drinking water

and cool-down areas, are closely observed during acclimatization, are trained, receive timely emergency aid, and in situations of significantly higher heat exposure are protected through mandatory assessment and control measures.

The specific changes are as follows:

New Section 3396. Heat Illness Prevention in Indoor Places of Employment.

The proposal creates a new section to improve employee safety and health related to heat illness in indoor places of employment. This regulation would also provide for access to drinking water and cool-down areas, require assessment and control measures, emergency response procedures, close observation during acclimatization, effective training, and a Heat Illness Prevention Plan (HIPP). The proposal includes the following specific requirements:

New Subsection 3396(a) Scope and Application.

Proposed subsection (a)(1) establishes the application of the proposed subsection to all indoor places of employment where the temperature equals or exceeds 82 degrees Fahrenheit when employees are present. The intended effect is to identify affected employers and the conditions in which employers will be required to take action to protect employees from heat-related injuries and illnesses in indoor places of employment.

The proposed language includes exceptions clarifying that: (A) indoor work areas not listed in subsection (a)(2) do not have to comply with subsection (e) Assessment and Control Measures; and (B) this section does not apply to places of employment where employees are teleworking from a location of the employee's choice, that are not under the control of the employer. This proposed subsection will ensure that employers that have indoor environments with a significant exposure to heat and a higher risk of heat illness will implement additional protective measures to reduce heat-related deaths, illnesses and injuries while excluding employees who telework.

Proposed subsection (a)(2) identifies the conditions under which employees working in indoor places of employment face a higher risk of heat illness and as such, requires that affected employers take additional assessment and control measures specified in subsection (e) to protect employees from heat-related deaths, illnesses, and injuries. The effect of these clarifications is to ensure that employers respond to conditions with increased risk of heat-related deaths, illnesses, and injuries, and clearly identify the conditions in which they have to implement further protective measures to keep employees safe.

Proposed subsection (a)(3) establishes that in situations where Cal/OSHA has identified in writing through the issuance of an Order to Take Special Action (authorized by title 8 section 332.3) that an

unsafe workplace condition exists, such as employees working in indoor environments with significant exposure to heat and at risk of heat illness, affected employers will be required to comply with this specific standard. The effect of this proposed subsection is to ensure that workplace conditions Cal/OSHA has identified in writing as unsafe are made safe by mandating that the employer comply with this section.

Proposed subsection (a)(4) provides a list of other sections of title 8, some of which are industry specific, and all of which have application to the prevention of heat illness under certain circumstances. The intended effect is to make it clear to the regulated public that employers must continue to comply with these standards to the extent they apply after this proposed standard takes effect.

Proposed subsection (a) also includes clarifying notes that are without direct regulatory effect and do not add any additional regulatory requirements. The first note states that employers may integrate the requirements of the proposed standard into their IIPP required by section 3203, HIPP required by section 3395, or maintained in a separate document. The intended effect of this note is to provide employers with information to help facilitate compliance. A second clarifying note reiterates Cal/OSHA's authority to enforce the proposed standard and references sections of the LC that prohibit discriminating against employees for exercising their rights provided by this and other occupational safety and health standards. The intended effect of this note is to make employers aware that their responsibilities are not limited to compliance with proposed section 3396, and that employee retaliation is against the law.

New Subsection 3396(b) Definitions.

The proposed subsection (b) provides definitions for the terms used in new section 3396. The effect of these definitions is to establish the exact meanings for the terms as used within the context of the requirements of this section. They are necessary to clarify that the terms, as used, may have more specific meaning for indoor heat illness prevention than they would in the more general usage.

New Subsection 3396(c) Provision of Water.

Proposed subsection (c) details requirements for the provision of drinking water, which are identical to those in section 3395 with the exception of a new requirement to provide water in indoor cool-down areas. The effect of this proposed subsection is to harmonize with existing drinking water requirements for outdoor heat illness prevention and ensure quick access to drinking water as a means of controlling heat illness. This subsection will also ensure that employees are provided with water quantities sufficient to maximize the effectiveness of drinking water as a measure to prevent heat-related illness.

New Subsection 3396(d) Access to Cool-Down Areas.

Proposed subsection (d) details requirements for access to cool-down areas which are similar to those in section 3395 with the exception of two clarifications that address the nature of indoor environments. The term cool-down area is used in lieu of the term shade to clarify that a cool-down area can be indoors or outdoors.

Proposed subsection (d)(1) requires the employer to have and maintain cool-down areas at all times while employees are present. It further details requirements such as size, location and temperature for a cool-down area. The proposed temperature at which indoor cool-down areas shall be maintained is less than 82 degrees Fahrenheit, which is the trigger temperature for the proposed standard, unless the employer demonstrates that it is infeasible. The effect of this subsection is to ensure that employees in need of a preventative recovery period have a suitable place to cool down and successfully reduce the risk of heat-related illnesses.

Proposed subsection (d)(2) requires employers to allow and encourage employees to take preventative cool-down rests in a cool-down area when they feel the need to do so to protect themselves from overheating. It further instructs employers to take specific steps to attend to employees that take preventative cool-down rests. This will ensure that employees take preventative cool-down rests and are monitored for symptoms to reduce the risk of heat-related illnesses.

Proposed subsection (d)(3) requires the employer to provide first aid or emergency response to employees who exhibit signs or report symptoms of heat illness while taking a preventative cool-down rest or during a preventative cool-down rest period. This will ensure that employees receive prompt medical attention to reduce the severity of heat-related illnesses.

New Subsection 3396(e) Assessment and Control Measures.

Proposed subsection (e) details requirements for identifying and controlling environmental factors present at the workplace which increase the occurrence of heat-related deaths, illnesses and injuries. The effect of this subsection is to ensure that workplaces with conditions listed in subsection (a)(2) take additional steps to reduce the increased risk of heat-related deaths, illnesses and injuries.

Proposed subsections (e)(1)(A) through (e)(1)(D) specify how and when the employer must measure the temperature and heat index, record whichever is greater, and identify and evaluate all other environmental risk factors for heat illness. An exception is provided that allows the employer to assume a work area is subject to one or more of the conditions listed in subsection (a)(2) and therefore comply with subsection (e)(2) in lieu of complying with subsections (e)(1)(A) through

(e)(1)(D). This will give the employer the option to forego measuring and recording temperature and/or heat index. The effect of these subsections is to provide clarity and specificity essential to obtaining accurate temperature or heat index measurements, adequately evaluate environmental risk factors, correctly use measuring equipment, establish and maintain accurate records, and actively seek employee engagement to successfully identify the operations or work areas with a higher risk of heat illness.

Proposed subsections (e)(2)(A) through (e)(2)(C) outline control measures to minimize the risk of heat illness. These detailed requirements are necessary to ensure that employers address the environmental risk factors for heat illness present in the work area. The effect of these control measures will be to provide greater protection from indoor heat and thereby prevent and reduce the severity of heat illnesses for employees working indoors under high heat conditions.

New Subsection 3396(f) Emergency Response Procedures.

Proposed subsection (f) details requirements for implementing effective emergency response procedures which are identical to those in section 3395. Emergency response procedures must include maintaining effective communication; responding to signs and symptoms of possible heat illness; contacting emergency medical services; and ensuring that clear and precise directions to the work site are provided to emergency responders. This will ensure that there are no delays in providing emergency medical services, thereby minimizing the severity of heat-related illnesses.

New Subsection 3396(g) Close Observation During Acclimatization.

Proposed subsection (g) details specific requirements for when close observation by a supervisor or designee is required, which are similar to those in section 3395. Subsection (g)(1) requires close observation of all employees where no effective engineering controls are in use to control the effect of outdoor heat on indoor temperature during a heat wave. Subsection (g)(2) lists the trigger temperature or heat index that requires close observation of an employee who has been newly assigned to a work area, or work involving the use of clothing that restricts heat removal, or a high radiant heat area. This will ensure that employers increase their vigilance during high risk conditions to recognize the early symptoms of heat illness and take immediate steps to interrupt the heat illness cycle, preventing a fatality or reducing the severity of the illness.

New Subsection 3396(h) Training.

Proposed subsection 3396(h) details the specific topics that employee and supervisory training shall include, and are identical to those in section 3395.

Subsection (h)(1) clearly states the information required to be provided to supervisory and non-supervisory employees, which include: the role environmental and personal risk factors play in exacerbating the risk of heat illness; a description of the employer's procedures and employees' rights; an explanation of the importance of drinking small quantities of water frequently; the importance of acclimatization and close observation; the signs and symptoms of heat illness along with the appropriate first aid; the importance of employees immediately reporting their signs and symptoms to their employer; the employer's procedures for responding to possible heat illness and for contacting emergency services; and lastly, the employer's procedures for ensuring that clear and precise directions are provided to emergency responders. This will ensure that supervisory and non-supervisory employees acquire the necessary knowledge to understand the roles that environmental and personal risk factors, dehydration, overheating and lack of acclimatization, etc., play in exacerbating the risk of heat illness; and follow the employer's instructions and procedures to keep safe.

Subsection 3396(h)(2) includes additional training that must be provided to supervisors so that they know: the procedures to follow to implement the applicable provisions in this section; the procedures to follow when an employee exhibits signs or reports symptoms consistent with possible heat illness, including emergency response procedures; and how to monitor weather reports and respond to hot weather advisories. This will ensure that supervisors acquire the necessary knowledge of the employer's procedures and implement them when necessary to provide timely emergency aid.

New Subsection 3396(i) Heat Illness Prevention Plan.

The proposed subsection 3396(i) requires employers to establish, implement, and maintain an effective HIPP, which is very similar to the HIPP required by subsection 3395. The written plan must be in both English and the language understood by the majority of the employees and be available at the worksite to employees and to representatives of Cal/OSHA upon request. The HIPP may be included as part of the employer's Illness and Injury Prevention Program required by section 3203 or HIPP required by section 3395. At a minimum, the plan shall cover: procedures for the provision of water and access to cool-down areas; the assessment and control measures of work areas as required by subsection (e); emergency response procedures; and close observation during acclimatization. This subsection will ensure that the procedures are comprehended by most of the employees, put into effect, documented in writing and available for future reference.

New Appendix A to New Section 3396: National Weather Service Heat Index Chart (2019).

The proposed Appendix A is a chart listing National Weather Service (NWS) heat index values (2019). The color coding and associated and risk categories from the NWS Heat Index Chart were not included in proposed Appendix A. This will provide employers a means of determining the heat index from the dry bulb temperature and the relative humidity for employers that elect not to purchase heat index meters.

Evaluation of Inconsistency/Incompatibility with Existing State Regulation

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations, and was specifically constructed to mirror or, where appropriate, harmonize with existing requirements for outdoor heat illness prevention in section 3395 of Title 8 of the California Code of Regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement of the federal government and the LC to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Board).

Anticipated Benefits

The proposed regulation will reduce the incidence of heat-related illness, injury, and death among workers working in indoor places of employment. It will enhance worker safety and health by clarifying and making more specific requirements for providing potable drinking water and cool-down areas to workers, minimizing disincentives for drinking water and taking rest periods, requiring assessment and control measures, emergency response procedures, close observation during acclimatization, effective training, and a HIPP. These requirements will ensure that workers working in indoor places of employment are afforded protection and preventive measures equivalent to workers working in outdoor places of employment.

These proposals would generate health benefits in the form of avoided costs associated with morbidity (induced illness) and mortality (shortened life expectancy) caused by occupational exposure to extreme heat in indoor places of employment. *The Standardized Regulatory Impact Assessment (SRIA) of the Proposed California Regulation for Heat Illness Prevention in Indoor Places of Employment* developed by the RAND Corporation estimates that over the first ten years the proposed regulation would

result in approximately 2,029 fewer non-fatal injuries and 10 fewer fatalities. Additionally, there is evidence that worker productivity declines in hot environments. This proposal may increase worker productivity by limiting occupational exposure to extreme heat in indoor places of employment (RAND, 2021).

The SRIA estimates the monetary benefit associated with the proposed regulation, due to avoided cases of heat-related illness and fatalities as well as increases in productivity that arise from reducing employee exposure to extreme heat, would be \$362.2 million in the first year of the proposed regulation. This value would increase each year, with annual benefits reaching \$447.7 million in year 10 of the proposed regulation.

In addition, the proposed regulation may help in addressing longstanding issues of occupational safety and health vulnerability and social and economic inequality by ensuring that employers provide physical relief to employees from excessive heat stress (RAND, 2021).

Federal Regulations and Statutes

There is no existing federal OSHA standard that specifically and comprehensively addresses prevention of heat illness. However, federal OSHA does have requirements similar to those in the title 8 standards such as those for drinking water, first aid, and other workplace factors that have applicability to prevention of heat illness. In October 2021, federal OSHA issued an Advance Notice of Proposed Rulemaking to begin work on establishing a regulation on heat injury and illness prevention in outdoor and indoor work settings.¹

¹ U.S. Department of Labor. Advance notice of proposed rulemaking (ANPRM), Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings, Docket No. OSHA–2021–0009. <https://www.federalregister.gov/d/2021-23250>

DISCLOSURES REGARDING
THE PROPOSED ACTION

Mandate on Local Agencies or School Districts:

The Board has determined that proposed section 3396 does not impose a mandate on local agencies or school districts requiring reimbursement by the State pursuant to Part 7 of Division 4 of the Government Code (commencing with section 17500).

Cost or Savings to any State Agency:

The proposed regulation will result in new compliance actions imposed on state government entities, specifically correctional institutions (North American Industry Classification System (NAICS) 922140). Based on information from the Quarterly Census of Employment and Wages (QCEW) published by the California Employment Development Department

(EDD), there are approximately 1,500 state-run correctional institutions subject to the proposed regulation. Of these, approximately half are not likely to be subject to the indoor heat requirements due to locational factors or because the workplace is already climate controlled. The remaining establishments are estimated to incur costs totaling approximately \$0.9 million in 2023 and \$0.4 million in each subsequent year on an undiscounted annualized basis.

Cal/OSHA will incur new enforcement costs to conduct additional workplace inspections to enforce the proposed regulation and conduct outreach activities to promote the proposed regulation. The Board estimates that Cal/OSHA may need to conduct 15 to 25 additional inspections per year. The Board estimates that overall enforcement efforts, including additional inspections and outreach activities, will require up to one additional safety engineer at a cost of approximately \$0.2 million per year on an ongoing basis.

The proposed regulation reduces occupational exposure to extreme heat conditions in indoor work environments. Based on information from EDD's QCEW, there are approximately 10,300 state government employees working in correctional institutions. Of these, many work in climate controlled indoor work environments; those that do not (e.g., those working in older state prisons that are not climate controlled) would benefit from compliance actions that limit their occupational exposure to extreme heat conditions. To the extent that the proposed regulation improves the safety and health of state employees — resulting in fewer heat-related illnesses — the proposed regulation would result in a cost savings for state government entities. However, there is insufficient information to estimate the number of state employees treated each year for heat-related illnesses in the baseline and the number that would benefit from the proposed regulation.

Similarly, productivity benefits that accrue to state employees may result in cost savings to public entities. However, this analysis estimates relatively few state employees will benefit from the added use of engineering controls as a result of the proposed regulation because many state government establishments already have climate controlled indoor work environments.

Cost to any Local Agency or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies:

The proposed regulation will result in new compliance actions imposed on local government establishments. Based on information from EDD's QCEW, there are approximately 1,000 local government establishments

in industries subject to the proposed regulation. Of these, approximately 614 establishments are in industries that are likely to be subject to the indoor heat requirements. These industries include utilities; transportation and warehousing; administrative and support and waste management and remediation services; and accommodation and food services. These establishments are estimated to incur total costs of approximately \$1.3 million in the first year and \$0.6 million in each subsequent year.

There are approximately 14,600 local government employees in affected industries, which represents about one percent of all affected workers. The proposed regulation would result in a cost savings for local government entities by reducing heat-related injuries and illnesses. However, there is insufficient information to estimate the number of local government employees treated each year for heat-related illnesses in the baseline and the number that would benefit from the proposed regulation.

Similarly, productivity benefits that accrue to local government employees may result in cost savings to public entities. However, it is estimated that very few local government employees will benefit from the added use of engineering controls as a result of the proposed regulation because many local government employers already use control measures to reduce occupational exposure to extreme heat conditions.

Cost or Savings in Federal Funding to the State:

Cal/OSHA will enforce the proposed regulation and estimates that the proposed regulation may result in 15 to 25 additional inspections per year. The Board estimates that overall enforcement efforts, including additional inspections, will require up to one additional full-time equivalent safety engineer. The total salary of an experienced safety engineer plus fringe benefits, equipment, materials, and transportation is estimated to cost approximately \$0.2 million per year.

Cost Impacts on a Representative Private Person or Business:

The Board does not anticipate any cost impacts that a representative private person would necessarily incur as a result of the proposed requirements for indoor places of employment. The Board is aware that there are cost impacts that a representative business may incur in reasonable compliance with the proposed regulation. The total direct compliance costs of the proposed indoor heat illness prevention requirements are estimated to be approximately \$213 million in the first year and \$87 million in each subsequent year on an (undiscounted) annualized basis. The direct compliance costs include investments in mitigation efforts, including engineering and administrative controls, workforce training, development of a written HIPP and other compliance activities by businesses operating in California.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses and individuals, including the ability of California businesses to compete with businesses in other states.

The Board expects that the proposed regulation will reduce heat-related injuries, illnesses, and deaths by reducing occupational exposure to extreme heat in indoor workplaces. The anticipated monetized benefits of the proposed regulation are expected to exceed the anticipated costs of compliance with the proposed regulation (RAND, 2021). There is no requirement that economic benefits are greater than economic costs. The “benefit” of worker health is required to prevail over all other considerations except where attainment of worker health is unachievable.

The Board does not anticipate that California businesses will be at a competitive disadvantage due to the new regulations, based on the SRIA.

Significant Effect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses.

California Government Code section 11346.3 defines small businesses as businesses that are independently owned and operated, not dominant in their field of operation, and have fewer than 100 employees.

Using data from the U.S. Census Bureau’s County Business Patterns and the U.S. Department of Agriculture’s Census of Agriculture, the Board estimates that approximately 97.5 percent of establishments in affected industries have less than 100 employees or are considered small family farms. The total direct compliance costs to small businesses are estimated to be approximately \$208 million in the first year and \$85 million in each subsequent year (RAND, 2021).

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS

The creation or elimination of jobs in the state.

The statewide employment impacts of the proposed regulation are estimated to be small, but positive due to new expenditures on heating, ventilation and air-conditioning (HVAC) equipment and services and other changes in the value of purchases made by final users of these products and services. It is estimated that there will be a temporary increase of approximately 142 jobs in the first year of the proposed regulation and an average of approximately 50 additional jobs supported

in subsequent years relative to the *no regulatory action* baseline. These changes represent less than a 0.01 percent increase in employment in California. There are no direct, indirect, or induced job losses as a result of the labor impacts of the proposed regulation because the labor costs to individual businesses are relatively small and more than offset by productivity gains associated with businesses implementing engineering controls to reduce occupational exposure to extreme heat.

The creation of new businesses or the elimination of existing businesses in the state.

There is no anticipated elimination of any existing businesses in California as a result of the proposed regulation. The increase in final demand for engineering controls may lead to increases in the number of businesses manufacturing these products and companies specializing in installation of HVAC systems. Furthermore, increases in productivity across several sectors may result in a small increase in the number of businesses that supply products and services to these industries. However, the overall macroeconomic impacts of the proposed regulation are very small relative to the overall California economy (less than a 0.01 percent change); therefore, it is not anticipated there will be substantial impacts to the creation of new businesses.

The competitive advantages or disadvantages for businesses currently doing business in the state.

The proposed regulation is unlikely to have significant competitive advantages or disadvantages for businesses operating in California. The estimated costs of the proposed regulation are relatively small on a per establishment basis; however, the additional requirements add to the costs of doing business in California. It is assumed that other reasons for doing business in California likely outweigh the costs associated with the proposed regulation. Furthermore, the proposed regulation will not significantly impact the ability of California businesses to compete with businesses in other states with similar climate and geographic conditions (and comparable industrial processes that generate heat) that pose a similar risk of heat-related illness to workers.

The increase or decrease of investment in the state.

The implementation of the proposed regulation is likely to increase investments in systems and processes to reduce temperatures in indoor workspaces when employees are present, which may provide an opportunity for existing facilities to evaluate other investments in automation and technology. However, for many industries, the investment in HVAC systems is likely to be very small on a per establishment basis. The majority of employers in California have already made investments in such HVAC systems or rely on

natural ventilation or other control measures and will incur few additional compliance costs associated with engineering controls. In the long run it is anticipated that the proposed regulation may slightly increase average annual investment in the repair, replacement, and operation and maintenance of HVAC systems.

The incentives for innovation in products, materials, or processes.

The indoor heat illness prevention regulation provides an incentive for employers with hot indoor environments to reduce the temperature or heat index below the regulatory thresholds because those workplaces would no longer be subject to the more stringent (and costly) requirements of the proposed rule. This incentive to avoid more costly regulatory requirements is in addition to pre-existing incentives to mitigate indoor heat to avoid worker injuries and increase worker productivity. Although many companies already have temperature control systems in place due to these pre-existing incentives, the proposed regulation will likely increase the demand for HVAC systems. There is likely to be a particular need to reduce temperatures in large warehouses, manufacturing and production facilities, greenhouses, and wholesale and retail distribution centers—as well as improve airflow and exhaust systems in smaller hot indoor environments, such as restaurant kitchens and dry cleaners. As a result, there may be an increase in demand for innovative products, materials, or processes to cool these types of work environments and an increase in demand for new processes that are more energy efficient, less costly, and generate less heat.

In addition to mechanical adaptations, affected employers may also innovate through changes in processes and procedures. For example, employers may incentivize supervisors to provide additional cool-down rest breaks in the summer months and during heat waves. Certain industries already move work shifts to cooler times of the day or schedule additional breaks to reduce exposure to heat; the prevalence of these adaptations may increase to avoid working during periods of time when the more stringent (and costly) requirements of the proposed rule would apply.

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, environment and quality of life, and any other benefits identified by the agency.

The proposed regulation will reduce the incidence of heat-related illnesses and injuries among workers working in indoor places of employment. It will enhance worker safety and health and improve their quality of life by clarifying and making more specific requirements for providing potable drinking water and

cool-down areas to workers, minimizing disincentives for drinking water and taking rest periods, requiring assessment and control measures, emergency response procedures, close observation during acclimatization, effective training, and a HIPP. These requirements will ensure that workers working in indoor places of employment are afforded protection and preventive measures equivalent to workers working at outdoor places of employment.

Incentives to innovate new processes that are more energy efficient, produce less heat, and are less costly will benefit the environment and the welfare of California residents. New more energy-efficient cooling technologies and processes that produce less heat developed in response to this proposal can be used by households and entities outside of employers covered by the regulation to save money and reduce energy consumption. Saving money will benefit California residents. Using less energy will benefit the environment.

These proposals would generate health benefits in the form of avoided costs associated with morbidity (induced illness) and mortality (shortened life expectancy) caused by occupational exposure to extreme heat in indoor places of employment. It is estimated that over the first ten years the proposed regulation would result in approximately 2,029 fewer non-fatal injuries and 10 fewer fatalities. Additionally, there is evidence that worker productivity declines in hot environments and the worker productivity may increase by limiting occupational exposure to extreme heat in indoor places of employment (RAND, 2021).

The estimated monetary benefit associated with the proposed regulation, due to avoided cases of heat-related illness and fatalities as well as increases in productivity that arise from reducing employee exposure to extreme heat, is \$362.2 million in the first year of the proposed regulation. This value would increase each year, with annual benefits reaching \$447.7 million in year 10 of the proposed regulation.

Department of Finance (DOF) Comments on SRIA and Department of Industrial Relations (DIR) Responses.

There were two concerns raised in DOF’s comments on the SRIA.

1. ***DOF Comment 1: First, the SRIA estimates exclude from the cost, benefit, and fiscal impact estimates industries and occupations where workers are exposed to high heat fewer than once per week on average, whereas the protections are triggered as long as the temperature threshold is met on even one day out of the year. This results in underestimates of costs and benefits, including fiscal costs, as occupations utilized by state and local governments such as correctional officers, who report exposure***

more than once a year. The SRIA estimates must be revised to incorporate all affected entities as is consistent with the regulations.

DIR Response to Comment 1: The SRIA recognizes the number of establishments in California that will be subject to the proposed regulation is uncertain and may change over time — due to outdoor temperature variation, changes in work processes, and business openings and closures, for example. The SRIA characterizes the affected industries as follows:

- Type 1: Industries that generally have an indoor heat source or greenhouse.
- Type 2: Industries in which there is a mix of establishments, some of which may expose workers to hot indoor work environments depending on the establishment’s location, whether or not the work takes place indoors, and whether or not the workplace is climate controlled.
- Type 3: Industries in which most employees work outdoors or in climate controlled indoor work environments.

While there is limited available data, the SRIA does not exclude industries and occupations where workers are exposed to high heat less than once per week, on average, or even just one day per year. Establishments that meet or exceed the temperature threshold(s) on just one day per year are included as Type 2 industries. Based on temperature and heat index projections from the Centers for Disease Control and Prevention, the SRIA estimates costs, benefits, and fiscal impacts for about 4,000 Type 2 establishments where workers are likely to be exposed to high indoor heat conditions just one day a year, on average, and about 14,000 Type 2 establishments where workers are likely to be exposed to high indoor heat conditions less than once a week, on average, during the summer months. Many of these establishments are located in northern or coastal counties in California.

Based on DOF’s recommendation, DIR reviewed several news articles documenting indoor heat risk in prisons and jails. Since correctional officers may be exposed to high indoor heat conditions in some facilities, DIR has reclassified Correctional Institutions (NAICS 922140) as a Type 2 industry. DIR will revise the Form 399 to include estimates of economic impacts for these establishments. While this change will increase the number of affected businesses and individuals by less than one percent, it would approximately double the estimated compliance costs to the state.

The SRIA estimates that the incremental costs, benefits, and fiscal impacts for Type 3 industries are zero because any compliance actions they will undertake are the same as under the *no regulatory action* baseline. Industries with outdoor employees exposed

to high temperatures are already subject to section 3395 and are required to undertake similar compliance actions to protect those employees. Industries with climate controlled indoor work environments are able to maintain the indoor temperature below the regulatory temperature threshold(s); and thus, will not incur additional compliance costs.

2. *DOF Comment 2:* Second, the SRIA must adequately justify the assumptions underlying the analysis. For example, the SRIA states that the cost to businesses of providing an indoor cool down area is a de minimis cost but it does not justify why it is appropriate to assume negligible opportunity costs of repurposing or adding indoor space. Another example is the assumption that 20 percent of enterprises in affected industries and 80 percent of manufacturing and restaurants will not need additional action to comply. Finance appreciates the sensitivity analysis around different compliance assumptions provided in the SRIA, however, the SRIA must disclose why the point estimate used in the baseline is adequate as costs and benefits are highly sensitive to those key assumptions.

DIR Response to DOF Comment 2: DIR concurs with DOF about the importance of justifying underlying assumptions and has sought to provide such information throughout the SRIA. To inform the estimates in the SRIA, the authors interviewed industry groups, trade associations, and labor organizations on the potential impacts of the proposed regulation. These groups spanned a wide range of industries, collectively accounting for between 60 and 70 percent of the regulated entities. Additional organizations that were contacted declined or were unable to participate.

Industry representatives were asked to estimate what percentage of establishments in their industry were likely already “partially or mostly” in compliance with components of the proposed regulation. While the interviewees were not able to provide exact data, they were able to provide estimates of the percentage of establishments that already used engineering controls, provided cool-down areas, or used other heat illness prevention measures. DIR aggregated these responses to yield the estimates described in Chapter 2 (and footnote 20) of the SRIA, which addresses the basis for assumptions regarding the number of businesses that would likely need to undertake additional actions to comply with the proposed regulation. The midpoint estimates in the SRIA reflect the average of the responses, while the sensitivity analysis around the point estimates reflects the range of responses given by the majority of the respondents in their estimates.

The specific assumption regarding indoor cool down areas was based on industry interviews, in which employers gave examples of providing access to

indoor cool down areas in existing climate-controlled break rooms, customer areas, or lunchrooms (e.g., in large warehouses). Therefore, the SRIA assumed employers would incur few (if any) opportunity costs of repurposing or adding indoor space.

DIR appreciates the opportunity to further elaborate on the assumptions and methods used in the SRIA.

CONSIDERATION OF ALTERNATIVES

Alternative 1: Less stringent regulatory alternative.

One alternative considered was less stringent than the proposal. This alternative would eliminate from the proposed regulation subsection (e), which mandates additional compliance actions related to assessment and control measures when the temperature or heat index equals or exceeds the specified regulatory threshold listed in subsection (a)(2). Removal of these requirements would make the indoor heat illness prevention requirements generally more consistent with the requirements in section 3395 (the outdoor heat standard). Specifically, it would remove the requirement to adopt engineering controls or other control measures, where feasible, in indoor workplaces with higher risk of heat illnesses.

While this would eliminate some of the relatively more costly impacts associated with subsection (e), it is uncertain whether it would result in an overall lower cost for employers because subsection (d) mandates employees be allowed to take preventative cool-down rest breaks to protect themselves from overheating. Without subsection (e), employees would take extra cool-down rest breaks when the temperature or heat index equals or exceeds the specified regulatory threshold and during heat waves. This would result in increased costs of administrative control measures associated with the requirement for cool-down areas compared to the proposed regulation. Therefore, while the upfront costs of the less stringent alternative are significantly lower than the proposed regulation, some costs in subsequent years may exceed costs under the proposed regulation because employers will likely need to implement additional administrative control measures in place of using engineering controls on hot days.

This alternative would likely result in a higher incidence of heat exposures among employees who work in indoor workplaces with higher risk of heat illnesses. As such, it is less likely to effectively prevent or reduce heat-related illness compared to the proposed regulatory action. In addition, it may not yield the level of productivity benefits estimated under the proposed regulation, while it would still require potentially costly administrative actions to comply with the other requirements.

The less stringent alternative would be less cost-effective than the proposed regulation, the number of cases of heat-related illness would remain higher, and the overall benefits would be significantly lower. For these reasons, adopting this less stringent alternative is not considered a reasonable alternative to the proposal.

Alternative 2: More stringent regulatory alternative.

A second alternative considered was more stringent than the proposal. This alternative would require employers under subsection (e)(1) to use a wet bulb globe temperature (WBGT) device to measure the temperature, relative humidity, air velocity, and radiant heat and record these measurements when the temperature is expected to be 10 degrees or more above previous measurements. This change would increase the compliance costs for regulated entities, but the benefits of the more stringent alternative are not likely to significantly differ from the proposed regulation.

The compliance cost of the more stringent alternative for most small businesses would increase by about 10 to 30 percent relative to the proposed regulation. This is driven by the higher costs of measuring and recording heat stress levels. The WBGT device is more costly than a digital thermometer and relative humidity gauge and using the WBGT would require more time to take a reading as well as training in how to properly use the device. In addition, more establishments would need to purchase a device relative to the proposed regulation since WBGT devices are used less frequently by industry.

The potential benefits of using a WBGT device include more accurate measurement and improved ability to adopt specific recommendations based on the WBGT by government agencies or the American Conference of Governmental Industrial Hygienists' threshold limit value (TLV[®]) guidelines. While environmental conditions contributing to heat stress could be more accurately measured by employers, the additional compliance actions employers would have to undertake would be identical to those required under the proposed regulation. Therefore, the benefits of the more stringent alternative are not likely to significantly differ from the proposed regulation. For this reason, requiring the use of a WBGT device is not considered a reasonable alternative to the proposal.

In accordance with Government Code section 11346.5(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 either 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 than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the back-up contact person, Amalia Neidhardt (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process BY APPOINTMENT Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Standards Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at oshsb@dir.ca.gov or by calling (916) 274-5721. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, the Initial Statement of Reasons and supporting documents. Copies may be obtained by contacting Ms. Shupe or Ms. Neidhardt at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Ms. Neidhardt at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 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 Ms. Shupe or Ms. Neidhardt at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <https://www.dir.ca.gov/oshsb/proposedregulations.html>.

TITLE 18. FRANCHISE TAX BOARD

As required by section 11346.4 of the Government Code, the Franchise Tax Board (the Board) hereby gives notice of its intention to amend California Code of Regulations, title 18, section 18001-1 (Regulation section 18001-1), relating to the Other State Tax Credit (OSTC).

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 before the close of the written comment period indicated below. The request should be submitted to the Board officer named below. In addition, Government Code section 15702, subdivision (b) provides for consideration by the three-member Board of any proposed regulatory action if any person makes such request in writing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes on May 16, 2023. The Board will consider only comments received at the Board offices by that time. The Board encourages submission of comments in electronic form, rather than in paper form. Comments may be submitted by email to FTBRegulations@ftb.ca.gov.

Submit comments in paper form to:

Desiree Macedo, Tax Counsel
Legal Division MS A260
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741-1720
Fax: (916) 843-0995

AUTHORITY & REFERENCE

California Revenue and Taxation Code (RTC) section 19503 authorizes the Board to amend Regulation section 18001-1. The amended regulation implements and interprets provisions in RTC section 18001.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action will provide taxpayers with certainty regarding the term “net income tax.”

The purpose of the proposed amendment of Regulation section 18001 is to provide clarity to taxpayers, tax practitioners, and the state with regards to “net income tax” for purposes of the OSTC.

Summary of Existing Laws and Regulations:

RTC section 18001 allows a credit against the net tax for net income taxes imposed by and paid to another state on specified income. Under RTC section 18001, the payment of tax to another state is generally eligible for the OSTC only where the other state’s tax is a net income tax. A tax that is imposed on items other than net income is not considered a net income tax for purposes of the OSTC.

The current regulation promulgated under RTC section 18001, Regulation section 18001-1 was last amended on January 7, 2005

Effect of Proposed Rulemaking:

The effect of the proposed regulatory action is to give certainty to taxpayers, tax practitioners, and the state with regards to “net income tax” for purposes of the OSTC. The proposed amendments provide the appropriate criteria and guidance in implementing the OSTC as provided in RTC section 18001 and confirm the Board’s long-standing administration of RTC section 18001.

Broad Objectives and Specific Benefits of the Proposed Rulemaking:

In addition to the benefits mentioned above in providing affected taxpayers with proper guidance regarding “net income tax,” the broad objective of the proposed regulatory action is to ensure that taxpayers, their representatives, and the state of California have certainty on what qualifies as “net income tax” pursuant to RTC section 18001. The clarity from the proposed regulatory action will reduce uncertainty for

taxpayers and tax practitioners and will facilitate tax administration for the state of California by providing additional clarity. These benefits are the result of goals developed by the Board with input from interested parties and based on broad statutory authority.

Consistency and Compatibility with Existing State Regulation:

During the process of developing the proposed amendments to this regulation the Board, pursuant to Government Code section 11346.5, subdivision (a)(3) (D), conducted a search of any similar state regulations and has concluded that this regulation is neither inconsistent nor incompatible with any existing state regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: *None.*

Fiscal Impact Disclosures:

Cost to any agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: *None.*

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

Cost or savings to any state agency: *The proposed amendment to the regulation would provide clarification of the term “net income tax” for purposes of the OSTC. The Board does not anticipate any cost savings.*

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

Significant effect on housing costs: *None.*

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: *This regulation does not affect the tax owed on business activity in California, so it does not affect the ability of California businesses to compete within or outside California. Therefore, this regulation would not result in any statewide adverse economic impact on the states’ businesses.*

Potential cost impact to directly affected private person or business: *The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed amendment to the regulation will have no impact on a private person, and since it is informative in substance and does not change the law pertaining to the application of the OSTC, it would not result in additional compliance costs to businesses.*

Effect on small business: *The Board has determined that the proposed amendment to the regulation would not affect the tax owed by small businesses. The proposed amendment to the regulation provides*

clarification to the term “net income tax” for purposes of taxation of out-of-state business activity of California taxpayers and therefore would not affect small businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

In accordance with the Government Code section 11346.3, subdivision (b), the Board has made the following assessments regarding the proposed regulatory action:

The proposed amendment to the regulation would not affect the creation of California jobs, the creation of new businesses, nor would it affect the expansion of existing California businesses. The Board does not anticipate any elimination of jobs or elimination of existing businesses within California as a result of the proposed amendments to this regulation. The proposed regulatory amendment provides guidance to taxpayers and tax practitioners with regards to the term “net income tax,” and does not have any direct impact on the health and welfare of California residents, worker safety and the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the comment period or if a hearing is requested at the scheduled hearing.

CONTACT PERSONS

Inquiries concerning the proposed regulatory action may be directed to:

Desiree Macedo, Tax Counsel
Legal Division MS A260
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741-1720
Telephone: (916) 845-7193
Email: FTBRegulations@ftb.ca.gov

The backup contact person for these inquiries is:

Jayson Gottman
Legal Divisions MS A260
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741-1720
Telephone: (916) 845-4576
Email: FTBRegulations@ftb.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Jayson Gottman at the above address or send the request by email to FTBRegulations@ftb.ca.gov.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. Copies can be obtained on the Franchise Tax Board’s website or by contacting Jayson Gottman at the address, phone number, or email address listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, after the close of the comment period, the Board may adopt the proposed amendments to the regulation substantially as described in this notice. If the Board makes substantive modifications sufficiently related to the proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Copies of the modifications will be published on the Board’s website at ftb.ca.gov and mailed to anyone who submitted written comments to the Board, and to anyone who has expressed an interest in receiving the modification information. Please send requests for copies of any modified regulation to the attention of Jayson Gottman at the address, phone number, or email address indicated above. The Board will accept written comments on the modified regulation 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 will be published on the Board's website and may also be obtained by contacting Jayson Gottman at the above address, phone number, or email address.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough can be accessed through our *website*.

**TITLE 24. BUILDING
STANDARDS COMMISSION**

(BSC 04/22)

Notice is hereby given that the California Building Standards Commission (BSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. The BSC is proposing building standards related to 2022 California Green Building Standards Code.

PUBLIC COMMENT PERIOD

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

A public hearing has not been scheduled; however, written comments will be accepted from March 31, 2023, until midnight on May 15, 2023.

Comments may be submitted to CBSC via:

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

US Mail postmarked no later than May 15, 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 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 BSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

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

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

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

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

AUTHORITY AND REFERENCE

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

The purpose of these building standards is to implement, interpret, or make specific the provisions of 18928.1, 18930.5, 18931.7(b), and 18941.10.

The BSC is proposing this regulatory action based on 18928.1, 18929.1, 18930, 18930.5, 18941.5 and 18941.10.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

Health and Safety Code Section 18929.1 states that CBSC shall receive proposed building standards from state agencies for consideration in an 18-month code adoption cycle. The commission shall develop regulations setting forth the procedures for the 18-month adoption cycle.

Health and Safety Code Section 18930 requires building standards adopted or proposed by state agencies be submitted to the CBSC for approval or adoption prior to codification and establishes the analysis, criteria, review considerations, and factual

determinations for the approval or adoption of building standards (9–Point Criteria).

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

Health and Safety Code Section 18931.7(b) Building Standards Administration Special Revolving Fund; availability of monies **(b)** Moneys deposited in the fund shall be available, upon appropriation, to the commission, the department, and the Office of the State Fire Marshal for expenditure in carrying out the provisions of this part, and the provisions of Part 1.5 (commencing with Section 17910) that relate to building standards, as defined in Section 18909, with emphasis placed on the development, adoption, publication, and updating of green building standards, the updating of verification guidelines for Tier 1 or Tier 2 green building standards and educational efforts, including, but not limited to, training for local building officials associated with green building standards.

Health and Safety Code Section 18941.5, with reference to Health and Safety Code Section 17958.7, authorize local governments and fire protection districts to adopt local ordinances that make amendments to the California Building Standards Code, Title 24 of the California Code Regulations (CCR Title 24) which allows for more restrictive local amendments that are reasonably necessary because of local climate, geological, or topographical conditions, the California Green Building Standards Code, Part 11 of Title 24 (CALGreen), Section 101.7.1, provides that local climatic, geological, or topographical conditions include environmental conditions established by the city, county, or city and county.

Health and Safety Code Section 18941.10 authorizes CBSC to adopt, approve, codify, and publish mandatory building standards for the installation of future electric vehicle charging infrastructure for parking spaces in nonresidential developments.

Summary of Existing Regulations

The California Green Building Standards Code, Part 11 of Title 24 of the California Code of Regulations (CCR), also known as the CALGreen Code, is amended for inclusion into the 2022 CALGreen Code effective July 1, 2024.

The CALGreen Code contains the green building standards for various mandatory and voluntary regulations that will be amended as necessary based on the proposed code changes for Electric Vehicle (EV), Bird–Friendly and CALGreen Carbon Reduction Collaborative (CCRC).

Summary of Effect

This proposed action will implement the proposed modifications to the California Green Building Standards Code for buildings within BSC authority. The proposed amendments have some editorial and non–substantive changes with no intended change in regulatory effect. However, there are several amendments that are substantive and listed below.

EV: The substantive changes include increasing the Electric Vehicle infrastructure percentages for both the mandatory and the voluntary provisions and new requirements for the mandatory installed Level 2 EVSE for light–duty vehicles. Also proposed are increased percentages for Level 2 EVSE for both Tier 1 and Tier 2.

Another proposed amendment is the requirement for EV infrastructure for medium–and heavy–duty zero emissions vehicles (ZEV).

Bird Friendly: Additionally, newly proposed amendments for voluntary bird–friendly building design standards for nonresidential application.

CCRC:

This proposed action will implement the modifications to the California Green Building Standards Code for buildings within CBSC authority. The proposed changes include adding new mandatory and voluntary green building standards to further support the reduction of greenhouse gas emissions when buildings 100,000 square feet and greater are reused or newly constructed. The purpose, need, and benefit of these regulations is a first step to address the impact of building materials on carbon emissions. Three pathways are provided: building reuse, whole building life cycle assessment, and a product global warming potential (GWP) compliance–prescriptive path.

Once filed with Secretary of State, the standards will be codified and published by January 1, 2024, and will become effective July 1, 2024. The Initial Statement of Reasons (ISOR) provides a complete description of the proposed building standards and their effect.

Comparable Federal Statute or Regulations

There are no federal statutes or regulations that are comparable to the proposed updates to EV, bird–friendly and CCRC regulations added to the CALGreen Code.

Policy Statement Overview

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

pollutants, and fossil fuel dependency leading to improved public health.

Bird-Friendly: A new proposal to the green building standards, are for nonresidential bird-friendly building design strategies for statewide application. These voluntary regulations set out to address the large number of bird deaths caused by collisions with buildings. Many varieties of birds are at risk. In general, it is the smaller species that fly at lower altitudes that are in most danger of collisions in California. Material alternatives to vision glass for the treatment of building areas posing the greatest risk for collision is part of the consideration in bird-friendly building design.

CCRC: The broad objectives of the regulations are to propose changes to the building standards that further support the reduction of greenhouse gas emissions by means of incorporating changes to construction waste management, building reuse, life cycle assessment, global warming potential product declarations, cool and sustainable pavements to mitigate heat island effect, and material sources for cement and concrete.

One of the compliance options is deconstruction and reuse of existing structures. This compliance path does not require that an existing building be reused; it requires if a building is being reused, a minimum 45 percent of the existing building primary structural elements shall be maintained. Studies have shown building reuse almost always offers environmental savings over demolition and new construction, when comparing buildings of equivalent size and function.

According to the AIACA, “[r]eusing a building — including interior renovations and energy upgrades — has a much lower embodied carbon footprint than new construction — typically 50 to 75% lower, depending on the extent of the renovation. But reuse without improving efficiency is not enough, we also need to reduce current operating emissions by implementing efficiency upgrades, electrification, and cleaner sources of electricity.

Reusing and improving existing buildings also has a societal benefit — it can help rebuild existing neighborhood and financial equity, create local jobs, strengthen community control, and increase neighborhood resilience. Investment in communities that have been subjected to historic discrimination and economic redlining has the potential to bring sustainable and equitable climate solutions that also have meaningful economic outcomes to the most impacted communities.”

The whole-building life-cycle assessment (WBLCA) compliance option requires a cradle-to-grave WBLCA be performed in accordance with ISO 14044 reference standard, excluding the operating energy, and demonstrates a 10 percent reduction in global warming potential (GWP). Projects must

exclude operating energy analysis in the WBLCA because energy efficiency savings over a building’s life cycle are captured by the California Energy Code (Title 24, Part 6). ISO 14044 is the foremost standard that address the assessment of the environmental aspects of a building for all life cycle stages. WBLCA modeling programs use ISO 14040 as the trusted source to compare products and projects across all four phases of LCA. Excluding operational energy from the calculation eliminates teams’ ability to trade operational energy savings for embodied carbon. Further, other sections of Title 24 address requirements for operational energy.

The product GWP compliance-prescriptive path is an additional compliance path, utilizing specific product categories and maximum acceptable GWP values listed in Table 5.409.3. This approach provides project teams a prescriptive option to purchase lower carbon materials based on product purchasing and procurement during construction. The target materials are based on the Buy Clean California Act (BCCA) and represents 175 percent BCCA GWP values, except for concrete products which are not included in BCCA. The concrete values are based on Industry-Wide Environmental Product Declaration (IW-EPD) regional concrete values. High-early strength concrete is not included in the EPD so an allowance of 130 percent of the ready-mix concrete GWP values is provided.

Concrete, being a unique regional product, is allowed a weighted average calculation for all concrete mixes used on the project. Project teams can choose for each mix to comply the GWP value in the table, or they can use the calculation provided to illustrate that, collectively, the concrete mixes do not exceed the allowed GWP value. This approach was considered after the cement and concrete industry provided the recommendation to use an average approach.

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

Evaluation of Consistency

BSC has determined that the proposed regulations for EV, bird-friendly and CCRC are not inconsistent or incompatible with existing state regulations.

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

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

EV, Bird-Friendly and CCRC: BSC has determined that there are no other matters prescribed

by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

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

EV, Bird-Friendly, CCRC: BSC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. BSC does not have authority to impose building standards or regulations on school districts. Further, the proposed regulatory actions are administrative in nature and would not enact a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

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

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

A. Cost or Savings to any state agency:

EV: All new state buildings are subject to these requirements. BSC has not specifically identified the number new state buildings being planned for new construction during the effective date of the new proposals. However, a typical business of 5,000 to 100,000 square feet may install 6 to 130 low power level 2 charging receptacles for a cost range of \$4,686.30 to \$191,958. Staff assumed that these new buildings would fall in the same size range as a typical business.

All existing buildings will be subject to the proposed amendments. BSC has not specifically identified the number existing state buildings or parking lot facilities being planned and permitted for renovation during the effective date of the new proposals. BSC assumes a typical business is in a 5,000 to 100,000 square foot building. The cost for a typical existing business is \$2,700.28 to \$163,629.29. Staff assumes that these state buildings will fall in the same category.

Bird-Friendly: Unknown costs to state agencies that utilize voluntary bird-friendly building design in state buildings.

CCRC: All new non-residential state buildings 100,000 square feet or greater are subject to this regulation. However, there are three compliance options for this regulation: building reuse, the WBLCA method, and the product GWP method. The building reuse compliance option does not apply to new buildings.

According to the Department of General Services, Real Estate Services Division, it is safe to assume that there may be 10 to 15 buildings statewide to which this regulation applies annually. Assuming the state opts to use the WBLCA compliance method for all buildings subject to this regulation this year and through FY 24/25, there may be up to 40 building projects that incur an additional cost of \$15,000, which totals \$600,000. If this cost is split among 2023, FY 23/24, and FY 24/25 the cost may be approximately \$200,000 per year. If the state opted for the product GWP method for one-half of the 40 buildings, the additional cost to the state to comply with this regulation may be reduced by approximately one-half.

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

Estimate:

EV: For new state buildings, staff estimates a cost ranging from \$4,686.30 to \$191,958. For existing state buildings and parking lot facilities, staff estimates a cost of \$2,700.28 to \$163,629.29.

Bird-Friendly: BSC has determined that this proposed action may have an unknown fiscal impact to state agencies that utilize bird-friendly building design for state buildings (see Attachment B).

CCRC: Staff estimates a cost to state agencies that may be approximately between \$100,000 and \$200,000.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

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

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

BSC has made an initial determination that the adoption/amendment/repeal of these regulations for EV, bird-friendly, and CCRC 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.

EV: Regarding the proposal to require appropriate light-duty EV capable infrastructure and Level 2 EV chargers, BSC conducted four workgroup meetings on the following dates.

- April 4, 2022
- June 16, 2022
- August 18, 2022
- September 22, 2022

These workshops were attended by state agencies, interested parties and stakeholder representatives such as the California Air Resources Board (CARB), CalStart, CalETC, California Energy Commission (CEC), California Building Industry Association, Electric Vehicle Charging Association, Tesla, Southern California Edison, various local enforcing agencies, and private consultants. Based on testimony presented at the workshop and comments received from various stakeholders, BSC proposes to adopt the changes as suggested at the workshop.

BSC has made an initial determination that this regulatory action would marginally increase costs to California business enterprises representing up to 0.98% of the total new construction costs of nonresidential buildings over the 1.5-year life of the amendments and with significant benefits to Californians due to improved air quality and GHG emissions reduction. The proposal will also help to alleviate expensive future retrofit costs for applicable building owners, saving them more than six to nine times the cost of adding panel capacity and conduit in standalone retrofits of existing buildings.

This determination is based on comments received at the workgroup meetings and the cost benefit analysis provided by the California Air Resources Board. This analysis is based on the following:

1. *Current California GHG Emission Inventory Data* | California Air Resources Board (<https://ww2.arb.ca.gov/ghg-inventory-data>)
2. *California Energy Commission's (CEC) recent AB 2127 staff report* (<https://efiling.energy.ca.gov/getdocument.aspx?tn=236237>)
3. *California's Employment Development Department (Size of Business Data)* (https://labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html)
4. 2021 National Construction Estimator, 67th Edition, Edited by Richard Pray, Craftsman

Book Company, October 2020 21 National Construction Estimator 67th Edition

5. *National Electric Vehicle Infrastructure Program (NEVI)* | California Energy Commission (<https://www.energy.ca.gov/programs-and-topics/programs/national-electric-vehicle-infrastructure-program-nevi>)
6. *2019 CARB report (Electric Vehicle (EV) Charging Infrastructure-Nonresidential)* (https://ww2.arb.ca.gov/sites/default/files/2020-08/CARB_Technical_Analysis_EV_Charging_Nonresidential_CALGreen_2019_2020_Intervening_Code.pdf)

BSC has shown in the Economic and Fiscal Impact Statement (399) and the Initial Statement of Reasons (ISOR) that the zero emissions vehicle infrastructure adjustments pose a marginal cost increase but do not pose a significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states.

Bird-Friendly: Regarding the proposal to add bird-friendly building design strategies in the voluntary code provisions, BSC conducted two stakeholder workshops; one on June 7, 2022 and the second one on September 9, 2022. These workshops were attended by state agencies, interested parties and stakeholder representatives such as Keish Environmental, San Joaquin Audubon Society, USGBC, CBIA, State Fire Marshal, American Bird Conservancy, CollidEscape, and National Fenestration Rating Council.

BSC has assembled and researched data and costs from a variety of sources that indicated the cost would be .1% to 7.5% of the cost to require bird-friendly measures which was considered not significant.

CCRC: Due to the various types of businesses that may be affected by this regulation, and due to the compliance options provided, it was not possible to determine an exact dollar amount for initial and ongoing costs of a typical business. Based on the data provided, compliance with the building reuse option cannot be forecasted. Compliance with the whole building life cycle assessment option would increase the professional service fee by \$10,000 to \$15,000 per project. Regional variations and project scale differences are the cause of this range. Free software used to complete the WBLCA is available. When complying with the product GWP compliance-prescriptive path, an analysis by the Assembly Appropriations Committee indicates that businesses with concrete mixing plants may incur anywhere from \$12,500 in initial costs of obtaining an EPD and ongoing membership fees of \$2,400, to \$28,700 in initial costs for obtaining an EPD plus an annual fee of \$6,180, depending on the number of concrete mixing plants a business is seeking to have analyzed. The

annual fee is assessed to maintain access to data and create new EPDs. An analysis provided by California Construction and Industrial Materials Association (CalCIMA) (available upon request) indicated that it would cost approximately \$1.5 million for concrete mixing plants in California that do not currently have EPDs to obtain EPDs. However, it is unlikely that all concrete mixing plants, nor all other affected product manufacturers in California, will seek to obtain EPDs at once in the following year. Data was not provided by the glazing, steel, or mineral wood board industries but these industries have been required to provide EPDs's for State projects through the Buy Clean California program beginning in 2018.

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

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

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

BSC has assessed the proposed code changes to EV, bird-friendly and CCRC regulations has determined that these changes do not require a report.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

EV: BSC is aware of initial cost impacts that a representative private person or business could incur in reasonable compliance with the proposed action. The cost impact has been determined to be less than 0.5 percent of all new applicable construction totals for medium-and-heavy-duty vehicle infrastructure provisions, and up to 0.98 percent of all new applicable construction totals for the light-duty vehicle infrastructure provisions.

However, it is also anticipated that such costs would be recouped in long-range savings expressed in utility and transportation costs, worker productivity, health costs, and goodwill. The Initial Statement of Reasons and the Economic and Fiscal Impact Statement support this statement.

Bird-Friendly: BSC has made the initial determination that the action will not have a significant adverse economic impact on business as the cost of compliance is negligible at less than 1% of the total building cost. For existing buildings replacement

windows may be up to 7.5% of the cost to replace windows with bird-friendly building design.

Material alternatives to vision glass for the treatment of building areas posing the greatest risk for collision do not need to be prohibitively expensive and can be cost-neutral. Portland cites cost studies of a local library and a health center, comparing traditional glass to fritted or UV-patterned glass and found increases of .05% and .03%, respectively, in the overall building costs, of which under 10% were expended on building skin. Many designers of bird-friendly buildings note that costs are not significant if the features are incorporated early in design; retrofitting elements to shield glass will add cost, but economical options can be found.

CCRC: As noted above, an analysis provided by California Construction and Industrial Materials Association (CalCIMA) (available upon request) indicated that it would cost approximately \$1.5 million for concrete mixing plants in California that do not currently have EPDs to obtain EPDs. However, it is unlikely that all concrete mixing plants, nor all other affected product manufacturers in California, will seek to obtain EPDs at once in the following year. Data was not provided by the glazing, steel, or mineral wood board industries but these industries have been required to provide EPDs's for State projects through the Buy Clean California program beginning in 2018.

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

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

The BSC has assessed whether and to what extent this proposal will affect the following:

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

EV: These regulations may cause some jobs to be created for the installation, maintenance, and manufacturing of Electrical Vehicle Supply Equipment (EVSE). These regulations will not affect the elimination of jobs within the State of California.

Bird-Friendly: Types of jobs or occupations impacted: construction jobs, window manufacturers, window designers, the different strategies: parachute cord makers, tempura paint dealers, screens and netting maker/installers, tape, decals and film manufacturers. These regulations will not affect the elimination of jobs within the State of California.

CCRC: This regulation may cause jobs to be created for the analysis of whole building life cycle assessments and environmental product

declarations. This regulation will not affect the elimination of jobs within the State of California.

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

EV: These regulations may cause the creation of businesses that expand the EV market. These regulations will not affect the elimination of jobs within the state of California.

Bird-Friendly: New Businesses in the window manufacturing, window designs may be created by these regulations. These regulations will not affect the elimination of jobs within the State of California.

CCRC: This regulation may cause the creation of businesses that that provide whole building life-cycle assessments or creation and analysis of environmental product declarations. This regulation will not affect the elimination of jobs within the State of California.

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

EV: These regulations will likely promote the expansion of businesses currently involved with EV manufacturing, installation, maintenance, and technology development within the State of California.

Bird-Friendly: These regulations may impact the expansion of businesses currently doing business within the State of California, but that figure is unknown.

CCRC: This regulation may cause the expansion of businesses doing business within the State of California that that provide whole building life-cycle assessments or creation and analysis of environmental product declarations, or employ such analysts in-house.

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

EV: These regulations will increase the sustainability of California’s natural resources by reducing fuel use, GHG emissions, criteria pollutant emissions, and fossil fuel dependence, and provide increased protection of public health and safety, worker safety, and the environment.

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

MMTCO_{2e} per year by 2040 from the Advanced Clean Trucks Regulation.

Bird-Friendly: These regulations will increase the protection of bird species across California. Governor Newsom’s Executive Order *N-82-20* pledged to preserve 30% of habitat by 2030 (the 30 x 30 pledge) (which the Biden Administration has since also declared) with the intent of stemming declines in biodiversity. Agencies were tasked with coordinating efforts to ensure that biodiversity is considered in fulfilling their mandates. Biodiversity, of course, includes birds. The Executive Order can be found at (<https://gov.ca.gov/wp-content/uploads/2020/10/10.07.2020-EO-N-82-20-.pdf>).

CCRC: These regulations will further support the reduction of greenhouse gas emissions, and provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE
OF STANDARDS THAT WOULD
IMPACT HOUSING

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

EV, Bird-Friendly and CCRC: BSC has determined that there would be no cost to comply with these proposed building standards. BSC does not have the authority to impose building standards or regulations applicable to housing.

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

All of the information upon which the proposed regulations are based is contained in the rulemaking

file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the *CBSC website*: (<https://www.dgs.ca.gov/BSC>).

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

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

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

BSC shall provide, upon request, a description of any of the 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:
Enrique M. Rodriguez,
Associate Construction Analyst
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263–0916
enrique.rodriquez@dgs.ca.gov

Back up Contact:

Irina Brauzman, Associate Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone Number: (916) 263–0916
irina.brauzman@dgs.ca.gov

TITLE 24. BUILDING STANDARDS COMMISSION

(DSA–SS 01/22)

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

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division of State Architect (DSA) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. The DSA is proposing building standards related to Electric Vehicle Charging Stations, building standards related to carbon dioxide (CO2) monitors in K–12 public school classrooms, and addressing clarity to existing green building standards.

PUBLIC COMMENT PERIOD

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

Written comments will be accepted by CBSC regarding the proposed changes from:

March 31, 2023 until midnight on May 15, 2023.

Comments may be submitted to CBSC via:

e–Comment form: [dgs.ca.gov/BSC/e–comments](https://www.dgs.ca.gov/BSC/e-comments)
US Mail postmarked no later than May 15, 2023:
California Building Standards Commission
Kevin Day, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

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

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

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

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

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

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

AUTHORITY AND REFERENCE

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

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.1.

For DSA-SS the purpose of these building standards is to implement, interpret, or make specific the provisions of Education Code Sections 17280 through 17317, and 81130 through 81147. DSA-SS is proposing this regulatory action based on Education Code Sections 17310 and 81142.

INFORMATIVE DIGEST

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

Summary of Existing Laws

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

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

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

Summary of Existing Regulations

Existing green building standards apply to the planning, design, operation, construction, use and occupancy of every newly constructed building or structure throughout the State of California. It is not the intent that the green building standards substitute or be identified as meeting the certification requirements

of any green building program. The green building standards for public elementary and secondary schools and community colleges are promulgated by the DSA. These regulations are contained in the California Green Building Standards Code (CALGreen Code, Part 11, Title 24) and incorporate the following:

- Part 3, California Electrical Code, which prescribe the design and construction requirements for electrical systems of public elementary and secondary schools, and community colleges.
- Part 4, California Mechanical Code, which prescribe the design and construction requirements for mechanical systems of public elementary and secondary schools and community colleges.
- Part 5, California Plumbing Code, which prescribe the design and construction requirements for plumbing systems of public elementary and secondary schools, and community colleges.
- Part 6, the California Energy Code, which contains minimum energy efficiency standards for the non-residential buildings in California promulgated by the California Energy Commission (CEC).
- Part 11, the California Green Building Standards Code (CALGreen), which contains mandatory and voluntary green building standards for residential and non-residential facilities.
- Other relevant CCR titles:
- Title 17 includes regulations for air quality promulgated by the California Air Resources Board.

Summary of Effect

The proposed action will implement the proposed modifications to the California Green Building Standards Code for buildings within DSA authority. The proposed amendments contain substantive changes which include a new alternative method for meeting mandatory provisions for the number of required electric vehicle (EV) spaces provided with EV capable infrastructure. Additionally new provisions requiring the installation of electric vehicle supply equipment in some addition and alteration projects, the installation of CO2 monitors in existing public K-12 schools, and new provisions for carbon reduction in new and existing building projects, and editorial and non-substantive amendments with no intended change in regulatory effect.

Once filed with Secretary of State, the standards will be codified and published by Jan 1, 2024, and will become effective July 1, 2024.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

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

Evaluation of Consistency

There are no inconsistent or incompatible regulations proposed.

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

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

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

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

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

DSA has determined that the proposed regulatory action **WOULD** impose a mandate on local agencies or school districts. The proposed regulatory action would impose a mandate on school districts; however the mandate does not require reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4, Government Code.

ESTIMATE OF COST OR SAVINGS

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

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

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

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

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

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

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

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

DECLARATION OF EVIDENCE

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

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

DSA Statement:

DSA has made an initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states. This determination is based on comments received at the workshop on the proposed amendments to the electric vehicle regulations and the cost benefit analysis provided by the California Air Resources Board. DSA has shown in the Economic and Fiscal Impact Statement (399) documents and the Initial Statement of Reasons (ISOR) which are part of this rulemaking, that the electric vehicle regulations and the requirements for CO2 monitors in existing classrooms, and introductory standards for carbon reduction measures in building projects over 50,000 sf do not pose a significant adverse economic impact on businesses.

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

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

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

DSA Statement:

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

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

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

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

DSA Statement:

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

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

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

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

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

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

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

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

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

DSA Statement: These regulations may promote the expansion of businesses currently involved in the manufacturing, installation, maintenance and technology development of electric vehicle supply equipment, CO2 monitors within the State of California. Additional industries that may experience growth are professional services related to the creation of environmental product declarations, and whole building life cycle assessments.

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

DSA Statement: The proposed editorial amendments and adoptions to the regulations will have a positive benefit to California residents as they will add requirements to the design and implementation of sustainable facilities. The CO2 monitoring requirements will improve indoor air quality and overall public health in the state learning environments. The EV and carbon reduction

regulations will also have a positive benefit to the state's environment by reducing greenhouse gas emissions and embodied carbon.

ESTIMATED COST OF COMPLIANCE
OF STANDARDS THAT
WOULD IMPACT HOUSING

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

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

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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 webpage.

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

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

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

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

Irina Brauzman, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916
irina.brauzman@dgs.ca.gov

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

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

Primary Contact:
Michelle Golden
Department of General Services
Division of the State Architect
(858) 674-5453
michelle.golden@dgs.ca.gov

Back up Contact:
Paul Johnson
Department of General Services
Division of the State Architect
(916) 322-3579
paul.johnson@dgs.ca.gov

**TITLE 24. BUILDING
STANDARDS COMMISSION**

(HCD 04/22)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the California Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. HCD is proposing building standards related to the adoption of the 2022 California Green Building Standards Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).
A public hearing has not been scheduled; however, written comments will be accepted from March 31, 2023, until midnight on May 15, 2023.

Comments may be submitted to CBSC via:

e-Comment form: dgs.ca.gov/BSC/e-comments
US Mail postmarked no later than May 15, 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 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, 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 18949.5. The purpose of these building standards is to implement, interpret, or make specific

the provisions of Health and Safety Code Sections 17040, 17042, 17921, 17928, 17958.12, 18938.3, 18941.5, 19990 and 19984; Government Code Sections 12955, 12955.1; and Vehicle Code Section 22511.2.

HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17921, 17928, 18938.3, 18941.10, 19984, and 19990; and Government Code Sections 12955, 12955.1 and 12955.1.1.

INFORMATIVE DIGEST

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

Summary of Existing Laws

Health and Safety Code, sections 17040 and 17042, respectively require 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;” and provide for specified exceptions.

Health and Safety Code, sections 17921 and 17958.12, respectively authorize HCD to propose the adoption, amendment, or repeal of building standards by the CBSC; and authorizes the issuance of retroactive permits for unpermitted buildings.

Health and Safety Code, section 17928, requires HCD to review and propose green building standards that HCD determines to be cost-effective and feasible to promote greener construction.

Health and Safety Code, sections 18938.3, 18941.5 and 18941.10, respectively require HCD to adopt building standards based on the most recent version of specified model codes; authorizes cities/counties to adopt more restrictive building standards due to local climate, geology, or topography; and authorizes the California Building Standards Commission to adopt mandatory building standards related to electric vehicle charging.

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

Health and Safety Code, sections 19990 and 19984, respectively require HCD to adopt building standards and related regulations for factory-built housing; and publish building standards in the California Building Standards Code.

Government Code, sections 12955, 12955.1, and 12955.1.1, address housing discrimination by identifying unlawful practices; requiring specified building features providing accessibility and use by persons with disabilities; and provides definitions for “covered multifamily dwellings” and “multistory dwelling unit” for use in interpretation of section 12955.1.

Vehicle Code, section 22511.2, provides for parking spaces served by electric vehicle supply equipment or designated as a future electric vehicle charging space to be counted as at least one standard automobile parking space for purposes of complying with local minimum parking space requirements.

Summary of Existing Regulations

The 2022 California Code of Regulations (CCR), Title 24, California Green Building Standards (CALGreen) Code, Part 11, became effective on January 1, 2023.

Existing CALGreen regulations specifically related to the proposed changes:

- Includes definitions to clarify terms as used within the text of CALGreen.
- Requires specific infrastructure components for future charging of electric vehicles.
- Provides a Residential Occupancies Application Checklist identifying mandatory and voluntary measures in CALGreen.

Also, the California Building Standards Code does not regulate the number of parking spaces for residential developments. The required number of parking spaces are addressed and enforced through local government ordinances. However, Assembly Bill 1100 (Chapter 819, Statutes of 2019) proposed changes to the Vehicle Code to count electric vehicle charging spaces as standard parking spaces.

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

Summary of Effect

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

- New and revised definitions are proposed to clarify use of the terms in the mandatory and voluntary sections of the CALGreen Code.
- Amendments are proposed to increase Electric Vehicle (EV) charging ability and infrastructure in new multifamily housing developments as well as in new hotels and motels. This includes a repeal of requirements for EV capable spaces which are infrastructure only to allow for future installation of EV chargers, not the present charging of EVs.
- Amendments and new measures are proposed related to the voluntary measures related to

EV charging. This includes an option proposed by stakeholders during this and the previous rulemaking cycle.

- Amendments to the Residential Occupancies Checklist are proposed in Section A4.602 to reflect changes proposed for mandatory and voluntary sections of the CALGreen Code. Nonsubstantive editorial amendments are also proposed for this section.

Comparable Federal Statute or Regulations

These regulations do not conflict with federal regulations.

Policy Statement Overview

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

The proposed changes to the building standards with statewide application will lead to substantial environmental benefits through reduction in GHG emissions, criteria pollutants, and fossil fuel dependency leading to improved public health, and potentially result in significant cost savings (avoided costs) associated with future installation of electric vehicle (EV) charging stations at multifamily dwellings and hotels and motels. The proposed regulations, if approved, will implement building standards that will affect the following: residential occupancies and buildings or structures accessory thereto, as provided by federal and state accessibility requirements; and the use of general design, structural, and fire and life safety requirements in housing construction, buildings, and structures accessory thereto. More specifically, the proposed changes assist in implementation of the Governor’s Executive Orders B–16–2012, B–48–2018 and N–79–20. These goals include having over 1.5 million zero–emission vehicles (ZEVs) on California roadways by 2025; 5 million ZEVs on California roadways by 2030, and passenger vehicle and truck sales in California to be 100 percent ZEVs by 2035, respectively.

Evaluation of Consistency

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

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

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

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

**MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

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

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

ESTIMATE OF COST OR SAVINGS

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

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

- A. Cost or Savings to any state agency: **NO.**
- 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. HCD believes that any additional expenditure resulting from this proposed action will be nominal and will be able to be absorbed within existing budgets and resources.

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

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

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of

California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. In fact, the regulations are likely to promote the expansion of businesses currently involved in EV manufacturing, charging, sales, maintenance, use and technology development.

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.

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). HCD has determined that these proposed amendments would marginally increase costs to California business enterprises, representing 0.33 percent to 1.40 percent of the total new construction costs of multifamily dwellings and hotels and motels with significant benefits to Californians due to improved air quality and GHG emissions reduction.

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

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

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

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

CARB has estimated an annual greenhouse gas emissions reduction of 194,000 to 246,000 metric tons of CO₂ equivalent in newly constructed multifamily dwellings. In newly constructed hotels and motels, CARB staff estimates an annual greenhouse gas reduction of 57,000 to 90,000 metric tons of CO₂ equivalent.

**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.

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

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

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

HCD has assessed whether and to what extent this proposal will affect the following:

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

Some jobs may be created for installation, maintenance, and manufacturing of EV receptacles, EV chargers and ALMS. No jobs are expected to be eliminated as a direct result of this proposal.

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

Some special trade construction businesses may be created. No jobs are expected to be eliminated as a direct result of this proposal. Some jobs may be created.

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

The proposal is likely to promote the expansion of businesses currently involved in EV charging equipment manufacturing, installation, maintenance, use and technology development. The proposal should also increase charging opportunities, leading to increased business related to use of EVs.

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

This proposal increases the sustainability of California’s natural resources and promotes public health by reducing petroleum-based automotive fuel use, GHG emissions, and criteria pollutants.

ESTIMATED COST OF COMPLIANCE
OF STANDARDS THAT WOULD
IMPACT HOUSING

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

The additional cost for installing more low power Level 2 charging receptacles and Level 2 EVSE is 0.44 percent to 1.58 percent of the total construction costs for hotels, motels and multi-unit dwellings. The net initial construction costs in new buildings of \$22.4 million to \$40.4 million may be incurred between mid-2024 through the end of 2025 due to the adoption of this proposed mandatory measure, or \$14.9 million to \$26.9 million annually. Additional costs may be incurred for compliance with ADA compliance, which can vary greatly from property to property. Alternately, installing the same levels of EV infrastructure as required by the proposed mandatory measure, but doing so as retrofits in existing buildings, would cost \$84.6 million to \$101.2 million over an 18-month period. This retrofit cost is approximately three to six times larger than the construction cost. Stated another way, an estimated statewide-avoided cost (benefit) of \$60.8 million to \$62.1 million may be achieved by adopting these revisions to the EV charging infrastructure provisions during new construction. Additional costs will be incurred for new requirements for existing buildings, depending on the nature and frequency of retrofit activities. This measure will protect public health and safety, the environment, and the general welfare of California residents.

CONSIDERATION OF ALTERNATIVES

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

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. 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. As noted, HCD's proposal includes an optional method of complying with voluntary standards that may result in reduced costs under some conditions.

AVAILABILITY OF
RULEMAKING DOCUMENTS

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

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

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

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

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

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. 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
irina.brauzman@dgs.ca.gov

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:

Tom Martin, District Representative II
California Department of Housing and
Community Development
State Housing Law Program
(916) 263-3272

Thomas.G.Martin@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

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR TENMILE CREEK
STREAMBANK EROSION PREVENTION
AND RIPARIAN RESTORATION PROJECT
(TRACKING NUMBER:
1653-2023-109-001-R1)
MENDOCINO

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 3/21/2023, that the Eel River Recovery Project proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves arresting sediment sources caused by eroding streambanks at four sites. The proposed project will be carried out on Mill Creek, Cahto Creek, and Streeter Creek, tributaries of Tenmile Creek, located on private properties in Mendocino County, California.

On 4/27/2022, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Tenmile Creek Streambank Erosion Prevention and Riparian Restoration Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section

15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. 1B22057WNME; ECM PIN No. CW-880975) for coverage under the General 401 Order on 8/30/2022.

The Eel River Recovery Project is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the Eel River Recovery Project will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, the Eel River Recovery Project will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF TOXIC
SUBSTANCE CONTROL**

WHAT IS BEING PROPOSED — The Department of Toxic Substances Control (DTSC) invites the public to review and comment on a proposed Consent Decree (CD) entered with the Myung Family Partnership No. 1, L.P., and Jung S. Myung (collectively, “Defendants”). This CD recovers a portion of DTSC’s costs in responding to the release of hazardous substances at or from the 0.162 acres of property located at 4600 Firestone Boulevard, South Gate, Los Angeles County, California 90280 (Site). The release or threatened release of hazardous substances at or from the Site caused the State of California to incur environmental response and oversight costs since 2015.

The proposed CD commits the Defendants to pay a total of \$517,000 to DTSC. Provided the payment is made as required, the proposed CD will constitute a settlement between the Defendants and DTSC within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 113(f)(2), 42 U.S.C. § 9613(f)(2). After the 30-day public comment period ends, DTSC intends to file a motion for judicial approval of the proposed CD.

HOW CAN I GET INVOLVED — DTSC will consider written public comments on the proposed CD that are **postmarked or emailed by April 30, 2023**. DTSC may withdraw its consent to the CD if it receives comments that disclose facts or considerations that indicate the CD is inappropriate, improper, or inadequate. Comments should be addressed to: Scarlett Zhai, Project Manager, 5796 Corporate

Avenue, Cypress, California 90630, or email your comments to Scarlett.Zhai@dtsc.ca.gov.

WHERE DO I GET INFORMATION — The proposed CD and other documents related to the Site are available at the following location: **DTSC Cypress Office**, 5796 Corporate Avenue, Cypress, California 90630; phone: (714) 484-5337 (By appointment only; Monday–Friday, 8am to 5pm) —OR— **Leland R. Weaver Public Library**, 4035 Tweedy Boulevard, South Gate, CA 90280, (323) 567-8853.

Copies of these documents, key technical reports, fact sheets and other site-related information are also available online at DTSC’s website: https://envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=60002279

FOR ADDITIONAL INFORMATION: If you have any questions or wish to discuss the Consent Decree please contact:

Scarlett Zhai, Project Manager
 Department of Toxic Substances Control
 5796 Corporate Avenue
 Cypress, California 90630
Scarlett.Zhai@dtsc.ca.gov

John Wills
 Public Participation Specialist
 (818) 717-6573
John.Wills@dtsc.ca.gov

**RULEMAKING
 PETITION DECISIONS**

ENERGY COMMISSION

ORDER NO: 23-0314-04
 IN THE MATTER OF:
 STEVE UHLER PETITION
 FOR RULEMAKING

ORDER DENYING PETITION
 FOR RULEMAKING

I. INTRODUCTION AND PROCEDURAL HISTORY

On March 1, 2023, Steve Uhler filed a letter requesting that the California Energy Commission (CEC) initiate a rulemaking pursuant to California

Code of Regulations (CCR), title 20, section 1221. Specifically, Steve Uhler’s petition requests the CEC initiate a rulemaking to repeal CCR, title 20, section 1201, subsection (f), and amend CCR, title 20, section 1208, subsection (a).

On March 3, 2023, the Executive Director determined that Steve Uhler’s petition met the requirements of CCR, title 20, section 1221 and certified that the petition was complete. The Executive Director also noted that his determination and certification does not constitute an approval of his petition for the CEC to initiate a rulemaking hearing. The Executive Director’s determination and certification was sent to Steve Uhler via email.

On March 3, 2023, the CEC published the Business Meeting Agenda for its business meeting scheduled on March 14, 2023. The agenda includes consideration of Steve Uhler’s petition for a rulemaking hearing and describes the agenda item as follows: “Consideration of an action on a petition that requests the CEC to initiate a rulemaking hearing pursuant to CCR, title 20, section 1221.” The CEC posted the agenda on its website and Business Meeting Docket 10 days prior to the March 14 business meeting. The agenda included information on how to participate in the meeting.

On March 14, 2023, the CEC held a hearing to consider Steve 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 1201, subsection (f) provides that: “Docket Unit” means “the office of the commission that receives, distributes, serves and stores all filed documents.”
2. CCR, title 20, section 1208, subsection (a) provides that: “All documents submitted in any proceeding, whether by a party, committee, the commission, or any other individual or entity, shall be filed with the Docket Unit. Filing is complete when a document has been accepted by dockets staff or by the commission’s automated electronic filing or commenting system. Documents that are not filed will not be deemed part of a proceeding’s record.”
3. 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 Commission has the authority to initiate a rulemaking to repeal CCR, title 20, section 1201, subsection (f) and amend

CCR, title 20, section 1208, subsection (a), as requested in Steve Uhler's petition.

4. The Steve Uhler petition for a rulemaking meets the requirements of CCR, title 20, section 1221.
5. The Chief Counsel's Office evaluated Steve Uhler's petition and found that the CEC follows existing law.
6. The CEC staff uses the Docket Unit as a central location to keep records for its proceedings. Nothing requires the CEC to submit documents that are not part of a proceeding's formal record to the Docket Unit. Thus, the requested rulemaking is not necessary and does not warrant the expenditure of resources that such a rulemaking would require.
7. CCR, title 20, section 1221(c), requires that the CEC, within 30 days of the filing of the petition, 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. CONCLUSION AND ORDER

1. For the reasons stated above, the CEC hereby DENIES Steve Uhler's petition for a rulemaking to repeal CCR, title 20, section 1201, subsection (f) and amend CCR, title 20, section 1208, subsection (a).
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 March 14, 2023.

AYE:

Hochschild, Gallardo, Gunda, McAllister,
Monahan

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: March 15, 2023

SIGNED BY:

/s/

Liza Lopez
Secretariat

ENERGY COMMISSION

ORDER NO: 23-0314-03

IN THE MATTER OF:
WESTERN STATES PETROLEUM
ASSOCIATION PETITION FOR
RULEMAKING

ORDER DENYING REQUEST FOR
RECONSIDERATION OF DENIAL
OF PETITION FOR RULEMAKING AND
STAY OF PENALTIES

I. INTRODUCTION

On February 15, 2023, WSPA filed with the CEC's Executive Director a letter titled "Request for Reconsideration of WSPA Petition for SB 1322 Rulemaking and Stay of Penalties." In the letter, WSPA requests that the CEC reconsider its denial of WSPA's petition for rulemaking pursuant to Government Code Section 11340.7(c) and also requests the CEC stay enforcement of SB 1322's reporting requirements until the Legislature or CEC clarify or contextualize SB 1322. WSPA asserts the CEC should reconsider its denial of the Petition for two reasons: refinery operators should not have to comply with SB 1322 if the Legislature is currently considering clarifications to terms used in that legislation; and it would be unfair and arbitrary to not postpone enforcement of SB 1322 while the CEC is awaiting further clarification from the Legislature. WSPA continues to repeat earlier assertions that terms in SB 1322 are "vague." Finally, WSPA requests a stay of the obligation to report and a stay of any enforcement or penalty for failure to report.

II. PROCEDURAL HISTORY

On January 1, 2023, Senate Bill (SB) 1322 (Allen, ch. 374, stats. 2022), took effect, adding the California Oil Refinery Cost Disclosure Act to the Public Resources Code. The statute, Public Resources Code section 25355, requires refinery operators to report data to the California Energy Commission (CEC) regarding their gross gasoline refining margin. SB 1322 defines "gross gasoline refining margin" and requires refinery operators to submit five categories of information related to the volume of specified gasoline-related products, information on various costs paid, prices, and sales received for products bought and sold by refinery operators, and information related to other costs such as taxes and fees. The first of the required monthly reports was due March 2, 2023.

On January 6, 2023, Western States Petroleum Association (WSPA) filed a petition to initiate a rulemaking (Petition) with the CEC's Executive Director, pursuant to California Code of Regulations

(CCR), title 20, section 1221, seeking to clarify terms in Public Resources Code section 25355, to ensure consistency and accuracy in its interpretation and implementation. WSPA asserted that terms contained in SB 1322, including the term “gross gasoline refining margin”, require clarification, and believes the components of SB 1322 used to calculate a “gross gasoline refining margin” do not accurately represent refining costs.

On January 13, 2023, the CEC’s Executive Director determined that the Petition was complete and contains the information requirements of CCR, title 20, section 1221.

On January 23, 2023, the CEC staff (Staff) filed a recommendation on the Petition which recognized WSPA is requesting the CEC initiate a rulemaking to interpret terms that are the subject of pending legislation. Specifically, Staff noted that the Legislature is considering SB 2 (2023–2024 1st Ext Sess.) introduced by Senator Skinner that would adopt Public Resources Code section 25355.5, which includes and further defines the term “gross gasoline refiner margin” among other terms in SB 1322. Staff recommended waiting to determine whether to initiate a rulemaking until the pending legislation has been resolved because a rulemaking at this time may conflict with changes to pending legislation, and those legislative changes may render moot the issues raised in the Petition.

On January 25, 2023, the CEC held a hearing to consider the Petition. WSPA, Staff, and Steve Uhler provided comments at the hearing. The CEC agreed with Staff’s recommendation and adopted an Order Denying WSPA’s Petition for Rulemaking, recognizing the prudence of awaiting the outcome of the legislative process under the circumstances. The Order also finds that refinery operators are required to provide the listed data by March 2, 2023.

WSPA filed its request for reconsideration on February 15, 2023, and by March 5, 2023, all major California refinery operators had submitted reports to the CEC regarding the information required in SB 1322, including their gross gasoline refining margin, with only one refinery operator providing only partial information, and objecting to providing the rest of the data.

On March 10, 2023, Staff filed a response to WSPA’s request recommending the CEC issue an order denying the request for reconsideration, and denying the request for a stay of SB 1322’s reporting requirements. In its recommendation, Staff notes that WSPA does not identify any new information or argument that would support reconsidering the original decision on the petition for rulemaking and that WSPA has not substantiated its claim by showing that it is impossible to comply with the statute as

written without further agency interpretation. Staff further supports this point by noting that the majority of refinery operators complied with SB 1322’s data reporting requirements. Staff also reasserts its position from its recommendation on the original petition that initiating a rulemaking to interpret terms that may conflict with pending legislation is not a prudent use of state resources nor is a rulemaking necessary for refinery operators to comply with SB 1322.

Staff also concludes that because it is possible to comply with SB 1322 without a rulemaking, the request for a stay should also be denied. Moreover, Staff asserts WSPA fails to show the CEC has authority to order a stay of SB 1322, WSPA lacks standing to request a stay, and the presence of administrative due process for challenging any penalties provides sufficient protection for refinery operators and obviates the need for a stay from the enforcement of penalties. To this last point, Staff notes that refinery operators who timely object to the information reporting requirements would be subject to a civil penalty only if, after being notified of the failure to provide specified information, they refuse to submit the specified information after a hearing was held on the matter. Since adequate procedures exist to protect the due process rights of refiners subject to reporting requirements, Staff concludes that a stay regarding penalties is unnecessary.

On March 14, 2023, the CEC held a hearing to consider the Request for Reconsideration of the WSPA Petition for SB 1322 Rulemaking and Stay of Penalties.

III. ENERGY COMMISSION FINDINGS

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

- 1) Public Resources Code sections 25213 and 25218(e) authorize the CEC to adopt rules and regulations, as necessary, to carry out its statutory duty. The CEC is required by Chapter 4.5, Division 15 of the Public Resources Code to obtain and analyze information and data concerning the petroleum industry, including, but not limited to, production and supplies of gasoline, and costs, prices, and investment choices for the state to develop and administer energy policies that are in the interest of the state’s economy and the public’s well-being. Thus, the CEC has the authority to initiate a rulemaking to adopt regulations, as requested in the Request for Reconsideration.
- 2) On September 16, 2022, the Governor signed SB 1322, which added Section 25355 to the Public Resources Code (the California Oil Refinery Cost Disclosure Act), to require operators of refineries in the state, within 30 days of the end of each calendar month, to submit a report to the CEC containing, among other things, volume, costs,

prices, and sales data related to the production of gasoline in that month. SB 1322 requires the CEC to publish the gross gasoline refining margin data reported for that month in the aggregate as specified.

- 3) On January 6, 2023, WSPA filed a Petition for Rulemaking requesting CEC open a rulemaking proceeding to interpret various terms used in SB 1322.
- 4) On January 25, 2023, the CEC adopted an Order Denying WSPA's Petition for Rulemaking because the terms used in SB 1322 are also contained in pending legislation. Specifically, Senate Bill (SB) 2 (2023–2024 1st Ext Sess.), introduced by Senator Skinner, would adopt Public Resources Code section 25355.5, which includes several of the same terms used in SB 1322, such as “gross gasoline refiner margin.”
- 5) On February 15, 2023, WSPA submitted a letter to the CEC's Executive Director that contains a Request for Reconsideration of the Order Denying Petition for Rulemaking dated January 25, 2023, and a request for CEC to stay refinery operators' reporting obligations under SB 1322.
- 6) The Request for Reconsideration meets the requirements of Government Code section 11340.7(c) because it was filed within 60 days of the Order Denying the WSPA's Petition for Rulemaking, and provides a reason for requesting reconsideration.
- 7) Government Code section 11340.7(c) requires that the CEC, within 30 days of the filing of the request for reconsideration, grant or deny the petition, indicating why the agency has reached its decision on the merits or schedule the matter for public hearing in accordance with the rulemaking provisions of the Administrative Procedure Act (Govt. Code section 11346 et sec). California Code of Regulations, title 20, section 1221(c) interprets this provision and requires either a written denial of a petition for rulemaking, or the issuance of an order instituting a rulemaking proceeding.
- 8) As of the date of this Order, the Legislature is still considering Senate Bill (SB) 2 (2023–2024 1st Ext Sess.). Because the California State Legislature is still considering whether to further define terms used in SB 1322, it is premature to consider initiating a rulemaking process to define these or related terms.
- 9) SB 1322 requires refinery operators to provide information contained in Public Resources Code section 25355(b)(1)–(5) within 30 days of the

conclusion of the month for which data is being reported. Refinery operators are required to provide the listed data by March 2, 2023, and monthly thereafter.

- 10) By March 5, 2023, all major refinery operators submitted to the CEC information in each of the categories specified in SB 1322. Only one major refinery operator provided only partial information and objected to providing data for the remaining statutory categories. SB 1322 directs refinery operators to provide data in specified categories, and compliance with these provisions is feasible.
- 11) Public Resources Code section 25362 directs the CEC to notify refinery operators who fail to timely provide the information specified in Section 25355. If, within five days after being notified of the failure to supply the specified information, the refinery operator fails to supply the specified information, refinery operator shall be subject to a civil penalty as specified in Section 25362. The process further permits a refinery operator to timely object to providing specified information, and for the CEC to hold a hearing on the matter. Adequate due process is provided to refinery operators prior to the imposition of a penalty. A general stay of the potential for penalties is unnecessary to provide refinery operators with due process.

IV. CONCLUSION AND ORDER

- 1) The CEC hereby DENIES WSPA's Request for Reconsideration of the Order Denying Petition for Rulemaking.
- 2) The CEC hereby DENIES WSPA's request to stay implementation of SB 1322.
- 3) 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 March 14, 2023.

AYE:

Hochschild, Gallardo, Gunda, McAllister,
Monahan

AY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: March 14, 2023

SIGNED BY:

/s/
Liza Lopez
Secretariat

GOVERNMENT CODE SECTION 11340.7

Agency: California Energy Commission

Petitioner: Western States Petroleum Association

Relevant Regulations: Title 20 Division 2.

Authority:
Public Resources Code sections 25213 and 25218(e)

Agency Decision:
Petition for Reconsideration denied. See attached order.

Agency Contact Person:
Kari Anderson 916-776-0796,
kari.anderson@energy.ca.gov

Obtaining Documents:
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?doctetnumber=23-OIR-01>

see TN# 249240 for petition

DEPARTMENT OF SOCIAL SERVICES

March 7, 2023

Crystal Crawford, Executive Director
Western Center on Law and Poverty
3701 Wilshire Blvd. Suite 208
Los Angeles, CA 90010
ccrawford@wclp.org

Patti Prunhuber
Justice in Aging
3660 Wilshire Boulevard, Suite 718
Los Angeles, CA 90010
pprunhuber@justiceinaging.org

Melissa A. Morris
Public Interest Law Project
449 15th Street, Suite 301
Oakland, California 94612
mmorris@pilpca.org

Via E-Mail

SUBJECT: CALIFORNIA GOVERNMENT
CODE § 11340.6 PETITION FOR
ADOPTION OF REGULATIONS

Dear Crystal Crawford, Patti Prunhuber, and Melissa Morris,

The California Department of Social Services (CDSS) is in receipt of Western Center on Law and Poverty, Justice in Aging, and the Public Interest Law Project’s joint letter dated February 24, 2023, received by CDSS on February 7, 2023.¹ Although, the letter references Government Code section 11340.6, it is unclear whether it was intended to be a “petition” for the promulgation of regulations pursuant to that statute. If the letter was in fact intended to be a petition, CDSS would like to note that the letter did not include all three statutorily required elements of the petition, namely, there was no reference to CDSS’ authority to take the action requested as required by subdivision (c) of Government Code section 11340.6. Additionally, the letter references subdivision (h) of Government Code section 11340.6 which does not exist.

Nevertheless, as a courtesy, CDSS will treat the letter received on February 7, 2023, as a petition for regulations pursuant to Government Code section 11340.6 and is providing this letter in response, as set forth in Government Code section 11340.7. To that end, CDSS is denying the petition to adopt regulations for the Home Safe Program (Chapter 14 (commencing with Section 15770) of Part 3 of Division 9 of the Welfare and Institutions Code) submitted by Western Center on Law and Poverty, Justice in Aging, and Public Interest Law Project. The Home Safe Program is a pilot program, with limited-term funding only available through June 30, 2025. As such, the Legislature expressly provided that, “[n]otwithstanding 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), the department may implement, interpret, or make specific [the Home Safe Program] through all-county letters without taking regulatory action.” (Welfare and Institutions Code section 15771(h)). Although CDSS has the authority to promulgate regulations pursuant to Welfare and Institutions Code section 10554, it was the clear intent of the Legislature that CDSS not be required to do so for the Home Safe Program. For these reasons the petition is being denied.

Please be advised that as required by Government Code section 11340.7, interested persons have the right to obtain a copy of the petition (the letter dated February 24, 2023) from CDSS. Please contact Lucia

¹ CDSS presumes that the date of the letter was an error in light of the date of CDSS’ receipt of the letter.

Da Silva, Program Policy Bureau Manager, with any further questions at lucia.dasilva@dss.ca.gov.

Thank you,
HANNA AZEMATI
Deputy Director, Housing and Homelessness
Division
California Department of Social Services

cc: Office of Administrative Law

**AVAILABILITY OF INDEX OF
PRECEDENTIAL DECISIONS**

FISH AND GAME COMMISSION

The California Fish and Game Commission (Commission) pursuant to subdivision (c) of Section 11425.60 of the Government Code, maintains an index of precedential decisions. The index is available to the public at <https://fgc.ca.gov/About/Precedential-Decisions>.

To subscribe to receive email notification when the Commission publishes notice regarding index updates, join the Commission’s electronic mailing list at <https://public.govdelivery.com/accounts/CNRA/signup/35154> and select “FGC 10. Miscellaneous Legal Notices”.

**SUMMARY OF
REGULATORY ACTIONS**

**REGULATIONS FILED WITH
THE SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

CalSavers Retirement Savings Board
File # 2023-0131-01
CalSavers Retirement Savings Program

This certificate of compliance rulemaking action makes permanent amendments made by the CalSavers Retirement Savings Board in OAL Matter No. 2022-0308-03E, and readopted in OAL Matter Nos. 2022-0830-04EE and 2022-1122-02EE, relating to determining employer eligibility and dead-

lines for registration and enrollment in the CalSavers Retirement Savings Program.

Title 10
Amend: 10000, 10001, 10002, 10004
Filed 03/15/2023
Effective 03/15/2023
Agency Contact: Eric Lawyer (916) 653-1744

Department of Social Services
File # 2023-0203-01
Community Care Licensing — Adult and Senior
Care Facilities: Infection Control Requirements

This Certificate of Compliance action by the Department of Social Services makes permanent emergency regulations setting infection control requirements for adult and senior care facilities.

Title 22, MPP
Adopt: 81095.5, 82095.5, 85092.7, 85095.5, 87470, 87895.5
Amend: 80022, 80065, 80092, 81001, 81022, 81065, 81092.7, 82001, 82022, 82065, 82092.7, 85022, 85075.1, 85090 renumbered to 85096, 85090.1 renumbered to 85096.1, 85090.2 renumbered to 85096.2, 85091 renumbered 85097, 85091.1 renumbered to 85097.1, 85091.2 renumbered to 85097.2, 85091.3 renumbered to 85097.3, 85091.4 renumbered to 85097.4, 85092 renumbered to 85098, 85093 renumbered to 85099, 87101, 87208, 87411, 87465, 87629, 87822, 87865
Repeal: 80092.7
Filed 03/20/2023
Effective 03/20/2023
Agency Contact: Everardo Vaca (916) 657-2363

Education Audit Appeals Panel
File # 2023-0308-03
Supplement to Audits of K-12 LEAs-FY 2022-23

This emergency rulemaking action adopts the March Supplement to the “Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting” for the 2022-2023 fiscal year.

Title 05
Amend: 19810
Filed 03/16/2023
Effective 03/16/2023
Agency Contact: Mary Kelly (916) 445-7745

California Department of Tax and Fee
Administration
File # 2023-0131-02
Records

In this non-substantive action, the California Department of Tax and Fee Administration (CDFTA) removes references to repealed and amended statutes,

updates the language used to describe the agency, and updates its authority citations.

Title 18
 Amend: 4901
 Filed 03/15/2023
 Agency Contact: Kim DeArte (916) 309-5227

California Department of Tax and Fee Administration
 File # 2023-0207-01
 Taxable Sales of Food Products

This action by the California Department of Tax and Fee Administration makes changes without regulatory effect to update existing references to “Food Stamp Coupons” and the “Food Stamp Act of 1977” to “CalFresh Benefits” and the “Nutrition Act of 2008” consistent with Revenue and Taxation Code section 6373, as amended by Statutes 2011, chapter 227 (AB 1400).

Title 18
 Amend: 1603
 Filed 03/22/2023
 Agency Contact: Kim DeArte (916) 309-5227

Civil Rights Department
 File # 2023-0207-02
 Changes Without Regulatory Effect to the FEHA Regulations

In this action without regulatory effect, the Civil Rights Department proposes to update references to its name, add “designated person” to the list of individuals for whom an employee may take family care and medical leave, and add “reproductive health decisionmaking” as a protected characteristic under the Fair Employment and Housing Act’s employment provisions.

Title 02
 Amend: 11002, 11005, 11006, 11007, 11013, 11017.1, 11029, 11030, 11049, 11050, 11051, 11052, 11064, 11087, 11095, 11097, 11099, 11105, 11107, 11110, 11116, 11117, 11122, 11140, 11150, 11151, 12005
 Filed 03/20/2023
 Agency Contact: Mariel Block (916) 208-6210

Department of Corrections and Rehabilitation
 File # 2023-0202-02
 Non-Substantive Changes — 3392.1(b) and (c)

This action without regulatory effect by the Department of Corrections and Rehabilitation amends a regulation concerning employee discipline to replace two instances of the term “Allegation Inquiry Unit” with “Office of Internal Affairs.”

Title 15
 Amend: 3392.1
 Filed 03/16/2023
 Agency Contact: Rosie Ruiz (916) 445-2244

Department of Social Services
 File # 2023-0206-02
 Reasonable and Prudent Parent Standard

In these changes without a regulatory effect, the Department amends its regulations to correct typographical errors, accurately renumber subdivisions, and correct a cross-reference to another regulatory provision.

Title 22
 Amend: 84075, 89201, 89377
 Filed 03/21/2023
 Agency Contact: Kenneth Jennings (916) 651-8862

Department of Food and Agriculture
 File # 2023-0210-01
 Mediation Notice

This action by the Department of Food and Agriculture updates the notice of conciliation, mediation, or arbitration labeling requirements for agricultural or vegetable seed.

Title 03
 Amend: 3915.1
 Filed 03/22/2023
 Effective 07/01/2023
 Agency Contact: Rachel Avila (916) 403-6813

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

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit oal.ca.gov.

