

TITLE 21. PUBLIC WORKS
Division 2. Department of Transportation

July 1, 2015

**NOTICE OF REVISED STANDARDIZED REGULATORY IMPACT
ASSESSMENT AND MODIFICATIONS TO TEXT OF PROPOSED
REGULATIONS FOR AFFORDABLE SALES PROGRAM**

Pursuant to Government Code section 11346.8, subdivisions (c) and (d), the California Department of Transportation (Caltrans) gives notice that:

1. The proposed Affordable Sales Program (ASP) regulations originally noticed to the public on February 27, 2015 have been modified and are available for public inspection and comment for a 45 day comment period, and are attached to this notice.
2. The Standardized Regulatory Impact Assessment (SRIA) prepared pursuant to Government Code sections 11346.3(c) has been revised and added to the rulemaking file and is available for public inspection and comment for a 45 day comment period.

**SUMMARY OF AND NEED FOR CHANGES TO TEXT OF PROPOSED ASP
REGULATIONS**

The originally proposed ASP regulations were published and released for public comment on February 27, 2015 (Register Z2015-0217-10). The public comment period closed on April 13, 2015. Public hearings were held on April 20, April 21, 2015, and May 12, 2015, in Pasadena, Los Angeles, and the El Sereno area of Los Angeles, and comments were accepted at those hearings. After considering the comments received, Caltrans is proposing non-substantial and sufficiently-related changes to the following sections:

Section 1476

The definition for "Affordable housing cost" in section 1476(a) has been modified, for the purpose of clarity, to expressly identify the already existing regulation (Cal. Code Regs., tit. 25, § 6924) used to calculate affordable housing cost for properties sold at an affordable price under the Government Code 54235 through 54238.7, also known as the "Roberti Act".

The definition for "Affordable rent" was modified to add reference to the definition of affordable rent found in Government Code section 54236(g).

The definition for "Persons or families of low or moderate income" in section 1476(y), has been modified by deleting the last sentence, which read: "For purposes of this chapter, 'persons or families of low or moderate income' also means persons or families whose income does not exceed 150 percent of the area median income adjusted for family size." The proposed change

brings the text of the proposed regulation in line with Government Code section 54237, which places persons whose income does not exceed 150 percent of the area median income in a separate and distinct category from person or families of low or moderate income.

Section 1477

Section 1477(a)(3) has been modified to make clear that the calculation of affordable price for purchasers whose gross income exceeds the maximum income for moderate income households but does not exceed 150 percent of the area medium income is adjusted for family size, consistent with the definition of affordable housing cost in section 1476(a) of the proposed regulations.

Section 1478

The text of section 1478(b)(5) has been modified to expressly state that the use and resale restrictions required by Government Code section 54237(b) and identified in the original text of the proposed regulation will include a restriction on renting properties sold by the Department at affordable prices to affordable purchasers. The changes identify the limited circumstances under which a property that is considered affordable may be rented. The modified text clarifies section 1478(b)(5) to comport with the express intent of the Legislature that the sale of properties to affordable purchasers at an affordable price avoid the displacement of such buyers as expressed in Government Code section 54235.

Section 1478(c), paragraphs (1), (2), and (3) have been revised to make clear that the hierarchy set forth in Government Code section 54237(a), paragraphs (1), (2), and (3) applies fully to sales made pursuant to Government Code section 54237(d) and includes persons and families whose income does not exceed 150 percent of area median income as eligible occupants of properties purchased by housing entities and, also, to make clear that the calculation of affordable price for purchasers whose gross income exceeds the maximum income for moderate income households but does not exceed 150 percent of the area medium income is adjusted for family size, consistent with definition of affordable housing cost in section 1476(a) of the proposed regulations.

Section 1478(c), paragraphs (1) and (2) have been changed to replace the words "as established by the entity" with the words "in accordance with this chapter" to avoid ambiguity and make clear the Roberti Act and the proposed regulations are controlling with respect to determination of reasonable price and reasonable rent.

Section 1482

Subdivisions (a) and (b) of section 1482 have been reordered. The originally proposed subdivision (b) is now (a) and (a) is now (b).

The originally proposed section 1482(a)(1) is now section 1482(b)(1) and the text has been changed to clarify the nature of the documentation required to show income at the time of acceptance of the Conditional Offer Prior to Sale by a prospective buyer at an affordable price.

The originally proposed section 1482(a)(2) is now section 1482(b)(2) and the text has been changed to clarify the nature of the documentation required to show tenure at the time of acceptance of the Conditional Offer Prior to Sale by a prospective buyer at an affordable price.

Section 1482(b)(3) has been added to make clear the documentation required to show, under Government Code sections 54236(i)(2) and 54237(a)(4), that an affordable purchaser must not have had an in ownership in real property in the last three years.

The originally proposed section 1482(a)(3) is now 1482(b)(4). Language has been deleted from the originally proposed section 1482(a)(3) which is now 1482(b)(4) to make clear that prospective buyers must intend to be owner occupants. The change has resolves an ambiguity between the originally proposed section and originally proposed section 1478(b)(5) concerning the renting of properties purchased at an affordable price from the Department and is consistent with the express intent of the Legislature that the sale of properties to affordable purchasers at an affordable price avoid the displacement of such buyers as expressed in Government Code section 54235.

Section 1486

Section 1486(d) has been revised to make clear that contracts for sale are subject to California Transportation Commission approval pursuant to Streets and Highways Code section 118.

SUMMARY OF CHANGES TO SRIA

Pursuant to Government Code section 11346.3(c), the Department of Finance (DOF) asked Caltrans to address certain required elements related to the SRIA. Caltrans has revised the SRIA to address each of the three concerns raised by DOF.

DOF asked Caltrans to identify whether or not the proposed regulations would result in certain impacts within the State of California.

Specifically, Caltrans was asked to identify whether or not the proposed regulations would cause any competitive advantage or disadvantage for businesses currently doing business within the state and whether or not the proposed regulations would provide any incentive or disincentive for innovation within the state. Caltrans has revised the SRIA to indicate that the proposed regulations would not cause any competitive advantage or disadvantage for business currently doing business within the state, or provide any incentive or disincentive for innovation within the state.

DOF asked Caltrans to discuss any significant resource commitments required from California Housing Finance Agency (CalHFA) for CalHFA to perform monitoring of properties sold at affordable sales prices and reasonable sales prices.

The SRIA has been revised to detail the limited resourcing requirement of one quarter of one Person Year (PY) annually, or the equivalent of ~\$25,000, anticipated to perform this activity.

DOF asked Caltrans to discuss the benefit of redirecting sales proceeds toward housing entities and the proposed Affordable Housing Trust Account for the purposes of expanding affordable housing in the area.

Caltrans revised the SRIA to address this. It is anticipated that proposed Affordable Housing Trust Account is estimated to receive \$85 million over 30 years from the subsequent sales, while the housing related entities are estimated to receive \$30 million over 30 years. While these funds are likely to have a positive impact on low and moderate income households, the lack of local development data makes it challenging to estimate household financial gains. Further, there are multiple factors that influence economic growth of which affordable housing may be a key component. Thus, individuals, businesses, and governments may theoretically benefit from the direction of this funding to expand affordable housing; however, it is not certain without more information.

AVAILABILITY OF DOCUMENT FOR INSPECTION AND HOW TO SUBMIT COMMENTS

Attached to this notice is a copy of the modified proposed text of the Affordable Sales Regulations. The modified proposed text of the Affordable Sales Program Regulations and the revised SRIA are available for inspection at the Caltrans office located at 1120 N Street, Sacramento, California, from July 1, 2015 through August 14, 2015, between the hours of 8:00 a.m. and 5:00 p.m. The documents can also be obtained by calling the Caltrans Affordable Sales Program at (916) 654-4790 or by visiting the Caltrans website at <http://www.dot.ca.gov/regulations.htm>.

If you have any comments regarding the modifications to the text of the proposed regulations or the revised SRIA, written comments must be submitted Caltrans by 5:00 p.m. on August 14, 2015, to:

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ATTN: Affordable Sales Program
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FAX: (916) 654-6378
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All written comments received by August 14, 2015, which pertain to the modifications of the text of the proposed regulations or the revised SRIA will be reviewed and responded to by Caltrans staff as part of the compilation of the rulemaking file.