

**State of California  
Office of Administrative Law**

In re:

Department of Transportation

Regulatory Action:

Title 21, California Code of Regulations

Adopt sections: 2653, 2654, 2655, 2656,  
2657, 2658

Amend sections:

Repeal sections:

NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE

Government Code Section 11349.1 and  
11349.6(d)


OAL File No. 2013-1218-05 C

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This rulemaking action makes permanent the emergency regulations creating the Affordable Rent Program for qualifying tenants of residential properties owned by the California Department of Transportation.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: 1/7/2014



Dale P. Mentink  
Senior Staff Counsel

For: DEBRA M. CORNEZ  
Director

Original: Cindy McKim  
Copy: Michael Rodrigues

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

**CERT**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

request

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-2013-0507-06</b>	REGULATORY ACTION NUMBER <b>2013-1218-05 C</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		2013 DEC 18 PM 3:06	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Transportation, Division of Right of Way and Land Surveys			AGENCY FILE NUMBER (if any)

**ENDORSED FILED  
IN THE OFFICE OF  
2014 JAN -7 PM 3:18**

*Debra Bowen*  
DEBRA BOWEN  
SECRETARY OF STATE

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE: <input checked="" type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER <b>2013 202</b>	PUBLICATION DATE <b>5/17/2013</b>

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Affordable Rent Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2012-1214-02 E; 2013-0614-01 EE; 2013-0913-02 EE <i>per agency request</i>
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	<del>Z-2013-0507-06</del> <i>per agency request</i>
<b>ACTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	<i>on 11/6/14</i>
ADOPT <b>2653, 2654, 2656, 2658</b>	
AMEND <b>2655, 2657</b>	
TITLE(S) 21	REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> File & Print
<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify) _____
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)	<input type="checkbox"/> Print Only
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	<i>per agency request</i>
<b>11/6/13 - 11/21/13</b> <b>11/21/13 - 12/6/13</b>	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	<i>per agency request</i>
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State
<input type="checkbox"/> 5100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	<i>per agency request</i>
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission
<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Michael Rodrigues, Chief, Real Property Services	TELEPHONE NUMBER (916) 654-3536
FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) michael.rodrigues@dot.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Malcolm Dougherty</i>	DATE <b>12/17/2013</b>
TYPED NAME AND TITLE OF SIGNATORY Malcolm Dougherty, Caltrans Director	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**JAN 07 2014**

Office of Administrative Law

**TITLE 21 PUBLIC WORKS  
DIVISION 2. DEPARTMENT OF TRANSPORTATION**

**CHAPTER 24. RIGHT OF WAY**

**Article 1 Affordable Rent Program**

**§2653 Purpose and Scope**

The California Legislature has declared the availability of affordable residential housing is of vital statewide importance and state agencies, including the Department of Transportation, have a responsibility to use the power vested in them to meet the housing needs of all economic segments of the community. Accordingly, the Department sets forth herein the Affordable Rent Program by which the Department can consider affordability when adjusting rents for current residential tenants who are economically disadvantaged. The Affordable Rent Program is intended to protect existing low-income tenants from large rental rate increases, which may otherwise result in their current rental unit becoming unaffordable. For new tenants, rents will be set at fair market rates.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

**§2654 Definition of Terms**

Affordable Rent Level means 25% of the gross monthly income for tenants who began renting the unit on or before March 3, 1981, or 30% of the gross monthly income for tenants who began renting the unit after March 3, 1981.

Annual Income means total income for the most recent past tax year, before adjustments, credits and taxes.

Fair Market Rent means the amount of rent a parcel would command in the open market if offered under the terms and conditions typical of the market for similar properties.

RAP refers to the Relocation Assistance Program as set forth in the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (URA), and Title 49 Code of Federal Regulations Part 24 (2005).

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2655 Tenant Affordability Standards**

~~In order to qualify for the Affordable Rent Program tenants must (1) be in occupancy as of December 31, 2012; (2) not be eligible for RAP; and (3) have an Annual Income not exceeding 120% of the county median household income as identified in accordance with the Department of Housing and Community Development's annual publication of Official State Income Limits, adjusted for size of household, published pursuant to Health and Safety Code section 50093.~~

Tenants who are in occupancy as of December 31, 2012, who are not RAP eligible, and have an annual income not exceeding 120% of the County Median Household Income, as identified in accordance with the Department of Housing and Community Development's annual publication of Official State Income Limits, adjusted for size of household, published pursuant to Health and Safety Code Section 50093, may apply for the Affordable Rent Program.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2656 Income Standards**

Affordability is based on Annual Income from all tenants age 18 years or older living in the household. Children up to the age of 23, who are enrolled in school full-time including college, will not be included in determining income. Income will be verified using W-2 Forms, state and federal income tax returns, pay stubs, and any other financial documentation relevant to income. When current tenants do not submit complete and accurate supporting financial documentation, they will be charged fair market rent.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2657 Rent Standards**

~~Rent charged to tenants who qualify for the Affordable Rent Program will be the higher of either: (1) The current rent; or (2) The Affordable Rent Level. Any rent increase made under the provisions of the Affordable Rent Program shall be limited as follows: (1) if current rent is 25% or less below the Affordable Rent Level, there will be annual 10% rent increases until actual rent equals the Affordable Rent Level, or (2) if current rent is more than 25% below the Affordable~~

~~Rent Level, there will be 10% rent increases every six months until actual rent is 25% or less below the affordable rent level and then there will be annual 10% rent increases until actual rent equals the affordable rent level. In no case shall the rent in the affordable rent program exceed the fair market rent.~~

- (a) Rent charged to tenants who qualify for the Affordable Rent Program will be the Affordable Rent Level. Any rent increase made under the provisions of the Affordable Rent Program shall be limited as follows: if current rent is below the Affordable Rent Level, there will be annual 10% rent increases until actual rent equals the affordable rent level. In no case shall the rent in the affordable rent program exceed the fair market rent.
  
- (b) Tenants in the Affordable Rent Program who are paying rent above their Affordable Rent Level will have their rent reduced to their Affordable Rent Level. This rent reduction will begin the first full month following the effective date of these regulations and not before.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2658 Tenant Eligibility**

Continued eligibility for the program will be reviewed annually by the Department.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code