

Addendum to Justification for Emergency Regulations

Section 6601(a)(6) of the regulations defines Compliant Housing Element as “an adopted housing element that has been duly found to be in substantial compliance with the requirements of Housing Element Law.” This is necessary because Government Code section 65585 only authorizes the Department to determine whether housing elements are in “substantial compliance” with housing element. “In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.” (Gov. Code, § 65585, subd. (d), emphasis added.)

Section 6601(a)(9)(C) of the regulations defines one type of Environmentally Sensitive or Hazardous Area as “wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).” This definition is updated to “wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993), hereby incorporated by reference.” A copy of the referenced document was sent to OAL.

Section 6601(a)(19) of the regulations defines Location Efficient Communities as “current or future residential dwellings that provide multiple transportation options and short commutes to daily destinations, significantly improve job and housing relationships, and/or mitigate impacts on or from Environmentally Sensitive or Hazardous Areas.” The definition is updated to “current or future residential dwellings that provide multiple transportation options and short commutes to daily destinations, improve job and housing relationships, and/or mitigate impacts on or from Environmentally Sensitive or Hazardous Areas.”

Section 6603(g) of the regulations states that “if the Department approves their application, applicants will receive an official letter of designation. A Prohousing Designation is permanent unless it is revoked pursuant to Section 6607. The Department’s letter of designation may specify conditions that must be satisfied to maintain the designation’s validity consistent with Government Code section 65589.9 and these regulations.” The Department chose to confer permanent designations because **(1)** a reapplication requirement (with repetitive reapplication cycles) would place an unsustainable strain on the Department’s resources; and **(2)** its administration authority, which is specified at Section 6607, is sufficiently robust and detailed to ensure that designations are monitored and managed efficiently. The Department’s administration authority includes the following:

- The department shall monitor Prohousing Designations on an ongoing basis and may take revocation action.
- The Department may review and revoke a Prohousing Designation upon discovery of a Jurisdiction’s violation of applicable state housing law, including those laws specified in Section 6604.

- The Department may review and revoke a Prohousing Designation upon determining that the Jurisdiction has failed to implement a proposed Prohousing Policy within the timeframe specified in its application for a Prohousing Designation; taken action that is objectively in conflict with the Principles of Prohousing; or taken action inconsistent with the obligation to affirmatively further fair housing pursuant to Government Code section 8899.50.
- The Department shall receive and consider any complaint related to a Jurisdiction's violation of any applicable state housing law (including any law specified).

Section 6603(j) of the regulations states "the Department has the authority to determine compliance with and satisfaction of all requirements of the Program's application process." This section is removed from the regulation text.

Section 6604(g) of the regulations states "the Department may reject an application for a Prohousing Designation if it determines that the applicant at any time provided false or inaccurate information in its application. The section is revised to "the Department shall reject an application for a Prohousing Designation if it determines that the applicant at any time provided false or inaccurate information in its application."

Section 6606(b)(2) (M) of the regulations grants 1 point for "demonstration of other actions, not listed above, that significantly and quantifiably decrease production timeframes or promote the streamlining of approval processes." This point option is updated to "demonstration of other actions, not listed above, that quantifiably decrease production timeframes or promote the streamlining of approval processes."

Section 6606(b)(3)(H) of the regulations grants 1 point for a "demonstration of other actions, not listed above, that significantly and quantifiably reduce construction or development costs." This point option is updated to "demonstration of other actions, not listed above, that quantifiably reduce construction or development costs."

Section 6606(b)(4)(H) of the regulations grants 1 point for "demonstration of other actions, not listed above, that significantly and quantifiably promote, develop, or leverage financial resources for housing." This point option is updated to "demonstration of other actions, not listed above, that quantifiably promote, develop, or leverage financial resources for housing."

Section 6607(a)(4) of the regulations states, "The Department shall promptly notify the Jurisdiction in writing of any review that is undertaken pursuant to this section." This language is necessary because it provides the Department with flexibility as this point begins a number of deadlines for jurisdiction responses, Department noticing of findings, and subsequent responses. Indeed, flexibility is a critical commodity here because this program is being implemented for the first time, the Department is

uncertain about what to expect in terms of application volume and complexity, and the Department is currently managing this program with finite resources.

Section 6607(b) of the regulations states “The Department shall have final decision-making authority over all aspects of the Program.” This language is removed from regulation text.