**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
**OFFICE OF THE DIRECTOR**
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-7400 / FAX (916) 263-7417
www.hcd.ca.gov

# INITIAL STATEMENT OF REASONS FOR ADOPTION OF TITLE 25, CALIFORNIA CODE OF REGULATIONS SECTIONS 6600-6608 THE PROHOUSING DESIGNATION PROGRAM

As required by Section 11346.2 of the Government Code, the Director of the California Department of Housing and Community Development ("Director") sets forth below the reasons for the following proposed amendments to Title 25, Division 1, Chapter 6, Subchapter 6.6 of the California Code of Regulations. The Department of Housing and Community Development ("Department") administers the Prohousing Designation Program ("Program") and its regulations.

## PROBLEM STATEMENT & SPECIFIC PURPOSE OF REGULATIONS [Government Code Section 11346.2, Subdivision (b)(1)]

The Legislature has found and declared that the availability of housing is a statewide concern and priority, stating "The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order." (Government Code Section 65580, Subdivision (a).) The Legislature has also identified the dire scale and consequences of California's housing shortage, "California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives." (Government Code Section 65589.5, Subdivision (a)(2)(A).). This crisis is also exacerbating "discrimination against low-income and minority households" and "compounding inequality and limiting advancement opportunities for many Californians." (*Id.* at Subdivisions (a)(1)(C),(F).)

Responding to the scale, urgency, and consequences of the housing crisis, in Government Code Section 65589.9, the Legislature mandated the Department to adopt emergency regulations by July 1, 2021 to create incentives for Jurisdictions that are compliant with Housing Element requirements and have enacted local Prohousing Policies that accelerate housing production. The Department subsequently adopted emergency regulations that established the Program that determines which Jurisdictions can be eligible for these funding incentives. Funding programs currently linked to the Program include the Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code, the Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code,

and the Infrastructure Infill Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

The Program applies to Jurisdictions in California that seek to apply for and receive Prohousing Designations. Through the emergency regulations, the Program became operative on June 30, 2021.

The emergency regulations will expire on April 26, 2022, or 90 or 180 days later if OAL approves readoptions of the emergency regulations. However, the Legislature demonstrated its intent in Government Code Section 65589.5 subdivisions (a), (b) and (e) that the Department should issue permanent regulations to allow the Program to continue after the emergency regulations expire.

The Department, therefore, needs to complete a permanent rulemaking process that complies with the Administrative Procedures Act (Government Code Section 11340 et seq.) so that the program can continue after the emergency regulations expire.

This proposed rulemaking would permanently establish the Program's application, threshold, and designation criteria requirements, and outline the procedures by which the Department reviews applications.

More specifically, this rulemaking action proposes to specify the Program's procedures for:

- submitting applications for a Prohousing Designation,
- reviewing, and scoring these applications,
- designating Jurisdictions as Prohousing,
- monitoring Jurisdictions' compliance with the Program, and
- revoking noncompliant Jurisdictions' Prohousing designations.

PROPOSED RULES

Section 6600. Purpose, Scope, and Authority.

The Department proposes to adopt Section 6600 to define the purpose, scope, and authority of the proposed regulations. This section is necessary to clarify the statutory basis for these regulations, to help potential applicants and the public understand the Prohousing Designation Program, to clarify what the program does and does not do, and to help Jurisdictions decide whether they should participate in the program.

Subdivision (a) clarifies for Jurisdictions and the public the statutory basis for the Prohousing Designation Program, which can be found in Government Code Section 65589.9, and explains the major objective that the Department is tasked with in implementing the Program, which is to designate qualified Jurisdictions as "Prohousing." This section also explains potential benefits of receiving the Prohousing Designation, which include receiving preference in the Department's competitive funding programs, while clarifying that these regulations will determine how a jurisdiction can qualify for those preferences but not what preferences a jurisdiction will receive. This subdivision is

necessary to help potential applicants and the public understand the purpose and scope of the Program and to help Jurisdictions decide whether they want to participate in it.

Subdivision (b) describes the scope and substance of the regulations for the Program, which includes the procedures for submitting applications, the Department's review and scoring criteria, the Prohousing Designation process, compliance monitoring for the program, and the revocation procedures for noncompliance with the Department's requirements. This subdivision is necessary to help Jurisdictions and the public understand what components of the Program are described in this subchapter and to otherwise assist Jurisdictions in deciding whether they want to participate.

Subdivision (c) includes a severability clause. This subdivision is necessary so that Jurisdictions and the public understand that even if a provision of these regulations, or part of a provision is found the be invalid, the Department intends to continue operating the Prohousing Designation Program under the remaining provisions.

Section 6601. Definitions.

The Department proposes to adopt Section 6601 to define certain terms used in the proposed regulations. The definitions are necessary to help applicants understand the process and requirements to apply for the Prohousing Designation, which may help avoid misunderstandings and unnecessary delays in coming to a determination.

Subdivision (a) states that the subchapter shall be governed by the definitions listed in this section. It also states that any term not defined here shall be interpreted in accordance with the definitions and intent of Government Code section 65589.9. This Subdivision is necessary to show that the definitions listed in this section apply to the entirety of the subchapter. It is also necessary to clarify that any term not specifically defined in this section should be interpreted through the definitions provided in statute (Government Code section 65589.9). This gives applicants clarity on important terms within the regulations and avoids any potential confusion regarding terms that may not be found in this definitions section.

Subdivision (a)(1) defines "Acceleration of Housing Production" as promoting housing production by streamlining approval processes or timelines, reducing costs or financial barriers, or removing or mitigating regulatory barriers to development by streamlining approval processes or timelines, reducing costs or financial barriers, removing, or mitigating regulatory barriers to development or other measures that positively impact the cost, supply, affordability, timing, and certainty of housing, in a manner that is consistent with a Jurisdiction's duty to Affirmatively Further Fair Housing. This Subdivision is necessary to clarify what the Legislature meant in Government Code section 65589.9, subdivision (f)(2) by describing Prohousing Policies as those that "facilitate the planning, approval, or construction of housing." The Department chose this definition because it more fully describes and clarifies this "facilitation." It is also necessary to give examples of activities to clarify the types of activities that, in the Department's experience, accelerate housing production. And because the Legislature instructed the Department to develop flexible Prohousing Policy criteria that respond to the different needs of different Jurisdictions, it is also necessary to more generally describe other measures that accelerate housing production. It is necessary to confirm

that any activities that accelerate housing production must also be consistent with Jurisdictions' duties to Affirmatively Further Fair Housing because Government Code section 8899.50 requires all public agency housing and development policies to comply with this duty.

Subdivision (a)(2) defines "ADU" as an "accessory dwelling unit" per Government Code section 65852.2(j)(1). This Subdivision is necessary to define the standards for determining what kind of accessory structure qualifies as an ADU for the purposes of this Chapter, as the term is not defined in Government Code 65589.9. ADUs are important tools in accelerating housing production in a cost-efficient and space-efficient way. Encouraging the production of ADUs is one way a Jurisdiction can gain points on their Prohousing Designation application. This definition is also necessary to maintain consistency with State ADU law, and to ensure that Jurisdictions do not confuse ADUs with other similar accessory structures like "granny flats" or "tiny homes."

Subdivision (a)(3) clarifies that "Affirmatively Furthering Fair Housing" should be interpreted in the same manner as it would be under Government Code sections 8899.50 and 66583(c)(5), c(10). This Subdivision is necessary to provide a statutory basis and definition for policies that are determined to Affirmatively Further Fair Housing, and to ensure that such policies reviewed in this application process are reviewed in a manner consistent with state law. This definition is necessary because the term can have various meanings depending on the context of its use. Without this definition, Jurisdictions would be left to determine their own criteria for what constitutes Affirmatively Furthering Fair Housing. Defining this term is also necessary because Affirmatively Furthering Fair Housing is an essential component of Housing Elements under Government Code section 65583 and compliance with the Housing Element Law is one of the requirements for obtaining a Prohousing designation under Government Code section 65589.9. This definition is also necessary to maintain consistency with the definition that the Legislature provided in Government Code section 8899.50, which applies this definition to, among other things, the types of housing and land use policies and practices that are the subject of the Prohousing Designation Program.

Subdivision (a)(4) defines "Annual Progress Report" and the report that is required to be submitted to the Department under paragraph (2) of subdivision (a) of Section 65400 of the Government Code. This term was necessary to define because Government Code section 65589.9 does not define this term, and it is a requirement to submit an Annual progress report to comply with the Housing Element Law and that compliance is necessary to obtain a Prohousing Designation. The Department chose this definition to clarify what constitutes an Annual Progress Report, and the standards for submitting such a report, so that the numbers within it can be used to supplement a jurisdiction's application. Most of the numerical proof of acceleration housing production would likely be found in a local jurisdiction's Annual Progress Report, so it is important for the Department to have this document to analyze the veracity and effectiveness of a jurisdiction's Prohousing Policies. It is equally important that Jurisdictions know what documents they are required to submit with their applications.

Subdivision (a)(5) defines "CEQA" as the acronym for the California Environmental Quality Act. This section is necessary to provide the basis for what constitutes CEQA, particularly in the context of application streamlining for housing projects, as

Government Code section 65589.9 does not define the term. The streamlining of environmental review through various means is one of many tools a jurisdiction can use to reduce review times of building permit applications. It is important that the definition be included here, as it is a body of law that is discussed often throughout these proposed regulations, so it is important that local governments have a clear understanding of what the "CEQA" acronym signifies.

Subdivision (a)(6) defines a "Compliant Housing Element" as one that has been found by the Department to be in substantial compliance with the requirements of State Housing Element Law under Government Code Article 10.6 and subdivision (h) of Government Code section 65585. This definition is the one used consistently in State housing law. It is necessary to include it here because a compliant housing element is one of the basic threshold requirements Jurisdictions must meet in order to be designated Prohousing. It is important that Jurisdictions have this clear definition because if an applicant does not have a compliant housing element, it cannot obtain a Prohousing designation.

Subdivision (a)(7) defines "Department" as the California Department of Housing and Community Development. This definition is necessary because Government Code section 65589.9 does not define the term and because using "Department" instead of the full name will improve clarity and readability in the proposed regulations. It is also necessary for Jurisdictions to understand what "Department" signifies because all application materials are submitted to the Department and it determines which applicants qualify as Prohousing.

Subdivision (a)(8) states that "Enhanced Infrastructure Financing District" is to be defined in the same manner as it is in California Government Code section 53398.51, subdivision (f). This definition is necessary because Government Code section 65589.9 does not define the term, and because it is possible that Jurisdictions may have varying understanding of the term. Enhanced Infrastructure Financing Districts are another method by which Jurisdictions can prove their Prohousing bona fides. These districts are formed to provide funds for funding economic development projects through a tax increment financing process where additional tax revenue beyond the "base level" year are diverted to a separate funding pool to be used exclusively for local infrastructure improvements, including housing. In the context of the Program, and in keeping with its goals and purpose, an Enhanced Infrastructure Financing District would include the construction and rehabilitation of affordable housing within the designated district. It is therefore necessary to provide Jurisdictions with a clear and consistent definition of the term.

Subdivision (a)(9) defines various types of environmentally sensitive or hazardous areas, which are further outlined below in (a)(9)(A)-(L). This Subdivision is necessary in order to clarify what Environmentally Sensitive or Hazardous Areas are for the purposes of scoring rezoning policies as described in Subdivision 6606(c)(6) of this chapter. Mitigating harmful impacts on or from these areas complements the Program because failing to consider the impact of housing policies on these areas impedes sustainable housing production. This Subdivision is also necessary to comply with the Legislature's statement of its intent in Government Code Section 65589.9, Subdivision (a) that the Program's criteria "consider the needs of rural, suburban, and urban Jurisdictions and

how those criteria may differ in those areas." The Legislature has also declared that Jurisdictions have the responsibility to consider "environmental factors," among others, in "addressing regional housing needs." (Gov. Code, § 65580(d); see also § 65041.1 (declaring that State Planning Priorities include, among other things, protecting and preserving environmental, agricultural, and natural resources, promoting infill development served by transit, and preserving cultural and historical resources.)) Subdivisions (a)(9)(A) through (a)(9)(L) are necessary to alert applicants to what constitutes an Environmentally Sensitive or Hazardous Area for the purposes of submitting policies to the Department for scoring consideration under Section 6606, Subdivision (c)(6). The Department included these examples because they are representative of Environmentally Sensitive or Hazardous Areas that are important for Jurisdictions to consider in developing their Prohousing Policies. The Department has determined that the areas included as examples in this definition sufficiently address how Environmentally Sensitive or Hazardous Areas relate to Jurisdictions' Prohousing Policies for this Program's purposes.

Subdivision (a)(9)(A) identifies an example of an Environmentally Sensitive or Hazardous Areas the sensitive areas of a coastal zone, as defined in Division 20 of the Public Resources Code (commencing with Section 30000) and further elaborates in four subparagraphs that sensitive coastal areas include wetlands, environmentally sensitive habitat areas, tsunami run-up zones, and use of the site for public access to or along the coast. These examples of the definition are necessary to maintain internal consistency with the Public Resources Code and to provide Jurisdictions with representative examples of environmentally sensitive areas present in California.

Subdivision (a)(9)(B) identifies another example of an Environmentally Sensitive or Hazardous Area as prime farmland or farmland of statewide importance, which is defined by the U.S. Department of Agriculture. This subdivision further clarifies that such land has been designated on maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation or land that is zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by voters of that jurisdiction. This definition is necessary to maintain internal consistency with how the U.S. Department of Agriculture and Department of Conservation define and identify farmland, in addition to increased flexibility in how constituents within a particular locale define and identify protected farmland. By adopting this definition, the Department, applicants, and the public are also able to identify and verify farmland within California through accessible mapping resources, as it relates to an applicant's Prohousing Policies.

Subdivision (a)(9)(C) identifies another example of an Environmentally Sensitive or Hazardous Area as Wetlands, which is defined as in the California Water Boards State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (adopted April 2, 2019, revised April 6, 2021). This document is incorporated by reference and is available at https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/procedures.pdf. This definition is necessary to maintain internal consistency with how the State defines Wetlands and to clarify that Wetlands are an example of environmentally sensitive areas that are present in California.

Subdivision (a)(9)(D) identifies another example of an Environmentally Sensitive or Hazardous Area as an area within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code. This subdivision also identifies high or very high fire hazard severity zones indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code as another example that applies to these areas. This definition is necessary to maintain internal consistency with how the Department of Forestry and Fire Protection defines and identifies zones with very high fire hazard severity. By adopting this definition, the Department, applicants, and the public are also able to identify and verify areas in California with very high fire hazard severity through accessible mapping sources, as it relates to an applicant's Prohousing Policies.

Subdivision (a)(9)(E) identifies another example of an Environmentally Sensitive or Hazardous Area as an area that is a hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code. This subdivision also identifies a hazardous waste site as one that has been designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless any of the following agencies: the Department of Public Health, the State Water Resources Control Board, or the Department of Public Health, the State Water Resources Control Board, or the Department of Toxic Substances Control has cleared the site for residential or residential mixed uses. This definition is necessary to maintain internal consistency with how the Department of Toxic Substances Control defines and identifies hazardous waste sites and to allow for greater program flexibility for applicants linking such sites to their Prohousing Policies, provided that any of the above agencies have cleared such sites for residential or residential mixed uses.

Subdivision (a)(9)(F) identifies another example of an Environmentally Sensitive or Hazardous Area as an area that is an earthquake fault zone as determined by the State Geologist in any official maps published by the California Geological Survey. This definition is necessary to maintain internal consistency with how the State Geologist defines and identifies areas with earthquake fault zones. By adopting this definition, the Department, applicants, and the public are also able to identify and verify areas in California that are prone to earthquakes, as it relates to an applicant's Prohousing Policies.

Subdivision(a)(9)(G) identifies another example of an Environmentally Sensitive or Hazardous Area as an area that is a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any of their official, published maps. This definition is necessary to maintain internal consistency with how the Federal Emergency Management Agency defines and identifies special flood hazard areas. By adopting this definition, the Department, applicants, and the public are also able to identify and verify areas in California that are prone to flooding, as it relates to an applicant's Prohousing Policies.

Subdivision(a)(9)(H) identifies another example of an Environmentally Sensitive or Hazardous Area as an area that is within a regulatory floodway as determined by the Federal Emergency Management Agency in any of their official, published maps. This

definition is necessary to maintain internal consistency with how the Federal Emergency Management Agency defines and identifies regulatory floodways. By adopting this definition, the Department, applicants, and the public are also able to identify and verify areas in California that are prone to flooding, as it relates to an applicant's Prohousing Policies.

Subdivision(a)(9)(I) identifies another example of Environmentally Sensitive or Hazardous Area as lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10, commencing with Section 2800 of Division 3 of the Fish and Game Code), a habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.), the California Endangered Species Act (Chapter 1.5, commencing with Section 2050 of Division 3 of the Fish and Game Code), or the Native Plan Protection Act (Chapter 10, commencing with Section 1900 of Division 2 of the Fish and Game Code). This definition is necessary to maintain internal consistency with how current state law and federal law defines lands for conservation.

Subdivision (a)(9)(J) identifies another example of an Environmentally Sensitive or Hazardous Area as habitats for protected species that have been granted special status by state or federal agencies, fully protected species, or species of native plants, as protected by the federal Endangered Species Act, California Endangered Species Act, and the Native Plan Protection Act. This definition is necessary to maintain internal consistency with how current state and federal law defines habitats for protected species.

Subdivision (a)(9)(K) identifies another example of Environmentally Sensitive or Hazardous Areas as lands under conservation easement. This definition is necessary to further expand on examples of environmentally sensitive areas as those with conservation easements that are not included within the definitions provided in subdivision (a)(9)(I), and because conservation easements are commonly enacted and apply within California.

Subdivision (a)(9)(L) identifies another example of an Environmentally Sensitive or Hazardous Area as those areas which feature or contain tribal cultural resources per Section 21074 of the Public Resources Code. This definition is necessary to protect and recognize the various tribes within California and the importance of preserving tribal lands and tribal resources.

Subdivision (a)(10) defines "Extremely Low-Income Households" consistent with Government Code section 50106. This subdivision is necessary to clarify the meaning of this term in a manner that is consistent with existing state law. This subdivision is also necessary because the term can have different meanings depending on the context of its use.

Subdivision (a)(11) defines the required "Formal Resolution for the Prohousing Program." This definition is necessary because under section 6604(b)(5), a Jurisdiction's application must include this duly adopted and certified resolution. This definition is also necessary to clarify what the resolution's terms must include and how a Jurisdiction must confirm that the resolution has been adopted by the appropriate

governing body. Without this definition, Jurisdictions would be left to use their own resolutions, which might not be legally sufficient for this Program's purposes. It is necessary for the Department to have this resolution included with the application to confirm that the Jurisdiction has actually adopted the Prohousing Policies in its application, to help confirm that the Jurisdiction is in compliance with the Program's requirements, and to confirm that the appropriate governing body authorized the Jurisdiction's application. It is necessary to use a standard template for this resolution to clarify and simplify this verification process. The Department includes the same template in the definition that it will include with the application because this is necessary to clarify what a Jurisdiction must include in its resolution. The recitals in the template are necessary to confirm that a Jurisdiction's governing body understands the purpose of applying for a Prohousing Designation. The terms included in the template are necessary to confirm that the application is authorized by the appropriate governing body, that the Jurisdiction has done the research to confirm it is in compliance with applicable state housing law, that the Jurisdiction understands and affirms its commitment to maintain this compliance, that the governing body has authorized the submission of everything included with the application, and that the Jurisdiction understands and affirms its commitment to comply with the Program's requirements and these proposed regulations. It is necessary to verify the information about how and when the Jurisdiction adopted the resolution to confirm that the governing body actually voted on and approved it. It is necessary for an authorized signatory to certify that the Jurisdiction's governing body duly adopted the resolution, and that the Jurisdiction attached an accurate copy with the application so that the Department can efficiently confirm this when initially reviewing the application.

Subdivision (a)(12) defines "HCD" as the California Department of Housing and Community Development. This Subdivision is necessary to confirm that HCD is an acronym that refers to the Department. This definition is necessary because the acronym "HCD" could refer to various entities, and it is necessary to clarify that, as used in this subchapter, it refers to the Department.

Subdivision (a)(13) defines Housing under this subchapter. This section is necessary in order to set standards as to what constitutes housing for the Program's purposes. To meet the definition of housing, a development must meet the requirements of (a)(11)(A) and (a)(11)(B). This definition is necessary so that applicants understand what the Department considers a residential housing project within their Prohousing Policies.

Under (a)(13)(A), at least two-thirds of the square footage of the development in question must be designated for residential use. This definition is necessary to clarify what level of a mixed-use project must be residential to be defined as a housing project. The Department selected the two-thirds threshold to maintain consistency with the definition for a mixed-use project already provided in Public Resources Code section 21159.25(a)(1).

Subdivision (a)(13)(B) states that the development must include a housing accommodation, as defined in Government Code section 12927(d) and California Code of Regulations, title 2, section 12005(o). This is necessary to clarify what constitutes housing. The Department chose this definition to maintain consistency with the broad definition of residential housing under California's fair housing laws and regulations.

Subdivision (a)(14) defines Housing Element or "Element" as the housing component of a jurisdiction's general plan, as required by Government Code section 65302(c) and other applicable Housing Element Law. This definition is necessary because housing element compliance is one of the main threshold requirements in the Prohousing Designation application, as specified in Government Code section 65589.9. It is also the main planning document that the Department can refer to in determining if an applicant has programs and policies in place that accelerate housing production beyond the minimum requirements of state Housing Law.

Subdivision (a)(15) defines Housing Element Law as the body of law found in Article 10.6 of Chapter 3 of Division 1 of Title 7 in the Government Code. This definition is necessary to provide a clear location of the statute that the Legislature specified in Government Code section 65589.9. Jurisdictions must be in compliance with Housing Element Law to obtain a Prohousing Designation. (See Gov. Code, § 65589.9(a).) Housing element compliance is an important threshold requirement in the Prohousing application, as elucidated further in Sections 6603 and 6604.

Subdivision (a)(16) defines "Housing for Persons with Special Needs" consistent with the examples of housing for persons with special housing needs in Government Code section 65583(a)(7). This definition is necessary because not all Jurisdictions may understand this term. The Department selected this definition because it is the one that applies to planning and zoning through the Housing Element Law, making it the most relevant definition to apply to Prohousing Policies.

Subdivision (a)(17) defines "JADU" as an acronym for Junior Accessory Dwelling unit as defined by Government Code section 65852.22. This Subdivision is necessary to define the standards for determining what kind of accessory structure qualifies as a JADU for the purposes of this Chapter, as the term is not defined in Government Code 65589.9. JADUs are an important tool in accelerating housing production in a cost-efficient and space-efficient way and encouraging the production of JADUs is one way that a Jurisdiction can gain points on its Prohousing Designation application. HCD chose this definition to maintain consistency with state law, and to ensure that Jurisdictions do not confuse JADUs with other similar accessory structures like "granny flats" or "tiny homes."

Subdivision (a)(18) defines "Jurisdiction" to mean city, county, or charter city or county. It also includes a city and county or charter city and county. This definition is necessary because Government Code 65589.9 does not specifically define this term but states that Jurisdictions may receive Prohousing Designations. This term can also have various meanings depending on the context of its use. The Department selected this definition because it is consistent with the definition of Jurisdiction in the Housing Element Law at Government Code section 65582(a). And because Legislature has repeatedly declared that housing is a vital matter of statewide concern, the State's housing laws apply to charter cities and charter cities and counties. (See, e.g., Gov. Code, § 65580; Section 6(b) of Stats. 2017, c. 371 (A.B. 73) West's Ann. Gov. Code. (2021) foll. § 65582.1.) Including charter cities and charter cities and counties is also necessary to fulfill the Program's purpose of encouraging all local governments to accelerate housing production.

Subdivision (a)(19) defines "Local Public Entity" in the same way that it is defined in Health and Safety Code section 50079. This definition is the most applicable here because it maintains consistency with existing state law and is necessary because Government Code section 65589.9 does not define the term. This definition is also necessary so that program applicants and local constituents know which local bodies of government and administration are considered local public entities for the Program's purposes.

Subdivision (a)(20) provides the definition for "Location Efficient Communities." These types of communities are characterized as current or future residential dwellings that have multiple transportation options for their residents, as well as short commutes to daily destinations, thereby improving job and housing relationships, and that mitigate impacts on or from Environmentally Sensitive or Hazardous Areas. This definition is necessary because encouraging the development of such communities is one of the many ways that an applicant jurisdiction can prove that they are Prohousing. Location Efficient Communities are an important way to ensure that Prohousing Policies are consistent with environmental policy goals. The Legislature has declared that Jurisdictions have the responsibility to consider "environmental factors," among others, in "addressing regional housing needs." (Gov. Code, § 65580(d); see also § 65041.1 (declaring that State Planning Priorities include, among other things, protecting and preserving environmental, agricultural, and natural resources, and promoting infill development served by transit.)) This definition is also necessary to clarify what policies can earn a point in section 6606 for policies that support the intensification of residential development in Location Efficient Communities.

Subdivision (a)(21) defines "Lower-Income Households" consistent with Government Code section 50079.5. This subdivision is necessary to clarify the meaning of this term in a manner that is consistent with existing state law. This subdivision is also necessary because the term can have different meanings depending on the context of its use.

Subdivision (a)(22) provides a definition for "Ministerial." It states that a ministerial process is one that involves no personal, subjective judgment in the approval of a residential project. A ministerial approval process requires the reviewing local official to approve or deny a project based solely on objective standards, in a non-discretionary fashion. This definition is the most appropriate definition available, as none was provided for the term in the program's authorizing statute, Government Code section 65589.9, and without this definition, Jurisdictions would be left to their own devices in terms of what constitutes a ministerial review. This definition is necessary because ministerial approval processes are one of the keys to accelerating housing production by cutting down on review time and delays brought on by standards that are applied inconsistently and arbitrarily.

Subdivision (a)(23) defines "Moderate-Income Households" consistent with Government Code section 50093. This subdivision is necessary to clarify the meaning of this term in a manner that is consistent with existing state law. This subdivision is also necessary because the term can have different meanings depending on the context of its use.

Subdivision (a)(24) defines Objective Zoning, Subdivision, and Design Review Standards. Similar to the definition provided for "Ministerial," this Subdivision describes standards that involve no personal or subjective judgment by a local official as to whether a project will be approved. The standards are applied in a manner that is uniformly verifiable by reference to some external criteria that are available to both the applicant and the public official before any project application is submitted for review. This definition is the best available for this term, as none were provided in the Program's authorizing statute, Government Code section 65589.9, and again, without this definition Jurisdictions would be free to create their own definitions of what constitutes "objective." This Subdivision is necessary in order to understand what an objective standard is. Ministerial approval processes must apply objective standards. This again is a key factor in streamlining the approval process of residential development, thus making it a key factor in determining whether a jurisdiction is Prohousing.

Subdivision (a)(25) defines the "Program" as the Prohousing Designation Program. This definition is the most apt because "Program" can have many different meanings throughout different bodies of state law, and it should be known to applicants that the word "Program," as used in these regulations, specifically refers to the Prohousing Designation Program. There are also numerous other "programs" mentioned by name in the text of the regulations, so this distinction is important. This definition clarifies that the term "Program" referred to throughout the regulations is the Prohousing Designation Program, not any other program.

Subdivision (a)(26) states that the definition for "Prohousing" or "Prohousing Designation" is the designation that a jurisdiction receives when they meet all the requirements of the Prohousing Program, as determined by HCD. This definition is most applicable because no definition is given in the authorizing statute Government Code section 65589.9, and since the program is new, a definition would not be found elsewhere in state law. This Subdivision is necessary because it helps clarify the central purpose of this subchapter, which is to establish regulations so that the Department may designate certain Jurisdictions "Prohousing," which will grant these Jurisdictions competitive advantages in certain funding applications.

Subdivision (a)(27) defines what constitutes a "Prohousing Policy." A Prohousing Policy is an action adopted or proposed by a jurisdiction that is reasonably likely to accelerate, streamline or encourage housing production in a manner consistent with the Jurisdiction's duty to affirmatively further fair housing pursuant to Government Code section 8899.50. A Prohousing Policy can exist on its own merit, or it can be a piece of a larger Prohousing strategy that a Jurisdiction implements. This definition is necessary because although the Legislature provided some examples of "prohousing local policies" in Government Code section 65589.9, it did not define Prohousing Policies, leaving it to the Department to clarify this term when implementing that section. Moreover, since the program is new, a definition would be found nowhere else in state law. While Government Code section 65589.9, subdivision (f)(2) defines "Prohousing local policies," the definition provided here refers to specific policies listed in section 6606 of this chapter. This definition is necessary to include in this Subchapter because Prohousing Policies are the basis for achieving a Prohousing Designation. It should be clear to all applicants what types of activities they can implement to be considered

"Prohousing," and that some policies can be considered Prohousing as part of a larger plan to improve housing production within the jurisdiction. It is necessary to clarify that a Prohousing Policy must be consistent with the duty to Affirmatively Further Fair Housing because Government Code section 8899.50(b) requires all public agency programs relating to housing and community development to comply with this duty. And the Housing Element Law also includes its own requirements that Jurisdictions Affirmatively Further Fair Housing through their Housing Elements. (See, e.g., Gov. Code, 65583(c)(10).) To help Jurisdictions understand the different ways they can adopt and implement Prohousing Policies, it is also necessary to clarify that they can include both freestanding policies adopted through specific laws, regulations, or procedures, as well as policies that are combined with other ones that a part of a Jurisdiction's broader Prohousing strategy.

Subdivision (a)(28) provides a definition for "Regional Housing Needs Allocation," or RHNA. A jurisdiction's RHNA is each region's projected need for housing as determined by the Department using section 65584.01 of the Government Code. This is the most applicable definition because it ensures consistency with existing state law. This definition is necessary to include because each region allocates a certain number of housing units to each Jurisdiction, and each Jurisdiction must be on track to meet its RHNA requirements to receive a Prohousing Designation. This is also an issue of Housing Element Law, as each jurisdiction must prove that they have sufficient sites to meet their RHNA allocation to have a compliant housing element. And Government Code section 8899.50(a) specifies that a compliant housing element is a requirement for obtaining a Prohousing Designation.

Subdivision (a)(29) provides a definition for "State Planning Priorities." These are priorities that are implemented with the intention of promoting a strong economy, environmental protection, public health and safety for all communities, and promoting any other priorities pursuant to Government Code section 65041.1. This definition is most applicable because no definition is given in the authorizing statute Government Code section 65589.9. This definition is necessary to inform Jurisdictions of what the Department regards as important priorities in accelerating housing production throughout the State. (See, e.g., Gov. Code, § 65041.1.)

Subdivision (a)(30) defines Supportive Housing in accordance with the Housing Element's definition at Government Code section 65582(g). This definition is necessary because the term is defined differently in different state statutory schemes. The Department selected this definition because it is the one that applies to planning and zoning through the Housing Element Law, making it the most relevant definition to apply to Prohousing Policies.

Subdivision (a)(31) "TCAC" is defined to mean the California Tax Credit Allocation Committee. This definition is necessary because this is the acronym used to refer to this committee in the name of the TCAC/HCD Opportunity Map. This definition is also necessary to avoid confusion because the committee is also sometimes referred to as the CTCAC.

Subdivision (a)(32) defines the "TCAC/HCD Opportunity Map" to mean the map published by TCAC and HCD that identifies areas in the State whose characteristics

support positive economic, educational, and health incomes for Lower-Income Households, which TCAC and the Department publish on their websites at https://www.treasurer.ca.gov/ctcac/opportunity.asp and https://www.hcd.ca.gov/community-development/data-tools/index.shtml. This definition is necessary to clarify that this term refers to the electronic mapping tool designed that TCAC and the Department publish on their websites as a resource for Jurisdictions and the public to use to interactively identify these areas online.

Subdivision (a)(33) provides a definition for VMT. It clarifies that VMT stands for Vehicle Miles Traveled. This definition is necessary to ensure that the acronym is not confused with any other possible meaning for the term. It is also necessary because reducing VMT is an important consideration for ensuring that Jurisdiction's Prohousing Policies are consistent with the State's environmental priorities, including the reduction of greenhouse gas emissions. (See, e.g., Gov. Code, §§ 65080; 65081(a).)

Section 6602. Content of Application and Supporting Documents.

The Department proposes to adopt Section 6602 to clarify when Jurisdictions can apply for Prohousing designations, where to find the applications, and what documents to include with applications. This section is necessary so that jurisdictions can find answers to their most basic questions: When can they apply? Where can they find the application form? What documents should they submit? This section will also help the Department efficiently review applications.

Subdivision (a) provides that the Department shall accept applications on a continuous, year-round basis and make the application form available on the Department's website. This section is necessary to provide applicants with a timeline as to when the application will be available, information as to where they can find the application, and how long the Department will accept applications. It is necessary to explain that the Department will accept applications on a continuous year-round basis, as it assures applicants that they can still receive the designation in the future, even if they are not yet ready to apply. This incentivizes Jurisdictions to implement Prohousing Policies that align with the program's requirements if they have not already done so. It is also necessary that the application be made available on the Department's website as that will ensure easy and equal access to the application for all Jurisdictions across the State.

Subdivision (b) defines the necessary documents that applicants must submit to be considered for the Prohousing Designation. This subdivision is necessary to allow the Department to efficiently review applications and for Jurisdictions to understand which documents to include in their applications.

Subdivision (b)(1) requires applicants to certify or submit evidence that they have met the threshold criteria requirements under Section 6604. This subdivision is necessary to inform applicants of a fundamental application requirement that will help the Department efficiently review applications. It is important for applicants to be aware that they must meet this basic requirement so that they do not needlessly produce and submit an application that will not pass the initial stage of the Department's review process.

Subdivision (b)(2) requires applicants to submit concise summaries of each Prohousing Policy and specify whether each policy is enacted or proposed. This subdivision is necessary to clarify that an applicant must show the Department whether they have already enacted or are merely proposing to enact Prohousing Policies. The brevity requirement is also important to ensure that the Department can review the application in a timely fashion. Differentiating between proposed and enacted policies also allows the Department to see if the applicant has a track record of implementing Prohousing Policies, or if they are proposing activities that have not yet been implemented.

Subdivision (b)(3) requires that the applicant submit documentary evidence for any proposed or enacted Prohousing Policies listed in the application. It also permits Jurisdictions to include links to supporting documents, instead of requiring copies to be submitted with the application. This subdivision is necessary to inform applicants that they must provide evidence to the Department clarifying whether the Prohousing Policies they are listing in their applications are in fact enacted or are still in the process of being enacted. This subdivision is also necessary to inform Jurisdictions that they have the option of submitting this supporting documentary evidence through links to documents on their websites, which will make the application submittal and review process more efficient. This subdivision is also necessary to allow the Department to distinguish whether applicants have already implemented a Prohousing Policy or are planning to implement it in the future.

Subdivision (b)(4) requires the applicant to self-score each Prohousing Policy that they list in the application using the criteria described in Section 6606. It also states that applicants can include "enhancement factors" from Section 6606 to increase their total score on the application. This subdivision is necessary to clarify to applicants that they must first score their Prohousing Policies themselves in their applications. This subdivision is necessary to make the application submittal and review process more efficient because applicants are able to identify the policies that are most relevant to their jurisdiction and link those policies to supporting documentation for the Department's review and consideration when validates applicants' scores as specified in section 6606.

Subdivision (b)(5) requires the applicant to undertake a diligent public participation process that involved outreach to engage all segments of the community and to include documentation with the application of public comments received during this process. This subdivision is necessary because it promotes transparency in government, encourages public participation in the Program, and provides a level of accountability between the jurisdiction and its constituents.

Section 6603. Overall Application Submittal and Review Procedures.

The Department proposes to adopt Section 6603 to clarify the basic submittal and application review procedures.

Subdivision (a) clarifies that only Jurisdictions may apply for a Prohousing Designation. This subdivision is necessary to clarify who can apply for the Program and to allow the Department to reject applications that are received from all other entities. This

subdivision also allows the Department to avoid expending unnecessary time and resources in processing ineligible applications.

Subdivision (b) requires applicants to submit a complete and self-scored application electronically to the Department using the ProhousingPolicies@hcd.ca.gov email address. This subdivision is necessary to specify the submission format for applicants, confirming that all applications must be submitted electronically. This avoids any confusion as to whether a hard copy submission is necessary. This subdivision also clarifies that an applicant cannot submit an application in stages but must submit one complete, self-scored application. This will make the application submittal and review process more efficient.

Subdivision (c) clarifies that applicants may submit applications multiple times, but they cannot submit multiple applications for the Department's review at the same time. This subdivision is necessary to ensure that Jurisdictions do not inundate the Department with multiple applications at the same time, and to avoid any confusion as to which application the Department is reviewing within a 60-day review period. This subdivision also clarifies that Jurisdictions may submit additional applications if their initial application does not qualify them for a Prohousing Designation.

Subdivision (d) requires the Department to provide any applicant with a written acknowledgement of receipt within ten (10) days of receiving their application. This provision is necessary to ensure that applicants know their application has been received and is in the process of being reviewed. The Department determined that a 10-day period is necessary to allow it sufficient time to initially process and confirm receipt of an application. Clarifying that applicants may not receive an acknowledgement for up to 10 days will also make the application process and review process more efficient by avoiding unnecessary questions from applicants about whether the Department has received their application.

Subdivision (e) states that the Department may ask applicants for additional supporting information or documents to complete the review of an application. This subdivision is necessary to give the Department flexibility in reviewing an application, as it allows the Department to request additional necessary information instead of requiring the Department to deny the application outright due to any deficiencies in the application. This subdivision is also necessary to ensure that Jurisdictions understand that they might need to submit additional information if the Department requests them to do this after they have submitted their applications.

Subdivision (f) allows the Department to consult with any relevant individual, entity or public agency to gather Program-relevant information to assist in reviewing an application. This subdivision is necessary to provide the Department the ability to cross-check information that has been provided by a jurisdiction if there is any doubt or confusion on the part of the Department as to the validity of the information included in the application. This subdivision also clarifies to Jurisdictions that the Department may consider information they did not include in their applications, which will encourage Jurisdictions to submit accurate and sufficiently documented applications.

Subdivision (g) requires the department to complete the review of an application within sixty (60) calendar days of receiving said application. It also requires the Department to provide written findings of its final determination of the applicant's Prohousing status to the applicant jurisdiction within this 60-day timeframe. This section is necessary to give both applicants and the Department a reasonable expectation of when the review of the application must be completed, and how the applicant is to be notified of the Department's ultimate determination as to whether the applicant successfully received the Prohousing designation. The Department determined that 60 days would provide it enough time to review an application, considering other demands on the Department's time and resources, while still efficiently completing its review within a time frame that will allow successful applicants to promptly receive the program's benefits.

Subdivision (h) states that the Department will provide a jurisdiction with a letter of designation when it determines their application provides enough evidence to show the jurisdiction is Prohousing. It also states that a jurisdiction's Prohousing Designation remains in effect until it is revoked or expires pursuant to Sections 6607 and 6608. It also gives the Department discretion to list in the designation letter certain conditions that the applicant jurisdiction must meet to maintain its Prohousing designation under Government Code section 65589.9 and these regulations. This subdivision is necessary to clarify to applicants and the public that the Department can revoke a jurisdiction's Prohousing designation if it does not continue to implement policies that accelerate housing production beyond the minimum requirements of state law. This will incentivize applicants to continue implementing Prohousing Policies that comply with the program's requirements. This subdivision is also necessary to help applicants understand they do not need to reapply for a Prohousing designation on a recurring basis.

Subdivision (i) clarifies that issuing a Prohousing Determination does not constitute a determination by the Department whether the jurisdiction has complied with all state or federal housing laws, state or federal civil rights requirements, or any other legal requirements. This subdivision further clarifies that the Department will review applications, validate applicants' self-scores, and issue Prohousing Designations solely for the purposes of the Program, not to determine for the purposes of litigation, administrative proceedings, or other HCD programs whether a jurisdiction has complied with or violated any state or federal housing or civil rights law or other legal requirement. This subdivision is necessary to clarify the Department's intent in reviewing applications, validating applicants' self-scores, and issuing Prohousing Designations and to prevent confusion about the scope of this work. For the Program to function efficiently, the Department cannot undertake the same level of review that might be required, for example, in reviewing individual Housing Elements, providing technical advice or other guidance on specific issues, determining whether a Jurisdiction has committed specific violations under the Department's enforcement authority, or even in determining whether to revoke a Prohousing Determination under section 6607. This subdivision is necessary to clarify that the Department does not intend for any findings it makes reviewing applications, validating self-scores, or issuing Prohousing Determinations to be used for any purposes outside of the Program. The Program's purposes include encouraging Jurisdictions to adopt and implement Prohousing Policies and to allow them to receive preferences under certain funding programs if they receive Prohousing Designations. The Program's processes for reviewing applications, validating self-scores, and issuing Prohousing Designation processes are designed for the Program's

purposes and do not include, for example, making individualized compliance or violation determinations for potential litigation, administrative proceedings, or enforcement actions, or for other HCD programs.

Section 6604. Applicant Threshold Criteria.

The Department proposes to adopt Section 6604 to clarify the threshold criteria applicants must satisfy to qualify for Prohousing designation. The threshold criteria are necessary to help applicants understand the Program's basic processes and requirements for applications, which will help avoid misunderstandings and unnecessary delays in processing and reviewing applications, in addition to awarding Prohousing designations to qualified applicants. Screening out an application that does not meet the threshold criteria will allow the applicant to correct these threshold issues and submit revisions to the application without waiting for the Department to finish reviewing the application in its entirety. This will also allow the Department to use its time and resources more efficiently when reviewing applications.

Subdivision (a) notifies applicants that the Department will initially determine if applicants have met the threshold requirements specified in subdivision (b) in its review. This subdivision is necessary so that the Department can identify which areas of the threshold requirements applicants have or have not satisfied, so as to notify them they have either met basic requirements to be eligible for the Program, and to request additional documentation or hold on a determination for Designation until the applicant can demonstrate they meet all threshold requirements.

Subdivision (b) specifies that applicants must certify in their application that all threshold requirements have been met at the time of submission to the Department. This subdivision is necessary to allow the Department to efficiently screen applications to identify which ones do or do not meet threshold requirements. This will also allow Jurisdictions to promptly correct and resubmit applications that do not meet the threshold requirements, while allowing the Department to focus its time and resources on applications that do meet these requirements.

Subdivision (b)(1) requires applicants to have adopted a compliant Housing Element at the time of application submittal. Subdivision (b)(1) is necessary to clarify that adopting a compliant Housing Element is a fundamental requirement of the Prohousing program, consistent with Government Code Section 65589.9 (a), (b), and (f)(1). In addition, this subdivision is necessary because the Legislature specified in Government Code section 65589.9 that Housing Element compliance is a prerequisite for obtaining a Prohousing Designation.

Subdivision (b)(2) requires applicants to have submitted a legally sufficient Annual Progress Report at the time of application submittal or prior to being designated as Prohousing. Subdivision (b)(2) is necessary to clarify that to comply with Housing Element Law, Jurisdictions must not only have adopted a compliant Housing Element, but as specified in Government Code section 65400, must also have submitted a legally sufficient Annual Progress Report, and to clarify that if it has not been submitted before the jurisdiction has submitted its application, it must be submitted before the Department will designate the jurisdiction as Prohousing. This makes the application

submittal and review process more efficient because Jurisdictions will not need to wait until their Annual Progress Report is due before submitting their applications. The Department selected this threshold requirement because the Annual Progress Report is intrinsically tied to the applicant's Housing Element compliance, in that it allows the Department to determine what progress the jurisdiction has made in implementing Housing Elements from previous cycles.

Subdivision (b)(3) requires an applicant to have completed or agree to complete on or before any relevant statutory deadlines for the current Housing Element Law planning period, any rezoning program or zoning that is necessary to remain in compliance with Government Code Section 65583, subdivision (c)(1). It is necessary to clarify that this is a fundamental Housing Element Law requirement that Jurisdictions must comply with before the Department can award a Prohousing designation to the applicant. This action was selected as a threshold requirement because having completed any prior rezoning necessary to meet the applicant's Regional Housing Needs Allocation (RHNA) from the previous Housing Element cycle is a precursor to having an adopted, compliant Housing Element for the current cycle and applicants that fail to complete any rezoning by statutory deadlines cannot be eligible for the Program. It is necessary to include the term "agree to complete" to encourage and allow Jurisdictions to submit applications even if their deadlines to complete rezoning or zoning might be, for example, several months later. That way, Jurisdictions can apply for a Prohousing designation while they are completing a rezoning or zoning process if they agree to complete the requirement. The provisions in section 6607 for monitoring or revoking Prohousing Designations allow the Department to ensure that Jurisdictions abide by their commitments to complete any required rezoning or zoning.

Subdivision (b)(4) requires applicants to comply with not only the Housing Element Law but other, related state housing law at the time of application submittal. The laws include, but are not limited to, the Housing Element Law (Article 10.6 of the Gov. Code); "No Net Loss" Law (Gov. Code, § 65863); the Housing Accountability Act (Gov. Code, § 65589.5); State Density Bonus Law (Gov. Code, § 65915 et seq.); laws relating to the imposition of school facilities fees or other requirements (Gov. Code, § 65995 et seq.); the Least Cost Zoning Law (Gov. Code, § 65913.1); the Housing Crisis Act of 2019 (Stats. 2019, ch. 654); Affirmatively Furthering Fair Housing (Gov. Code, § 8899.50); Streamlined Ministerial Approval Process (Gov. Code, § 65913.4) and Land Use Discrimination Law (Gov. Code, § 65008). This subdivision is necessary to clarify that these are fundamental, complementary state housing laws relative to Housing Elements. Because the Department considers these state housing laws in its review of local Jurisdictions' Housing Elements, it is necessary to clarify to applicants that compliance with these laws is part of the program's threshold requirement that applicants be in compliance with the Housing Element Law.

Subdivision (b)(5) requires applicants to submit, at the time of application, a valid Formal Resolution for the Program and clarifies that the Formal Resolution must have been duly adopted and certified by the applicant's governing body, in addition to remaining valid for the life of the Designation. Subdivision (c) is necessary to ensure that local Jurisdictions have received approval to apply for the Program from their governing body, whether that be their City Council, Board of Supervisors, or similar governing body. This subdivision is also necessary to identify the representatives

appointed by the local jurisdiction to enter into, execute, and deliver all documents required to participate in the Program.

Subdivision (c) authorizes the Department to reject any application that is submitted by any entity that is not Jurisdiction or if it determines an applicant has not satisfied threshold requirements set forth in subdivisions (b)(1) through (b)(5). This subdivision is necessary so that the Department can efficiently identify applications that it should stop reviewing who are either unlikely or unwilling to correct threshold issues in the review process. This subdivision is also necessary so that the Department does not divert its time and resources in continuing to review applications that the threshold requirements reveal should be denied. This subdivision will also prevent unqualified Jurisdictions from expending time and resources on applications that will be denied.

Subdivision (d) authorizes the Department to reject any application that it determines has taken actions that are inconsistent with those identified in Subdivisions (d)(1) and (2) during the review process. Subdivision (d) is necessary so that the Department can promptly stop reviewing applications from Jurisdictions that are unlikely to receive Prohousing designations. This will allow the Department to efficiently focus its time and resources on applications that meet these threshold criteria.

Subdivision (d)(1) authorizes the Department to reject applicants if they have been found to have enacted laws, developed policies, or taken any other actions that are reasonably likely to inhibit or constrain housing production. This subdivision describes examples of prohibited laws, policies, and actions, which include moratoriums on development; local voter approval requirements related to housing production; changing the zoning of an area or neighborhood to reduce the density of housing or permitted construction without actions to ensure no net loss of density; and unduly restrictive or onerous zoning regulations, development standards, or permit procedures. This subdivision is needed so that applicants understand that at this threshold stage of the review process, the Department may consider information not necessarily included in applications to screen out applicants, which is one of the things that distinguishes this subdivision from other subdivisions above that focus on information in or derived from an application. To clarify the types of local laws, policies, or actions that could disqualify an application, this subdivision includes illustrative examples of local laws, policies, and actions that in the department's experience have inhibited or constrained housing production. This subdivision is also needed to help Jurisdictions avoid committing time and resources to preparing applications that are unlikely to be approved and to help prevent the Department from diverting its time and resources in further reviewing applications from Jurisdictions that are unlikely to be designated as Prohousing.

Subdivision (d)(2) authorizes the Department to reject applicants if they have been found to have violated the Housing Element Law (Article 10.6 of the Gov. Code); "No Net Loss" Law (Gov. Code, § 65863); the Housing Accountability Act (Gov. Code, § 65589.5); State Density Bonus Law (Gov. Code, § 65915 et seq.); laws relating to the imposition of school facilities fees or other requirements (Gov. Code, § 65995 et seq.); Least Cost Zoning Law (Gov. Code, § 65913.1); the Housing Crisis Act of 2019 (Stats. 2019, ch. 654); Affirmatively Furthering Fair Housing (Gov. Code, § 8899.50); Streamlined Ministerial Approval Process (Gov. Code, § 65913.4) or Land Use Discrimination Law (Gov. Code, § 65008). This subdivision is needed so that applicants

understand that at this threshold stage of the review process, the Department may consider information not necessarily included in the application to screen out applicants. The Department selected violations of the laws listed in this section because Jurisdictions that have committed these types of violations are particularly unlikely to be designated as Prohousing. This subdivision is also necessary so that the Department does not divert its time and resources further reviewing applications from Jurisdictions that are unlikely to be designated as Prohousing.

Subdivision (e) authorizes the Department to consider comments, reports, and findings from governmental and non-governmental entities when determining if an applicant meets threshold requirements. Subdivision (f) is necessary as it creates transparency in government, encourages public participation in the Program, and provides a level of accountability between a Jurisdiction and its constituents.

Subdivision (f) authorizes the Department to reject any application if it determines the applicant has, at any time, provided false or inaccurate information in its application. This subdivision is necessary to allow the Department to identify Jurisdictions that are intentionally or unintentionally misusing the application process so that the Department can focus its time and resources on applications for Jurisdictions that are more likely to be designated as Prohousing.

Section 6605. Requirements for Prohousing Policies.

The Department proposes to adopt Section 6605 to identify the criteria for Prohousing Policies. The criteria are necessary to help applicants understand the basic processes and requirements to be awarded Prohousing Designation, which may help avoid misunderstandings and unnecessary delays in processing and reviewing applications that the Department can determine are not eligible for a Prohousing Designation without validating a jurisdiction's self-scoring. This will also make the application process more efficient by allowing the Department to focus its time and resources on validating the self-scoring of applications that are more likely to receive Prohousing Designations.

Subdivision (a) notifies applicants that they must satisfy the requirements outlined in Subdivision (a)(1) through (2) for the Department to validate their self-scoring. Subdivision (a) is necessary to prevent any misunderstandings with potential applicants concerning how policies are scored and what qualifies a policy as Prohousing. This subdivision is also necessary so that the Department does not divert its time and resources from further reviewing incomplete, disorganized, or insufficient descriptions of Prohousing Policies within an application.

Subdivision (a)(1) requires applicants to submit information on its enacted or proposed Prohousing Policies by providing a concise written description of each policy, in addition to identifying and submitting any relevant documents or supporting evidence for each Policy. Subdivision (a)(1) is necessary so that the Department can easily identify whether the applicant has or has not provided sufficient information and documents on the policies subject to scoring. This subdivision is also necessary so that the Department does not divert its time and resources from further reviewing Prohousing Policies that lack sufficient information and supporting documents.

Subdivision (a)(1)(A) requires that applicants submitting proposed Prohousing Policies for the Department's review must also present at least two enacted Prohousing Policies. Because Government Code Section 65589.9(a) identified the Legislature's intent to award incentives to Jurisdictions with "enacted prohousing local policies," the Department determined that a minimum of two enacted policies must be provided because two reflects the minimum number required to reflect the plural form of "enacted prohousing local policies." This subdivision is necessary to provide sufficient evidence to the Department that when an applicant submits some proposed policies that it has not yet implemented, the applicant still has a track record of implementing similar actions.

Subdivision (a)(1)(B) requires that applicants certify that each proposed Prohousing Policy submitted for the Department's review must be enacted within two (2) years of the date on the applicant's application. This subdivision is necessary to ensure that proposed Prohousing Policies reflect an applicant's actual intent to adopt them. The Department determined that policies must be enacted within this timeframe because it provides sufficient time for the applicant to enact a policy, after engaging in the public participation process required in the next paragraph, while ensuring that the policies will be enacted within a reasonable time after the application is submitted.

Subdivision (a)(1)(C) requires that in including proposed Prohousing Policies for scoring, the applicant shall engage in a diligent public participation process to include all segments of the community for that particular policy. This subdivision is necessary because it creates transparency in government, encourages public participation in the Program, and provides a level of accountability between the jurisdiction and its constituents. Because Jurisdictions are still working on enacting proposed policies when they submit their applications, this public participation provision is necessary to clarify to Jurisdictions that this is a requirement that must be met before a proposed policy is enacted.

Subdivision (a)(2) requires that the applicant's enacted and proposed Prohousing Policies contribute to accelerating housing production throughout the Jurisdiction, or throughout a smaller geographic unit within the Jurisdiction. This subdivision is necessary so as to ensure that applicants understand that Prohousing Policies are those actions that result in tangible benefits through the Acceleration of Housing Production within the Jurisdiction itself.

Subdivision (a)(2)(A) notes that project-specific planning documents or approvals do not qualify as Prohousing Policies, unless they result in a Jurisdiction-wide benefit or provide ongoing benefits that extend beyond the project. This subdivision is necessary to ensure that Jurisdictions do not receive credit for projects that have limited to no impact on the Jurisdiction as a whole. Isolated or otherwise minimal impacts cannot be considered Prohousing Policies under the Program.

Subdivision (b) allows the Department to consider Prohousing Policies that are integrated with a local jurisdiction's planning priorities. This subdivision also includes illustrative examples of planning priorities including open space preservation, hazard mitigation, and minimization of displacement. This subdivision is necessary to encourage applicants to develop policies that represent holistic approaches to

addressing the many needs of the applicant's communities. The Department recognizes that housing policy intersects with many other policy areas. Consequently, Prohousing Policies are policies that represent integrated, comprehensive approaches to addressing California's housing crisis.

Subdivision (c) clarifies that each Prohousing Policy identified in an application will receive a point allocation only once. Subdivision (c) is necessary to ensure that applicants do not receive more points than they should by attempting to assign a policy to multiple scoring categories (i.e., double-counting, triple-counting, etc.). This subdivision is also necessary to allow the Department to screen out applications that have scored a Prohousing Policy more than once, which will allow Jurisdictions to correct their applications without waiting for the Department to validate their self-scoring. Further, this will allow the Department to use its time and resources more efficiently by screening out these deficiencies before completing the self-scoring validation process.

Subdivision (d) clarifies that applicants may identify Prohousing Policies that are or will be carried out in partnership with other entities and that partnerships may be formed with Local Public Entities, as defined in Health and Safety Code Section 50079, so long as the policy has a direct impact on land use or development within the applicant's Jurisdiction. Subdivision (b) also notes these partnerships must be formed through legally binding agreements. Subdivision (d) is necessary to allow applicants the ability to partner with other entities such as cities, counties, governing bodies of an Indian reservation or rancheria, a tribally designated housing entity, redevelopment agency, housing authority, or state agency in developing and implementing Prohousing Policies. In the Department's experience, collaboration like this can significantly advance Prohousing Policies. It is necessary to form these partnerships through legally binding agreements to assure the Department that the Jurisdictions will implement their Prohousing Policies through these partnerships. This legally binding requirement will also allow each party to a partnership to enforce it, which can save the Department time and resources in monitoring Jurisdictions' ongoing compliance with the program's requirements.

Section 6606. Designation Criteria.

The Department proposes to adopt Section 6606 to provide criteria that would be used in scoring applications for the Program. This section is necessary so that Jurisdictions and the public can understand how the Department will score applications that meet the threshold requirements outlined in Section 6604 of this chapter. It is important for the Department to provide objective criteria to judge all applicants, while providing a scoring system that is flexible enough to accommodate various combinations of Prohousing activities for varying types of Jurisdictions throughout the state.

Subdivision (a) specifies that all applications must meet the requirements of sections 6604 and 6605 to qualify for the scoring validation phase of the application process. This subdivision is necessary to clarify that no application will reach the validation phase specified in section 6606 without meeting the basic threshold requirements specified in the two previous sections.

Subdivision (b) specifies how the Department will validate those scores and determine if applicants' scores are high enough to qualify for a Prohousing designation. Applicants must show they have at least one proposed or enacted action from each of four categories identified in Subdivisions (b)(1)-(4) and reach a total of 30 points or more across all categories. The Department allocated an application point value of three, two, or one points to each policy, depending on the impact a proposed or existing policy has on accelerating housing production. This subdivision is necessary to clarify for applicants and the public the overall scoring criteria and establish objective scoring criteria that also provide enough flexibility to allow different Jurisdictions to apply varying methods to achieve a Prohousing Designation best suited to their local needs. Subdivision (b) is necessary to outline the scoring process in greater detail and to ensure that the Department's scoring validation process is open and transparent. Furthermore, this section is necessary for the Department to efficiently implement a fair and standardized process for validating Jurisdictions' self-scoring of their Prohousing Policies. This provision also clarifies that the Department shall assess Prohousing Policies in accordance with Government Code sections 8899.50 and 65589.9, subdivision (f)(2). This is necessary because all public agency housing and community development programs must comply with the duty to Affirmatively Further Fair Housing in section 8899.50 and because section 65589.9, subdivision(f)(2) includes the Legislature's examples of Prohousing Policies.

The Department selected the four scoring categories in subdivisions (b)(1)-(4) and allocated points and policies to them based on its experience reviewing and analyzing policies that accelerate housing production. Applicants must demonstrate that they have enacted or proposed at least one Prohousing Policy that falls within each of these categories to ensure that Jurisdictions are taking a balanced approach to accelerating housing production and to ensure that a Jurisdiction cannot overload their application with policies from one of the four sections, while completely ignoring the others. This requirement is also essential to ensure that all Jurisdictions, regardless of size or geography, have the same chance of receiving a Prohousing Designation if they implement a diversified list of activity options listed in the application. The Department determined that a minimum score of 30 points out of a total possible score of 69 points is necessary to ensure that Jurisdictions' policies will significantly accelerate housing production. This standard will still allow for a breadth of Prohousing Policies that provides enough flexibility for different Jurisdictions to obtain Prohousing designations through varying policies that are best suited to their local needs.

If the Department determined that a policy has the greatest possible impact in relation to other policies, it gave the policy a value of three points. If the Department determined that a policy has an intermediate impact in relation to other policies, it gave the policy a value of two points. If the Department determined that a policy has some positive impact but less than an intermediate impact in relation to other policies, it gave the policy a value of one point. The Department determined and allocated different point values based on its experience and expertise from years of interacting with the public on issues related to housing production.

Subdivision (b)(1)(A) allocates three points to applicants who demonstrate they have sufficient sites (including rezoning) to accommodate 150 percent or more of their current or draft RHNA (whichever is higher) by total or income category. The Department

determined that this policy merits three points because of its significant impact on accelerating housing production compared to other policies awarded one or two points. While local land use laws such as zoning are enacted to protect the health and safety of citizens and further the general welfare, these policies may constitute a barrier to the development of housing for all income levels. Jurisdictions that plan for residential development beyond what is required by RHNA will likely experience a greater level of housing production for all income levels. This subdivision is necessary to provide an objective valuation of a jurisdiction having sufficient sites to accommodate 150 percent or more of their RHNA so that applicants can accurately calculate their application score.

Subdivision (b)(1)(B) allocates three points to applicants who demonstrate they permit missing middle housing types by right in existing low-density, single-family residential zones and provides a few illustrative examples of such types, including duplexes, triplexes and fourplexes. The Department determined that this policy merits three points because it is one of the policies that has the greatest impact on accelerating housing production in relation to other activities that are awarded one or two points. Such activities result in additional density of residential projects and increase the number of potential housing units created beyond single-family homes. This subdivision is necessary because permitting missing middle housing by right expedites its development by streamlining the process for reviewing and approving these projects.

Subdivision (b)(1)(C) allocates two points to applicants who demonstrate they have sufficient sites (including rezoning) to accommodate 125 to 149 percent of the current or draft RHNA (whichever is higher) by total income category. This policy was determined to have an intermediate positive impact on accelerating housing production, in that it had more of an effect than policies that accommodate less than 124 percent of RHNA, and less of an impact than designating sufficient sites to accommodate 150 or more percent of the RHNA. This subdivision is necessary because Jurisdictions that plan for residential development beyond what is required by RHNA will likely experience a greater level of housing production for all income levels. This subdivision is also necessary to provide an objective valuation of a jurisdiction having sufficient sites to accommodate 125 to 149 percent or more of their RHNA so that applicants can accurately calculate their application score.

Subdivision (b)(1)(D) allocates two points to applicants who demonstrate they have established density bonus programs that exceed statutory requirements by 10 percent or more. This policy is necessary and assigned an intermediate number of points because while density bonuses incentivize higher density development in exchange for a certain amount of affordable housing units, these policies are less impactful than other Prohousing Policies and constitute a relatively small percentage of the housing produced statewide. Additionally, density bonus projects are disproportionately located in urban areas and have a reduced impact compared with other policies. This subdivision is also necessary to provide an objective valuation of a Jurisdiction's density bonus program that exceeds statutory requirements by 10 percent or more so that applicants can accurately calculate their application score.

Subdivision (b)(1)(E) allocates two points to applicants who demonstrate they have increased allowable densities in low-density, single-family residential areas beyond the

requirements of state law governing ADUs and JADUs. This subdivision provides an illustrative example that includes permitting more than one Accessory Dwelling Unit or Junior Accessory Dwelling Unit per single-family lot. This subdivision also clarifies that these policies are distinct from qualifying policies under paragraph (1)(B). This policy was determined to have an intermediate positive impact on accelerating housing production. This subdivision is necessary because ADUs and JADUs utilize properties with existing residential structures to construct additional housing, which costs less to produce than an entirely new housing units on undeveloped properties. These developments increase housing inventory and density in areas with higher rental demand. However, additional ADU and JADU policies will likely only lead to production in suburban or exurban areas with parcels that can accommodate the additional unit(s). Therefore, this policy will have more of an effect than policies that only produce some positive impact and less of an impact than policies that have the greatest effect on accelerating housing production. This policy merits an intermediate number of points because it increases the amount of ADUs or JADUs allowed on a lot beyond what is required by State ADU and JADU Law under Government Code section 65852.2 and 65852.22 respectively.

Subdivision (b)(1)(F) allocates two points to applicants who demonstrate they have reduced or eliminated parking requirements for residential development as authorized by Government Code section 65852.2, adopted vehicular parking ratios that are less than the relevant ratio thresholds at subparagraphs (A), (B), and (C) of Government Code section 65915, subdivision (p)(1), or adopted maximum parking requirements at or less than ratios pursuant to Government Code section 65915, subdivision (p). This policy is necessary because minimum parking requirements have been shown to increase the cost of development. This results in higher average rent and home prices. Eliminating or reducing parking requirements could lead to additional production, which will help relieve high demand in a local housing market. This policy was determined to have an intermediate positive impact on accelerating housing production in that it had more of an effect than policies that produce some positive impact, and less of an impact than policies that have the greatest effect on accelerating housing production. This policy merits an intermediate number of points because it reduces the cost for developers of providing parking for their projects, which can reduce housing costs for renters and buyers, and encourages more transit-oriented development, which will simultaneously reduce traffic congestion and pollution.

Subdivision (b)(1)(G) allocates two points to applicants who demonstrate that they have established zoning and other incentives that permit affordable housing development in a range of types. This subdivision also provides illustrative examples of such incentives, include large family units, Supportive Housing, housing for transitional age foster youth, and deep affordability targeted housing for extremely low-income households in all parts of the jurisdiction, especially in higher resources areas identified in the TCAC/HCD Opportunity Map. This policy is necessary because in the Department's experience, these zoning and other types of incentives have significantly contributed to the production of affordable housing that benefits the most vulnerable populations in need of housing across California, a goal consistent with Affirmatively Furthering Fair Housing. This policy was determined to have an intermediate positive impact on accelerating housing production in that it had more of an effect than policies that produce some positive impact, and less of an impact than policies that have the

greatest effect on accelerating housing production. This policy also merits an intermediate number of points because it encourages developers to take advantage of incentives that create additional affordable housing in areas that would otherwise develop as market-rate units without such incentives.

Subdivision (b)(1)(H) allocates one point to applicants who demonstrate that their zoning code allows (or will allow) for residential or mixed uses in one or more non-residential zones. It then goes on to provide examples of non-residential zones, such as commercial or light industrial zones. It also clarifies that open space zones are not considered non-residential for the purposes of this application. This policy is necessary and given the value of one point because it increases the available residential zoning, which increases the number of potential sites for residential construction. While it positively accelerates housing production, it does not guarantee as high and quantifiable an impact as policies that merit two or three points. This Subdivision is also necessary to provide an objective valuation of a jurisdiction that demonstrates its zoning code allows (or will allow) for residential or mixed uses in one or more non-residential zones.

Subdivision (b)(1)(I) allocates one point to applicants who demonstrate they have modified their development standards and other applicable zoning provisions to promote greater development intensity. This subdivision also provides illustrative examples, including floor area ratios, height limits, minimum lot or unit sizes, setbacks, and allowable dwelling units per acre. This policy increases the potential intensity of residential development on each available site. Reducing local land-use constraints is a required analysis in a jurisdiction's housing element, and these policies are reevaluated regularly and are less impactful than other policy changes. This subdivision clarifies that these policies must be distinct from any policies under paragraph (1)(B) relating to missing middle housing types. This policy is necessary and given the value of one point because it increases the available residential zoning, and therefore increases the number of potential sites for residential construction. While it positively accelerates housing production, it does not guarantee as high and quantifiable an impact as policies that merit two or three points.

Subdivision (b)(1)(J) allocates one point to applicants who demonstrate they have established a Workforce Housing Opportunity Zone, as defined in Government Code section 65620, or a housing sustainability district, as defined in Government Code section 66200. This policy is necessary and given the value of one point because it increases housing affordable to low-income residents near jobs, thus cutting down on VMT for employees who would otherwise have to travel to work from other areas. Additionally, workforce housing creates diverse communities with a balance of residents from a variety of socioeconomic backgrounds. While it does have a positive impact on accelerating housing production, workforce housing makes up a small percentage of the state's housing stock and therefore does not have as high and quantifiable an impact as policies that merit two or three points.

Subdivision (K) allocates one point to applicants who can provide any other evidence of zoning and land use actions that support the acceleration of housing production. This subdivision is necessary to allow applicants the flexibility to submit any other policies that they deem to be Prohousing eligible for the Department's consideration. The

Department recognizes the variation in how Jurisdictions will approach Prohousing given their diversity in geographical, environmental, infrastructure, and other factors. (See, e.g., Gov. Code, § 65589.9 (instructing the Department to create criteria for the Program that consider how needs differ in different Jurisdictions).) While these policies may have a positive impact on accelerating housing production, the inability to quantify that impact in advance merit giving them one point instead of two or three points.

Subdivision (b)(2) outlines the scoring of policies that constitute the Acceleration of Housing Production Timeframes. Each policy is given an application point value of one, two, or three points, depending on the proposed or existing policy's impact on accelerating housing production in the state. If the Department determined that the policy has the greatest impact on expediting processes that accelerate housing production in relation to other policies in the subdivision, a policy is given a value of three points. If the Department determined that an expedited process has an intermediate impact on accelerating housing production in relation to other policies in the subdivision, a policy is given a value of two points. If the Department determined that an expedited process has some positive impact on accelerating housing production but less than an intermediate impact, a policy is given a value of one point. The Department determined point values based on its experience in reviewing and analyzing successful processes for expediting permit approvals and streamlining throughout the State. This section is necessary to outline the scoring process in greater detail and to ensure that the Department's scoring validation process is open and transparent. It is also necessary to ensure that applicants know how to score their applications before submitting them to the Department. It is also important to demonstrate that each expedited process policy listed in the application directly impacts the acceleration of housing production within the applicant's Jurisdiction in a positive manner.

Subdivision(b)(2)(A) allocates three points to applicants who can demonstrate they have established Ministerial approval processes for a variety of housing types. This subdivision provides illustrative examples of such housing types, including single-family and multifamily housing. This policy is necessary because providing development opportunities for a variety of housing types promotes diversity in housing price, style, and size, which contributes to neighborhood stability by offering more affordable homes that accommodate a diverse income mix. This policy is also necessary because Ministerial approval processes that meet the demand for these types of housing very significantly accelerates housing production This policy merits the maximum number of points because projects subject to Ministerial approval are reviewed and approved based on objective criteria, thus significantly increasing both approval certainty and the speed by which housing development projects are approved.

Subdivision (b)(2)(B) allocates two points to applicants who can demonstrate they have established streamlined, program-level CEQA analysis and certification of general plans, community plans, specific plans with accompanying Environmental Impact Reports, and other related documents. This policy is necessary and assigned two points because it has an intermediate positive impact on accelerating housing production in that program-level documents allow a comprehensive examination of a project and expedite environmental review by eliminating repetitive analysis of issues and potential impacts. This ensures that projects consistent with the program-level criteria can proceed without being limited by potential site-specific impacts for each project. But

these programs are less impactful than other Prohousing Policies that have the greatest effect on accelerating housing production.

Subdivision (b)(2)(C) allocates two points to applicants who can demonstrate they have documented streamlining practices of housing development at the project level. This subdivision provides illustrative examples of such processes, including by-right approval processes and by utilizing statutory and categorical exemptions under applicable law (Pub. Resource Code, Sections 21155.1, 21155.4, 21159.24, 21159.25; Government Code Section 65457; California Code of Regulations, Title 14, Sections 15303 and 15332; and Pub. Resources Code, Sections 21094.5, 21099, 21155.2, 21159.28. This policy is necessary and given the value of two points because it contributes to the Acceleration of Housing Production by promoting predictability and reducing risk and uncertainty for proposed developments but has less of an impact on housing production than policies assigned three points. Documenting streamlining practices is necessary to prevent conflicting or inconsistent rulemaking, regulations, and interpretations that delay or derail residential development. The illustrative examples are necessary to clarify some of the ways that Jurisdictions can implement streamlining practices under existing state laws.

Subdivision (b)(2)(D) allocates two points to applicants who can demonstrate they have established permit processes that take less than four months and notes that policies under this subparagraph must address all approvals necessary for building permits to be issued. This policy is necessary and given the value of two points because a processing time of four months constitutes a significant improvement on processing times from the average based on the Department's experience, which it contributes to the Acceleration of Housing Production, but to a lesser extent that policies assigned three points. The Department selected the four-month timeframe because in the Department's experience, this significantly improves processing times while still giving Jurisdictions a reasonable time to process and approve permits. It is also necessary to clarify that these policies must address all approvals necessary for issuing building permits to ensure that this improvement in processing time will actually accelerate housing development by resolving all permitting issues.

Subdivision (b)(2)(E) allocates two points to applicants who can demonstrate they have eliminated or do not otherwise require public hearings for projects that are consistent with the applicant's zoning and General Plan. This policy is necessary and assigned an intermediate number of points because limiting unnecessary additional meetings for projects consistent with local planning documents will ensure that housing projects are not subject to unnecessary, additional hearings that obstruct or prevent a project's approval. This policy is therefore necessary to reduce development and review timelines and hasten project approval. But these policies warrant an intermediate level of points because they are less impactful than other Prohousing Policies that have the greatest effect on accelerating housing production.

Subdivision (b)(2)(F) allocates two points to applicants who can demonstrate they have established priority permit processing or reduced plan check times for homes affordable to Lower-Income Households. This policy is necessary and assigned an intermediate number of points because it contributes to the Acceleration of Housing Production by reducing the length of time review and approval processes for residential development

projects, particularly affordable housing, that often obstruct or prevent a project's approval. These policies are less impactful than other Prohousing Policies that have the greatest effect on accelerating housing production.

Subdivision (b)(2)(G) allocates one point to applicants who can demonstrate they have established either consolidated or streamlined permit processes that minimize the levels of review and approval required for projects, and that are consistent with the applicant's zoning regulations and General Plan. This policy is necessary and given the value of one point because these policies programs promote predictability and reduce risk and uncertainty for proposed developments. Processes that minimize local review and approval requirements can facilitate development and permitting and lead to more efficient development. However, these policies have a lower impact than other Prohousing criteria that document project level housing development streamlining, which were determined to have an intermediate impact. Therefore, these consolidated or streamlined processes do not have as much of an impact as policies that merit two points and are thus assigned one point.

Subdivision (b)(2)(H) allocates one point to applicants who can demonstrate they have eliminated, replaced, or do not have subjective development and design standards. Where they are replaced, applicants need to demonstrate they have substituted those standards with objective development and design standards that simplify zoning clearance and improve approval certainty and timing processes. This policy is necessary and given the value of one point because these programs eliminate or prevent unnecessary design standards which could impede a proposed housing development. Subjective standards result in inconsistent or conflicting determinations by Jurisdictions, making approval more difficult for proposed housing projects. However, this policy has a lower impact than other Prohousing criteria that document project level housing development streamlining, which were determined to have an intermediate impact. Therefore, this policy does not have as high and quantifiable an impact as policies that merit two points and is thus assigned one point.

Subdivision (b)(2)(I) allocates one point to applicants who can demonstrate they have established a one-stop-shop permitting process or designated a single point of contact where entitlements are coordinated across city approval functions from entitlement application to certificate of occupancy and provides a few illustrative examples including an applicant's planning, public works, and building departments. This policy is necessary and given the value of one point because having either of the processes described above streamlines the overall development of housing and facilitates more efficient administrative processes that affect application timelines. While it does positively accelerate housing production, it does not have as high and quantifiable of an impact as policies that merit two or three points.

Subdivision (b)(2)(J) allocates one point to applicants who can demonstrate they have established priority permit processing or reduced plan check times for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) or for multifamily housing. This policy is necessary and given the value of one point because priority processes or reduced plan check times for the above housing types result in more expedited timeframes by which projects are approved and actualized. Expediting approval of these developments will reduce application timelines and produce more

units of housing. While this does positively accelerate housing production, establishing priority permitting processes or reducing check times for these developments does not have as high and quantifiable of an impact as ADU and JADU policies that merit two or three points, and thus it is assigned one point.

Subdivision (b)(2)(K) allocates one point to applicants who can demonstrate they have established a standardized application form for all entitlement applications. This policy is necessary and given the value of one point because it makes it easier for developers and any other interested parties to navigate the entitlement process and submit an application for approval for many types of entitlements. This policy was determined to have a low impact on accelerating housing production in that these programs promote predictability and reduce risk and uncertainty for proposed developments. While it positively accelerates housing production, it does not have as high and quantifiable of an impact as policies that merit two or three points and is thus assigned one point.

Subdivision (b)(2)(L) allocates one point to applicants who can demonstrate they have established a practice of publicly posting status updates on project permit approvals on the Internet. This policy is necessary and given the value of one point because it increases public transparency and provides a greater degree of information accessibility and sharing between jurisdictions and the public. The degree to which the public has access to such information may result in more expedited permit processes and serve as a measure of accountability in ensuring all timeframes are met within a reasonable time period if this information is made publicly available. While it positively accelerates housing production, it does not guarantee as high and quantifiable impact as policies that merit two or three points and is thus assigned one point.

Subdivision (b)(2)(M) allocates one point to applicants who can demonstrate they limit the total number of hearings for any project to three or fewer. The subdivision also clarifies that applicants that accrue points pursuant to paragraph (2)(E) are not entitled to points under this subparagraph. This subdivision is also necessary to ensure that applicants understand they cannot earn double points for similar activities. This policy is necessary and assigned the value of one point because limiting unnecessary additional meetings for projects consistent with local planning documents will ensure that housing projects are not subject to unnecessary additional hearings that obstruct or prevent a project's approval. The Department determined that three or fewer hearings was a reasonable number because this would accelerate housing production while still allowing Jurisdictions sufficient hearings to review most projects. While it positively accelerates housing production, it does not guarantee as high and quantifiable an impact as policies that eliminate or do not otherwise require public hearings for projects consistent with the applicant's zoning and General Plan, which merits two points. Thus, this policy is assigned one point.

Subdivision (b)(2)(N) allocates one point to applicants who can demonstrate any other actions, not identified in Subdivisions (b)(2)(A) through (b)(2)(L), that quantifiably decrease production timeframes or promote the streamlining of approval processes. This subdivision is necessary to allow applicants the flexibility to submit any other policies that they deem to be Prohousing eligible for the Department's consideration. The Department recognizes the variation in how Jurisdictions will approach Prohousing given their diversity in geographical, environmental, infrastructure, and other factors.

(See, e.g., Gov. Code, § 65589.9 (instructing the Department to create criteria for the Program that consider how needs differ in different Jurisdictions).) While these policies may have a positive impact on accelerating housing production, the inability to quantify that impact in advance merits giving them one point instead of two or three points.

Subdivision (b)(3) outlines the scoring of policies that result in the reduction of construction and development costs. Each policy is given an application point value of one, two, or three points, depending on the impact the proposed or existing policy has on accelerating housing production in the State. If the Department determined that the policy has the greatest impact on expediting processes that accelerate housing production in relation to other policies in the subdivision, a policy is given a value of three points. If the Department determined that a policy has an intermediate impact on accelerating housing production in relation to other policies in the subdivision, a policy is given a value of two points. If the Department determined that the reduction in construction or development costs has some positive impact on accelerating housing production but less than an intermediate impact, a policy is given a value of one point. The Department determined point values based on its experience in reviewing and analyzing successful processes for expediting permit approvals and streamlining throughout the State. This section is necessary to outline the scoring process in greater detail and to ensure that the Department's scoring validation process is open and transparent. It is also necessary to ensure that applicants know how to score their applications before submitting them to the Department. It is also important to demonstrate that each expedited process policy listed in the application directly impacts the acceleration of housing production within the applicant's Jurisdiction in a positive manner.

Subdivision (b)(3)(A) allocates three points to applicants demonstrating they waive or significantly reduce impact fees for residential development with units affordable to lower-income households. This subdivision also clarifies that such policies do not include fees associated with the provision of affordable housing to lower-income households and provides some illustrative examples including inclusionary in-lieu fees, affordable impact fees, and commercial linkage fees. This policy was determined to have a significant impact on accelerating housing production, greater than an intermediate impact, and was therefore given the maximum number of available points per activity. This policy is necessary and merits the maximum number of points because such waivers help confirm that the applicant is committed to the goal of promoting housing production by substantially offsetting project costs and providing additional incentives to developers of affordable housing. The department excluded the waiver or reduction of fees that support affordable housing for Lower-Income Households because these waivers or reductions could inhibit accelerating the production of this important type of housing.

Subdivision (b)(3)(B) allocates two points to applicants demonstrating they have adopted ordinances or implemented other mechanisms that result in less restrictive requirements than those necessitated in Government Code sections 65852.2 and 65852.22 that reduce barriers for property owners to create ADUs and JADUs. This subdivision provides some illustrative examples of such activities, including development standards improvements, permit processing improvements, dedicated ADU/JADU staff, technical assistance programs, and pre-approved ADU/JADU design

packages. In the Department's experience, such incentives have greatly expedited the approval and construction of ADUs and JADUs, an important housing type for lower and moderate-income households. This policy is necessary and assigned an intermediate positive impact on accelerating housing production, in that it had more of an effect than policies that only produce some positive impact. This policy merits an intermediate number of points because such incentives help confirm that the applicant is committed to the goal of promoting affordable housing production through various housing types, which includes ADUs and JADUs.

Subdivision (b)(3)(C) allocates one point to applicants demonstrating they have adopted other fee reduction strategies not identified in paragraph (3)(A) that address Housing for Persons with Special Needs and provides a few illustrative examples of such activities including fee deferrals and reduced fees. This subdivision also clarifies that these policies do not include fees associated with the provision of housing affordable to Lower-Income Households and provides some illustrative examples including inclusionary in-lieu fees, affordable impact fees, and commercial linkage fees. This policy is necessary and assigned one point because although these fee reduction strategies can accelerate housing production, they more specifically target one subset of a larger population that may already be captured in Subdivision (b)(3)(A). This subdivision focuses more specific populations that include persons with disabilities or persons experiencing homelessness. It is necessary to exclude fees that support the provision of housing affordable to Lower-Income Households because these fees support an important housing resource that could be impaired if these fees are reduced. It is also necessary to the provide illustrative examples to clarify the types of fees that support affordable housing for Lower-Income Households.

Subdivision (b)(3)(D) allocates one point to applicants demonstrating they have promoted innovative housing types and provides several illustrative examples including manufactured homes, recreational vehicles, park models, community ownership, and other forms of social housing that reduce development costs. This policy is necessary and assigned the value of one point because while promoting innovative housing types can accelerate the production of valuable sources of affordable housing, this policy is less commonly deployed and harder to implement it is necessary to provide the illustrative examples to clarify what types of innovative housing would warrant the award of one point while leaving Jurisdictions the flexibility the demonstrate that promoting similar types of innovative housing would also accelerate the production of housing.

Subdivision (b)(3)(E) allocates one point to applicants demonstrating they have taken measures to reduce costs for transportation-related infrastructure or programs that encourage active modes of transportation or other alternatives to automobiles. This subdivision provides several illustrative examples including publicly funded programs to expand sidewalks or protect bike/micro-mobility lanes, the creation of on-street parking for bikes, transit-related improvements, or the establishment of carshare programs. This policy is necessary and assigned one point because although such measures and programs reduce development costs by promoting alternative means of transportation that do not produce carbon emissions and reduce parking requirements related to residential housing, they are not as directly related to the goal of accelerating housing production as policies allocated more points. It is necessary to provide the illustrative examples to clarify the types of these transportation measures and programs that

warrant the award of one point while leaving Jurisdictions the flexibility to demonstrate that similar measures and programs would also warrant one point.

Subdivision (b)(3)(F) allocates one point to applicants demonstrating they have adopted universal design ordinances pursuant to Health and Safety Code section 17959. This policy is necessary and assigned one point because although such policies may result in more expedited permitting processes and decreased development costs, they are less commonly utilized and not as directly related to the goal of accelerating housing production as policies allocated more points.

Subdivision (b)(3)(G) allocates one point to applicants demonstrating they have established pre-approved or prototype plant for missing middle housing types in low-density, single-family residential areas. This subdivision also provides a few illustrative examples of such activities including duplexes, triplexes, and fourplexes. This policy is necessary and assigned the value of one point because although it may result in more expedited permitting processes and decreased development costs, it is less commonly utilized and not as directly related to the goal of accelerating housing production as policies allocated more points. It is necessary to provide the illustrative examples to clarify that duplexes, triplexes, and fourplexes are particularly effective at providing additional mid-level density housing, while leaving Jurisdictions the flexibility to demonstrate that similar practices promoting the production of similar types of housing would also warrant one point.

Subdivision (b)(3)(H) allocates one point to applicants demonstrating they have adopted ordinances that reduce barriers, beyond existing law, for the development of housing affordable to Lower-Income Households. This policy is necessary and assigned one point because although these ordinances may reduce costs for developers to construct affordable housing, ordinances that go beyond existing law generally only indirectly reduce costs for affordable housing production.

Subdivision (b)(3)(I) allocates one point to applicants demonstrating they have, through other actions not listed above, quantifiably reduced construction or development costs. This subdivision is necessary to allow applicants the flexibility to submit any other policies that they deem to be Prohousing eligible for the Department's consideration. The Department recognizes the variation in how Jurisdictions will approach Prohousing given their diversity in geographical, environmental, infrastructure, and other factors. (See, e.g., Gov. Code, § 65589.9 (instructing the Department to create criteria for the Program that consider how needs differ in different Jurisdictions).) While these policies may have a positive impact on accelerating housing production, the inability to quantify that impact in advance merits giving them one point instead of two or three points.

Subdivision (b)(4) outlines the scoring of policies that provide housing financial subsidies. Each policy is given an application point value of one or two points, depending on the impact the proposed or existing policy has on accelerating housing production in the State. If the Department determined that a policy has an intermediate impact on accelerating housing production in relation to other policies in the Subdivision, a policy is given a value of two points. If the Department determined that the financial subsidy has some positive impact on accelerating housing production but less than an intermediate impact, a policy is given a value of one point. The Department

determined different point values based on its experience in reviewing and analyzing successful examples of policies related to financial subsidies. The Department determined that these policies have less impact than some of the policies in the other three categories in this section, therefore the Department did not allocate more than two points to any policy that provides housing financial subsidies. This subdivision is necessary to outline the scoring process in greater detail and to ensure that the Department's scoring validation process is open and transparent. It is also necessary to ensure that applicants know how to score their applications before they submit them for review to the Department. It is also important to demonstrate that each policy listed in the application directly impacts the acceleration of housing production within the applicant's Jurisdiction in a positive manner.

Subdivision (b)(4)(A) allocates two points to applicants demonstrating they have established local housing trust funds or regional housing trust funds that include contributions from a Jurisdiction's own funding sources. In the Department's experience, the voluntary allocation of such funds through a Jurisdiction's own monetary contributions serves as an important source of funding for the development of affordable housing projects. Over time, these sources can accumulate substantial set aside funds that are solely dedicated to housing production. This policy was determined to have an intermediate positive impact on accelerating housing production, in that it had more of an effect than policies that only produce some positive impact. This policy merits an intermediate number of points because dedicated funding sources signal to the Department that the applicant is committed to the goal of promoting housing production and this policy also results in an applicant's direct ability to tangibly produce housing projects.

Subdivision (b)(4)(B) allocates two points to applicants demonstrating they have regularly utilized, or plan to utilize funding at the federal, state, and/or local level for the preservation of assisted units at-risk of conversion to market rate uses and conversion of market rate uses to units with affordability restrictions. This policy is necessary because applicants that are promoting housing affordability not only through new housing production but also through the preservation of at-risk housing stock, can help prevent the potential displacement of California residents from existing affordable housing, which complements the goal of producing new housing. Likewise, converting market rate uses to units with affordability restrictions can also increase the supply of affordable housing. This policy is assigned the value of two points because it has an intermediate positive impact on preserving affordable housing. This policy also merits an intermediate number of points because dedicated financial sources for the preservation of at-risk units helps confirm that the applicant is committed to protecting existing affordable housing stock from market-rate conversion, a complementary goal to the production of new housing units.

Subdivision (b)(4)(C) allocates two points to applicants demonstrating they provide grants or low-interest loans for ADU/JADU construction that is affordable to Lower- and Moderate-Income Households. This policy is necessary and assigned two points because ADUs/JADUs are increasingly becoming a significant type of affordable housing being produced to meet the housing needs of lower- and moderate-income households, and grants or low-interest loans that support this housing can accelerate its production. This policy was determined to have an intermediate positive impact on

accelerating housing production, in that it had more of an effect than policies that only produce some positive impact. This policy is necessary merits an intermediate number of points because it helps confirm that applicants are purposefully incentivizing affordable ADU/JADU construction.

Subdivision (b)(4)(D) allocates two points to applicants demonstrating they comply with the Surplus Land Act (Gov. Code, Section 54220 et seq.) and who make publicly owned land available for affordable housing, or for multifamily housing projects with the highest feasible percentage of units affordable for lower income households. This subdivision also clarifies that such policies may use funding mechanisms including land donations, land sales with significant write-downs, or below-market land leases. Based on the Department's experience, excess public land in possession by a Jurisdiction, is increasingly becoming a significant source of land to provide affordable housing that meets the needs of lower- and moderate-income households. This subdivision is necessary to encourage such use. This policy was determined to have an intermediate positive impact on accelerating housing production, in that it had more of an effect than policies that only produce some positive impact. This policy merits an intermediate number of points because applicants are demonstrating to the Department that they have identified and voluntarily allocated public lands suitable for residential development. It is also necessary to provide the illustrative examples of activities that would warrant the award of two points while leaving Jurisdictions the flexibility to demonstrate that they have engaged in similar activities that would also warrant two points.

Subdivision (b)(4)(E) allocates two points to applicants demonstrating they have established an Enhanced Infrastructure Financing District (EIFD) or similar local financing tool that directly supports housing developments in the area where at least 20 percent of the residences will be affordable to lower income households. EIFDs allow for a separate government entity to be created by cities or counties within a defined area to finance affordable housing and infrastructure projects with community-wide benefits. This entity has the authority to allocate property tax revenue generated within the designated EIFD boundary to be solely available for affordable housing to be generated within those boundaries. This policy was determined to have an intermediate positive impact on accelerating housing production, in that it had more of an effect than policies that only produce some positive impact. This policy is necessary and merits an intermediate number of points because through EIFDs or other similar financing tools, applicants are committing to long-term investment of areas with existing or planned housing that will benefit lower income households through additional infrastructure or affordable housing projects.

Subdivision (b)(4)(F) allocates two points to applicants demonstrating they have prioritized local general funds for housing affordable to Lower-Income Households. This subdivision is necessary to encourage such policies. This policy was determined to have an intermediate positive impact on accelerating housing production, in that it had more of an effect than policies that only produce some positive impact. This policy merits an intermediate number of points because applicants are demonstrating to the Department that they have identified and allocated funds specifically for the production of housing for Lower-Income Households and there is a high need for this housing.

Subdivision (b)(4)(G) allocates one point to applicants demonstrating they have directed residual redevelopment funds to affordable housing. This policy was determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This policy is necessary and assigned the value of one point because, based on the Department's experience, residual development funds, although potentially helpful sources of funding for affordable housing, are less available or utilized than other sources of funding.

Subdivision (b)(4)(H) allocates one point to applicants demonstrating they have developed and, at a minimum, utilized a housing pool, local or regional trust fund, or other similar funding source on a biennial basis sufficient to facilitate and support the development of housing affordable to lower-income households. This policy was determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This policy is necessary and assigned the value of one point because it helps confirm that applicants are allocating funds to a housing trust fund for affordable housing to Lower-Income Households, although not as frequently as, for example, on a quarterly or yearly basis.

Subdivision (b)(4)(I) allocates one point to applicants demonstrating they have prioritized local general funds for affordable housing and clarifies that this point shall not be awarded if the applicant earns two points pursuant to paragraph (4)(F). This policy was determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This policy is necessary and assigned the value of one point because applicants are demonstrating that they have set aside funds for affordable housing production from their General Fund, which although not dedicated funds for housing, are still viable sources of financing for housing projects. This policy is assigned a lower and alternative value than what is assigned for the prioritization of general funds for Lower-Income Households in paragraph (4)(G) because this policy applies to funds for all affordable housing, while paragraph (4)(G) applies more specifically to funds for Lower-Income Households, for which there is an even more severe shortage of housing in the State.

Subdivision (b)(4)(J) allocates one point to applicants demonstrating they have provided operating subsidies for permanent Supportive Housing, which is an important housing resource for persons with low incomes who have one or more disabilities. This policy was determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This policy is necessary and assigned the value of one point because applicants are demonstrating that they are, at a minimum, providing financing for operations costs associated with permanent Supportive Housing.

Subdivision (b)(4)(K) allocates one point to applicants demonstrating they have provided subsidies for housing affordable to extremely low-income households. This policy was determined to have a positive impact on accelerating housing production, but less of a beneficial impact on accelerating housing production than other policies that produce an intermediate positive impact. This policy is necessary and assigned the value of one point because applicants are demonstrating that they are prioritizing

housing for Extremely Low-Income Households by providing financial support for this housing.

Subdivision (b)(4)(L) allocates one point to applicants who have demonstrated in other ways not identified in Subdivisions (b)(4)(A) through (b)(4)(K) that they have promoted, developed, or leveraged financial resources for housing affordable to lower-income households. This subdivision is necessary to allow applicants the flexibility to submit any other policies that they deem to be Prohousing eligible for the Department's consideration. The Department recognizes the variation in how Jurisdictions will approach Prohousing given their diversity in geographical, environmental, infrastructure, and other factors. (See, e.g., Gov. Code, § 65589.9 (instructing the Department to create criteria for the Program that consider how needs differ in different Jurisdictions).) While these policies may have a positive impact on accelerating housing production, the inability to quantify that impact in advance merits giving them one point instead of two or three points.

Subdivision (c) authorizes the Department to use enhancement factors to increase an applicant's point score for the Prohousing Policies listed in its application. These enhancement factors are necessary because state law includes requirements and policies that complement the goal of accelerating housing production that must also be considered in assessing whether Jurisdictions' policies are Prohousing. These enhancement factors also facilitate the Legislature's stated goal of the Program's criteria being flexible enough to respond to Jurisdictions' different needs. (See, e.g., Gov Code, § 65589.9(a).) This subdivision also clarifies that an applicant may not apply more than one enhancement factor per individual Prohousing Policy and notes that such enhancements will consist of one or two points, depending on the beneficial impact that the policy has on increasing housing production. If the Department determines that an enhancement factor has an intermediate impact on accelerating housing production in relation to other policies in the Subdivision, a policy is assigned a value of two additional points. If the Department determines that an enhancement factor has some positive impact on accelerating housing production but less than an intermediate impact, a policy is given a value of one additional point. The Department determined different point values based on its experience in reviewing and analyzing successful examples of policies related to housing and land use. This section is necessary to outline the scoring process in greater detail and to ensure that the Department's scoring validation process is open and transparent. It is also necessary to ensure that applicants know how to score their applications before they submit them for review to the Department. It is also important to demonstrate that each policy listed in the application directly impacts the acceleration of housing production within the applicant's jurisdiction in a manner consistent with the laws and policies identified in subdivisions(c)(1)-(c)(8).

Subdivision (c)(1) allocates two additional points to policies that represent one element of a unified, multi-faceted strategy that promotes multiple planning objectives and provides examples of objectives that may be tied to housing including efficient land use, access to public transportation, housing affordable to lower-income households, and climate change or hazard mitigation solutions. These policies were determined to have an intermediate positive impact on accelerating housing production, in that they have more of an effect than policies that only produce some positive impact. This

enhancement factor is necessary and assigned the value of two points because holistic strategies that address housing, in conjunction with multiple issues including equity, climate change, and transportation, among others, result in healthier and more inclusive communities. For these reasons, and based on the Department's experience in affordable housing, such actions are highly complementary to the goal of increasing production.

Subdivision (c)(2) allocates one additional point to policies that promote development consistent with State Planning Priorities identified in Government Code section 65041.1. These policies were determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. Section 65041.1 identifies the state's planning priorities as actions that promote infill development and equity by rehabilitating and maintaining existing infrastructure, protecting agricultural, cultural, environmental, and historic resources, and encouraging efficient development patterns. This enhancement factor is necessary and assigned the value of one point because such actions have been demonstrated to enhance residents' quality of life based on the Department's experience in affordable housing and are complementary to the goal of increasing housing production.

Subdivision (c)(3) allocates one additional point to policies that diversify planning and target community and economic development investments that are either housing or non-housing related by focusing on place-based strategies for community revitalization and that promote equitable quality of life in lower opportunity areas. These policies were determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This enhancement factor is necessary and assigned the value of one point because placemaking strategies have been demonstrated to enhance residents' quality of life based on the Department's experience in affordable housing and are complementary to the goal of increasing housing production.

Subdivision (c)(4) allocates one additional point to policies that exceed state law requirements in reducing the displacement of lower income households and conserving existing housing stock that is affordable to lower income households. These policies were determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This enhancement factor is necessary and assigned the value of one point because such actions are complementary to the goal of increasing housing production. Based on the Department's experience in affordable housing, conserving this housing stock and reducing displacement of lower income households protects important housing that is in short supply and that can be difficult to replace once it is lost.

Subdivision (c)(5) allocates one additional point to rezoning and other policies that support the intensification of residential development in Location Efficient Communities. These policies were determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This enhancement factor is necessary and assigned the value of one point because based on the Department's experience in affordable housing, such actions result in more holistic approaches to planning and land use

intensification near services, decrease vehicle miles traveled, and promote public transit and walkability. Location Efficient Communities are characterized by current or future residential dwellings that have multiple transportation options for their residents, as well as short commutes to daily destinations, thereby improving job and housing relationships, and that mitigate impacts on or from Environmentally Sensitive or Hazardous Areas. Location Efficient Communities are an important way to ensure that Prohousing Policies are consistent with environmental policy goals. The Legislature has declared that Jurisdictions have the responsibility to consider "environmental factors," among others, in "addressing regional housing needs." (Gov. Code, § 65580(d); see also § 65041.1 (declaring that State Planning Priorities include, among other things, protecting and preserving environmental, agricultural, and natural resources, and promoting infill development served by transit.))

Subdivision (c)(6) allocates one additional point to rezoning and other policies that result in a net gain of housing capacity while concurrently mitigating development impacts on or from Environmentally Sensitive or Hazardous Areas. These policies were determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This enhancement factor is necessary and assigned the value of one point because the Department recognizes that mitigating residential development environmental impacts is complementary to the goal of increasing housing production.

Subdivision (c)(7) allocates one additional point to zoning policies such as inclusionary housing policies that increase housing choices and affordability, particularly for lower-income households, in High Resource and Highest Resource areas. This subdivision also notes that these areas are designated in the most recently updated TCAC/HCD Opportunity Maps. These policies were determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This enhancement factor is necessary and assigned the value of one point because based on the Department's experience in affordable housing, such policies may create more housing opportunities for lower-income households that are in close proximity to services and transportation, although they may only tangentially increase housing production.

Subdivision (c)(8) allocates one additional point to any other policies that involve meaningful actions towards Affirmatively Furthering Fair Housing, pursuant to Government Code sections 8899.50 and 65583(c)(5) and (c)(10). This subdivision also provides examples of meaningful actions, including outreach campaigns, updated zoning codes, and expanded access to financing support. These policies were determined to have a positive impact on accelerating housing production, but less of a beneficial impact than other policies that produce an intermediate positive impact. This enhancement factor is necessary and assigned the value of one point because affirmatively furthering fair housing is one of the basic requirements of a compliant Housing Element and based on the Department's experience in affordable housing, actions that further equity goals are complementary to the goal of increasing housing production. This enhancement factor also is necessary to reinforce to Jurisdictions that under Government Code section 8899.50, all their housing and community development programs must Affirmatively Further Fair Housing.

Section 6607. Monitoring and Revocation of Prohousing Designations.

The Department proposes to adopt Section 6607 to provide the process for conducting ongoing monitoring and enforcement actions, and issuing notices associated with monitoring and enforcement actions. This section is necessary to clarify to applicants the Department's monitoring and revocation procedures and standards. This section is also necessary as it enables the Department to promptly investigate and pursue corrective action against those Jurisdictions that have taken actions inconsistent with being designated as "Prohousing."

Subdivision (a) authorizes the Department to routinely monitor local Jurisdictions that have been awarded Prohousing Designations and to revoke their Designation as necessary. This provision is necessary to clarify to Jurisdictions that the Department may monitor their compliance with Program requirements on an ongoing basis, as opposed to a predetermined schedule, and that it may revoke a Prohousing Designation whenever it determines that a Jurisdiction has not complied with this subdivision's requirements.

Subdivision (a)(1) notifies Jurisdictions that through the procedures specified in paragraphs 2 through 8 the Department has the discretion to revoke their Designation for any one of the reasons detailed in subparagraphs (a)(1)(A) through (a)(1)(F). This is necessary to provide clarity to Jurisdictions about the criteria that the Department will apply in determining whether to revoke a Prohousing Determination. The Department selected these criteria based on its experience reviewing and analyzing policies that accelerate housing production and in determining these policies are consistent with complementary state laws and policies. This subdivision is also necessary to ensure that Jurisdictions abide by the commitments they made in their applications and continue to comply with state laws related to their Prohousing Designations.

Subdivision (a)(1)(A) notifies Jurisdictions that the Department may revoke their Prohousing Designations if they have failed to implement a proposed Prohousing Policy by the time specified in their applications. This subdivision is necessary to ensure that Jurisdictions understand that failing to complete actions by the dates promised in their application could be grounds for the Department to revoke their Prohousing Designation. This subdivision is also necessary to ensure that Jurisdictions abide by the commitments they made in their applications and are taking meaningful actions to accelerate housing production.

Subdivision (a)(1)(B) notifies Jurisdictions that the Department may also revoke their Prohousing Designations if they fail to facilitate the planning, approval, or construction of a variety of housing types. This subdivision provides some illustrative examples, including increasing zoned capacity for supply, facilitating affordability for all income levels, removing regulatory barriers to development, and streamlining approval and permitting processes. This subdivision is necessary to ensure that Jurisdictions understand that they must continue to take meaningful actions to accelerate the production of a variety of housing types after receiving their Prohousing Designations.

Subdivision (a)(1)(C) notifies Jurisdictions that the Department may also revoke their Designation if they fail to implement integrated planning and development that is

consistent with the State Planning Priorities identified in Government Code Section 65041.1 and/or the regional transportation plan adopted by the relevant transportation agency pursuant to Government Code Sections 65080 and 65080.01. This subsection is necessary to alert applicants that a failure to implement either of the two policies listed above may be grounds for revocation. This provision is also necessary to ensure that Jurisdictions follow through on actions they have promised to take in their application and that they continue to abide by these important legal obligations after receiving Prohousing Designations. This subdivision also confirms to Jurisdictions that they have the flexibility to implement these planning priorities through various actions and gives as an example actions that facilitate Location Efficient Communities. This is necessary to comply with the Legislature's mandate that the Department develop flexible Prohousing Policy criteria that respond to the different needs of different Jurisdictions. The Department selected Location Efficient Communities as an example of integrated planning and development because facilitating these communities is an important way to meet State Planning Priorities.
Subdivision (a)(1)(D) notifies Jurisdictions that the Department may also revoke their Prohousing Designation if they fail to meet their obligations to Affirmatively Further Fair Housing under Government Code Sections 8899.50 and 66583(c)(5) and (c)(10). This subdivision is necessary to ensure that jurisdictions are producing housing in a just and equitable way, and to ensure that they know their Prohousing Designation may be revoked if they do not. It is also necessary to confirm that this may be grounds for revocation because Government Code section 8899.50(b) requires all public agency programs relating to housing and community development to Affirmatively Further Fair Housing.

Subdivision (a)(1)(E) notifies Jurisdictions that the Department may also revoke their Prohousing Designation if the jurisdiction has failed to comply with state housing law, including, but not limited to, any of the laws specified in Section 6604. This subdivision is necessary to ensure that all applicants are aware they may lose their Prohousing Designation if they do not comply with state housing law and to ensure that Jurisdictions continue to abide by these laws after receiving their Designations.

Subdivision (a)(1)(F) notifies Jurisdictions that the Department may also revoke their Prohousing Designation if they fail to take action or take actions that are inconsistent with their Housing Elements, including failure to implement program actions pursuant to Government Code Section 65585(i). This subdivision is necessary to clarify for Jurisdictions that after receiving their Designations they must remain in compliance with their housing elements and take meaningful actions to implement the policies and programs they outlined in these documents. This subdivision is also necessary to clarify to Jurisdictions that the Department may revoke their Designations if they fail to meet a commitment that they made in their Housing Elements.

Subdivision (a)(2) authorizes the Department to receive and consider public comments, including complaints or comments related to violations of state housing law; failure to implement a proposed Prohousing Policy within the timeframe specified in the Jurisdiction's application for a Prohousing Designation; action that is inconsistent with the obligation to affirmatively further fair housing pursuant to Government Code sections 8899.50 and 66583(c)(5), (c)(10), or other action inconsistent with these regulations.

This subdivision is necessary as it creates transparency in government, encourages public participation in the Program, and provides a level of accountability between the Jurisdiction and its constituents. This subdivision also clarifies the broad grounds on which the public can submit complaints or comments, while alerting the public to specific laws that, in the Department's experience, the public has shown particular interest in.

Subdivisions (a)(3) through (a)(8) detail the procedures the Department will follow in determining whether to revoke a Prohousing Determination. These subdivisions are necessary to clarify these procedures for Jurisdictions and the public, inform them of the applicable deadlines, and set expectations within the Department for timely reviewing an already issued Prohousing Determination and deciding whether to revoke it.

Subdivision (a)(3) requires the Department to notify a Jurisdiction in writing within 30 days that it is reviewing a Prohousing Designation based on any reason specified in this Section. This subdivision is necessary to ensure that Jurisdictions receive notice that the Department is considering revoking their Prohousing Designation so that they have an early opportunity to respond. Issuing these notices makes the process fair to Jurisdictions, gives them an early opportunity to respond, and helps the Department gather evidence and information that may help it determine whether to revoke a Prohousing Designation. The Department determined that 30 days after commencing any review under this Section provided sufficient time for the Department to review complaints, comments, or other initial information that it has received and issue a notice, while balancing the need to expeditiously make revocation determinations with other Departmental demands and priorities.

Subdivision (a)(4) requires the Department to allow 30 calendar days for the jurisdiction to respond in writing to the Department's notice of review. This subdivision is necessary to ensure that Jurisdictions have the opportunity to respond before any revocation action is taken. The Department determined that 30 days provided adequate time for Jurisdictions to prepare responses to notices, while still allowing the revocation review process to proceed expeditiously. The Department also determined that allowing Jurisdictions to submit these initial responses would help inform the Department's preliminary findings regarding potential revocations. Requiring Jurisdictions to submit any response in writing ensures that the Department will have clear records of these responses.

Subdivision (a)(5) authorizes the Department to consider comments from and consult with any individual, entity, or public agency in the revocation review process. This subdivision is necessary to clarify to Jurisdictions and the public that the Department will not limit its review of a Prohousing Designation to initial complaints or comments, other information received before the notice was issued, or information submitted by Jurisdictions, but may gather information and evidence from other sources.

Subdivision (a)(6) requires the Department to issue its initial findings to a Jurisdiction within 60 calendar days of providing notice to the Jurisdiction that it is under investigation. It also requires the Department to allow 15 calendar days for a Jurisdiction to respond in writing. This subdivision is necessary to inform Jurisdictions and the public when to expect the Department to issue initial findings and to clarify that Jurisdictions

may respond to these initial findings before the Department makes a final determination. The Department determined that 60 days would provide sufficient time for it to make these initial findings and that this time period balanced the need to expeditiously issue these findings with other Departmental demands and priorities. The Department also determined that with Jurisdictions having already had 30 days to prepare responses to the notice of the revocation review, 15 days would provide sufficient time for them to review the Department's initial findings and respond to them. Requiring Jurisdictions to submit any response in writing ensures that the Department will have clear records of these responses.

Subdivision (a)(7) specifies that the Department shall issue its final determination on whether to revoke a Prohousing Designation within 60 calendar days from the deadline for the Jurisdiction's written response to the Department's preliminary findings. The Department determined that 60 days would provide sufficient time for it to make a final determination and that this time period balanced the need to expeditiously issue these findings with other Departmental demands and priorities. This provision is also necessary to clarify for Jurisdictions and the public when they can expect the Department to issue its final determination. This subdivision also clarifies to Jurisdictions and the public that the Department's final determinations are discretionary, which is necessary given that these determinations may involve balancing different legal requirements and policies relevant to Prohousing Determinations. This subdivision also clarifies that the Department has discretion to extend the deadlines in this revocation review process. This provision is necessary because at the time these regulations are issued, the Department cannot know, for example, how much information and evidence it may need to review in making a revocation determination or whether it might need additional time to obtain this information and evidence.

Subdivision (a)(8) authorizes jurisdictions with revoked Designation status to submit a new application for consideration once they have remedied the violations or problems identified by the Department in the final determination. This subdivision is necessary to establish a remedial process by which revoked Designation Jurisdictions have the opportunity to address the Department's concerns and reapply for Designation. This is necessary to encourage Jurisdictions to correct violations or problems and to adopt and implement Prohousing Policies.

Section 6608. Expiration of Prohousing Designations

The Department proposes to adopt Section 6608 to provide notification to Jurisdictions when Prohousing Designations expire and to provide the process for how Jurisdictions may renew their Designation. This section is necessary to clarify to Jurisdictions and the public that Prohousing Designations are not permanent, inform them how long Designations last, and clarify when Jurisdictions may reapply for a new Designations.

Subdivision (a) notifies applicants that a Prohousing Designation shall expire three years from the first day of the January that follows the date of designation and provides an illustrative example explaining that a designation issued on April 15, 2023, will remain in effect through December 31, 2026 and expire on January 1, 2027In contrast to allowing the Prohousing Designations to remain effective without expiring, the three-year period is necessary to create incentives for Jurisdictions to update their Prohousing

Policies to respond to changing conditions. This is also necessary to facilitate monitoring compliance with the Program's requirements because the option to apply for new Prohousing Designations creates opportunities and incentives for jurisdictions to reassess their compliance. The Department determined that three years is a sufficient timeframe for the Designation because it allows the Department enough time to assess a designated Jurisdiction's performance under Designation, while also allowing the Department to efficiently balance the demands of the Program with those of other programs that the Department administers. The Department also determined that starting the three-year period from the calendar year following the date of the Designation would create more orderly and efficient processes for the Department to review renewal applications at predetermined times. It is necessary to provide the illustrative example to ensure that there is no confusion about when Prohousing Designations expire and because an example like this makes it easier for Jurisdictions to understand when their Designations will expire.

Subdivision (b) notifies applicants that a jurisdiction that was previously awarded Prohousing Designation may apply again to renew their status no earlier than three months before its current Designation expires. This subdivision is necessary because Jurisdictions would not otherwise understand that they may reapply for a new Designation before their current one expires and would not understand when they may reapply. Setting a specific timeframe for reapplications is necessary to facilitate the Department efficiently reviewing them. The Department determined that three months is a sufficient timeframe to notify the public that a Jurisdiction is reapplying for a Prohousing Designation, while allowing the Department to efficiently balance the demands of reviewing these reapplications with other Departmental demands and priorities.

NON-DUPLICATION STANDARD [Title 1, California Code of Regulations, Section 12, Subdivision (b)(1)]

The proposed regulations duplicate state statutes which are cited as authority or reference for the proposed regulations. The duplication is necessary to satisfy the clarify standard of Government section 11349.1, subdivision (a)(3). Specifically, provisions in Sections 6600, 6601, 6604, 6605, 6606, and 6607 include language which repeat or rephrase in whole or in part state statutes for the purpose of helping applicants understand these regulations or the Department's authority to adopt the regulations.

BENEFITS ANTICIPATED FROM REGULATORY ACTION [Government Code Section 11346.2, Subdivision (b)(1)]

The benefits anticipated from this regulatory action include additional preference in scoring and application processing for a variety of state-funded grant programs. Pursuant to Government Code Section 65589.9(b)(1) to (b)(3), local public entities that achieve designation will receive preference for the following programs: Affordable Housing and Sustainable Communities grant, the Infill Infrastructure Grant, and the Transformative Climate Communities grant. In addition, pursuant to Government Code Section 65589.9(b)(4), the Department will consider other housing and non-housing funding sources to link to Prohousing Designation. The benefits of the Designation increase the likelihood of designated jurisdictions being awarded funds across multiple

sources to finance housing projects within their communities. Consequently, the Program could indirectly help increase the supply of housing across the State and accelerate housing production, as Jurisdictions are more easily able to secure financing, particularly for affordable housing projects.

POTENTIAL FOR ADVERSE ECONOMIC IMPACT ON BUSINESS AND INDIVIDUALS [Government Code Section 11346.3, Subdivision (a)]

The Department has determined that the proposed regulatory action likely will not have an adverse economic impact or potential for an adverse economic impact on individuals or on business, including the ability of California businesses to compete with businesses in other states. The Program is a statutorily mandated package that creates incentives in the form of additional points or other preference in the scoring of competitive housing, community development, and infrastructure programs for Jurisdictions with compliant Housing Elements and Prohousing Policies. Only local public entities may apply for Prohousing designations. Therefore, the Program will not have adverse economic impacts on businesses or individuals.

ECONOMIC IMPACT ASSESSMENT [Government Code Section 11346.3, Subdivision (b)]

- The Creation or Elimination of Jobs Within the State.

  The Department has determined this regulatory proposal likely will not have a significant impact on the creation or elimination of jobs in California. The Program is a statutorily mandated package that creates incentives in the form of additional points or other preference in the scoring of competitive housing, community development, and infrastructure programs for Jurisdictions with compliant Housing Elements and Prohousing Policies. Only local public entities can apply for Prohousing designations. Therefore, the Program will not result in the creation or elimination of jobs within the State.

- The Creation of New Businesses or the Elimination of Existing Businesses Within the State.

  The Department has determined this regulatory proposal will likely not have an impact on the creation of new businesses or the elimination of existing businesses in California. The Program is a statutorily mandated package that creates incentives in the form of additional points or other preference in the scoring of competitive housing, community development, and infrastructure programs for Jurisdictions with compliant Housing Elements and Prohousing Policies. Only local public entities are can apply for Prohousing Designations. Therefore, the Program will not result in the creation new businesses or elimination of existing business withing the State.

- The Expansion of Businesses Currently Doing Business Within the State.

  The Department has determined this regulatory proposal likely will not result in the expansion of business currently doing business within the state. The regulatory proposal does not provide economic or other incentives to create jobs or expand

business. The Program is a statutorily mandated package that creates incentives in the form of additional points or other preference in the scoring of competitive housing, community development, and infrastructure programs for Jurisdictions with compliant Housing Elements and Prohousing Policies. Only local public entities may apply for Prohousing designations. Therefore, the program will not have result in the expansion of businesses currently doing business within the State.

- The Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment.

  The Department has determined this regulatory proposal likely will not have a direct, beneficial impact on the health and safety of California's residents, worker safety, or the State's environment. The Program is a statutorily mandated package that creates incentives in the form of additional points or other preference in the scoring of competitive housing, community development, and infrastructure programs for Jurisdictions with compliant Housing Elements and Prohousing Policies. Only local public entities are can apply for Prohousing designations. Jurisdictions may choose whether or not to participate in the Program. The proposed regulations do not require Jurisdictions to take specific actions and do not determine how the Department will award funds to Jurisdictions designated as Prohousing. Therefore, this regulatory proposal will not have direct impacts on the health and welfare of California residents, worker safety, or the State's environment.

  Indirectly, the benefits of this regulatory action could include encouraging Jurisdictions to implement policies that accelerate housing production and preserve existing affordable housing equitably and sustainably throughout their communities pursuant to Government Code 65589.9. This could indirectly benefit the health and welfare of California residents and the State's environment.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS [Government Code Section 11346.2, Subdivision (b)(3)

In proposing the adoption of these regulations, the Department relied on the following technical document:

- California Water Boards State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (adopted April 2, 2019, revised April 6, 2021).

REASONABLE ALTERNATIVES AND REASONS FOR REJECTING THOSE ALTERNATIVES [Government Code Section 11346.2, Subdivision (b)(4)(A)

No reasonable alternatives to the regulations have been identified or brought to the Department's attention that would be more effective in carrying out the purpose for which the action is proposed; as effective and less burdensome to program applicants; or more cost-effective to program applicants, and equally effective in implementing the Program than the proposed rules described in this Initial Statement of Reasons.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES AND REASONS FOR REJECTING THOSE ALTERNATIVES [Government Code Section 11346.2, Subdivision (b)(4)(B)]

Because this is a program for public jurisdictions to apply for Prohousing designations, the department has not identified any potential adverse impacts on small businesses, and no one has notified the department of any adverse impacts on small businesses. Therefore, no reasonable alternative considered by the Department, or that have otherwise been identified and brought to the attention of the Department would have any different impacts on small businesses.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY OR OTHER EVIDENCE RELIED ON BY AGENCY [Government Code Section 11346.2, Subdivision (b)(5)(A)]

The Department has determined that this proposed regulatory action will not have a significant adverse impact on business. The Department made this determination based the fact that the proposed regulations only establish a process for local public entities to apply for Prohousing Designations. A process like this for public entities will not have a significant adverse economic impact on business.