



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 8. OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

**General Industry Safety Orders
Sections 6052, 6056, 6056.1 (New), 6057, 6060,
and 6062**

Commercial Diving Operations (HORCHER)

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

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **August 17, 2017** in the **Council Chambers, Room S249 of the Pasadena City Hall, 100 North Garfield Avenue, Pasadena, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on **June 30, 2017**, and closes at 5:00 p.m. on **August 17, 2017**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

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

By fax at (916) 274-5743; or
By e-mail sent to oshb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards.

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) intends to adopt the proposed rulemaking action pursuant to Labor Code Section 142.3, which mandates the Board to adopt regulations at least as effective as federal regulations addressing occupational safety and health issues.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated regulations addressing commercial diving, as 29 Code of Federal Regulations, Part 1910, Sections 1910.410, 1910.420, 1910.421, 1910.422, 1910.423, 1910.424, 1910.425, and 1910.430. Although the federal (and corresponding California) regulations covering commercial diving have been in effect for years, a complaint filed by the Association of Diving Contractors International claimed that in several specific instances California's regulations are not as protective as OSHA's regulations. The Board is relying on the explanation of the provisions of the federal regulations in an email from OSHA dated November 26, 2014 with the subject "FW: California Diving Standards vs CFRs", as the justification for the Board's proposed rulemaking action. Federal diving regulations were issued on July 22, 1977, in Federal Register, Volume 42, No. 141, pages 37650–37674. The Board proposes to adopt regulations that are the same as the federal regulations, except for editorial and format differences.

Federal commercial diving regulations govern health and safety practices in diving and related support operations conducted in connection with all types of work and employment, including general industry, construction, ship repairing, shipbuilding, shipbreaking and longshoring. Federal representatives requested the Board to adopt language commensurate with federal commercial diving regulations in several instances where it deems that California diving regulations are not as protective as the corresponding federal regulations. The proposed changes will bring California regulations into conformity with federal regulations regarding workplace safety and health in diving operations.

The proposed regulations are substantially the same as those promulgated by Federal OSHA; therefore, La-

bor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code when adopting standards substantially the same as a federal standard. However, the Board is still providing a comment period and will convene a public hearing. The primary purposes of the written and oral comments at the public hearing are to:

1. Identify any clear and compelling reasons for California to deviate from the federal standard; and,
2. Identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking;

The responses to comments will be available in a rulemaking file on this matter and will be limited to the above areas.

Some of the changes requested by federal OSHA are unable to be completed using the expedited HORCHER process. In such cases, Board staff will prepare rulemaking documents in accordance with the Administrative Procedure Act to be noticed at a future date.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations are provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

DOCUMENTS RELIED UPON

1. Federal Register, Vol. 42, No. 141, pp. 37669–37672, July 22, 1977.
2. Email from David Shiraishi sent on November 26, 2014 to Marley Hart with the subject “FW: California Diving Standards vs CFRs”.
3. Excel file attachment to the above email, entitled “Copy of Cal vs OSHA — Diving Standards”.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

This rulemaking proposal imposes no costs beyond those of the subject federal regulations with which it conforms.

According to the July 22, 1977 Federal Register, the cost impact of the new federal regulation was “an annualized yearly cost of \$22 million for the entire industry.” The Federal Register explains that the estimate is “intentionally biased on the high side because it did not take into account a report by a major contractor that there would be no significant economic impact.” Using online inflation calculators, \$22 million in 1977 is equivalent to about \$91 million in 2017. The US Bureau of Economic Analysis (www.bea.gov) indicates that California’s Gross Domestic Product (GDP) in the industries, of “Support activities for mining” and “Miscellaneous professional, scientific, and technical services¹” account for almost 20% of the national GDP. The Board, therefore, estimates that the cost impact on California businesses is in the range of zero to \$18 million, though the actual number is expected to be on the lower end of the range.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment may affect small businesses; however, any economic impact is expected to be minor.

CONTACT PERSONS

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

¹ An internet search using the search term “commercial diving NAICS” produced results that listed the following NAICS codes: 561990 — “Other support services”, 213112 — “Support Activities for Oil and Gas Operations”, and 5419003 — “All Other Professional Scientific/Technical Services.”

**AVAILABILITY OF TEXT OF THE PROPOSED
REGULATIONS AND RULEMAKING FILE**

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulation available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

**AVAILABILITY OF THE MEMORANDUM TO
THE STANDARDS BOARD MEMBERS**

Upon its completion, copies of the Memorandum may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

**AVAILABILITY OF DOCUMENTS ON
THE INTERNET**

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulation in an underline/strikeout format and the Notice of Proposed Action can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshb>.

**TITLE 14. BOARD OF FORESTRY
AND FIRE PROTECTION**

**“Cumulative Impacts Assessment Checklist,
Technical Rule Addendum No. 2 and Appendix
Amendments, 2017”**

**Title 14 of the California Code of Regulations
(14 CCR),
Division 1.5, Chapter 4:
Subchapter 4, 5, & 6, Article 2
Amend: § 912.9, 932.9, 952.9**

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board will hold a public hearing on August 23, 2017 at its regularly scheduled meeting commencing at 9:00 a.m. in the Natural Resources Building Auditorium, 1416 9th Street, Sacramento, CA. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m. on August 14, 2017.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244–2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506–14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653–0989

Written comments may also be delivered via e-mail at the following address:

publiccomments@BOF.ca.gov

AUTHORITY AND REFERENCE
(pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14)

14 CCR §§ 1666.0 to 1666.16 Note: Authority cited: Sections 4551, 4551.5, 4553, 4562, 4562.5, 4562.7, and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4526, 4551.5, 4562, 4562.5, 4582.5, 5093.50, 21000(g), 21001(f), 21002, 21080.4, 21080.5, Public Resources Code. Section 100, Water Code; Section 5650c, Fish and Game Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**
(pursuant to 11346.5(a)(3)(A)–(D))

The regulation of timber harvesting operations by the California Department of Forestry and Fire Protection (CAL FIRE) and the State Board of Forestry and Fire Protection (Board) are certified programs by the Secretary for Resources as meeting the requirements of the California Environmental Quality Act (CEQA, PRC §21000, *et seq.*) process under Public Resource Code (PRC) §21080.5. Timber harvesting plans are considered “functionally equivalent” to an Environmental Impact Report otherwise required under CEQA for projects that could potentially have significant effects on the environment. CEQA requires project submitters to disclose potential significant impacts to reviewing agencies and the public, and to provide mitigation mea-

sures to prevent significant, avoidable environmental damage.

Under PRC § 21080.5(d)(1)(i) & (ii), rulemaking and planning pursuant to the Z’berg–Nejedly Forest Practice Act of 1973 (FPA, PRC § 4511, *et seq.*) are exempted from the requirement to prepare an EIR due to their certification as to meeting certain criteria designed to ensure that the essential standards of CEQA are met, including “. . . protection of the environment among its principal purposes” and that it “. . . contains authority for the administering agency to adopt rules and regulations for the protection of the environment . . .”

Pursuant to the Z’berg–Nejedly Forest Practice Act of 1973 (FPA, PRC § 4511, *et seq.*), the Board is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands; and through PRC § 740 “. . . shall determine, establish and maintain an adequate forest policy. General policies for guidance of the department shall be determined by the Board.”

PRC § 4551 requires the Board to “adopt district forest practice rules . . . to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources . . .” and PRC § 4553 requires the Board to continuously review and revise the rules in consultation with other interests.

To accomplish the basic framework and requirements of CEQA, in 1991 the Board adopted 14 CCR § 912.9, 932.9, & 952.9 and Technical Rule Addendum No. 2 which assessed cumulative environmental impacts of Timber Harvesting Plans (THPs) and introduced cumulative impact assessment to Plan development and review.

The California Global Warming Solutions Act of 2006 (Assembly Bill (AB) 32), established requirements for a comprehensive program to reduce Greenhouse Gas (GHG) emissions. It requires state agencies to adopt regulations and other requirements that will reduce statewide GHG emission levels to year 1990 levels by 2020 and to maintain and further continue reductions beyond 2020.

In 2007 the California legislature passed Senate Bill (SB) 97, which recognized the need to analyze GHG emissions as part of the CEQA process. As a result of SB 97, CEQA guidelines were updated to include 14 CCR § 15064.4, which requires a lead agency “. . . to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project.”

Additionally, in 2012 the California legislature passed SB 1241, which identified the need to assess fire hazard impacts within the CEQA review process via the initial study checklist (PRC § 21083.01(a)).

The problem is the cumulative impacts of both GHG emissions and wildfire risks and hazards should be as-

sessed to fully address the potential environmental impacts of a Plan and remain compliant with the provisions of CEQA (14 CCR § 15064.4 and PRC § 21083.01(a)), but currently there is no regulatory requirement within the FPRs by which to do so. Additionally, the Appendix of 14 CCR §§ 912.9, 932.9, and 952.9 should be considered as a guidance document, but is currently regulatory in nature.

The purpose of this proposed action is to align the impact analysis within the FPRs and current CEQA guidelines.

Pursuant to the APA, no state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a “regulation”. “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure. The problem was existing language that was unclear regarding what was enforceable and what was guidance. The purpose of the proposed action is to identify the Technical Rule Addendum No. 2 Appendix as a guidance document of general application for the preparation of cumulative impact analyses. Therefore, the proposed action amends the Technical Rule Addendum No. 2 Appendix to make explicit its function as a guidance document within the regulator scheme of the Forest Practice Rule (FPRs), as well as to make the FPRs clear, accurate and consistent with other regulatory provisions.

The effect of this proposed action is to provide a regulatory requirement for the assessment of cumulative impacts related to GHG emissions and wildfire risks and hazards within the Plan process. The proposed action will also add technical clarity and accuracy to existing regulation of impact analysis and make explicit the guidance function of the existing Appendix of 14 CCR §§ 912.9, 932.9, and 952.9.

The primary benefit of the proposed action is a clear and standardized Plan preparation and review process that provides transparency to both the Director of CAL FIRE (Director) and the general public. Additionally, the proposed action will align the existing environmental policy, statutes, and regulations of California, notably with 14 CCR § 15064.4 and PRC § 21083.01(a). Alignment with these policies and statutes, which are intended to minimize environmental impacts, will result in improvements to environmental quality throughout the state. Furthermore, the amendment of the Appendix of 14 CCR §§ 912.9, 932.9, and 952.9 will allow Plan preparers to rely on more performance-based standards for the analysis of cumulative impacts and pro-

vide relief from current perceived prescriptive-based standards of the Appendix.

This proposed action is a nearly three-year collaborative effort, involving input from CAL FIRE, Department of Fish and Wildlife, California Geologic Survey as well as the regulated public, and is the third regulatory effort to replace the Threatened and Impaired Rules following the Board’s adoption of the 2009 Anadromous Salmonid Protection (ASP) and 2013 Road Rules.

There is no comparable federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. Board staff assessed existing State regulations related to cumulative impact analysis and found no existing State regulations that meet the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

No documents are incorporated by reference.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed action is not mandated by federal law or regulations.

The proposed action neither conflicts with, nor duplicates Federal regulations.

There are no comparable Federal regulations related to the system of forest practice applicable to timber management on state and private timberlands developed pursuant to the FPA and regarding the existing system of cumulative impact analysis of GHG and wildfire risk and hazard. No existing Federal regulations that meet the same purpose as the proposed action were identified.

OTHER STATUTORY REQUIREMENTS (pursuant to GOV § 11346.5(a)(4))

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

LOCAL MANDATE (pursuant to GOV § 11346.5(a)(5)).

The proposed action does impose a mandate on local agencies or school districts.

FISCAL IMPACT
(pursuant to GOV § 11346.5(a)(6))

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings to any state agency.

The proposed action will not result in costs or savings in federal funding to the State.

HOUSING COSTS
(pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE
(pursuant to GOV §§ 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Pursuant to **GOV §11346.5(a)(8)**, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support this initial determination:

This initial determination is based on contemplation by the Board of the economic impact of the provisions of the proposed action, incorporating the Board's experience and knowledge of developing regulation regarding cumulative impact analysis.

STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)–(D)**. The proposed action:

- (A) will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses within California;
- (B) will not eliminate existing businesses within California;
- (C) will not affect the expansion or contraction of businesses currently doing business within California.
- (D) will yield nonmonetary benefits. For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the Informative Digest/Policy Statement Overview.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS
(pursuant to GOV § 11346.5(a)(9))

The Board is aware of no cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This initial determination is based on the same record facts, evidence, documents, testimony, or other evidence as listed as the basis for the Significant Statewide Adverse Economic Impact.

BUSINESS REPORT
(pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement on business.

SMALL BUSINESS
(pursuant to 1 CCR 4(a) and (b))

Small business, within the meaning of GOV § 11342.610, are not expected to be affected by the proposed action.

Small business:

- (1) Is legally required to comply with the regulation to the extent that a representative private person hires a small business for implementation;
- (2) Is not legally required to enforce the regulation;
- (3) Does derive a benefit from the enforcement of the regulation by being hired for implementation;
- (4) May incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

ALTERNATIVES INFORMATION

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it

considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9633

The designated backup person in the event Mr. Eric Hedge is not available is Mr. Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Matt Dias may be contacted at the above address or by phone at (916) 653-8007.

AVAILABILITY STATEMENTS (pursuant to GOV § 11346.5(a)(16))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and STRIKETHROUGH to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to GOV § 11346.5(b) and GOV § 11346.2(a)).

4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board web site at: http://bodata.fire.ca.gov/regulations/proposed_rule_packages/

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Section 3600 of the California Code of Regulations, Title 15, concerning searches of parolees.

PUBLIC HEARING

Date and Time: **August 18, 2017 — 10:00 a.m. to 11:00 a.m.**

Place: California Department of Corrections and Rehabilitation
Kern/Colorado Room
1515 S Street, North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close **August 18, 2017, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283–0001; by fax at (916) 324–6075; or e-mail at rpbm@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Associate Director
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 94283–0001
Telephone (916) 445–2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**J. Struckmann
Regulation and Policy Management Branch
Telephone (916) 445–2276**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Roger Gold
Division of Adult Parole Operations
Telephone (916) 324–3253**

AUTHORITY AND REFERENCE

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in

this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Current regulations in Section 3600, Searches of Parolees, require CDCR staff to document all property seized as evidence during a search on a CDCR Form 1136, Evidence Report and Inventory Receipt. This revision incorporates by reference CDCR Form 1136 (Rev. 02/17), Evidence/Property Report and Inventory Receipt, adding the word “Property” to the title to reflect the practice of taking and holding of personal property found during a parolee search and held by the Division of Adult Parole Operations (DAPO) until the parolee or citizen is able to claim it.

Current regulations in Section 3600 specifies that when there is property damage due to forced entry during a search of a parolee, the parole office is required to provide the owner of the property a claim form to recover costs from the State of California. This revision removes the California Victim Compensation and Government Claims Board, and adds the Department of General Services (DGS) as the agency responsible for processing claims against the State, and incorporates by reference DGS ORIM Form 06 (Rev. 05/2016), Government Claim Form. Language is also added to broaden the potential recipients of the claim form from strictly the property owner or landlord to include a representative of the owner, such as a property manager.

This action will:

- Update CDCR Form 1136 (Rev. 02/17) Evidence/Property Report and Inventory Receipt.
- Include owner’s representative as a recipient of the claim form DGS ORIM 06 (Rev. 05/2016), Government Claim Form.
- Remove references to Victim Compensation and Government Claims Board.
- Add references to the DOS, and provides a copy of the DGS claim form with the proposed regulation.

FORMS INCORPORATED BY REFERENCE

CDCR Form 1136 (Rev. 02/17), Evidence/Property Report and Inventory Receipt.

DGS ORIM 06 (Rev. 05/2017), Government Claim Filing Instructions (pages 1–3) and DGS ORIM 06 (Rev. 05/2016), Government Claim Form (pages 4–5).

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The Department has determined the proposed regulatory action will increase the openness and transparency between the department and the public by making the claim form more readily available to property owners, as well as expanding the recipients of the form, which makes it easier for the property owners to obtain a copy if he or she is not available.

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

In developing the proposed regulations, the Department researched existing statutes and concluded that the proposed regulations are not inconsistent or incompatible with existing State laws or regulations.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Part 7 (Section 17561) of Division 4.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Cost to any local agency or school district that is required to be reimbursed: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the State: *None.*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations make technical changes to parole procedures only and place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business. The proposed regulations make technical changes to parole procedures only.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

The Department has determined that the proposed regulations will have no effect on worker safety or the state's environment.

As stated under SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS above, the benefit to the welfare of California residents is the public is more easily able to obtain a claim form for damaged property by widening the recipients to include the property owner's representatives.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private per-

sons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 PROPOSITION 65

PROPOSED AMENDMENTS TO TITLE 27, CALIFORNIA CODE OF REGULATIONS SECTION 27000

CHEMICALS REQUIRED BY STATE OR FEDERAL LAW TO HAVE BEEN TESTED FOR POTENTIAL TO CAUSE CANCER OR REPRODUCTIVE TOXICITY, BUT WHICH HAVE NOT BEEN ADEQUATELY TESTED AS REQUIRED

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes amendments to Section 27000 of Title 27 of the California Code of Regulations¹ to update this regulation and incorporate 2016 amendments to the federal Toxic Substances Control Act.

PUBLIC PROCEEDINGS

Any written comments concerning this proposed action, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on August 14, 2017, the designated close of the written comment period. All comments received will be posted on the OEHHA website at the close of the public comment period.

We encourage you to submit comments in electronic form, rather than in paper form. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below. Hard-copy comments may be mailed, faxed, or delivered in person to the appropriate address below.

¹ All further statutory references are to the sections of Title 27, Cal. Code of Regs., unless otherwise indicated.

Mailing Address: Ms. Monet Vela
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-23B
Sacramento, California 95812-4010
Fax: (916) 323-2610

Street Address: 1001 I Street
Sacramento, California 95814

Please be aware that OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. Comments on all regulatory and other actions are routinely posted on our website. By sending us your comments you are waiving any right to privacy you may have in the information you provide. Individual commenters should advise OEHHA when submitting documents to request redaction of home address or personal telephone numbers. Names of commenters will not be redacted.

A public hearing on this proposed regulatory amendment will be scheduled on request. To request a hearing send an e-mail to Monet Vela at monet.vela@oehha.ca.gov or to the address listed above by no later than **July 31, 2017**, which is 15 days before the close of the comment period. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and location of the hearing.

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or monet.vela@oehha.ca.gov at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Fran Kammerer, in writing at the address given above, or via e-mail to fran.kammerer@oehha.ca.gov. Monet Vela will be a back-up contact. She can be contacted at monet.vela@oehha.ca.gov or (916) 323-2517.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposition 65 prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning to such individual². The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water³. Warnings are not required and the discharge prohibition does not apply when exposures are insignificant⁴. Proposition 65 also provides that a list must be published annually of chemicals that are required by state or federal law to be tested for carcinogenicity or reproductive toxicity, but have been deemed to need further testing⁵. Title 27, California Code of Regulations, section 27000 is the regulation adopted by OEHHA to implement this requirement. These proposed amendments clarify portions of section 27000, but most importantly, update this section to include references to recently renumbered sections of the federal Toxic Substances Control Act.

Further details on the basis for the proposed amendments to Section 27000 are provided in the Initial Statement of Reasons for these regulatory amendments, which is available on request from Monet Vela and is posted on the OEHHA web site at www.oehha.ca.gov.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposed update of this regulation will benefit the protection of public health and safety of the public by providing current information and correct citations to federal authorities in this regulation.

NO INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING REGULATIONS

OEHHA has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area,

² Health and Safety Code section 25249.6.

³ Health and Safety Code section 25249.5.

⁴ Health and Safety Code sections 25249.9 and 25249.10.

⁵ Health and Safety Code section 25249.8(c).

OEHHA has concluded that these are the only regulations that concern Proposition 65 and proposed amendments to Section 27000 in California. Moreover, the proposed regulations do not address compliance with any other law or regulations or impose any mandatory requirements on businesses state or local agencies.

LOCAL MANDATE/FISCAL IMPACT

The proposed amendments are updates and clarifications of the existing regulation; therefore, OEHHA has determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

The proposed amendments are updates and clarifications of the existing regulation; therefore, OEHHA has determined that no other savings or increased costs to any other State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

Because Proposition 65 expressly⁶ does not apply to any federal agency, and no federal funding is involved in the implementation of Proposition 65, OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

Because the proposed regulatory amendments do not impose any mandatory requirements on businesses subject to the Act, OEHHA has made an initial determination that these amendments will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ANALYSIS (Gov. Code section 11346.3(b))

Impact on the Creation, Elimination, or Expansion of Jobs/Businesses in California

This regulatory proposal will not affect the creation or elimination of jobs or businesses within the State of California, nor will it impact the expansion of existing businesses in the State. Proposition 65 requires businesses with ten or more employees to provide warnings when they expose people to chemicals that are known to cause cancer or reproductive harm. The law also prohibits the discharge of listed chemicals into sources of drinking water. The proposed amendments are simply updates and clarifications of an existing regulation which benefits the health and welfare of California residents.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed amendments will not impose any mandatory requirements on small businesses, they simply clarify and update the existing regulation.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, which contains the text (express terms) of the regulation, and all the information upon which the regulation

⁶ See Health and Safety Code section 25249.11(b).

is based (rulemaking file). A copy of the Initial Statement of Reasons and the text of the regulation, as well as the complete rulemaking file, are available upon request from OEHHA at the address, e-mail address and telephone number indicated above. These documents are also posted on OEHHA's website at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted written comments at the public hearing, if held, or whose comments were received by OEHHA during the public comment period, and anyone who requests notification from OEHHA of the availability of such changes. Copies of the notice and the changed regulation will also be available on the OEHHA website at www.oehha.ca.gov.

AVAILABILITY OF FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA at the address, e-mail address and telephone number indicated above, and on the OEHHA website at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NO. 2080-2017-005-02

Project: Oroville Wildlife Area Flood Stage Reduction Project

Location: Butte County

Applicant: Sutter Butte Flood Control Agency

Notifier: Monique Briard, Project Manager,
ICF International

BACKGROUND

Sutter-Butte Flood Control Agency (Applicant) proposes to improve the connectivity of the Feather River to its historic floodplain, reduce flood stages within the main channel, provide more frequently inundated floodplain rearing habitat for juvenile salmonids, and reduce the extent of invasive plant species within the Oroville Wildlife Area Unit-D (OWA). The proposed Project is located within the OWA and the Feather River floodplain, in Butte County, Latitude 38°37' 39.54" N, Longitude -121°03' 57.89" W.

The Oroville Wildlife Area Flood Stage Reduction Project (Project) includes the following activities:

- **Construction of a new 400-foot-long rock gabion inflow weir** at the northeast end of the Project area. The new weir will convey approximately 12,000 cubic-feet per second during a 200-year flood event. Applicant will degrade the existing berm to an elevation of 130 feet above the North American Vertical Datum of 1988, then install gabion baskets and mattresses over the top and along the landside slope of the weir extending 50 feet past the landside toe of the berm. Applicant will construct a new access road and two new ramps on the landside of the weir using onsite fill material. Rock slope protection (RSP) will be placed at either side of the weir.
- **Construction of a notch connection through the existing berm** to connect the Feather River to the interior of the OWA so that it reconnects the river to its historical floodplain. The new connection will be a box culvert, or series of box culverts, with sluice gate(s) designed to allow backwater from the Feather River to enter the OWA and provide a route for fish. Applicant will complete grading to remove a portion of the existing berm. Applicant will construct temporary cofferdams and dewater the construction area. Applicant will prefabricate box culverts and lift them into place, and subsequently construct wing walls. Grading in the river will be required to facilitate the construction of the new permanent notch connection and create a new channel that connects the Feather River to the interior of the OWA.
- **Outflow Weir Flood Control Improvement.** Applicant will place RSP along the northern and southern sides of the existing sheet pile wall. The RSP will be keyed into existing grade and will match elevations of the tops of existing sheet pile walls. Applicant will construct a concrete access road at grade and may use gabion mattresses or cobbles from within the OWA.

- **Construction of Fish Barrier Berm.** Applicant will construct a 3,000 linear feet berm along the north side of Pit 2 pond to prevent fish access into Pit 2 pond. The berm will be constructed with a 12-foot-wide crown and side slopes ranging from three horizontal to one vertical (3H:1V) to 5H:1V, using borrowed material obtained from within the OWA.
 - **Channel Grading Improvements.** Applicant will improve approximately 7,500 linear feet of existing channels in the interior of the OWA that are isolated from the Feather River. The grading will provide connectivity between existing isolated ponds to the OWA interior channel system. Grading will include removal of existing high berms along either side of the channels and flattening of channel slopes. A portion of berms will be left intact to provide upland refugia during flood events.
 - **Improvement of Interior Road Crossings.** Applicant will construct temporary culverts, berm improvements, and a concrete road crossing. Applicant will install temporary culverts along the existing access at the southwest of the OWA and within the construction area to facilitate vehicular access.
 - **Regrading of Public Parking Areas.** Applicant will regrade two existing parking areas and place approximately 350 linear feet of three-foot-diameter boulders within each parking area to act as a vehicular barrier.
 - **Installation of Portable Restroom Concrete Pad.** Applicant will install a new portable restroom concrete slab at the northwest parking site. The pad will be constructed at existing grade, and will include tie downs for the portable restrooms.
 - **Construction of Recreational Footbridges/ Emergency Vehicle Access Bridge.** Applicant will construct two manufactured weathering steel truss bridges. Both bridges will span the channels to avoid in-water work. The vehicle bridge will be a cast-in-place or a precast/pre-stressed slab bridge and a steel girder with concrete deck. Applicant will excavate bridge footings, construct forms, place concrete, then construct the bridges.
 - **Grading of Terrain to Improve Feather River Access.** Applicant will regrade the existing two river access areas to reduce the slope of these areas as they lead toward the Feather River.
 - **Invasive Species Removal.** Applicant will cut and remove approximately 500 acres of invasive water primrose and approximately 200 acres of other invasive plant species, by hand or by machine (i.e., backhoes, excavators, and brush hogs). Applicant will use machines in large areas with mature plants where hand removal is infeasible. In areas of large infestations of water primrose, Applicant will use a long-armed excavator to remove water primrose from channels and pile biomass in upland areas to desiccate and decompose. Biomass may also be hauled offsite to a commercial disposal facility. Applicant will conduct removal of water primrose concurrently with interior channel grading improvements. Mechanical removal of water primrose will occur during the first year only.
 - **Planting of Native Riparian Vegetation.** Applicant will plant approximately 70.86 acres of riparian woodland and riparian scrub plantings and 48.51 acres of gravel understory plantings on the western and eastern margins of the construction area, and about 32 acres of riparian scrub and wetland vegetation along the Pit 2 pond and interior channels.
- The Project activities described above are expected to incidentally take¹ giant garter snake (*Thamnophis gigas*) (GGS) where those activities take place within the OWA. In particular, GGS could be incidentally taken as a result of the construction activities including, but not limited to, clearing and grubbing, grading, installation of RSP, excavating, soil compaction, water diversions, and culvert construction. GGS is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(E).)
- GGS individuals are documented as present 0.25 mile from the Project site and there is suitable GGS habitat within and adjacent to the Project site. Because of the proximity of the nearest documented GGS, dispersal patterns of GGS, and the presence of suitable GGS habitat within the Project site, the United States

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’ . . . means to catch, capture or kill”).

Fish & Wildlife Service (Service) determined that GGS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of GGS.

According to the Service, the Project will result in the temporary loss of 40.42 acres of aquatic GGS habitat and 10.04 acres of upland GGS habitat, totaling 50.46 acres of temporary habitat loss. Construction of the Project will also result in the permanent loss of 2.35 acres of aquatic GGS habitat and 0.25 acre of upland GGS habitat, totaling 2.6 acres of permanent habitat loss.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the United States Army Corps of Engineers (USACE) consulted with the Service as required by the ESA. On April 28, 2017, the Service issued a biological opinion (Service file No. 08ESMF00–2017–F–1766) (BO) to the USACE. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures. The BO also requires the Applicant to implement and adhere to measures contained within the Project Biological Assessment (BA).

On May 15, 2017, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from Monique Briard, on behalf of the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS and its associated BO are consistent with CESA for purposes of the Project and GGS. (Cal. Reg. Notice Register 2017, 22-Z, p. 845.)

DETERMINATION

CDFW has determined that the ITS and associated BO are consistent with CESA as to the Project and GGS because the mitigation measures contained in the ITS, its associated BO and conditions in the BA meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of GGS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO, ITS, and BA will minimize and fully mitigate the impacts of the authorized take and in particular these measures are roughly proportional in extent to the authorized taking and are capable of successful implementation; (3) adequate funding is ensured to implement the required avoidance, minimization and mitigation measures, and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of GGS. The

mitigation measures in the BO, ITS, and BA include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- The Applicant will compensate for the permanent loss of 2.35 acres of suitable aquatic habitat and 0.25 acre of suitable upland habitat for GGS by purchasing habitat preservation credits equal to 4.28 acres of GGS habitat at Westervelt Ecological Services' Sutter Basin Conservation Bank in Sutter County.
- To the maximum extent possible, Applicant will conduct all construction activity in GGS aquatic and upland habitat within 200 feet of aquatic habitat during the snake's active period (May 1 –October 1). During this timeframe, potential for injury and mortality are lessened because snakes are actively moving and avoiding danger.
- A Service- and CDFW-approved biological monitor will conduct a preconstruction survey for GGS prior to ground-disturbing activities within suitable aquatic or upland habitat. The construction area will be re-inspected and surveyed whenever a lapse in construction activities of two weeks or more has occurred.
- Before ground-disturbing activities, Applicant will install exclusion fencing and orange construction barrier fencing within 200 feet of suitable GGS aquatic habitat where suitable GGS upland habitat is present. Exclusion fencing will be inspected by the biological monitor(s) daily during ground-disturbing activities and weekly after ground-disturbing activities. If the installation of exclusion fencing is not feasible, a full-time biological monitor will be present during all construction activities.
- Applicant will provide all excavated areas more than one foot deep with one or more escape ramps constructed of earthen fill or wooden planks at the end of each workday. If ramps cannot be provided, holes or trenches will be covered with plywood or other hard material. The biological monitor(s) or construction personnel will thoroughly inspect trenches for trapped GGS before they are filled.
- One or more biological monitor(s) will be present during ground-disturbing activities and vegetation removal in upland habitat during the GGS active period. The biological monitor(s) will assist the contractor in avoiding disturbance of burrows in upland habitat during the active period. If burrows cannot be avoided, they will be carefully excavated by hand by the biological monitor(s). The burrow will be visually examined before hand-excavation begins. Flexible tubing (such as pipe insulation) or empty water bottles

- will be placed in the burrow to keep it open while the burrow is excavated with hand tools. Once the burrow is excavated to the end of the tube or water bottles, the burrow will be visually examined and then the tubing or water bottles will be reinserted further into the burrow and the next section will be excavated. If the biological monitor(s) finds a GGS inside the burrow, excavation will stop and the biological monitor(s) will immediately contact the Service and CDFW. A biologist with a federal ESA Section 10(a)(1)(A) permit for GGS will be contacted to relocate the snake to another suitable burrow outside the Project area.
- As part of the Project, Applicant will remove invasive plants and restore native vegetation to improve habitat conditions for GGS. Specifically, Applicant will remove approximately 500 acres of water primrose; 5.92 acres of interior channels will be widened, deepened, and connected with other channels; wetland plants will be planted to improve cover and resting habitat conditions; and woody debris and rocks will be placed to create cover and refuge sites.

- Applicant will seed all temporarily disturbed areas that would not be otherwise restored as part of the Project with a sterile or locally native grass mix. Applicant will complete revegetation as soon as possible after construction activities in those areas cease. Applicant will cover seeding placed after October 15 with broadcast straw, jute netting, coconut fiber blanket, or similar erosion control blanket.

Monitoring and Reporting Measures

- The BO requires the Applicant to submit an annual monitoring report by October 31 of each year for three years after completion of the restoration of temporarily disturbed areas. Although not a condition of the BO, CDFW requests a copy of the monitoring reports as well.
- The Applicant will provide an annual status report to the Service and CDFW no later than October 31 of each year after work begins until a final mitigation report is submitted.
- No later than 45 days after completion of all conservation measures, the Applicant will submit a final mitigation report to the Service and CDFW.

Financial Assurances

- Before commencing any Project activities that could incidentally take GGS, Applicant will provide CDFW with written documentation that the Applicant has allocated sufficient funds acceptable to and approved by CDFW, to ensure implementation of all measures to minimize and

fully mitigate the incidental take of GGS resulting from construction of the proposed action. The documentation provided by the Applicant will identify specific minimization and mitigation components and the costs associated with each component.

- Prior to initiation of any construction activities, Applicant will provide the Service and CDFW copies of the credit sale agreement and fund transfer for the purchase of 4.28 acres of GGS habitat preservation credits.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of GGS, provided the Applicant implements the Project as authorized in the ITS, including adherence to all measures contained therein and in the BO, and complies with the mitigation measures and other conditions described in the BO, ITS, and the BA. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the BO and ITS or the BA, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)).

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

Monitoring and Research at California Least Tern Nesting Colonies

The Department of Fish and Wildlife (“Department”) received a proposal on May 2, 2017 from the Zoological Society of San Diego, California, requesting authorization to take California Least Terns (*Sternula antillarum browni*; tern), for research purposes, consistent with the protection and recovery of the species. The tern is a Fully Protected bird, and is also listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Gabriela Ibarguchi is planning to conduct research on the tern in San Diego County and Orange County, in accordance with the methods approved by the Department and the U.S. Fish and Wildlife Service (under Recovery Permit TE53825B-1).

The following research activities are proposed: 1. Harass by survey and locate, mark, and monitor nests; 2. Use decoys and acoustic playback to attract terns to restored habitat; 3. Install and remove fence pens; 4. Erect and use cameras to monitor nests/nesting sites; 5. Use recording devices in the colony; 6. Use data loggers

in nests; 7. Erect temporary hides inside the colony for up-close observations; 8. Capture, handle, and measure chicks and adults; 9. Band, color-band, and radio-tag chicks and adults; 10. Attach and remove geolocators from adults; 11. Remove contour feathers from adults; 12. Move nests with eggs out of active military training areas to nearby safer areas; 13. Transport sick or injured individuals to qualified rehabilitation facilities; 14. Salvage abandoned eggs, and carcasses of chicks or adults; 15. Salvage molted feathers for DNA analyses and for archiving at an approved facility (e.g., for subsequent analyses for toxicology, genetics, and stable isotopes); 16. Salvage fecal samples opportunistically for diet studies; 17. Remove up to three contour feathers from older chicks for DNA analyses, including genetic sexing; 18. Mark, measure, and float a small subset of eggs to estimate hatch date and to obtain information about egg health or egg quality (to investigate linkages with final outcomes); and 19. Attach and remove GPS loggers and Avian NanoTags from adult terns to investigate their yet-unknown wintering distribution, and to investigate site presence, colony attendance, and potential foraging areas.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Ms. Ibarguchi as the Principal Investigator, to carry out the proposed activities. The applicants are also required to have a valid federal recovery permit and federal bird banding lab permit for the tern, and a scientific collecting permit (SCP) to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected Birds after a 30-day notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after July 29, 2017, for an initial and renewable term of three years. Contact: Nancy Frost, Nancy.Frost@wildlife.ca.gov, Phone (858) 467-4208.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE OF INTENT TO LIST CHEMICALS BY THE LABOR CODE MECHANISM:

N,N-DIMETHYLFORMAMIDE
2-MERCAPTOBENZOTHIAZOLE
TETRABROMOBISPHENOL A

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemicals identified in the table below as known to the state to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65¹). This action is being proposed pursuant to the "Labor Code" listing mechanism². OEHHA has determined that N,N-dimethylformamide, 2-mercaptopbenzothiazole, and tetrabromobisphenol A meet the criteria for listing by this mechanism.

Chemical	CAS No.	Endpoint	References
N,N-Dimethylformamide	68-12-2	Cancer	IARC (2016); Grosse <i>et al.</i> (2016)
2-Mercapto-benzothiazole	149-30-4	Cancer	IARC (2016); Grosse <i>et al.</i> (2016)
Tetrabromo-bisphenol A	79-94-7	Cancer	IARC (2016); Grosse <i>et al.</i> (2016)

Background on listing by the Labor Code mechanism: Health and Safety Code section 25249.8(a) incorporates California Labor Code section 6382(b)(1) into Proposition 65. The law requires that certain substances identified by the International Agency for Research on Cancer (IARC) be listed as known to cause cancer under Proposition 65. Labor Code section 6382(b)(1) refers to substances identified as human or animal carcinogens by IARC. As the lead agency for the

¹ Health and Safety Code section 25249.5 *et seq.*

² Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25904.

implementation of Proposition 65, OEHHA evaluates whether a chemical's listing is required by Proposition 65.

OEHHA's determination: *N,N-Dimethylformamide*, *2-mercaptopbenzothiazole*, and *tetrabromobisphenol A* meet the requirements for listing as known to the state to cause cancer for purposes of Proposition 65.

IARC has published on its website a list entitled “Agents Classified by the IARC Monographs, Volumes 1–115” (IARC, 2016). IARC concludes that *N,N-dimethylformamide*, *2-mercaptopbenzothiazole*, and *tetrabromobisphenol A* are classified in Group 2A (“probably carcinogenic to humans”), and that there is sufficient evidence of carcinogenicity in animals for *N,N-dimethylformamide*, *2-mercaptopbenzothiazole*, and *tetrabromobisphenol A* (Grosse et al., 2016).

Opportunity for comment: OEHHA is providing this opportunity to comment as to whether the chemicals identified above meet the requirements for listing as causing cancer specified in Health and Safety Code section 25249.8(a) and Labor Code section 6382(b)(1). Because these are ministerial listings, comments should be limited to whether IARC has identified the specific chemical or substance as a known or potential human or animal carcinogen. Under this listing mechanism, OEHHA cannot consider scientific arguments concerning the weight or quality of the evidence considered by IARC when it identified these chemicals and will not respond to such comments if they are submitted.

Written comments must be received by 5:00 p.m. on Monday, July 31, 2017 to be considered. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below.

Mailing Address: Ms. Michelle Ramirez
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-12B
Sacramento, California 95812-4010
Fax: (916) 323-2265
Street Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Ms. Michelle Ramirez at Michelle.Ramirez@oehha.ca.gov or at (916) 445-6900.

REFERENCES

Grosse Y, Loomis D, Guyton KZ, El Ghissassi F, Bouvard V, Benbrahim-Tallaa L, Mattock H, and Straif K on behalf of the International Agency for Research on Cancer Monograph Working Group (2016). Carcinogenicity of Some Industrial Chemicals. *The Lancet Oncology*, Volume 17. Published online February 23, 2016. Available at URL: <http://www.thelancet.com/journals/lanonc/article/PIIS1470-2045%2816%2900137-6/fulltext>

IARC (2016). International Agency for Research on Cancer. World Health Organization. Agents Classified by the IARC Monographs, Volumes 1–115. Available at URL: http://monographs.iarc.fr/ENG/Classification/latest_classif.php

PETITION DECISIONS

DEPARTMENT OF CORRECTIONS AND REHABILITATION

California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Adult Institutions, Programs and Parole

PETITIONER:

Inmate Brian Barnett, #AS7182
Inmate Jabbar Straud, #A4120
Inmate Raymond Galbreath, #F17485

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treat-

ment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Timothy M. Lockwood, Chief, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Inmates Barnett, Stroud, and Galbreath, having received and considered the Department's response to his earlier petition to amend regulations, which was also on the subject of laptop computers and was responded to in the Office of Administrative Law's Notice Register on May 5, 2017, is resubmitting his earlier petition along with some revisions for the Department's consideration. As before, Inmates Barnett, Stroud, and Galbreath are petitioning to amend California Code of Regulations (CCR), Title 15, Division 3, Sections 3040, 3041.3, 3152, and 3161 so that inmates are permitted to possess personal laptop computers under certain circumstances. Please note that in the resubmittal of the petition, a document was submitted to CDCR that was numbered up to Page 16 but that did not include Pages 11 through 14.

Inmates Barnett, Stroud, and Galbreath have made the following revisions to the earlier petition, though no formal placement of revised regulation text within CCR, Title 15, Division 3 was specified in either petition:

1. The addition of the specification that administrative functions would be granted to the owner of the personal laptop computer once that owner is released/discharged from prison.

2. The addition of the specification that prisoners would be allowed to purchase educational programs and "teach themselves skills of their own choice towards various professions at [their] own pace."

Inmates Barnett, Stroud, and Galbreath rebut the following reasons presented by the Department for denying the earlier petition:

1. The Department's decision to not allow prisoners to possess computers or computer related devices in a cell setting is undermined because the Department currently allows tablet computers to be possessed as entertainment devices and also provides "IDS e-Readers 2.0.5" with a product specification of "7 [inch] Multi-Touch Screen 512 MB RAM/16 GB Flash Storage."
2. Although the Department states that inmates with a history of computer fraud and/or abuse would and could have access to other inmates' personal property, including laptop computers, the laptop computers that are being proposed would not have the hardware capability to connect wirelessly or to be hardwired to any Local Area Network and would thus be incapable of being used for any fraudulent activities.
3. PC Section 4576(b)(1) "does not prohibit prisoners from possessing memory storage devices per se."
4. The Department's statement that inmates without computer crimes may access CDCR workstations for the purpose of completing specific tasks or assignments "while under direct and constant supervision" is not viable because direct and constant supervision "is a myth in the penal system unless one is monitored digitally via closed circuit camera."

DEPARTMENT DECISION

In response to the resubmittal of the petition to amend CCR, Title 15, Division 3, Sections 3040, 3041.3, 3152, and 3161, the Department denies the petition in its entirety.

Regarding the revisions to the earlier petition, the Department has considered the revisions and states as follows:

1. As stated in the Department's response to the initial petition, "Inmates' possession of computers or computer related devices is a safety and security risk to the staff, inmates, and the institutions." The Department's position has not changed, and therefore the possession of personal laptops by inmates will remain disallowed.
2. The Department's decision to disallow personal laptop computers does not prevent inmates from purchasing educational materials that allow them to "teach themselves skills of their own choice towards various professions at their own pace." Inmates are authorized to possess books and, under the Enterprise Inmate Communication (EIC) pilot program described below, may be authorized to possess tablets, which provide this opportunity. Inmates also have access to Department rehabilitative programs that provide educational, vocational, and rehabilitative materials and award credit that can be applied toward earlier parole consideration before the Board of Parole Hearings or toward an earlier parole date.
3. PC Section 4576(c) states, "Any inmate who is found to be in possession of a wireless communication device shall be subject to time credit denial or loss of up to 90 days." PC Section 4576(a) defines "wireless communication device" as including a "memory storage device." The Department considers a flash drive to be a memory storage device.
4. In the Department's response to the initial submission of this petition, the Department stated, "Inmates without computer crimes may access CDCR workstations for the purpose of completing specific tasks or assignments while under *direct and constant supervision*." The Department holds that direct and constant supervision is provided by trained custody staff. Although digital monitoring via closed circuit cameras provides an aid to human supervision, it is not a substitute for human supervision.

Regarding the rebuttals of certain reasons given by the Department for the denial of the earlier petition, the Department has considered the rebuttals and states as follows:

1. Regarding the authorization of inmate tablets, the Department has implemented a two-year Enterprise Inmate Communication (EIC) pilot program pursuant to PC Section 5058.1. The EIC pilot program authorizes the possession of tablets by certain inmates at the following institutions:
 - Central California Women's Facility (All Yards),
 - High Desert State Prison (C Yard),
 - Kern Valley State Prison (C Yard),
 - California Institution for Women (All Yards), and
 - Substance Abuse Treatment Facility and State Prison, Corcoran (All Yards).

The EIC pilot program shall be in effect from May 2017 through May 2019. The Department is evaluating and assessing the effectiveness of the EIC pilot program, including any security concerns and issues that may emerge during the term of the pilot. If the pilot proves problematic for security and public safety, it may be significantly revised or stopped.

DISAPPROVAL DECISIONS

DECISION OF DISAPPROVAL OF REGULATORY ACTION

Printed below is the summary of an Office of Administrative Law disapproval decision. The full text of the disapproval decision is available at www.oal.ca.gov under the "Publications" tab. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

CALIFORNIA GAMBLING CONTROL COMMISSION

**State of California
Office of Administrative Law**

**In re:
California Gambling Control Commission**

Regulatory Action:

Title 4, California Code of Regulations

Adopt sections: 12250, 12260, 12261, 12262, 12263, 12264, 12285, 12287, 12290

Amend sections: 12003, 12200, 12200.7, 12200.9, 12200.10A, 12200.11, 12200.18, 12220, 12220.18, 12560, 12562

Repeal sections: 12200.13, 12200.16, 12200.21, 12220.13, 12220.16, 12220.21

**DECISION OF DISAPPROVAL
OF REGULATORY ACTION**

Government Code Section 11349.3

OAL Matter Number: 2017–0427–01

OAL Matter Type: Regular (S)

SUMMARY OF REGULATORY ACTION

On April 27, 2017, the California Gambling Control Commission (Commission) submitted to the Office of Administrative Law (OAL) this proposed regulatory action to change various sections in Title 4 of the California Code of Regulations (CCR). The proposed modifications allow playing books to be maintained electronically for all sessions of play by Third-Party Providers of Proposition Player Services (TPPPS) and gambling businesses. The regulations also propose to separate playing book approvals from contract approvals and registration processes. The regulations further create an approval process that would be uniformly applied to both TPPPS and gambling businesses and would require only initial and amended playing book form approvals.

DECISION

On June 9, 2017, OAL notified the Commission that OAL disapproved the proposed regulations because the regulations failed to comply with the necessity and clarity standards of Government Code section 11349.1 and the Commission failed to follow procedural requirements of the California Administrative Procedure Act (APA). This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

CONCLUSION

For these reasons, OAL disapproved the above-referenced rulemaking action. Pursuant to Government Code section 11349.4(a), the Commission may resubmit this rulemaking action within 120 days of its receipt of this Decision of Disapproval. A copy of this Disap-

proval Decision will be emailed to the Commission on the date indicated below.

Any changes made to the regulation text to address the issues discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11346.8 and section 44 of title 1 of the CCR prior to adoption. Additionally, any document relied upon and any supplement to the ISR or other document the Commission may create or otherwise propose to add to the record in order to address the necessity issue discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11347.1 prior to adoption. The Commission must document in the rulemaking file its approval of the final text after consideration of all public comments and relevant information, as well as resolve all other issues raised in this Decision of Disapproval, before resubmitting to OAL.

If you have any questions, please do not hesitate to contact me at (916) 323–6824.

Date: June 16, 2017

Thanh Huynh

Senior Attorney

For: Debra M. Cornez
Director

Original: Tina Littleton
Copy: Josh Rosenstein

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

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

File# 2017–0530–04

AIR RESOURCES BOARD

Off-Road Large Spark-Ignition Engine Fleet
Regulation

This regulatory action by the Air Resources Board amends regulations for large spark-ignition (LSI) engine fleets to extend recordkeeping requirements and establish reporting and labelling requirements. The amendments provide key compliance information about LSI equipment to increase enforcement effec-

CALIFORNIA REGULATORY NOTICE REGISTER 2017, VOLUME NO. 26-Z

tiveness and compliance rates, and to inform future policy decisions.

Title 13

AMEND: 2775, 2775.1, 2775.2

Filed 06/20/2017

Effective 06/20/2017

Agency Contact: Bradley Bechtold (916) 322–6533

File# 2017–0504–03

BOARD OF EQUALIZATION

Time of Filing of Application

The Board of Equalization (Board) submitted this action without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to change the application filing deadline provided in California Code of Regulations, title 18, section 5332, to November 30. The change is being made to be consistent with a recent change made to Revenue and Taxation Code section 1840 in SB 1480 (Stats. 2016, ch. 116), which changed the statutory deadline for filing applications for Board review, equalization, or adjustment of assessments of taxable land owned by local governments to November 30.

Title 18

AMEND: 5332

Filed 06/14/2017

Agency Contact: Richard Bennion (916) 445–2130

File# 2017–0615–02

BOARD OF EQUALIZATION

Interest and Penalties

This action by the Board of Equalization makes non-substantive changes by amending the Board's authority to compute interest at the modified adjusted daily rate for periods on or after January 1, 2017, as provided in Revenue and Taxation Code section 6591.6, as enacted by Statutes 2016, chapter 264 (AB 2201).

Title 18

AMEND: 1703

Filed 06/19/2017

Agency Contact: Richard Bennion (916) 445–2130

File# 2017–0510–02

CALIFORNIA HORSE RACING BOARD

The Start

This regulatory action by the California Horse Racing Board amends section 1696 in CCR title 4, regarding declaring a horse a non-starter. This rulemaking expands the authority of stewards to declare a horse a non-starter.

Title 4

AMEND: 1696

Filed 06/20/2017

Effective 10/01/2017

Agency Contact: Harold Coburn (916) 263–6026

File# 2017–0530–01

CALIFORNIA STATE UNIVERSITY

Nonresident Tuition

The Trustees of the California State University System submitted this amendment of section 41908 of title 5 of the California Code of Regulations (CCR) pursuant to Education Code section 89030.1. This matter is submitted to the Office of Administrative Law (OAL) for printing in the CCR and a courtesy filing with the Secretary of State. It is exempt from OAL review pursuant to Education Code section 89030(b).

Title 5

AMEND: 41908

Filed 06/14/2017

Effective 06/14/2017

Agency Contact: Stephen Silver (562) 951–4500

File# 2017–0509–01

COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING

Training Reimbursement Requests

This action by the Commission on Peace Officer Standards and Training amends the timeframe for submission of Training Reimbursement Requests (TRR) to require submission of a TRR no later than sixty days following the end of the fiscal year in which the training was completed.

Title 11

AMEND: 1015

Filed 06/21/2017

Effective 08/01/2017

Agency Contact: Christy Correa (916) 227–4847

File# 2017–0519–04

DEPARTMENT OF BUSINESS OVERSIGHT

Broker–Dealer Finder Exemption Regulations

This action by the Department of Business Oversight adopts four new sections to implement Corporations Code section 25206.1 that, as of January 1, 2016, established finders as a new exemption from the broker-dealer provisions of the Corporate Securities Law of 1968. This rulemaking adopts the Statement of Information form and procedures to be used by individuals registering or renewing their exemption as a finder, updating the Statement of Information, or withdrawing as a finder. This rulemaking also specifies the requirements for the maintenance of records as required by Corporations Code section 25206.1(f).

Title 10
ADOPT: 260.211.4, 260.211.5, 260.211.6,
260.211.7
Filed 06/21/2017
Effective 06/21/2017
Agency Contact: Inna Swickard (916) 323-7015

File# 2017-0609-01
DEPARTMENT OF FINANCE
Conflict-of-Interest Code

This is a Conflict-of-Interest Code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing.

Title 2
AMEND: 3700
Filed 06/21/2017
Effective 07/21/2017
Agency Contact: Jeanna Wimberly (916) 445-8918

File# 2017-0504-02
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

This certificate of compliance by the Department of Food and Agriculture makes permanent the prior emergency action (OAL file no. 2016-1103-03E) that expanded the quarantine area for the Asian Citrus Psyllid (ACP) *Diaphorina citri* by approximately 95 square miles in the French Camp area of San Joaquin County. The effect of this current action will provide permanent authority for the State to perform quarantine activities against ACP within this additional area, along with the existing regulated areas in the state that are already under quarantine for ACP.

Title 3
AMEND: 3435(b)
Filed 06/14/2017
Effective 06/14/2017
Agency Contact: Sara Khalid (916) 403-6625

File# 2017-0515-03
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

This certificate of compliance by the Department of Food and Agriculture makes permanent the emergency actions (2016-0819-02E, 2017-0207-07EE) that expanded the quarantine area for the Asian Citrus Psyllid (ACP) near the Traver area of Tulare County into an incorporated area of Kings County. The effect of this action provides authority for the state to perform quarantine activities against ACP within this area.

Title 3
AMEND: 3435(b)
Filed 06/19/2017
Effective 06/19/2017
Agency Contact: Sara Khalid (916) 403-6625

File# 2017-0510-01
DEPARTMENT OF MOTOR VEHICLES
Year of Manufacture (YOM) Program

The Department of Motor Vehicles proposed this action to amend seven sections in title 13 of the California Code of Regulations and to amend an incorporated by reference application form that pertain to license plates issued under the year of manufacture (YOM) program pursuant to Vehicle Code section 5004.1. S.B. 1429 (Stats. 2016, ch. 159) amended Vehicle Code section 5004.1 by changing the model years that YOM license plates may be issued from 1969 or older for passenger vehicles or 1972 or older for commercial vehicles to 1980 or older for all vehicles. The proposed amendments specify which license plate colors and configurations will be acceptable for registration to accommodate the expansion of the YOM program.

Title 13
AMEND: 205.00, 205.02, 205.04, 205.06, 205.08, 205.12, 205.14
Filed 06/19/2017
Effective 10/01/2017
Agency Contact: Randi Calkins (916) 657-8898

File# 2017-0508-01
DEPARTMENT OF SOCIAL SERVICES
Repeal of the Maximum Family Grant Rule

The Department of Social Services submitted this action as a change without regulatory effect pursuant to section 100 of title 1 of the California Code of Regulations. This action repeals provisions of the Manual of Policies and Procedures (MPP) regarding the Maximum Family Grant (MFG) Rule, for which all statutory authority was repealed by AB 1603 (Stats 2016, Ch. 25).

Title MPP
AMEND: 40-188, 44-207, 44-316, 44-318, 80-310, 82-518, 82-812 REPEAL: 44-314
Filed 06/19/2017
Agency Contact: Oliver Chu (916) 657-3588

File# 2017-0523-01
DEPARTMENT OF SOCIAL SERVICES
CCL Elder and Abuse Reporting

This action without regulatory effect by the Department of Social Services amends one subdivision of Title 22 and the MPP to correctly identify a cross-reference to the Health and Safety Code.

Title MPP, 22
AMEND: 81001
Filed 06/21/2017
Agency Contact: Kenneth Jennings (916) 651-8862

File# 2017-0518-02
DIVISION OF WORKERS' COMPENSATION
Workers' Compensation—Official Medical Fee
Schedule—Outpatient & ASC

This action by the Division of Workers' Compensation of the Department of Industrial Relations was submitted to the Office of Administrative Law for filing and printing pursuant to Labor Code section 5307.1(g)(2). The action amends section 9789.39 of Title 8 of the California Code of Regulations to conform it to relevant changes in the Medicare and MediCal payment systems. This section is a part of the Workers' Compensation—Official Medical Fee Schedule for Hospital Outpatient and Ambulatory Surgical Centers.

Title 8
AMEND: 9789.39
Filed 06/20/2017
Effective 06/01/2017
Agency Contact: Jarvia Shu (510) 286-0646

File# 2017-0505-01
STATE ALLOCATION BOARD
Leroy F. Greene School Facilities Act of 1998;
Historical School Buildings

In this regular rulemaking, the State Allocation Board is amending sections 1859.2 and 1859.82 in title 2 of the California Code of Regulations, as well as two documents incorporated by reference therein. The School Facility Program (the "Program") provides a per-pupil grant amount to qualifying school districts for the purposes of constructing school facilities and modernizing existing school facilities. These amendments allow for administrative processing of replacement funding requests for rehabilitation of historical school buildings when the cost to rehabilitate the facility exceeds 50 percent of the replacement costs as calculated in Program regulations.

Title 2
AMEND: 1859.2, 1859.82
Filed 06/19/2017
Effective 06/19/2017
Agency Contact: Lisa Jones (916) 376-1753

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN January 18, 2017 TO
June 21, 2017**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

06/21/17 AMEND: 3700
06/19/17 AMEND: 1859.2, 1859.82
06/08/17 AMEND: 52.4, 548.49, 548.136
05/31/17 ADOPT: 249.8
05/26/17 AMEND: 11030, 11031, 11034
04/10/17 ADOPT: 552.1
03/27/17 ADOPT: 11017.1 AMEND: 11017
03/22/17 AMEND: 58000
03/21/17 ADOPT: 2299.01, 2299.02, 2299.03,
2299.04, 2299.05, 2299.06, 2299.07,
2299.08, 2299.09
03/03/17 ADOPT: 599.829.1
02/28/17 AMEND: 2270, 2271
02/16/17 ADOPT: 59820
01/31/17 ADOPT: 547.60.1 AMEND: 547.60
01/30/17 AMEND: 58600
01/23/17 ADOPT: 1896.15, 1896.17 AMEND:
1896, 1896.2, 1896.4, 1896.6, 1896.8,
1896.10, 1896.12, 1896.14, 1896.16,
1896.18, 1896.20, 1896.22, 1896.62,
1896.71, 1896.73, 1896.80, 1896.82
REPEAL: 1896.83

Title 3

06/19/17 AMEND: 3435(b)
06/14/17 AMEND: 3435(b)
06/08/17 AMEND: 3435(b)
06/07/17 AMEND: 3435(b)
06/05/17 ADOPT: 3591.28
06/02/17 AMEND: 3435(d)
06/01/17 AMEND: 3591.12
05/30/17 AMEND: 3439(b)
05/15/17 AMEND: 3435(b)
05/15/17 AMEND: 3435(b)
05/09/17 AMEND: 3435(b)
05/08/17 AMEND: 1402.7, 1402.8
05/08/17 AMEND: 3439(b)

05/04/17	AMEND: 3435(b)	05/08/17	ADOPT: 8078.8, 8078.9, 8078.10, 8078.11, 8078.12, 8078.13, 8078.14
05/04/17	AMEND: 3435(b)	05/04/17	AMEND: 10031, 10032, 10033, 10035, 10036
05/04/17	AMEND: 3591.15	05/02/17	ADOPT: 10325.5 AMEND: 10337
04/24/17	AMEND: 3435(b)	04/20/17	AMEND: 1581, 1843
04/24/17	AMEND: 3435(b)	04/10/17	AMEND: 10170.3, 10170.8, 10170.9, 10170.10, 10170.14
04/20/17	AMEND: 3435(b)	03/14/17	ADOPT: 299 AMEND: 297, 300
04/18/17	AMEND: 3435(b)	02/28/17	ADOPT: 6000, 6010, 6011, 6012, 6013, 6014, 6020, 6021, 6022, 6023, 6024, 6030, 6040, 6041, 6042, 6043, 6050, 6051, 6052, 6053, 6060, 6061, 6062
04/17/17	AMEND: 3435(b)	02/15/17	ADOPT: 8078.8, 8078.9, 8078.10, 8078.11, 8078.12, 8078.13, 8078.14
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03/28/17	AMEND: 3406(c), 3591.5(b)	06/02/17	ADOPT: 11526 AMEND: 11520, 11524, 11525
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	04/17/17	AMEND: 3000, 3030, 3190, 3269
	04/13/17	ADOPT: 2449.1, 2449.2, 2449.3, 2449.4, 2449.5, 3043.1, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3490, 3491, 3492, 3493 AMEND: 3043, 3043.5 (renumbered to 3043.7), 3043.6 (renumbered to 3043.8), 3044 REPEAL: 3042, 3043.1, 3043.2, 3043.3, 3043.4, 3043.7
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05/08/17	ADOPT: 1398.26.3 AMEND: 1398.25		
05/04/17	AMEND: 4130		
03/27/17	AMEND: 1105.2		
03/21/17	AMEND: 1803, 1812, 1813, 1814, 1816.1, 1816.2, 1822.50, 1822.51, 1822.52, 1829.1, 1829.2, 1829.3, 1846, 1850.6, 1850.7, 1854, 1856, 1877.2, 1877.3, 1886, 1886.10, 1886.20, 1886.30, 1886.50, 1886.60, 1886.70, 1886.80, 1887, 1887.2, 1887.3, 1887.4.0, 1887.4.1, 1887.4.2, 1887.4.3, 1887.11.0 REPEAL: 1816.8, 1819.1, 1829, 1877, 1887, 1887.2, 1887.3, 1887.6, 1887.13, 1887.14		
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04/10/17	ADOPT: 64300, 64305, 64310, 64315		
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