



# 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 2. FAIR POLITICAL  
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

**MULTI-COUNTY:** Aspire Public Schools  
Bay Area Schools Insurance  
Cooperative

A written comment period has been established commencing on May 4, 2018, and closing on June 18, 2018. Written comments should be directed to the Fair Political Practices Commission, Attention Sasha Linker, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for her review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than June 18, 2018. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS  
AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

**AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

**REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

**CONTACT**

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Sasha Linker, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED  
CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Sasha Linker, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**TITLE 2. FAIR POLITICAL  
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by the Political Reform Act (the Act)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **June 4, 2018**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Sacramento, CA 958110, commencing at approximately **9:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m. on June 1, 2018**.

BACKGROUND/OVERVIEW

After several months of research, interviews, and deliberations, the Commission's Ad Hoc Committee on Governance presented observations and recommendations on the internal governance of procedures followed by the Commission. These procedures were formalized by Commission vote in 2001. After the review of the procedures, the Ad Hoc Committee found that "the Commission's governance challenges are persistent;" "the Commission has struggled with integrating the full commission, including part-time commissioners, into its oversight and management;" and the "governance practices, ever since these were adopted in writing by the full Commission, have not been consistently observed over time."

Addressing its concerns, the Ad Hoc Committee proposed a revised Statement of Governance Principles for discussion at the March 2018 Commission Meeting.

<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations (hereafter Regulation).

The proposed Statement identifies the authority of the Commission, the Commission Chair, and the Executive Director. At the direction of the Commission, the Ad Hoc Committee drafted regulations codifying the proposed Statement, which were presented to the Commission for prenotice discussion at the April 2018 Commission Meeting.

REGULATORY ACTION

Adopt 2 Cal. Code Reg. Sections 18308 through 18308.3.

Proposed Regulations 18308 through 18308.3 are intended to establish the governance principles of the Commission. In consideration of the recommendation by the Ad Hoc Committee, the Commission may consider any issues pertaining to the governance of the Commission including, but not limited to, the following:

- The scope of authority for the Commission, Commission Chair, and Executive Director.
- The delegation and allocation of duties to and between the Commission Chair and Executive Director.
- The establishment of standing advisory committees.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Section 87300.

CONTACT

Any inquiries should be made to Brian G. Lau, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

**TITLE 2. STATE ALLOCATION BOARD**

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTION 1859.77.3, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend Regulation Section 1859.77.3 contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation section under the authority provided by Sections 17070.35 and 17072.13 of the Education Code. The proposal interprets and makes specific Sections 17072.13 and 17072.35 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes

of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The SAB, at its meeting on September 19, 2012, adopted proposed amendments to the SFP Regulations to allow qualifying school districts to use their eligibility for school bond funding for construction of Multipurpose Room (MPR)/Gymnasium Hybrid facilities. The SFP Regulations allow "Use of Grants" (UOG) funding for MPRs or gymnasiums as separate facilities; however, the Regulations did not anticipate situations where some school districts could choose to include hybrid facilities within the same building structure and share a portion of the square footage. The proposed amendments were processed through the Administrative Procedure Act and were subsequently approved by the Office of Administrative Law (OAL) on March 12, 2013 and went into effect July 1, 2013 [OAL File #2013-0130-04S].

OPSC recently discovered that portions of the proposed regulatory amendments relating to the square footage allowances for hybrid facilities were inadvertently omitted from the rulemaking process. Based on this information, the SAB, at its meeting on June 5, 2017, adopted proposed amendments to SFP Regulation Section 1859.77.3 thereby providing the square footage allowances for MPR/Gymnasiums Hybrid facilities.

Bond Funds Impacted

- Class Size Reduction Kindergarten–University Public Education Facilities Bond Act of 1998 (Proposition 1A)
- Kindergarten–University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten–University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten–University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

Background and Problem Being Resolved

OPSC recently discovered that portions of the proposed regulatory amendments relating to the square footage allowances for MPR/Gymnasium Hybrid facilities were inadvertently omitted from the previously approved OAL rulemaking file as noted in the above-noted paragraph. Based on this information, the SAB, at its meeting on June 5, 2017, adopted proposed amend-



ments to SFP Regulation Section 1859.77.3 thereby providing the square footage allowances for MPR/Gymnasiums Hybrid facilities.

The proposed amendments address the lack of square footage allowances, which were inadvertently omitted from the rulemaking process, by providing square footage allowances for MPR/Gymnasium Hybrid facilities. The proposed amendments apply to the UOG regulations by which school districts, under Regulation Section 1859.77.3, can apply for funding for only the following ancillary facilities:

- MPR
- Gymnasium (for High Schools and Middle Schools only)
- Library/Media Center
- Counseling and/or Conference Rooms (Alternative Education only)

The proposed regulatory amendments provide square footage amounts for MPR/Gymnasium Hybrids for school sites with high school pupils and/or middle school pupils. K–6 sites are not eligible for a separate gym, so this option would not impact elementary schools. However, it could occur at middle schools, high schools, or schools that combine grade levels, such as K–8.

For example: a K–8 school has an MPR but no gymnasium. Instead of funding a separate 7,000 square foot gymnasium, the proposed regulations would allow the school district to devote 3,000 square feet from its existing MPR toward the gymnasium function, and apply for SFP funding for only an additional 4,000 square feet of gymnasium space. The school district can save in total project costs, and the State will save bond costs for its 50 percent State matching share.

*Use of Grants*

Under the SFP, a school district’s eligibility for new construction funding is determined by a formula that projects the number of unhoused pupils and assigns available new construction pupil grants. These grants are used to construct new classrooms and other buildings necessary to house and facilitate projected new students or to relieve classroom overcrowding.

However, existing SFP Regulation Section 1859.77.3 allows school districts meeting specific requirements to use these new construction pupil grants to construct an MPR, gymnasium, library (minimum essential facilities), counseling offices and/or conference rooms rather than using them to fund new classrooms. These facilities will not be funded if adequate size facilities already serve the school. Adequate square footage is calculated using the charts in SFP Regulation Section 1859.77.3 for Alternative Education projects and Regulation Section 1859.82 for all other projects.

The existing SFP Regulations provide criteria to determine what types of facilities may be funded for schools serving elementary, middle, or high school students, and a formula to determine whether the square footage of an existing facility exceeds the threshold to qualify for State funding under the UOG option. The formula also identifies the maximum number of new construction grants that may be used to fund construction of these ancillary facilities instead of classrooms.

The proposed minimum and maximum square footage amounts were calculated based on the number of pupils that would be required to meet the minimum and maximum square footage amounts under current SFP regulations. This method was used to calculate the proposed minimum and maximum square feet for both middle school and high school hybrids, and is consistent with current regulations. The proposed \$154 per-square-foot funding amount for MPR/Gymnasium Hybrids reflects the 2012 per-square-foot funding amount in Regulation Section 1859.82(b) for MPRs and gymnasiums. The figure is subject to adjustment through the SAB’s annual Class B Construction Cost Index adjustments.

*Anticipated Benefits of the Proposed Regulations*

This regulatory action will benefit school districts by allowing them to use their eligibility for school bond funding for construction of MPR/Gymnasium Hybrid facilities, sharing a portion of the square footage within the same building, and thus being able to provide pupils both functions at less cost than building separate facilities. The existing SFP Regulations allow UOG funding for multipurpose rooms or gymnasiums as separate facilities because hybrid MPR/Gymnasiums were not anticipated.

The proposed regulatory action promotes fairness and social equity by allowing some lower income school districts and their pupils to enjoy the benefits of both an MPR and gymnasium facility through the lower cost option of an MPR/Gymnasium Hybrid facility sharing square footage in the same building.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations provide benefits to the health and welfare of a minimal number of California school pupils because some lower income school districts and their pupils can enjoy the benefits of both an MPR and gymnasium facility through the lower cost option of an MPR/Gymnasium Hybrid facility sharing square footage in the same building. This facilitates sporting activities, assemblies, meeting space, lunchtime seating, special events, recess area for pupils in inclement weather, and after-school programs.

Summary of the Proposed Regulatory Amendments

A summary of the proposed regulations is as follows:

Existing Regulation Section 1859.77.3 sets forth the criteria and permissible uses of New Construction Grant funds in accordance with Education Code Section 17072.35 and other specified purposes, including multipurpose room, gymnasium, library (minimum essential facilities), and in addition, for Alternative Education schools, counseling offices and/or conference rooms. The proposed amendments add MPR/Gymnasium Hybrid facilities as permissible uses subject to specific size, need, grade level, and square footage criteria. In addition, it is clarified that:

- schools with middle school and/or high school pupils are eligible for both one MPR and one gymnasium; and
- a school site with an adequate MPR and an adequate gymnasium is not eligible for an MPR/Gymnasium Hybrid under this Section.

Statutory Authority and Implementation

Education Code Section 17070.35. “(a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.”

Government Code Section 15503. “Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.”

Determination of Inconsistency or Incompatibility with Existing State Regulations

The proposed amendments address the lack of square footage allowances, which were inadvertently omitted from the rulemaking process, by providing square footage allowances for MPR/Gymnasium Hybrid facilities. The proposed amendments apply to the UOG regulations by which school districts, under Regulation Section 1859.77.3, can apply for funding for only the following ancillary facilities:

- MPR

- Gymnasium (for High Schools and Middle Schools only)
- Library/Media Center
- Counseling and/or Conference Rooms (Alternative Education only)

The proposed regulatory amendments provide square footage amounts for MPR/Gymnasium Hybrids for school sites with high school pupils and/or middle school pupils. K–6 sites are not eligible for a separate gym, so this option would not impact elementary schools. However, it could occur at middle schools, high schools, or schools that combine grade levels, such as K–8.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed regulations are neither inconsistent nor incompatible with existing state laws and regulations. The proposed amendments are within the SAB’s authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503. The SAB finds the proposed regulatory amendments reasonably necessary to provide a lower cost option for school districts seeking to construct ancillary facilities that directly benefit the pupils.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require school districts to incur additional costs in order to comply with the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non–discretionary costs or savings to local agencies.

- The proposed regulations create no costs to any local agency or school district requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any state agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

#### Impacts to Businesses and Jobs in California

The proposed amendments address the lack of square footage allowances, which were inadvertently omitted from the rulemaking process, by providing square footage allowances for MPR/Gymnasium Hybrid facilities. The proposed amendments apply to the UOG regulations by which school districts, under Regulation Section 1859.77.3, can apply for funding for only the following ancillary facilities:

- MPR
- Gymnasium (for High Schools and Middle Schools only)
- Library/Media Center
- Counseling and/or Conference Rooms (Alternative Education only)

The proposed regulatory amendments provide square footage amounts for MPR/Gymnasium Hybrids for school sites with high school pupils and/or middle school pupils. K–6 sites are not eligible for a separate gym, so this option would not impact elementary schools. However, it could occur at middle schools, high schools, or schools that combine grade levels, such as K–8.

Therefore, the proposed regulations will most likely have a positive effect on the State’s economy, creation of jobs, creation of new businesses, expansion of businesses, and will not eliminate jobs or eliminate existing businesses within California. Proceeding with the implementation of the proposed regulations provide benefits to the health and welfare of a minimal number of California school pupils because some lower income school districts and their pupils can enjoy the benefits of both an MPR and gymnasium facility through the lower cost option of an MPR/Gymnasium Hybrid facility

sharing square footage in the same building. This facilitates sporting activities, assemblies, meeting space, lunchtime seating, special events, recess area for pupils in inclement weather, and after–school programs.

#### Benefits to Public Health and Welfare, Worker’s Safety and the State’s Environment

- The proposed regulatory action promotes fairness and social equity by allowing some lower income school districts and their pupils to enjoy the benefits of both an MPR and gymnasium facility through the lower cost option of an MPR/Gymnasium Hybrid facility sharing square footage in the same building.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations do not directly impact worker’s safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code–compliant and safer for use by pupils, staff, and other occupants on the site.
- There are benefits to the health and welfare of a minimal number of California school pupils because some lower income school districts and their pupils can enjoy the benefits of both an MPR and gymnasium facility through the lower cost option of an MPR/Gymnasium Hybrid facility sharing square footage in the same building. This facilitates sporting activities, assemblies, meeting space, lunchtime seating, special events, recess area for pupils in inclement weather, and after–school programs.
- There is no impact to the State’s environment from the proposed regulations.

### EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. Although the proposed regulations only apply to school districts for purposes of funding school facility projects, the demand on the manufacturing and construction–related industries could potentially stimulate the creation of small businesses in these areas.



**SUBMISSION OF COMMENTS, DOCUMENTS  
AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than June 18, 2018, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

	Lisa Jones, Regulations Coordinator
Mailing Address:	Office of Public School Construction 707 Third Street, 6th Floor West Sacramento, CA 95605
E-mail Address:	<a href="mailto:lisa.jones@dgs.ca.gov">lisa.jones@dgs.ca.gov</a>
Fax No.:	(916) 375-6721

**AGENCY CONTACT PERSONS**

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ms. Lisa Jones at (916) 376-1753. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376-1646.

**ADOPTION OF REGULATIONS**

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested

notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

**SUBSTANTIAL CHANGES WILL REQUIRE  
A NEW NOTICE**

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

**RULEMAKING FILE**

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet website at: <http://www.dgs.ca.gov/opsc> under "Resources," click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

**ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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.

**AVAILABILITY OF THE FINAL STATEMENT  
OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the

agency's regulations coordinator named in this notice or may be accessed on the website listed above.

## TITLE 2. STATE LANDS COMMISSION

### NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA STATE LANDS COMMISSION

NOTICE IS HEREBY GIVEN that the California State Lands Commission, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on **May 4, 2018** and closing on **June 18, 2018**. All inquiries should be directed to the contact listed below.

The California State Lands Commission proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include: adding six new designated filing positions; revising designated position titles to accurately reflect the correct classification title; deleting designated positions that have been abolished or are no longer used by the Commission; removing Disclosure Category one, two, and three for certain filers; and revising filing language for the Executive Officer, elected state officials, and the Director of Finance.

The proposed amendment and explanation of the reasons can be obtained from the agency's contact.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than June 18, 2018, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than June 3, 2018.

The California State Lands Commission has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.

5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Anne Kerri  
Conflict-of-Interest Coordinator  
(916) 574-1912  
[anne.kerri@slc.ca.gov](mailto:anne.kerri@slc.ca.gov)

## TITLE 8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

Subject: Portable Amusement Ride Fees

TITLE 8 of the CALIFORNIA CODE OF REGULATIONS

Division 1. Department of Industrial Relations

Chapter 3.2. California Occupational Safety and Health Regulations

Subchapter 2. Regulations of the Division of Occupational Safety and Health

Article 6.1. Amusement Ride Inspection Fee Schedule

Section 344.18. Portable Amusement Ride Fee Schedule

### PUBLIC HEARING

The Department of Industrial Relations, Division of Occupational Safety and Health ("the Division") is proposing to take the action described in the Informative Digest/Policy Statement Overview (hereinafter "the Proposed Rulemaking"). Any person interested may present statements or arguments orally or in writing relevant to the Proposed Rulemaking at a hearing to be held in Room 2 of the Elihu Harris State Building at 1515 Clay Street, 2nd Floor, in Oakland, California on June 18, 2018, between 10:00 a.m. and 3:00 p.m., with a noon recess.

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other types of reasonable accommodations to facilitate effective communication for persons with disabilities are available upon request. Please contact the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance. Accommodation requests should be made as

soon as possible. Requests for an assistive–listening system or communication access real–time translation should be made no later than five (5) days before the hearing.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed amendments described below in the Informative Digest. The Division requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written comments.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or at 3:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Proposed Rulemaking by mail or personal delivery to Chris Grossgart, 1515 Clay Street, Suite 1901, Oakland, CA 94612. Written comments may also be sent to Chris Grossgart via e–mail to [cgrossgart@dir.ca.gov](mailto:cgrossgart@dir.ca.gov). (Please put the words “Portable Amusement Ride Fee Comment” in the subject line of your e–mail for ease of reference.) To be considered, written comments must be received by the Division at its office not later than 5:00 p.m. on June 18, 2018, or must be received by the Division at the hearing. The official record of the rulemaking proceeding will be closed at 5:00 p.m. on June 18, 2018. Written comments received after that date and time will not be considered unless an extension of time in which to receive specific written comments is announced at the public hearing.

The Division may thereafter adopt the Proposed Rulemaking substantially as described below or may modify it if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the persons designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to the Proposed Rulemaking or who have requested notification of any proposed changes.

#### AUTHORITY AND REFERENCE

Section 344.18, of Title 8, California Code of Regulations (“8 C.C.R.”)

Authority cited: Sections 60.5, 7904 and 7919, Labor Code. Reference: Section 7904, Labor Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to the Amusement Rides Safety Law, (Labor Code sections 7900 through 7919), the Division is charged with establishing and administering a system for the permitting and inspection of portable amusement rides, *i.e.*, amusement rides that are assembled and disassembled at different sites as part of a traveling attraction.

Labor Code section 7904 authorizes the Division to collect fees for the inspection of portable amusement rides to cover the cost of administering the Amusement Rides Safety Law. Such fees shall be charged to a person or entity receiving the Division’s services, including but not limited to approvals, determinations, permits, investigations, inspections and reinspections, certifications and recertifications, receipt and review of certificates, and reports and inspections. In fixing the amount of these fees, the Division may include direct costs and a reasonable percentage attributable to the indirect costs to the Division for administration of its portable amusement ride program. Any fees charged pursuant to Section 7904 shall be set forth in regulations.

Currently, an emergency regulation is in effect that amended 8 C.C.R. Section 344.18 to authorize the Division to charge a fee of two hundred and six dollars (\$206) per hour for all work performed by Division staff in connection with audits, inspections, reinspections, approvals, determinations, certifications and recertifications, receipt and review of certificates or reports and investigations of portable amusement rides. Time spent by Division staff performing these functions shall be billed in quarter–hour increments, rounded up to the nearest quarter hour. The Proposed Rulemaking would

codify the \$206 hourly fee as a regular, non-emergency regulation.<sup>1</sup>

POLICY STATEMENT OVERVIEW

The objective of the Amusement Rides Safety Law is to ensure the safe installation, repair, maintenance, use, operation, and inspection of portable amusement rides for the protection of the general public who use the rides. The Proposed Rulemaking would authorize the Division’s Amusement Ride and Tramway Unit (“the ART Unit”) to charge the higher fees necessary to fund the important public safety functions described in Labor Code section 7904. Without the proposed fee increase, the Division cannot adequately fund the portable amusement ride program’s operations and cannot meet its objective of ensuring the safety of ride patrons.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

After conducting an evaluation for any regulations in this area, the Division has concluded that these are the only regulations concerning portable amusement ride inspection fees. Therefore, the Proposed Rulemaking is not inconsistent nor incompatible with existing state regulations.

SUBSTANTIAL DIFFERENCE FROM EXISTING, COMPARABLE FEDERAL REGULATION OR STATUTE

The Division has determined that there are no applicable governing federal regulations or statutes.

<sup>1</sup> Prior to promulgation of the emergency fee regulation, the portable amusement ride fee was last amended effective January 20, 2011. That amendment created a fee structure similar to the one used for permanent amusement rides (see 8 C.C.R. § 344.16) and included both an hourly rate for on-site inspections and an annual fee per ride that was designed to offset travel and administrative costs. However, the 2011 amendment was challenged and invalidated on the grounds that it was inconsistent with the Division’s statutory fee-setting authority under Labor Code section 7904, as it read in 2011. (*California Portable Ride Operators v. California Division of Occupational Safety and Health*, Los Angeles Superior Court No. BC455252 (2012); *aff’d*, California Court of Appeal, Second Appellate District, Division 5, No. 13242219 (2014).) As a result, prior to promulgation of the emergency fee regulation, the Division was charging only \$125 per hour for its services, pursuant to the version of Section 344.18 that existed prior to the 2011 amendment.

DISCLOSURES REGARDING THE PROPOSED RULEMAKING

Mandate on local agencies and school districts: None. The Proposed Rulemaking does not impose a mandate on local agencies or school districts. The Division has determined that the Proposed Rulemaking does not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because it does not constitute a “new program or higher level of service of an existing program within the meaning of section 6 of Article XIII B of the California Constitution.” The California Supreme Court has established that a “program” within the meaning of section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. The Proposed Rulemaking does not require any local agency to carry out the governmental function of providing services to the public.

Cost or Savings to any state agency: The proposed regulation will bring in increased revenue to the Division to fund the Portable Amusement Ride Program. However, no other state agency or program will pay the increased fee.

Cost to Any Local Agency or School District Requiring Reimbursement Pursuant to Government Code section 17500 et seq: None.

Cost or Savings in Federal Funding to the State: The Proposed Rulemaking will create neither costs nor savings in federal funding to the State.

Other nondiscretionary costs or savings imposed on local agencies: None.

Housing Costs: The Division has made an initial determination that the Proposed Rulemaking will not have a significant effect on housing costs.

Cost impacts on representative private persons or businesses: A private person who does not own or operate a portable amusement ride will not experience a direct cost impact as a result of the Proposed Rulemaking. However, patrons of portable amusement rides may see some pass-through increase in the cost of ride tickets as a result of an inspection fee increase.

The Proposed Rulemaking contemplates an approximately 65% increase in the hourly fee for the work performed by the ART Unit’s amusement ride inspectors. The Division calculates that in 2016, the average mid-sized operator of portable amusement rides paid \$5,000 at the \$125 hourly rate. If the hourly rate increases to \$206, that same operator should expect to pay \$8,240, a 65% increase.



**Business Impact:** The Division has determined that the Proposed Rulemaking will not have a significant statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states. The effect of the fee increase will be limited to the 113 owners and operators of portable amusement rides operating in California. The proposed fee increase applies to any business operating portable amusement rides in this state, and is therefore neutral in its treatment of California businesses compared to businesses from other states.

**Results of the economic impact assessment/analysis:** The Division does not anticipate the Proposed Rulemaking will result in the creation or elimination of any jobs in the State of California. The Proposed Rulemaking will not affect the creation of new businesses or the elimination of existing business within the State of California, and will not affect the expansion of businesses currently doing business within the state. The Proposed Rulemaking will benefit those California residents who patronize portable amusement rides by increasing the safety of the rides. It will have no appreciable effect on the state's environment.

#### SMALL BUSINESS

The definition of "small business" does not include entertainment activities or productions. Thus, the Division believes that the Proposed Rulemaking does not affect small business.

Nevertheless, the Division estimates that a typical operator with fewer than ten portable amusement rides will see an increase of \$459 annually as a result of the Proposed Rulemaking. The Division reached this conclusion by looking at three operators with fewer than ten rides. These three operators paid an average of \$708 dollars in 2016 for all inspections at the \$125 per hour rate. If the hourly rate is increased to \$206 per hour, those operators will pay an average of \$1,167 for the same number of inspection hours. Assuming that the operators require the same number of onsite visits as they did in 2016, the difference in the average annual costs under the existing rate and the proposed rate is \$459.

#### CONSIDERATION OF ALTERNATIVES

The Division must determine that no reasonable alternative considered by it, or that has been identified and brought to its attention, 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 PERSONS

Non-substantive inquiries concerning this action, such as requests for copies of the text of the proposed amendments, and the location of public records, may be directed to Mary Ann David at (510) 286-7348 or [mdavid@dir.ca.gov](mailto:mdavid@dir.ca.gov). Inquiries regarding the substance of the proposed amendments may be directed to Chris Grossgart (primary contact) or Nathan Schmidt (back-up contact) at (510) 286-7348 or at [cgrossgart@dir.ca.gov](mailto:cgrossgart@dir.ca.gov).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION/INTERNET ACCESS

An Initial Statement of Reasons, the text of the proposal, and other information upon which the Proposed Rulemaking is based, have been prepared and are available from the contact persons named in this Notice. The Division will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at 1515 Clay Street, Suite 1901, Oakland, CA 94612. The Initial Statement of Reasons, this Notice of Proposed Rulemaking, and text of the Proposed Regulation also may be accessed through the agency's Internet website at [www.dir.ca.gov/dosh/rulemaking.html](http://www.dir.ca.gov/dosh/rulemaking.html).

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Division may adopt the proposals substantially as described in this Notice. If the Division 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 adopting the amendments as revised. Any such modifications also will be posted on the Division's website.

Please send requests for copies of any modified amendments to the attention of Mary Ann David at the above telephone number or e-mail address. The Division will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mary Ann David at the above telephone number or e-mail address.

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

**High Voltage Electrical Safety Orders, Sections 2941 and 2942; Elevator Safety Orders, Section 3016; General Industry Safety Orders, Sections 3207, 3214, 3231, 3234, 3276, 3277, New Sections 3279, 3621 and 3622; Petroleum Safety Orders — Drilling and Production, Sections 6564, 6599, 6600 and 6632; and Telecommunication Safety Orders, Section 8608**

**Walking–Working Surfaces (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 **June 21, 2018** 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**

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board’s office. The written comment period commences on **May 4, 2018** and closes at 5:00 p.m. on **June 21, 2018**. 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 can 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 [oshsb@dir.ca.gov](mailto:oshsb@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 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 walking–working surfaces as 29 Code of Federal Regulations, Part 1910:

- Subpart D, Sections 1910.21 through 1910.30
- Subpart F, Sections 1910.66, 1910.67, 1910.68, Appendix D to 1910.66
- Subpart I, Sections 1910.132, 1910.139, 1910.140, Appendix C to Subpart I, Appendix D to Subpart I
- Subpart N, Sections 1910.178, 1910.179
- Subpart R, Sections 1910.261, 1910.262, 1910.265, 1910.268

The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 81, No. 223, pages 82494–83006, November 18, 2016, as the justification for the Board’s proposed rulemaking action. The Board proposes to adopt regulations which are the same as the federal regulations except for editorial and format differences.

OSHA revised and updated the general industry standard on walking–working surfaces. Walking–working surfaces means any horizontal or vertical surface on or through which an employee walks, works, or gains access to a work area or work station. As such, the Federal Final Rule covers a broad scope: ladders, step bolts and manhole steps, stairways, dockboards, scaffolds and rope descent systems, fall protection and falling object protection, training requirements, powered platforms for building maintenance, vehicle–mounted elevating and rotating work platforms, manlifts, personal fall protection systems, powered industrial trucks, overhead and gantry cranes, pulp and paperboard mills, textiles, sawmills, telecommunications and electric power generation, transmission, and distribution.

Due to the size of the Federal walking–working surfaces regulation and the number of California regula-

tions affected, the Federal regulation is being incorporated into the California regulations in segments. This notice addresses:

- Fixed and Portable Ladders
- Mobile Ladder Stands and Scaffolds
- Stairways
- Step Bolts and Manhole Steps.

California is proposing to maintain its current structure regarding the existing regulations and proposes to add Section 3279 to address pole steps and manhole steps.

The federal changes to its general industry safety order affect California’s General Industry Safety Orders, High Voltage Electrical Safety Orders, Elevator Safety Orders, Petroleum Safety Orders — Drilling and Production, and Telecommunication Safety Orders. Future notices will encompass the remaining parts of the federal regulation.

The proposed regulations are substantially the same as the final rule promulgated by Federal OSHA. Therefore, Labor 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 purpose of the written and oral comments at the public hearing is to:

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

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

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are 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 is 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**

81 Federal Register, 82494–83006 (November 18, 2016).

This document is 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**

Requirement	Total Cost –All Employers (\$Millions) (2012 Dollars)	California Cost 13.2% GDP (\$Millions) (2012 Dollars)
1910.23 Ladders	11.3	1.45
1910.24 Step Bolts and Manhole Steps	18.0	2.38
1910.25 Stairways*	0	0
<b>Total</b>	<b>29.3</b>	<b>3.83</b>

\* Federal OSHA does not believe there is a cost to complying with the Stairway standards due to the grandfathering clause and general adherence to national consensus standards. In addition, a large portion of the final rule regarding stairways was reorganization of existing requirements.

#### 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 amendments may affect small businesses. Refer to pages 82875–82924 of 81 Federal Register, 82494–83006 (November 18, 2016) for a break-down of the costs based on industry code.

#### 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.

#### 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 regulation(s) without further notice even though modifications may be made to the original pro-

posal 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/oshsb>.

### TITLE 13. DEPARTMENT OF MOTOR VEHICLES

The Department of Motor Vehicles (department) proposes to amend Sections 25.06, 25.08, 25.09, 25.10, 25.11, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21 and 25.22, and adopt Section 25.23 in Article 2.1, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to the Employer Testing Program.

#### PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

#### DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **June 18, 2018**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.



**AUTHORITY AND REFERENCE**

The department proposes to adopt these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 12804.9 and 15250, and Part 383 of Title 49, Code of Federal Regulations.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The department is authorized in Part 383 of Title 49 of the Code of Federal Regulations (CFR) and by Vehicle Code section 15250 to use third-party testers to conduct the commercial behind the wheel driving tests, under specified conditions. Included among these conditions are the requirements that the tests administered by the third party are the same as those that would otherwise be given by the department, and that the examiners meet the same qualifications and training as state examiners. It was under this authority that the department created the Employer Testing Program. The department defines third-party testers as “employers,” requiring an employer–employee relationship between the company and the drivers they intend to train, test, and certify.

Article 2.1 establishes rules for enrolling in the testing program, including the submission of drive test routes, issuance of certificates of driving skill, record-keeping requirements, and identifying the roles and responsibilities of employers, administrators, authorized representatives, and examiners participating in the program.

On May 9, 2011, the Federal Motor Carrier Safety Administration (FMCSA) published its final rule to adopt revisions to the third-party tester program that includes creating a process by which an examiner is required to be certified by the department prior to conducting drive tests. The rules include, as part of the certification process, requiring background checks and formal training for all test examiners and requiring the establishment of oversight systems for examiners. The new procedures were established to reduce fraudulent activity in the area of commercial driver’s license testing.

This action will benefit the welfare of California residents and worker safety by ensuring commercial drivers are tested appropriately and by creating a testing process that decreases instances of fraud that could lead to an unqualified driver being issued a commercial driver’s license.

**CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS**

During the process of developing these regulations, the department has conducted a search of any similar regulations on the topic of the issuance of third-party testing of commercial drivers and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

**COMPARABLE FEDERAL STATUTES OR REGULATIONS**

This proposed action adopts the federal rules as they relate to the employer testing program. While some of the provisions in this action duplicate federal law, the department has determined that the duplication is necessary to satisfy the clarity standard of Government Code section 11349.1(a)(3). The duplication will allow the interested party to have a single source of information related to the employer testing program. This duplication will alleviate the need for the potential applicant to have to reference several sources to identify rules related to California’s third-party testing program and the examiner certification process.

There are no other state regulations related to the employer testing program or the examiner certification process.

**DOCUMENTS INCORPORATED BY REFERENCE**

The following documents are incorporated by reference:

- Certificate of Driving Skill (DL170ETP, Rev. 10/2017)
- Employer Testing Program Application for Employer Number (DL520ETP, Rev. 10/2017)
- Employer Testing Program Agreement (DL520B ETP, Rev. 10/2017)
- Employer Testing Program Surety Bond (DL 524 ETP, Rev. 10/2017)
- Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 10/2017)
- Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 10/2017)
- Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, Rev. 10/2017)
- Notification of Commercial Skills Test Schedule (OL 810, NEW 10/2017)
- Employer Testing Program Examiner Application (DL811ETP, Rev. 10/2017)

- Employer Testing Program Refresher Training Request— Examiner (DL 818 ETP, Rev. 10/2017)
- Request for Live Scan Service form, DMV 8016 (Rev. 11/2011)
- Employer Testing Program Voluntary Cancellation Request (DL 520C ETP, Rev. 10/2017)
- Employer Testing Program Request for Reactivation Employer Number (DL 817 ETP, Rev. 10/2017)

These documents will not be published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, the documents are readily available to interested parties by contacting the department representative identified below.

#### **Economic and Fiscal Impact Determinations**

The department has made the following initial determinations concerning the proposed regulatory action:

- *Cost or Savings to Any State Agency:* None.
- *Other Non–Discretionary Cost or Savings to Local Agencies:* None.
- *Costs or Savings in Federal Funding to the State:* None.
- *Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.:* None.
- *Effects on Housing Costs:* None.
- *Significant Statewide Adverse Economic Impact Directly Affecting Businesses:* None. The proposed adoptions will require employers to verify an examiner’s certification prior to allowing the examiner to conduct drive tests.
- *Cost Impact on Representative Private Persons or Businesses:* The department is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance related to the provisions identified in this proposed action. There are no fee increases to the examiners, employers, administrators or the state; however, employers should expect costs related to securing a bond as part of the application process. The department does not anticipate the cost of the bond would be prohibitive for applicants.
- *Small Business Impact:* There might be a minimal impact to small businesses.

#### **Results of the Economic Impact Statement**

The department has made the determinations that this proposed action will not impact the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses within

the state, or the expansion of businesses currently doing business within the state.

This action will benefit the welfare of California residents and worker safety by ensuring commercial drivers are tested appropriately and by creating a testing process that decreases instances of fraud that could lead to an unqualified driver being issued a commercial driver’s license.

#### **PUBLIC DISCUSSION OF PROPOSED REGULATIONS**

A pre–notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

#### **ALTERNATIVES CONSIDERED**

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, or would be effective as 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 provisions of law.

#### **CONTACT PERSON**

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Analyst  
Department of Motor Vehicles Legal Affairs  
Division  
PO Box 932382, MS C–244  
Sacramento, CA 94232–3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657–8898  
Facsimile: (916) 657–6243  
E–Mail: LADRegulations@dmv.ca.gov

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

Shelly Johnson Marker, Chief of Staff  
Department of Motor Vehicles  
Telephone: (916) 657–6469

AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <http://www.dmv.ca.gov/portal/dmv/detail/about/lad/regactions>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

**TITLE 13. NEW MOTOR  
VEHICLE BOARD**

NOTICE IS HEREBY GIVEN that the California New Motor Vehicle Board (“Board”), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050 proposes to adopt the proposed regulation as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

PROPOSED REGULATORY ACTION

The Board proposes to amend section 551.12 of Title 13 of the California Code of Regulations pertaining to peremptory challenges.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered and adopted the proposed regulation at a noticed General Meeting held on March 13, 2018. Twelve days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulation was mailed to all individuals and entities on the Board’s Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board’s website.

No comments by the public were received at the March 13, 2018, General Meeting, and no further public discussion was held prior to publication of the notice.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 323-1632 or by e-mail at [dvare@nmvb.ca.gov](mailto:dvare@nmvb.ca.gov) or [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov). The written comment period closes at 5:00 p.m. on June 18, 2018. The Board will consider only comments received at the Board’s offices by that time. Submit comments to:

Danielle R. Vare, Staff Counsel  
New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, CA 95811  
(916) 327-3129 direct line  
(916) 445-1888 main line  
(916) 323-1632 fax  
[dvare@nmvb.ca.gov](mailto:dvare@nmvb.ca.gov)

AUTHORITY AND REFERENCE

Vehicle Code section 3050, subdivision (a), authorizes the Board to adopt the proposed regulation. The

proposed regulation implements, interprets, and makes specific Vehicle Code sections 3066, 3080 and 3085.2 and Section 11425.40 of the Government Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The adopted mission of the Board is to: “. . . enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner. The adopted vision statement provides that the Board safeguard for its “constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes, which ultimately improves relations and reduces the need for costly litigation and develop methods that further improve the delivery of Board services in a timely and cost-effective manner . . .”

The Board proposes to amend Section 551.12 to eliminate the requirement of a declaration of prejudice by a party against an administrative law judge and to amend the language to be nearly identical to the Office of Administrative Hearings.

Section 551.12(b) clarifies that each party is entitled to one peremptory challenge of an administrative law judge assigned to preside over a merits hearing for a petition or protest as outlined in the subsections following.

Section 551.12(b)(1) is amended to clarify the peremptory challenge can be filed against an administrative law judge assigned for merits hearings.

Section 551.12(b)(2) is amended to provide language to be used substantially in the same form when filing a peremptory challenge.

Section 551.12(c) clarifies that the use of a peremptory challenge is only against an assigned administrative law judge for merits hearings.

Section 551.12(e) provides an unambiguous statement that peremptory challenges are not authorized for law and motion hearings, settlement conferences and rulings on discovery disputes. The proposed regulation deletes previous language for a declaration declaring that the assigned administrative law judge is prejudiced against a party or interest of the party.

Section 551.12(f) further clarifies the regulation is in relation to assigned administrative law judges for merits hearings as well as deletes a provision regarding continuances.

### OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The broad objective of the regulation is to clarify for litigants that appear before the Board the information necessary to effectively represent themselves or their clients.

The specific benefit anticipated from the regulation is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law. The regulatory amendments also bring the Board in line with other state entities with similar regulations.

### EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Further research was conducted to ensure that the proposed amendments are neither inconsistent nor incompatible with existing state regulations. The regulations of two other state agencies as well as the Office of Administrative Hearings were compared and it was confirmed the other entities permit challenges only to the Administrative Law Judge adjudicating the evidentiary hearing on the merits. It was determined that the proposed amendments are both reasonable and largely consistent with similar regulations of other state agencies by limiting peremptory challenges to the assigned hearing judge. Other agency regulations also do not require that a party include a supporting declaration that alleges judicial bias or other grounds for reassignment.

### DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.



- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business:  
The Board 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 directly affecting businesses, including the ability of California business to compete with businesses in other states: None.
- Significant effect on housing costs: None.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board concludes that the proposed regulations will not (1) create any jobs within the State of California, (2) eliminate any jobs within the State of California, (3) create any new businesses within the State of California, (4) eliminate any existing businesses within the State of California, or (5) cause the expansion of businesses currently doing business within the State of California.

#### BENEFITS OF THE REGULATION

The proposed regulation will promote the expeditious and economical resolution of disputes between new motor vehicle dealers and their manufacturers or distributors.

#### SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulation will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulation, are legally required to enforce the regulation, or derive a benefit from or incur an obligation from the enforcement of the regulation. The proposed regulation merely clarifies case management for franchised new motor vehicle dealers and their franchisors (new vehicle manufacturers or distributors) who choose to file a protest or petition with the Board.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine

that no reasonable alternative it considered 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, 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.

The Board invites interested persons to present comments, statements or arguments with respect to alternatives to the proposed regulation, during the written comment period or at the public hearing, if one is requested.

#### CONTACT PERSONS

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Vare at the following address:

Danielle R. Vare, Staff Counsel  
New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, CA 95811  
(916) 327-3129 direct line  
(916) 445-1888 main line  
(916) 323-1632 fax  
[dvare@nmvb.ca.gov](mailto:dvare@nmvb.ca.gov)

The backup contact person for these inquiries is:

Robin P. Parker, Senior Staff Counsel  
New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, CA 95811  
(916) 323-1536 direct line  
(916) 445-1888 main line  
(916) 323-1632 fax  
[rparker@nmvb.ca.gov](mailto:rparker@nmvb.ca.gov)

#### AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices 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, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulation 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 regulation as revised. Requests for copies of any modified regulation should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulation for 15 days after the date on which they are made available to the public.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Ms. Vare or Ms. Parker at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout font can be accessed through the Board's website at [www.nmrvb.ca.gov](http://www.nmrvb.ca.gov).

### TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205(c), 265, 399, 1590, 1591, 2860, 2861, and 6750 of the Fish and Game Code and sections 36725(a) and 36725(e) of the Public Resources Code and to implement, interpret, or make specific sections 200, 205(c), 265, 399, 2861, 5521, 6653, 8420(e), and 8500 of the Fish and Game Code and sections 36700(e), 36710(e), 36725(a), and 36725(e) of the Public Resources Code, proposes to amend subsection (b)(17) of Section 632, Title 14, California Code of Regulations (CCR), relating to Marine Protected Areas (Rockport Rocks Special Closure).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Marine Life Protection Act (MLPA) (Fish and Game Code sections 2850–2863) established a pro-

grammatic framework for designating marine protected areas (MPAs) in the form of a statewide network. During this designation process, relatively small special closures were used as a management tool to protect seabird rookeries and marine mammal haul-out sites by restricting ocean-based access to these areas seasonally or year-round.

The Rockport Rocks Special Closure was enacted in 2012 to seasonally protect breeding and nesting seabirds from disturbance by prohibiting visitor access closer than 300 feet March 1 to August 31 [Subsection 632(b)(17), Title 14, CCR].

In 2015, the Mendocino Redwood Company, LLC, (MRC) submitted a petition to the Commission requesting the repeal of the Rockport Rocks Special Closure regulations. The petition alleges the Rockport Rocks Special Closure prohibits MRC from accessing its private property.

The proposed amendment will repeal all aspects of the special closure, except for modification of the name from "Rockport Rocks Special Closure" to "Repealed: Rockport Rocks Special Closure".

#### BENEFITS OF THE PROPOSED REGULATION

The proposed amendment to Section 632 corrects inadvertent implementation of regulations that conflict with Department of Fish and Wildlife policy to not establish MPAs or special closures that prohibit access to private lands. Retaining the name with a slight modification will ensure historical tracking of enforcement citations for this area as well as all other MPAs and special closures in the statewide network, avoid costs of reprinting statewide materials, and avoid an amendment of every MPA serial number in subsection 632(b).

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

Commission staff has searched the CCR and has found no other regulations concerning Rockport Rock Special Closure and therefore has determined that the proposed regulations are neither inconsistent, nor incompatible, with existing state regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, June 20, 2018 at 8 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the River Lodge Conference Center, 1800 Riverwalk Drive, Fortuna, California, on Wednesday, August 22, 2018, at 8:00

a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on August 9, 2018, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed (to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244–2090), or emailed to the Commission office, must be received before 12:00 noon on August 17, 2018. All comments must be received no later than August 22, 2018, at the hearing in Fortuna, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

#### AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.foc.ca.gov](http://www.foc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Rick Pimentel at the preceding address or phone number, **Amanda Van Diggelen, Environmental Scientist, Department of Fish and Wildlife, phone (562) 342–7176, has been designated to respond to questions on the substance of the proposed regulations.**

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION/RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following ini-

tial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:  
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 because the proposed repeal removes an access restriction that may impart limited positive impacts to only one private landowner.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:  
The Commission does not anticipate any impacts on creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California because these changes will neither increase nor decrease recreational or commercial opportunities within the state of California.  
The Commission does not anticipate any benefits to the health and welfare of California residents, worker safety, or the environment.
- (c) Cost Impacts on a Representative Private Person or Business:  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission

has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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.

### TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205(c), 265, 399, 1590, 1591, 2860, 2861, and 6750 of the Fish and Game Code and sections 36725(a) and 36725(e) of the Public Resources Code and to implement, interpret, or make specific sections 200, 205(c), 265, 399, 2861, 5521, 6653, 8420(e), and 8500 of the Fish and Game Code and sections 36700(e), 36710(e), 36725(a), and 36725(e) of the Public Resources Code, proposes to amend subsections (b)(33), (34), (97), (98), (112) and (117) of Section 632, Title 14, California Code of Regulations (CCR), relating to Marine Protected Areas (tribal take).

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Marine Life Protection Act (MLPA) (Fish and Game Code Sections 2850–2863) established a programmatic framework for designating marine protected areas (MPAs) in the form of a comprehensive statewide network. The Marine Managed Areas Improvement Act (Public Resources Code Sections 36600–36900) standardized and clarified the designations of marine managed areas (MMAs), which include MPAs. The overriding goal of these acts is to protect California’s valuable marine resources including natural biodiversity and abundance of marine life, sustaining and rebuilding species of economic value, and improving recreational and educational opportunities in areas subject to minimal human disturbance.

Planning for California’s coastal network of MPAs occurred through a sequential series of four regional public planning processes. Following planning within each region, the Commission adopted MPA regulations that were implemented along the coast from 2007 to 2012. Background information from previous rulemaking files for regional MPA planning and implementation is found in the initial statement of reasons for Rulemaking File No. 2012–1005–02S, which is available at <http://www.fgc.ca.gov/regulations/2012/632ncisor.pdf>.

Existing regulations in Section 632, Title 14, CCR, provide definitions, and site-specific area classifications, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses, including tribal take regulations for federally recognized tribes [subsection 632(a)(11)].

### Proposed Regulation

1. Boundary Changes. Amend subsections 632(b)(33)(A) and (34)(A) boundaries for Stewarts Point State Marine Conservation Area (SMCA) and Stewarts Point State Marine Reserve (SMR) at the request of the federally recognized Kashia Band of Pomo Indians of the Stewarts Point Rancheria (Kashia Band of Pomo Indians).

### Background

In 2010, the Commission recognized that implementation of the Stewarts Point SMR inadvertently prohibited members of the Kashia Band of Pomo Indians, a federally recognized tribe in Sonoma County, from fishing and gathering for subsistence and ceremonial purposes in their traditional take areas. Thus, the Commission took action to re-designate a portion of the SMR as an SMCA to allow for recreational take of certain species that accommodated the take needs identified by the tribe [subsection 632(b)(33)].

In February 2017, the Kashia Band of Pomo Indians began new discussions with the Commission to modify the existing boundaries of Stewarts Point SMCA and Stewarts Point SMR, in subsections 632(b)(33)(A) and (34)(A), respectively, to align the SMCA more closely with the tribe’s traditional take areas. Ultimately, the Kashia Band of Pomo Indians formally petitioned the Commission to adopt boundary modifications to Stewarts Point SMCA and Stewarts Point SMR. The action would shift the northern boundary of the SMCA southward by approximately 1.5 miles,



and shift the southern boundary of the SMCA southward by approximately 1.0 mile.

2. Authorize Tribal Take. Amend subsections 632(b)(97), (98), (112) and (117), to authorize tribal take for members of the federally recognized Santa Ynez Band of Chumash Indians at Kashtayit SMCA, Naples SMCA, Point Dume SMCA, and Anacapa Island SMCA.

#### Background

In December 2010, the Commission adopted MPAs in Southern California. In 2011, the Santa Ynez Band of Chumash Indians, a federally recognized tribe located in Santa Barbara County, petitioned the Commission to authorize tribal take in all SMCAs and state marine parks in Santa Barbara County. In June 2012, the Commission adopted subsection 632(a)(11), which defines tribal take within an MPA when authorized under 632(b). In April 2017, the Santa Ynez Band of Chumash Indians submitted a modified final request for the Commission to authorize tribal take within four SMCAs: Kashtayit and Naples (Santa Barbara County), Point Dume (Los Angeles County), and Anacapa Island (Ventura County). The tribe provided additional documentation of historic use. No changes are proposed for subsection 632(b)(111), Anacapa Island Special Closure, which overlaps with Anacapa Island SMCA.

#### Goals and Benefits

1. The Commission took action in 2010 to adopt the Stewarts Point SMCA within the Stewarts Point SMR at the request of the federally recognized Kashia Band of Pomo Indians to allow for recreational take from shore of certain culturally significant species. The proposed boundary modifications would more closely align the Stewarts Point SMCA with historical tribal lands reacquired subsequent to the tribe's 2010 request, thus providing a contiguous connection between terrestrial and marine areas of cultural significance.
2. The proposed regulations will authorize take for members of the federally recognized Santa Ynez Band of Chumash Indians within certain areas of historical use, as supported by the tribe's factual record; in 2012, take within these areas was minimized when certain MPAs were implemented. The proposed regulation for tribal take by the Santa Ynez Band of Chumash Indians is consistent with regulations for federally recognized tribes in north coast MPAs.

3. The proposed action is consistent with the Commission's Tribal Policy which implements the Governor's Executive Order B-10-11 for collaborative government-to-government consultation with California Indian Tribes to realize sustainably managed natural resources of mutual interest.

#### Consistency with Existing State Regulations

The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the California Code of Regulations and finds no other State agency regulations pertaining to Stewarts Point SMCA, Stewarts Point SMR, Kashtayit SMCA, Naples SMCA, Point Dume SMCA, or Anacapa Island SMCA.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, June 20, 2018, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the River Lodge Conference Center, 1800 Riverwalk Drive, Fortuna, California, on Wednesday, August 22, 2018, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on August 9, 2018, at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed (to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090), or emailed to the Commission office, must be received before 12:00 noon on August 17, 2018. All comments must be received no later than August 22, 2018, at the hearing in Fortuna. If you would like copies of any modifications to this proposal, please include your name and mailing address.

#### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Sherrie Fonbuena

at the preceding address or phone number. **Environmental Scientist Elizabeth Pope, Department of Fish and Wildlife, (707) 445-5301 or [Elizabeth.Pope@wildlife.ca.gov](mailto:Elizabeth.Pope@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

**IMPACT OF REGULATORY ACTION/RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

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. Neither aspect of this proposed rulemaking constitutes a significant change in proposed take of or access to resources, nor to business activities relating to such resources.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in

California because these changes will neither increase nor decrease recreational or commercial opportunities within the state of California.

The Commission does not anticipate benefits to the health and welfare of California residents, generally; however, the Commission anticipates benefits to the health and welfare of tribal members by authorizing take of living marine resources from MPAs with specific take restrictions. The proposed amendments do not have foreseeable benefits to worker safety because the regulations do not affect working conditions. Benefits to the environment will remain consistent with the current protections provided by the MPA network as a whole.

- (c) Cost impacts on a Representative Private Person or Business:

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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.

**TITLE 17. DEPARTMENT OF  
PUBLIC HEALTH**

**DPH-16-009 Lead-Related Construction,  
Certified Industrial Hygienist Correction**

Notice is hereby given that the California Department of Public Health (Department) is proposing the regulation described below. This notice of proposed rulemaking commences a rulemaking to make the regulations permanent after considering all comments, objections, and recommendations regarding the regulation.

**PUBLIC PROCEEDINGS**

The Department is conducting a 45-day written public proceeding during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in the Informative Digest/Policy Statement Overview section of this notice.

To request copies of the regulatory proposal in an alternate format, please write or call: Laurel Prior, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814, at (916) 558-1710, email to [LaurelPrior@cdph.ca.gov](mailto:LaurelPrior@cdph.ca.gov) or use the California Relay Service by dialing 711.

**WRITTEN COMMENT PERIOD**

Any written comments pertaining to this proposal, regardless of the method of transmittal, must be received by the Office of Regulations by 5:00 p.m. on June 18, 2018, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: [regulations@cdph.ca.gov](mailto:regulations@cdph.ca.gov). It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier "DPH-16-009 LRC and CIH Correction" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 636-6220;
3. By postal service or hand delivered to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814.

All comments should include the regulation package identifier, "DPH-16-009 LRC and CIH Correction", with the comment author's name and email or mailing address.

**PUBLIC HEARING**

A public hearing has not been scheduled for this rulemaking. However, the Department will conduct a hearing if a written request for a public hearing is received from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

**AUTHORITY AND REFERENCE**

The Department is authorized to make and enforce regulations pertaining to lead-related construction pursuant to sections 105250 and 105254 of the Health and Safety Code (HSC). This proposal implements, interprets, or makes specific the lead-related construction HSC statutes by amending sections 35083 and 35087 of the California Code of Regulations, title 17 (17 CCR).

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

In accordance with the federal Residential Lead-Based Paint Hazard Reduction Act of 1992, the Department is required and authorized to administer a residential lead-based paint hazard reduction program and to adopt and amend regulations implementing the accreditation of training providers and the certification of individuals training to perform lead-related construction (LRC) work in the state (Health & Saf. Code, §§ 105250 & 105250, subd. (b)). The Department is further authorized to modify certification requirements for persons engaged in lead construction work based on the needs of the program. (Health & Saf. Code, § 105254, subd. (c).)

The Department's Lead Related Construction Program (LRC Program) certifies approximately 7,000 lead professionals annually and accredits training providers that offer LRC courses in California. Individuals certified by the LRC Program provide lead-related inspections and abatement services in residences and public buildings throughout the state in order to prevent and minimize housing-related lead exposure to California's families. The regulations implementing the LRC Program's certification requirements are contained in 17 CCR, sections 35081 through 35097.

***Problem Statement:***

The purpose of this regulatory proposal is to clarify the process by which Certified Industrial Hygienists



(CIHs) become certified LRC inspector/assessors, or project monitors. The proposed regulatory changes are necessary to correct a mistake in the current version of the regulations that has led to unintended restrictions for CIHs seeking certification as LRC professionals.

A 1995 revision of these regulations was intended to amend the LRC certification process in order to allow CIHs to take an expedited 24-credit hour course (CIH course) that would qualify them for LRC certification. This CIH course was intended to replace the requirement that CIHs take the 40-hour credit course(s) mandated for non-CIH individuals. However, due to a drafting error in a 1999 revision of these regulations, language affecting the certification requirements for CIHs was unintentionally altered and the regulation does not effectuate the Department's intent that CIHs be able to qualify for LRC certification via the CIH course. Under the current regulations, a CIH *may* take the CIH course, but because of the 1999 error, this will not qualify them for LRC certification.

CIHs are highly trained individuals who already possess education and experience in identifying and eliminating chemical, physical, biological, ergonomic, and toxicological health and safety hazards, such as lead-based paint, in homes, workplaces, and communities. By requiring CIHs to take an additional 40-credit hours of course work, the current regulations impose a more time consuming training process on CIHs than was ever intended by the Department. Furthermore, a delay in the time it takes to certify qualified LRC inspector/assessors and/or project monitors directly affects the Department's ability to comply with its mandate under the Residential Lead-Based Paint Hazard Reduction Act of 1992, namely: to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible. (42 U.S.C. § 4851 and Health & Saf. Code, § 105250, subd. (a).)

The Department has therefore determined that amendments are necessary in order to restore the intent of the 1995 version of the regulations, provide clarity and fairness to the LRC certification process for both CIHs and training providers, and ensure that the Department continues to effectively fulfill its federal mandate to address lead-based paint hazards as expeditiously as possible. The proposed regulatory amendments are further necessary in order for CDPH to fulfill its statutory duty to ensure that individuals engaged in LRC activities are properly trained, training programs are accredited, and that contractors engaged in lead reduction activities are certified. (Health & Saf. Code, § 105250, subd. (a) & (b), 15 U.S.C. § 2682, & 42 U.S.C. § 4851.)

***Broad Objectives of the Regulation***

The broad objectives of this proposed regulatory action are:

- To effectuate the Department's statutory mandate to effectively comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992.
- To provide clarity of process for CIHs seeking LRC certification.
- To remove a burdensome time commitment that may discourage CIHs from seeking LRC certification.
- To encourage increased numbers of LRC certified individuals within the state and more opportunities for the expedient identification and remediation of toxic lead hazards affecting California's children, families, and workers.

***Anticipated Benefits (including non-monetary benefits such as the protection of public health and safety to California residents)***

The Department anticipates that reducing barriers to individual CIHs seeking to become LRC certified will increase the number of individuals certified to evaluate homes for lead-based paint and lead hazards. It is presumed that more availability of certified LRC individuals will lead to greater identification of lead hazards and to a reduction in incidents of lead exposure affecting children, families and workers in California.

**EVALUATION AS TO WHETHER THE REGULATIONS ARE CONSISTENT AND COMPATIBILITY WITH EXISTING STATE REGULATIONS**

The Department has determined that this proposed regulatory action is consistent and compatible with existing regulations. After conducting a review for any regulations that would relate to or affect LRC, the Department has concluded that no known statute or regulation conflicts with this proposed regulatory action.

**MANDATED BY FEDERAL LAW OR REGULATIONS**

The Department's LRC Program meets the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. § 4851 and following) and title X of the Housing and Community Development Act of 1992 (Public Law 102-550). The Department's LRC Program has powers and authority consistent with the intent of, and has adopted regulations which establish the program as an authorized state program pursuant to title IV, sections 402 to 404, inclusive, of the Toxic Substances Control Act (15 U.S.C. § 2601 and following).



LOCAL MANDATE

The Department has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with § 17500) of division 4 of the Government Code.

FISCAL IMPACT ESTIMATES

**A. Fiscal Effect on Local Government:**

None.

**B. Fiscal Effect on State Government/Costs or Savings to Any State Agency:** Any fiscal effect will be negligible. Any additional costs for overseeing new LRC CIH classes will be absorbed within the LRC Program’s existing budget and resources.

**C. Other Nondiscretionary Cost or Savings Imposed on Local Agencies:**

None.

**D. Fiscal Effect on Federal Funding of State Programs:**

No fiscal impact exists for federal funds. Any fiscal effect to the LRC program will be negligible and will be absorbed through the LRC special fund.

HOUSING COSTS

The Department has determined that the regulations will not have an impact on housing costs.

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

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Based on the economic impact analysis, the Department has determined that it is likely the regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California.
2. The creation of new businesses or the elimination of existing businesses within the State of California.

3. The expansion of businesses currently doing business within the State of California.
4. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment. The Department anticipates that the benefit of reducing barriers to individual CIHs seeking to become LRC certified will increase the number of individuals certified to evaluate homes for lead-based paint and lead hazards. It is presumed that more availability of certified LRC individuals will lead to greater identification of lead hazards and to a reduction in incidents of lead-exposure affecting children, families and workers in California.

COST IMPACTS ON REPRESENTATIVE 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.

The Department has determined that there will be no new costs to CIHs currently doing business in California. A CIH can already opt to become LRC certified in California. Department-accredited training providers who opt to teach the CIH course enabling expedited CIH training may recoup costs if CIHs opt to take the course. There is no current or proposed requirement for an individual to take a CIH course, or for a training provider to offer it.

BUSINESS REPORTING REQUIREMENT

The proposed regulatory amendments do not change current business reporting requirements. Accredited LRC training providers will still be required to issue a course completion form (CDPH Form 8493) to an individual and to CDPH as proof of successful completion of CDPH approved training.

SMALL BUSINESS DETERMINATION

The proposed action does not affect small businesses. The Department has determined that approximately three training providers are expected to offer the CIH course enabling an expedited training process for CIHs. The Department has estimated that perhaps 50 additional CIH will take the CIH course over the lifetime of the regulation. The Department estimates that 80% of all LRC training providers and CIHs represent small businesses. The proposed regulatory amendments do not add any new requirements for training providers or CIHs, but do allow these individuals the option to either

teach or take the CIH course that enables expedited training for CIHs.

**ALTERNATIVES CONSIDERED**

The Department must determine that no reasonable alternative considered by the Department or that was otherwise identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed (to restore the intent of the regulations as revised in 1995) 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 intent of Health and Safety Code sections 35083 and 35087.

**ADVISORY GROUP OR OTHER AGENCY COMMENT, CONSULTATION AND/OR APPROVAL, INCLUDING CALIFORNIA CONFERENCE OF LOCAL HEALTH OFFICERS**

The California Industrial Hygiene Council, which represents all CIHs in the State, has been supportive of the Department in its efforts to restore the intent of the 1995 version of these regulations to provide an expedited training process for CIHs seeking LRC certification. Public comment is also being solicited from Department-accredited LRC training providers.

**CONTACT PERSON**

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Will Hale with the Lead-Related Construction Program, at 1-800-597-LEAD (1-800-597-5323) (outside California: 510-620-5694).

All other inquiries concerning the action described in this notice may be directed to, Laurel Prior, Office of Regulations, at (916) 440-7673, or to the designated backup contact, Linda M. Cortez, Office of Regulations, at (916) 440-7807.

**AVAILABILITY STATEMENTS**

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the address previously noted, will be the location of public records, including reports, documentation, and other

material related to the proposed regulations (rulemaking file).

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 440-7673 (or the California Relay Service at 711), or send an email to [regulations@cdph.ca.gov](mailto:regulations@cdph.ca.gov), or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

**INTERNET ACCESS**

Materials regarding the action described in this notice (including this public notice, the text of the proposed regulations, and the initial statement of reasons) that are available via the Internet may be accessed at [www.cdph.ca.gov](http://www.cdph.ca.gov) by clicking on the following: Programs, Office of Regulations, and the Proposed Regulations link.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND WILDLIFE**

**HABITAT RESTORATION AND ENHANCEMENT ACT  
CONSISTENCY DETERMINATION NO.  
1653-2018-014-001-R1**

**Project:** South Fork Ten Mile River Enhancement Project  
**Location:** Mendocino  
**Applicant:** The Nature Conservancy

**BACKGROUND**

**Project Location:** The South Fork Ten Mile River Enhancement Project (Project) is located at 28761 N. Highway 1, Fort Bragg, California, 95437, at a property

owned by Margaret Perry and Susan Smith Lampman, Assessor Parcel Numbers (APN) 069-070-11; 069-020-12; 069-070-12, and affects the lower 1.7 miles of the South Fork Ten Mile River, tributary to Ten Mile River, in the County of Mendocino, California. Coordinates of the Project are approximately, latitude 39.529338° North, and longitude 123.741965° West. South Fork Ten Mile River supports populations of Coho salmon (*Oncorhynchus kisutch*), steelhead trout (*O. mykiss*), and Chinook salmon (*O. Tshawytscha*).

**Project Description:** The Nature Conservancy (Applicant) proposes to enhance South Fork Ten Mile River conditions for salmonid species. The Project includes installation of two engineered log jams (ELJs) to reestablish channel meandering and floodplain connection, creation of an off-channel, seasonally flooded inlet channel and wetland complex, a split-flow side channel and ELJs to create habitat and maintain accessibility to the seasonally flooded wetland inlet. To implement these enhancements the Project also includes realignment of a ranch road and use of temporary staging areas and access roads. Native riparian plantings will be used to reestablish riparian vegetation to shade the channel.

The Project is being completed with funding from the Fisheries Restoration Grant Program and from The Nature Conservancy.

**Project Size:** The total area of ground disturbance associated with the Project is approximately 2.98 acres and 500 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

**Project Associated Discharge:** Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: 1) river-run rock, plastic, silt fence, t-posts; 2) burlap encased wattles, wooden stakes, twine mat coir, mulch; 3) willow plantings; 4) logs & rootwads; and 5) geotechnical material.

**Project**

**Timeframes:** Start date: June 2018  
 Completion date: December 2018  
 Work window: June 15 to December 31

**Water Quality Certification Background:** Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 7.5 miles of spawning and

rearing habitat, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B180001WNME, Electronic Content Management Identification (ECM PIN) No. CW-843525 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to steelhead trout and other fish and wildlife resources.

**Receiving Water:**

South Fork Ten Mile River, tributary to Ten Mile River.

**Filled or Excavated Area:**

Permanent area impacted: 0.36 acres riparian & 0.03 acres wetlands  
 Temporary area impacted: 0.30 acres riparian  
 Length permanently impacted: 190 linear feet  
 Length temporarily impacted: 500 linear feet  
**Project Size:** 2.98 acres  
**Discharge Volume:** 179 cubic yards of drain rock  
 22,540 square feet of willow planting area  
 330 cubic yards of large woody material  
**Project Location:** Latitude 39.529338 N. and Longitude -123.741965 W, (NAD 83)

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On March 23, 2018, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on March 27, 2018, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2018-0327-03). Upon approval, CDFW



will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

**Determination**

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HRE as to the Project and meet the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a nonhabitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; (3) the Project meets the eligibility requirements of the State Water Resources Control Board’s Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

**Avoidance and Minimization Measures**

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, and contain the following categories: 1) General Protection Recommendations; 2) Native Plants and Communities; 3) Isolate Work Area & Procedures for Removing Fish and Other Vertebrate Aquatic Species; 4) Fish and Wildlife Protection Measures; 5) Water Quality Protection Measures; 6) Riparian Vegetation; and 7) Cultural and Tribal Resources. The specific avoidance and minimization requirements are found in Attachment E to the NOI, South Fork Ten Mile River Enhancement Project — Measures to Protect Fish, Wildlife, and Water Resources.

**Monitoring and Reporting**

Pursuant to Fish and Game Code section 1653 subdivision (g), the Applicant has submitted a Monitoring and Reporting Plan dated April 2017 containing the following elements: 1) Introduction; 2) Monitoring Framework; 3) Monitoring Methods; 4) Analytical Methods; 5) Data Management and Quality Control; and 6) Adaptive Monitoring.

Specific major tasks include:

Monitoring Protocols and Methodology: Monitoring will be conducted in three ways: Implementation monitoring, Effectiveness monitoring, and Validation monitoring. The Monitoring Plan is intended to describe the overall monitoring framework and detail the monitoring methods that will be used for evaluating juvenile coho salmon response to restoration; thus the focus of this plan is on validation monitoring. However, the Monitoring Plan also outlines planned monitoring of environmental and physical variables needed for implementation and effectiveness monitoring. In addition, this Monitoring Plan is intended to be a living document

used to guide monitoring of Phase I restoration, as well as potential future phases of the Project, within an adaptive management framework, where information learned during implementation is used to continually inform and revise future monitoring.

Reporting Plan and Schedule: The Applicant will provide a report summarizing results of pre-treatment monitoring and making recommendations for the post-treatment period in February 2019. An annual post-construction report is to be submitted by January 31 each year with a final report of restoration effectiveness to be submitted in 2023.

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires that a Notice of Completion (NOC) is to be submitted by the applicant no later than 30 days after the project has been completed. A complete NOC includes as a minimum:

- photographs with descriptive titles;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- Success criteria for the Project.

The NOC shall demonstrate that the Project has been carried out in accordance with the Project description as provided in the applicant’s NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Document submittals shall be made electronically to: [scott.monday@wildlife.ca.gov](mailto:scott.monday@wildlife.ca.gov).

**Project Authorization**

Pursuant to Fish and Game Code section 1654, CDFW’s approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA, and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & G. Code, § 1654, subd. (c).)



**DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL**

**AMENDED PUBLIC NOTICE ON BENICIA  
INTERNATIONAL ASSOCIATES L.P.,  
PROPOSED CONSENT DECREE**

711 and 750 Jackson Street, Benicia, Solano County,  
California (identified by Assessor’s Parcel number  
0080-14-0440)

**30-Day Public Comment Period:** April 6, 2018,  
through May 6, 2018

**WHAT IS BEING PROPOSED:** The California Department of Toxic Substances Control (DTSC) invites the public to review and comment on a [Proposed] Consent Decree (proposed Consent Decree) regarding a site at the Former Benicia Arsenal site located at 711 and 750 Jackson Street, Benicia, Solano County, California (identified by Assessor’s Parcel number 0080-14-0440) (together referred to as Site). On March 14, 2018, DTSC lodged the proposed Consent Decree in *California Department of Toxic Substances Control v. Benicia International Associates L.P.* (“BIA”), Case No. 2:18-CV-00551 JAM-AC, with the United States District Court for the Eastern District of California. The proposed Consent Decree resolves DTSC’s claims against BIA under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601(a) et seq. and other statutes for its liability for the contamination at the Site.

DTSC will consider comments received during the public comment period on the Consent Decree and file with the Court any written comments received and DTSC’s responses thereto. The Court may then enter or approve the Consent Decree. DTSC also reserves the right to withdraw or withhold its consent to entry (approval) of the Consent Decree if comments regarding the Consent Decree disclose facts or considerations that indicate the Consent Decree is inappropriate, improper or inadequate.

**WHERE DO I GET MORE INFORMATION:** Copies of the proposed Consent Decree and other Site-related documents are available by contacting the DTSC Project Manager listed below; online at the DTSC EnviroStor websites and [https://www.envirostor.dtsc.ca.gov/public/profile\\_report.asp?global\\_id=60001960](https://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=60001960) on the Community Involvement tab; or at the DTSC Regional Records Office, File Room, 8800 Cal Center Drive, Sacramento, California 95826.

**WHERE TO SEND COMMENTS:** Comments concerning the proposed Consent Decree should include “BIA CD Comment” in the subject line of your

e-mail or letter. All comments must be postmarked or e-mailed by May 6, 2018, and submitted to:

Shahid Mahmood  
Project Manager  
(916) 255-3592  
[Shahid.Mahmood@dtsc.ca.gov](mailto:Shahid.Mahmood@dtsc.ca.gov)

Tammy Pickens  
Public Participation Specialist  
(916) 255-3594;  
(866) 495-5651  
[Tammy.Pickens@dtsc.ca.gov](mailto:Tammy.Pickens@dtsc.ca.gov)

**RULEMAKING PETITION  
DECISION**

**BOARD OF ACCOUNTANCY**

**CALIFORNIA CODE OF REGULATIONS  
TITLE 16. PROFESSIONAL AND  
VOCATIONAL REGULATIONS  
DIVISION 1. STATE BOARD OF  
ACCOUNTANCY  
ARTICLE 1. ADMINISTRATION —  
SECTIONS 5000 et seq.**

**Petitioner:**

JoAnn Henkel

**Authority:**

Business and Professions Code (BPC) section 5010 provides the California Board of Accountancy (CBA) the authority to “adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter.” “This Chapter” relates to the licensing and regulation of Certified Public Accountants (CPA) and the practice of public accountancy in the State of California (BPC section 5000 et seq.).

**Contact Person:**

Please direct any inquiries regarding this action to Aaron Bone, Information and Planning Officer, 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833.

**Availability of Petition:**

The petition for adoption of a regulation is available upon request directed to the CBA’s contact person.

**INTRODUCTION**

On March 22, 2018, Ms. Henkel (Petitioner) provided to the CBA eight separate petitions requesting

amendments to certain CBA regulations<sup>1</sup> and the Accountancy Act.

Section 5018 of the BPC authorizes the CBA, by regulation, to prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the CPA profession. The CBA has no authority to amend statutes.

This Notice of Decision on Petition to Amend Regulations addresses each petition provided by Petitioner.

## PETITION NO. 1

### Discussion

I. Petition No. 1 requests that the CBA amend BPC section 17206.1(a)(1) to read as follows (new language in bold):

(a)(1) In addition to any liability for a civil penalty pursuant to Section 17206, a person who violates this chapter, and the act or acts of unfair competition **and accounting services treatment** perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.

BPC section 17206.1 is a statute, which the CBA has no authority to amend through the regulatory process.

II. Petition No. 1 requests the CBA amend Section 58 to read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards. **Licensees are responsible to conduct services for disabled persons and senior citizens per Business & Professions Code — Division 7 — Part 2 — Chapter 5. Enforcement 17206.1.**

Proposed Regulation Amendment Does Not Meet Requirements of the Administrative Procedures Act (APA)

### Reference

When pursuing a rulemaking, an agency must satisfy the “reference” requirement of the APA when adopting or amending a regulation. Government Code (GC) section 11342.600 sets forth the “reference” requirement and indicates that regulations implement, interpret, or

make specific the law enforced or administered by the agency that adopted the regulation. The “reference” is the statute that the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

Petitioner’s proposed amendment to Section 58 seems to depend on Petitioner’s requested amendment to BPC 17206.1. As currently written, BPC 17206.1 is not a law enforced or administered by the CBA. For this reason, the CBA would be unable to comply with the reference requirement of the APA.

### Necessity

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA. GC section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Section 125.6(a)(1) of the BPC is a law enforced by the CBA and prohibits discrimination in the performance of a licensed activity. Specifically, this law provides that anyone who holds a license under the BPC is subject to disciplinary action by their licensing entity if the licensee, “makes any discrimination, or restriction in the performance of the licensed activity” because of any characteristic in Civil Code section 51(b) or (e), including but not limited to sex, race, color, religion, ancestry, national origin, disability, medical condition, and genetic information. Because licensees are prohibited from discriminating against individuals in the performance of a licensed activity under BPC section 125.6, the CBA would be unable to comply with the necessity requirement of the APA.

### Nonduplication

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

The proposed amendment to Section 58 would be duplicative of current law as it serves the same purpose as BPC section 125.6, a state statute. Therefore, the CBA would be unable to comply with the nonduplication requirement of the APA.

<sup>1</sup> All section references refer to the CBA’s Regulations set forth in Title 16 of the California Code of Regulations, unless otherwise specified.

III. Petition No. 1 requests that the CBA amend BPC section 5100 to add subdivision (n) to read as follows (new language in bold):

**(n) Discipline involving unprofessional accounting services for disabled persons and senior citizens will incur additional penalties per Business & Professions Code — Division 7 — Part 2 — Chapter 5. Enforcement 17206.1**

BPC section 5100 is a statute, which the CBA has no authority to amend through the regulatory process.

**Decision**

For the reasons stated above, this rulemaking petition is denied.

PETITION NO. 2

**Discussion**

Petition No. 2 requests Section 52 be amended to read as follows (deleted language shown in ~~strikeout~~):

- (a) ~~A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested.~~
- (b) A licensee shall respond to any subpoena issued by the Board or its executive officer or the assistant executive officer in the absence of the executive officer within 30 days and in accordance with the provisions of the Accountancy Act and other applicable laws or regulations.
- (c) A licensee shall appear in person upon written notice or subpoena issued by the Board or its executive officer or the assistant executive officer in the absence of the executive officer.
- (d) A licensee shall provide true and accurate information and responses to questions, subpoenas, ~~interrogatories or other requests for information or documents~~ and not take any action to obstruct any Board ~~inquiry, investigation, hearing or proceeding.~~

Petitioner contends that Section 52 is a “false promise” to consumers and the “CBA earns [a] reputation as [a] kitty cat with toothless rules.” Petitioner further states that the “CBA needs to take this pretend, not enforced law, off the books.”

The CBA strongly disagrees with Petitioner’s stated opinion. Section 52 implements, interprets and makes specific the CBA’s authority in BPC section 5103 to inquire into any alleged violation of state or federal law, regulation, or rule relevant to the practice of accountancy. The CBA regularly exercises the authority in Section 52 when conducting investigations and making inquiries of licensees.

Petitioner’s request would enable and embolden licensees to disregard inquiries and requests for information from the CBA, unless the inquiry is made pursuant to a subpoena, and significantly hamper the CBA’s consumer protection mission. BPC section 5000.1 states that:

Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Petitioner’s request to amend Section 52 is wholly inconsistent with the mandate of BPC section 5000.1 in protecting the public.

**Decision**

For the reasons stated above, this rulemaking petition is denied.

PETITION NO. 3

**Discussion**

Petition No. 3 proposes to amend Section 58 to specifically cite the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, to read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards, **and AICPA Code of Professional Conduct.**

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA. Government Code section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Under the current Section 58, a licensee is subject to all applicable professional standards, including the AICPA Code of Professional Conduct. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

**Decision**

For the reason stated above, this rulemaking petition is denied.

PETITION NO. 4

**Discussion**

Petition No. 4 proposes to amend Section 57 to reference the BPC and Article VI of the AICPA Code of Professional Conduct, and read as follows (new language in bold):

A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee’s independence, objectivity, or creates a conflict of interest in rendering professional services, **as outlined in the Business and Professions Codes cited, and AICPA Code of Professional Conduct, Article VI.**

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA. Government Code section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Section 57 implements, interprets or makes specific BPC section 5018, which authorizes the CBA to prescribe the rules of professional conduct appropriate to the accountancy profession. Under Section 57, a licensee is prohibited from engaging in activity that impairs his or her independence, objectivity, or creates a conflict of interest in rendering professional services. This prohibition encompasses the requirements of the AICPA Code of Professional Conduct. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

This proposed amendment to Section 57 would be duplicative of current law. Petitioner has not provided

sufficient evidence that indicates how adding the requested language to Section 57 meets the nonduplication requirement of the APA.

Clarity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “clarity” requirement of the APA. GC section 11349(c) states:

“Clarity” means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

It is unclear in the proposed language (and elsewhere in the petition) which BPC sections are intended to be “cited” in this regulation.

**Decision**

For the reasons stated above, this rulemaking petition is denied.

PETITION NO. 5

**Discussion**

Petition No. 5 proposes to amend Section 58 to include a reference to “IRS” codes, and read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards, **including IRS codes.**

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA. GC section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

The CBA presumes that by “IRS codes,” Petitioner refers to the Internal Revenue Code (IRC) used by the Internal Revenue Service (IRS). Under Section 58, as currently written, a licensee must comply with all applicable standards, which include any relevant IRC sections applicable to CPA professionals. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:



“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

This proposed amendment to Section 58 would be duplicative of current law because Section 58 as currently promulgated addresses the issue Petitioner is attempting to address with the proposed amendment to the same section.

Clarity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “clarity” requirement of the APA. GC section 11349(c) states that:

“Clarity” means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

It is unclear in the proposed language (and elsewhere in the petition) whether Petitioner is referring to the IRC used by the IRS and, if so, whether Petitioner intends to include some or all IRC Code sections in this regulation. For this reason, the CBA would be unable to meet the clarity requirement of the APA.

**Decision**

For the reasons stated above, this rulemaking petition is denied.

PETITION NOS. 6 AND 7

**Discussion**

Petition Nos. 6 and 7 request amendments to section 5000.1 of the BPC, as set forth below.

Petition No. 6 requests that the CBA amend BPC section 5000.1 to read as follows (new language in bold):

Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its **website disclosure information**, licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Petition No. 7 requests that the CBA amend BPC 5000.1 to read as follows (new language in bold):

Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, **complaint**, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

BPC section 5000.1 is a statute, which the CBA has no authority to amend through the regulatory process.

**Decision**

For the reasons stated above, this rulemaking petition is denied.

PETITION NO. 8

**Discussion**

Petition No. 8 proposes to amend Section 58 to include references to certain AICPA materials, and read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards **and AICPA Articles I–V Responsibilities, Public Interest, Integrity, Objectivity and Independence, Due Care.**

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA. GC section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Under Section 58, a licensee is subject to all applicable professional standards, including relevant AICPA standards. Because licensees are subject to relevant AICPA standards, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

The proposed amendment to Section 58 would be duplicative of current law because Section 58 as currently promulgated addresses the issue Petitioner is attempting to address with the proposed amendment to the same section.

**Decision**

For the reasons stated above, this rulemaking petition is denied.

/s/

Patti Bowers  
 Executive Officer  
 California Board of Accountancy

**BOARD OF PAROLE HEARINGS**

**RESPONSE TO PETITION TO ADOPT,  
 AMEND, OR REPEAL A REGULATION  
 PURSUANT TO GOVERNMENT CODE  
 SECTIONS 11340.6 AND 11340.7  
 BPH PETITION RESPONSE 2018–01**

The Board of Parole Hearings (hereafter board) received a Petition to Adopt, Amend, or Repeal a Regulation under Government Code sections 11340.6 and 11340.7 from petitioner Joseph Hancock (hereafter petitioner) on March 19, 2018. In accordance with subdivision (a) of section 11340.7, this document serves as the board’s response to the petition.

The following information is provided with the response in compliance with subdivision (d) of Government Code section 11340.7:

1. **NAME OF AGENCY:** Board of Parole Hearings
2. **PARTY SUBMITTING THE PETITION:** Joseph Hancock (P56856)
3. **PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS (CCR) REQUESTED TO BE AFFECTED:** California Code of Regulations, Title 15, section 2440, 2441, 2442, 2443, 2444, 2445, and 2446.
4. **REFERENCE TO AUTHORITY TO TAKE THE ACTION:** Petitioner cited to Government Code section 12838.4 (endowing the board with statutory powers vested to prior specified state agencies, including the Board of Prison Terms) and Penal Code sections

3051(e) (requiring the board to promulgate regulations to implement youth offender laws), 3052 (empowering the board to establish regulations under which state prison inmates may be paroled), and 5076.2 (establishing the method by which the board promulgates regulations). Further, petitioner cited to *In re Palmer* (2017) 13 Cal.App.5th 795, 815 [221 Cal.Rptr.3d 154, 170] (dis. & conc. opn. of Kline, J).

5. **REASONS SUPPORTING THE AGENCY’S DECISION:** Petitioner requested the board adopt the proposed regulatory text regarding parole consideration hearings for youth offenders that was submitted for a vote by the board’s commissioners at the November 2016 Executive Board Meeting on November 21, 2016 (hereafter proposed regulatory text), with the following amendments. First, petitioner requested the board amend the proposed regulatory text to conform to the provisions of Assembly Bill No. 1308 (2017–2018 Reg. Sess.) expanding the youth offender hearing process to include inmates who committed specified offenses when they were 25 years of age or younger) and Senate Bill No. 394 (2017–2018 Reg. Sess.) (expanding the youth offender hearing process to include specified inmates sentenced to terms of life without the possibility of parole). Second, petitioner requested the board amend the proposed regulatory text to define the phrase “great weight.” Further, petitioner requests that the board schedule the adoption of the proposed regulatory text with specified amendments within 30 days of receiving this petition.

The board fully reviewed each of petitioner’s requests as well as petitioner’s explanations for the requests. The board’s decision and reasoning for each request is explained below:

**A. Petitioner’s request to adopt the proposed regulatory text with revisions incorporating the provisions of Assembly Bill No. 1308 and Senate Bill No. 394 is GRANTED IN PART and DENIED IN PART:** The board has been in the process of drafting regulations to govern the board’s implementation of the youth offender laws in Penal Code sections 3046, 3051, and 4801 since the enactment of these laws on January 1, 2014. Drafts of the youth offender regulations were distributed to the public during the Executive Board Meetings on January 20, 2015, and May 18, 2015. Further, a draft of the proposed regulatory text of the youth offender regulations was presented to the board’s commissioners during the Executive Board Meeting on October 17, 2016, and submitted for a vote by the board’s commissioners on November 21, 2016.

However, the filing and adoption of the proposed regulatory text for the youth offender regulations has been continuously delayed by the California Legislature’s decisions to amend Penal Code sections 3051 and 4801.

Sections 3051 and 4801 were amended in 2015 through Senate Bill No. 261 (2015–2016 Reg. Sess.) (hereafter SB 261), which became effective on January 1, 2016, and in 2017 through Assembly Bill No. 1308 (2017–2018 session) (hereafter AB 1308) and Senate Bill No. 394 (2017–2018 session) (hereafter SB 394), both of which became effective on January 1, 2018. Specifically, SB 261 amended sections 3051 and 4801 by expanding the pool of inmates eligible for the youth offender parole hearing process and to receive specified consideration of the youth offender factors so as to include inmates who committed their controlling offense while they were less than 23 years of age. Then, AB 1308 and SB 394 amended Penal Code sections 3051 and 4801 by further expanding the pool of inmates eligible for the youth offender process and specified consideration so as to include inmates who committed their controlling offense while they were 25 years of age or younger and inmates who committed their controlling offense, for which they were sentenced to life without the possibility of parole, when they were less than 18 years of age. Further, SB 394 amended sections 3051 and 4801 by altering the language used to define the youth offender factors. These amendments directly impacted the board’s draft regulations, requiring the board to delay filing the youth offender regulation package until the most recent amendments to Penal Code sections 3051 and 4801 went into effect on January 1, 2018. As recently as April 2018, Senate Bill No. 1242 (2017–2018 session) has attempted to further amend Penal Code section 3051, which may further delay the board’s ability to adopt youth offender regulations. The continuous amendments made by the Legislature to relevant statutes has caused the language of the youth offender regulations to become a moving target, whereby each amendment would have made any youth offender regulation package filed by the board at an earlier date obsolete before adoption.

The board is presently in the process of amending its draft regulations in accordance with the changes created in AB 1308 and SB 394. However, the board is also currently monitoring the legislation proposing new amendments to the youth offender statute. Upon completion, the draft regulations will be subject to a vote by the board’s commissioners and, once adopted, will be filed with the Office of Administrative Law in accordance with California’s Administrative Procedure Act to begin the public comment process. Consequently, insofar as petitioner requests the board to amend its prior draft regulations to incorporate changes to the youth offender statute in SB 394 and AB 1308, the board GRANTS this request in that the board is already in the process of amending the draft regulations in accordance with these bills.

However, insofar as petitioner requests that the board take immediate action to adopt the proposed regulatory text, with the specified revisions, petitioner’s request is DENIED for the reasons stated above. Further, petitioner’s request that the board hold a public hearing within 30 days upon receiving this petition regarding the proposed regulatory text is DENIED for the reasons stated above.

Petitioner also expressed a desire that the board not unduly delay its revisions to the draft youth offender regulations while awaiting the outcome of *In re Butler* legal proceedings. However, the *In re Butler* legal proceedings have not impacted the board’s timeline for drafting the youth offender regulations. Further, the California Supreme Court has now issued its decision in *In re Butler* (April 2, 2018, S237014) \_\_P.3d\_\_ [2018 WL 1570369]; this decision also does not impact the language of the proposed regulatory text. Thus, petitioner’s concern that the *In re Butler* legal proceedings were or are delaying the board’s drafting of the youth offender regulations is unfounded.

**B. Petitioner’s request to amend the proposed regulatory text to define the phrase “great weight” is DENIED:** Petitioner cites language in Justice Kline’s concurring and dissenting opinion in *In re Palmer* (2017) 13 Cal.App.5th 795, 815 [221 Cal.Rptr.3d 154, 170] as support for the board’s need to define “great weight,” as used in the youth offender proposed regulatory text. Petitioner points to part III of Justice Kline’s opinion in which the justice declines to support the board’s argument that the phrase “great weight,” as used in Penal Code section 4801(c), is self-explanatory (*See Id.* at p. 825). Insofar as petitioner claims Justice Kline’s concurring and dissenting opinion requires the board to draft a regulation defining “great weight” as used in the proposed regulatory text, the board rejects this argument because a concurring and dissenting opinion is not binding on the board. Thus, while the board may eventually adopt a definition for “great weight” in a future draft of the regulations, the board denies petitioner’s claim that the *Palmer* case mandates inclusion of any specific definition for this term, or even a requirement to define the term at all.

Moreover, as described above, the board is currently amending the proposed regulatory text of the youth offender regulations. In doing so, the board is considering an array of substantive revisions to the draft regulatory text, including those related to AB 1308 and SB 394 (2017–2018 session). The board anticipates presenting a revised version of the youth offender regulations at an executive board meeting soon, before bringing the regulations forward for a vote by the board’s commissioners and then filing the youth offender regulation package with the Office of Administrative Law (hereafter

OAL). However, the board’s plans to file a youth offender regulation package may be further delayed because current legislation is attempting to further amend Penal Code section 3051. Once a version of the proposed regulatory text is filed with OAL, California’s Administrative Procedure Act enables petitioner to submit comments to the board regarding the youth offender regulations during a 45–day public comment period that follows the filing.

Thus, the board **DENIES** petitioner’s request to amend the proposed regulatory text of the youth offender regulations to define the phrase “great weight.”

**6. BOARD CONTACT PERSON:**

**Christopher Hoeft**

Staff Attorney  
Board of Parole Hearings  
P.O. Box 4036  
Sacramento, CA 95812–4036  
Office: (916) 322–6729  
Fax: (916) 322–3475  
[BPH.Regulations@cdcr.ca.gov](mailto:BPH.Regulations@cdcr.ca.gov)

**7. NOTICE TO INTERESTED PERSONS:**

Pursuant to subdivision (d) of Government Code section 11340.7, the board will provide a copy of this decision to the Office of Administrative Law for publication in the California Regulatory Notice Register. Any interested persons have the right to obtain a copy of the petition that is the subject of this decision by sending a request to the board. In submitting such a request, please reference **BPH PETITION RESPONSE 2018–01** in the request.

**DATE OF DECISION: April 18, 2018**

**OAL REGULATORY DETERMINATION**

**OFFICE OF ADMINISTRATIVE LAW**

**DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)**

**(Pursuant to Government Code Section 11340.5 and Title 1, section 270, of the California Code of Regulations)**

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324–6044 or [mmolina@oal.ca.gov](mailto:mmolina@oal.ca.gov).

**DEPARTMENT OF CORRECTIONS AND REHABILITATION**

Date: April 16, 2018  
To: John Williams  
From: Chapter Two Compliance Unit  
Subject: **2018 OAL DETERMINATION NO. 1 (S) (CTU2018–0220–01)**

(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as underground regulations the Indecent Exposure Pilot Program at California State Prison, Corcoran, and a Memorandum dated January 19, 2018, titled “Housing Unit 4B4R Daily Activity Schedule,” issued by the California Department of Corrections and Rehabilitation.

On February 20, 2018, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether the Indecent Exposure Pilot Program (IEX Pilot Program) at California State Prison, Corcoran, constitutes an underground regulation. The challenged rule is attached as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as



defined in Government Code section 11342.600,<sup>1</sup> which should have been, but was not, adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted pursuant to the APA, it may be an “underground regulation” as defined in California Code of Regulations, title 1, section 250:

(a) “Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, **but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA** and is not subject to an express statutory exemption from adoption pursuant to the APA. [Emphasis added.]

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. The Legislature has enacted an exemption with respect to Pilot Programs adopted by the Secretary of the California Department of Corrections and Rehabilitation (Department). A Pilot Program certified by the Secretary of the Department as complying with Penal Code section 5058.1 (b)(1)–(4) is exempt from the rulemaking provi-

sions of the APA.<sup>2</sup> The IEX Pilot Program was certified as a Pilot Program pursuant to Penal Code section 5058.1 and was filed with the Secretary of State on February 7, 2018, operative February 7, 2018 (Register 2018, No. 6).

The IEX Pilot Program was duly adopted by the Department and is, therefore, not an underground regulation. Pursuant to Penal Code section 5058.1(d), the IEX Pilot Program shall lapse by operation of law on February 7, 2020, unless it is formally adopted as a regulation pursuant to the APA.

Your petition also challenged as an underground regulation, a Memorandum dated January 19, 2018, titled “Housing Unit 4B4R Daily Activity Schedule.” It is attached as Exhibit B.

<sup>2</sup> Penal Code, Section 5058.1 states:

(a) For the purposes of this section, “pilot program” means a program implemented on a temporary and limited basis in order to test and evaluate the effectiveness of the program, develop new techniques, or gather information.

(b) The adoption, amendment, or repeal of a regulation by the director to implement a legislatively mandated or authorized pilot program or a departmentally authorized pilot program, is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, if the following conditions are met:

(1) A pilot program affecting male inmates affects no more than 10 percent of the total state male inmate population; a pilot program affecting female inmates affects no more than 10 percent of the total state female inmate population; and a pilot program affecting male and female inmates affects no more than 10 percent of the total state inmate population.

(2) The director certifies in writing that the regulations apply to a pilot program that qualifies for exemption under this section. The certification shall include a description of the pilot program and of the methods the department will use to evaluate the results of the pilot program.

(3) The certification and regulations are filed with the Office of Administrative Law and the regulations are made available to the public by publication pursuant to subparagraph (F) of paragraph (3) of subdivision (b) of Section 6 of Title 1 of the California Code of Regulations.

(4) An estimate of fiscal impact is completed pursuant to Sections 6650 to 6670, inclusive, of the State Administrative Manual.

(c) The adoption, amendment, or repeal of a regulation pursuant to this section becomes effective immediately upon filing with the Secretary of State.

(d) A regulation adopted pursuant to this section is repealed by operation of law, and the amendment or repeal of a regulation pursuant to this section is reversed by operation of law, two years after the commencement of the pilot program being implemented, unless the adoption, amendment, or repeal of the regulation is promulgated by the director pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purpose of this subdivision, a pilot program commences on the date the first regulatory change implementing the program is filed with the Secretary of State.

<sup>1</sup>“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.”

In addition to the Pilot Program exemption mentioned above, the Legislature has also enacted an exemption in Penal Code section 5058, subdivision (c), which provides for another express APA exemption to the Department for rules affecting only one prison:

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the Memorandum challenged by your petition was issued by the Warden of California State Prison — Corcoran and applies solely to the inmates of the California State Prison — Corcoran. Inmates housed at other institutions are governed by those other institutions’ schedules for daily activities. Therefore, the rule is a “local rule” and is exempt from compliance with the

APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.<sup>3</sup>

For the reasons discussed above, we find that the rules challenged by your petition are not underground regulations.

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

Dated: April 16, 2018

/s/

Debra M. Cornez

Director

/s/

Elizabeth A. Heidig

Assistant Chief Counsel

Copy:

Scott Kernan, CDCR Secretary

Timothy Lockwood, A.D., RPMB

**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.

<sup>3</sup> The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.  
 (B) The challenged rule is contained in a California statute.  
 (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

**(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

File# 2018-0309-02  
**BOARD OF PHARMACY**  
 Fee Schedule

This action amends various licensure, renewal, and delinquency fees in accordance with the modified fee schedule set forth in Business and Professions Code section 4400.

Title 16  
 AMEND: 1749  
 Filed 04/20/2018  
 Effective 04/20/2018  
 Agency Contact: Lori Martinez (916) 574-7917

File# 2018-0410-03  
**CALIFORNIA HEALTH BENEFIT EXCHANGE**  
 Application, Eligibility, and Enrollment in the Shop Exchange

The California Health Benefit Exchange (Exchange) submitted this emergency readoption action to amend regulations governing the application, eligibility, and enrollment in the Exchange's Small Business Health Options Program (SHOP). Amendments to the SHOP regulations reflect changes in state and federal law, modify requirements to reflect best practices in the program, and clean up language for improved clarity and understanding.

Title 10  
 ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6538  
 Filed 04/20/2018  
 Effective 04/20/2018  
 Agency Contact:  
 Faviola Ramirez-Adams (916) 228-8668

File# 2018-0404-04  
**CALIFORNIA HIGHWAY PATROL**  
 Explosives Routes and Stopping Places

This action amends a designated route for transportation of explosives by commercial vehicles in the downtown Fresno area.

Title 13  
 AMEND: 1151.9.1  
 Filed 04/18/2018  
 Effective 04/18/2018  
 Agency Contact: Tian-Ting Shih (916) 843-3400

File# 2018-0409-04  
**DEPARTMENT OF FISH AND WILDLIFE**  
 Rock Crab Fishery Closure Update

This file and print request amends the commercial rock crab fishery closure to all state waters north of the Sonoma/Mendocino County line to the California/Ore-

gon border, effective 3-29-2018. This action is exempt from the Administrative Procedure Act pursuant to Fish and Game Code section 5523(c).

Title 14  
 AMEND: 131  
 Filed 04/24/2018  
 Effective 03/29/2018  
 Agency Contact: Christy Juhasz (707) 576-2887

File# 2018-0410-02  
**DEPARTMENT OF PARKS AND RECREATION**  
 Conflict-of-Interest Code

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

Title 14  
 AMEND: 4800  
 Filed 04/19/2018  
 Effective 05/19/2018  
 Agency Contact:  
 Fernando T. Aceves (916) 653-9905

File# 2018-0309-03  
**DEPARTMENT OF PUBLIC HEALTH**  
 Pre-Kindergarten and School Immunization Requirements

This action amends and repeals pre-kindergarten and school immunization requirements to align with updated statutes and national immunization recommendations.

Title 17  
 AMEND: 6000, 6025, 6035, 6040, 6045, 6050, 6051, 6055, 6060, 6065, 6070, 6075 REPEAL: 6015, 6020  
 Filed 04/20/2018  
 Effective 07/01/2019  
 Agency Contact: Linda M. Cortez (916) 440-7807

File# 2018-0327-02  
**FAIR POLITICAL PRACTICES COMMISSION**  
 Required Recordkeeping

This action amends record keeping requirements for campaign and campaign finance disclosures, particularly with respect to earmarked funds.

Title 2  
 AMEND: 18401  
 Filed 04/25/2018  
 Effective 05/25/2018  
 Agency Contact: Sasha Linker (916) 327-8269

File# 2018-0327-03  
**FAIR POLITICAL PRACTICES COMMISSION**  
 Advertisement Disclosure

This action amends regulations pertaining to campaign advertisement disclosures.

Title 2  
 AMEND: 18450.1  
 Filed 04/25/2018  
 Effective 05/25/2018  
 Agency Contact: Sasha Linker (916) 327-8269

File# 2018-0315-03  
 STATE ALLOCATION BOARD  
 Leroy F. Greene School Facilities Act of 1998; Grant Agreement Templates

This timely certificate of compliance action makes permanent the prior emergency action, OAL file no. 2017-0912-01E, that required school districts, charter schools, and county offices of education to submit grant agreements for their projects under the School Facilities Program as a condition to receive funds.

Title 2  
 ADOPT: 1859.90.4 AMEND: 1859.2, 1859.90, 1859.90.2, 1859.90.5  
 Filed 04/23/2018  
 Effective 04/23/2018  
 Agency Contact: Lisa Jones (916) 376-1753

File# 2018-0316-03  
 STATE WATER RESOURCES CONTROL BOARD  
 Establishment of Salinity Objectives in the Lower San Joaquin River

This rulemaking action by the State Water Resources Control Board amends the Water Quality Control Plan for the Sacramento and San Joaquin River Basins to establish salinity water quality objectives in the Lower San Joaquin River upstream of Vernalis and reduce reliance on New Melones Reservoir water releases to meet salinity water quality objectives at Vernalis.

Title 23  
 ADOPT: 3949.14  
 Filed 04/19/2018  
 Effective 04/19/2018  
 Agency Contact: James Brownell (916) 464-4675

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN November 22, 2017 TO  
 April 25, 2018**

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 fur-

ther 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**  
 04/25/18 AMEND: 18401  
 04/25/18 AMEND: 18450.1  
 04/23/18 ADOPT: 1859.90.4 AMEND: 1859.2, 1859.90, 1859.90.2, 1859.90.5  
 04/16/18 AMEND: 1859.2, 1859.51, 1859.70, 1859.82, 1859.93.1  
 04/12/18 AMEND: 1859.2, 1859.81  
 04/04/18 AMEND: 41000  
 04/02/18 ADOPT: 243, 243.1, 243.2, 243.3, 243.4, 243.5, 243.6, 548.120, 548.120.1, AMEND: 249, 266, 266.1, 266.2, 266.3, 548.121, 548.122, 548.123, 548.124  
 04/02/18 AMEND: 38000, 38000.5, 38000.10  
 03/20/18 AMEND: 18746.1, 18746.4  
 03/20/18 AMEND: 18746.3  
 03/20/18 REPEAL: 18901  
 03/14/18 ADOPT: 61200, 61201, 61210, 61211, 61212, 61213, 61214, 61215, 61216, 61217  
 03/12/18 AMEND: 586.1(a)  
 03/12/18 ADOPT: 599.855  
 03/08/18 ADOPT: 20020, 20021, 20022, 20023, 20024, 20025, 20026, 20027  
 02/27/18 AMEND: 1181.2, 1181.3, 1182.2, 1182.7, 1182.9, 1182.10, 1182.15, 1183.1, 1183.2, 1183.3, 1183.4, 1183.6, 1183.8, 1183.9, 1183.10, 1183.11, 1183.12, 1183.13, 1183.15, 1183.16, 1183.17, 1184.1, 1185.1, 1185.2, 1185.3, 1185.7, 1185.8, 1186.2, 1186.4, 1187.5, 1187.7, 1187.8, 1187.9, 1187.12, 1187.14, 1187.15, 1190.1, 1190.2, 1190.3, 1190.5  
 02/22/18 AMEND: 58100  
 02/22/18 AMEND: 59800  
 02/13/18 AMEND: 18420.1, 18432.5, 18440, 18531.10, 18533, 18901.1 REPEAL: 18450.4  
 02/13/18 AMEND: 18535  
 02/13/18 AMEND: 18247.5, 18402, 18420, 18423, 18435, 18450.5, 18521.5 REPEAL: 18225, 18450.3  
 02/13/18 AMEND: 11034  
 02/07/18 AMEND: 56800  
 01/23/18 AMEND: 59530  
 01/18/18 AMEND: 18351  
 01/11/18 ADOPT: 20202, 20203, 20204, 20205, 20206, 20207, 20208, 20209, 20210, 20211, 20212, 20213, 20214, 20222,



20223, 20224, 20228, 20235, 20260, 20261, 20262, 20263, 20264, 20265, 20266, 20267, 20268, 20270, 20271, 20272, 20273, 20274, 20275, 20276, 20277, 20278, 20279, 20280 AMEND: 20200, 20201, 20213 (Renumbered 20215), 20214 (Renumbered 20216), 20216 (Renumbered 20217), 20217 (Renumbered 20218), 20220, 20220.5 (Renumbered 20260), 20221, 20222 (Renumbered 20225), 20223 (Renumbered 20226), 20224 (Renumbered 20232), 20227, 20225 (Renumbered 20230), 20226 (Renumbered 20229), 20230 (Renumbered 20231), 20235 (Renumbered 20233), 20236 (Renumbered 20234), 20247 (Renumbered 20236), 20249.5 (Renumbered 20237), 20250 (Renumbered 20238), 20255 (Renumbered 20250), 20258 (Renumbered 20240), 20260 (Renumbered 20241), 20261 (Renumbered 20242), 20265 (Renumbered 20251), 20266 (Renumbered 20252), 20267 (Renumbered 20253) REPEAL: 20202, 20203, 20204, 20205, 20206, 20207, 20208, 20209, 20210, 20211, 20212, 20215, 20245, 20249, 20251, 20252, 20253, 20254, 20256, 20257, 20259, 20262	01/29/18 AMEND: 3439(b) 01/25/18 ADOPT: 2852.5 AMEND: 2850, 2851, 2852, 2853, 2854, 2855, 2856 01/24/18 AMEND: 2 01/22/18 AMEND: 3439(b) 01/18/18 AMEND: 3439(b) 01/16/18 AMEND: 3439(b) 01/16/18 AMEND: 3424(c), 3591.12 01/16/18 AMEND: 3439(b) 01/03/18 AMEND: 3435(b) 12/26/17 AMEND: 3435 12/21/17 AMEND: 3439(b) 12/20/17 AMEND: 6000, 6619, 6724, 6764, 6768, 6769, 6776 12/15/17 AMEND: 3439(b) 12/13/17 AMEND: 3435(b) 12/13/17 AMEND: 3435(d) 12/12/17 ADOPT: 1391.7 AMEND: 1391, 1391.1, 1391.3 12/11/17 AMEND: 3439(b) 12/07/17 ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608 12/07/17 AMEND: 3439(b) 12/05/17 AMEND: 3591.5 11/28/17 AMEND: 3406(c), 3591.5(b) 11/22/17 AMEND: 3435(b)
01/11/18 ADOPT: 20130, 20131, 20132, 20133, 20134, 20135, 20136, 20137, 20138	
01/08/18 ADOPT: 20140, 20141, 20142, 20143, 20144	
12/20/17 AMEND: 1859.76	
11/30/17 AMEND: 10, 51.2, 52.1, 52.10, 52.11, 53.2, 53.3, 57.1, 58.6, 58.10, 58.13, 60.1, 64.1, 64.2, 64.3, 64.5, 67.2, 67.3, 67.6	
11/27/17 AMEND: 18531.5	
11/27/17 AMEND: 1859.190, 1859.194, 1859.195, 1859.198	
<b>Title 3</b>	
04/04/18 AMEND: 3591.15	
03/27/18 AMEND: 3439(b)	
03/26/18 AMEND: 3439(b)	
03/13/18 AMEND: 3591.15	
03/01/18 AMEND: 6628	
02/27/18 AMEND: 3439(b)	
02/16/18 AMEND: 3439(b)	
02/12/18 AMEND: 6000, 6739	
01/29/18 AMEND: 3439(b)	
	<b>Title 4</b>
	04/10/18 AMEND: 10179
	04/09/18 ADOPT: 5700, 5710, 5711, 5720, 5721, 5722, 5730, 5731 AMEND: 5000, 5020, 5100
	03/29/18 AMEND: 7051, 7054, 7055, 7056, 7063, 7071
	03/22/18 AMEND: 1699
	03/15/18 ADOPT: 8078.22, 8078.23, 8078.24, 8078.25, 8078.26, 8078.27, 8078.28, 8078.29, 8078.30, 8078.31, 8078.32, 8078.33, 8078.34, 8078.35 AMEND: 8070, 8071, 8072, 8073, 8074, 8076, 8078.3 REPEAL: 8078.1, 8078.2
	03/13/18 AMEND: 5032, 5033, 5170, 5180, 5190, 5193, 5194, 5230, 5240, 5255, 5260, 5342, 5350, 5400, 5700
	03/05/18 AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7,

**CALIFORNIA REGULATORY NOTICE REGISTER 2018, VOLUME NO. 18-Z**

	10091.8, 10091.9, 10091.10, 10091.12, 10091.13, 10091.14, 10091.15	01/11/18	AMEND: 9517.3
02/23/18	ADOPT: 7213, 7214, 7215, 7216, 7217, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229	11/28/17	AMEND: 9510, 9512, 9513, 9518, 9529, 9810
02/22/18	AMEND: 10302, 10305, 10315, 10317, 10320, 10322, 10325, 10326, 10327, 10328, 10330, 10335, 10337 REPEAL: 10325.5	11/27/17	AMEND: 19810
02/21/18	AMEND: 1865	<b>Title 8</b>	
02/21/18	AMEND: 1689, 1689.1	03/19/18	AMEND: 344.18
02/15/18	AMEND: 10302, 10305, 10315, 10317, 10320, 10322, 10325, 10326, 10327, 10328, 10330, 10335, 10337	03/09/18	ADOPT: 3345
01/25/18	AMEND: 1685, 1688	02/27/18	ADOPT: 2320.11, 2940.11, 2940.12, 2940.13, 2940.14, 2940.15, 2940.16, 2940.17, 2940.18, 2940.19, 2943.1, 2944.1, 3428 AMEND: 2300, 2320.2, 2320.7, 2320.8, 2340.17, 2700, 2887, 2940, 2940.1, 2940.2, 2940.5, 2940.6, 2940.7, 2940.8, 2940.10, 2941, 2941.1, 2943, 2944, 2945, 2946, 2951, 3314, 3389, 3422, 3425, 5156, 8617 REPEAL: 2893
01/24/18	ADOPT: 4002.10, 4206, 4207 AMEND: 4001, 4200, 4201	02/07/18	ADOPT: 9788.1, 9788.2, 9788.3, 9788.4, 9788.5, 9788.6
01/17/18	AMEND: 12386, 12391, 12566	01/24/18	REPEAL: 16410, 16411, 16412, 16413, 16414
01/09/18	ADOPT: 1597.5, 1597.6 AMEND: 1554, 1581.1, 1588, 1597, 1853	01/11/18	ADOPT: 9792.23.10, 9792.23.11, 9792.23.12 AMEND: 9792.20, 9792.22, 9792.23, 9792.23.1, 9792.23.2, 9792.23.3, 9792.23.4, 9792.23.5, 9792.23.6, 9792.23.7, 9792.23.8, 9792.23.9, 9792.24.1, 9792.24.2, 9792.24.3, 9792.24.4
01/08/18	AMEND: 12120, 12303, 12362	01/08/18	AMEND: 336
01/02/18	AMEND: 12261, 12264	01/02/18	AMEND: 10205.13, 10205.14
12/28/17	AMEND: 4300, 4302, 4304, 4306, 4307, 4308	12/28/17	AMEND: 9789.17.3, 9789.19
12/21/17	AMEND: 8078.8, 8078.10	12/21/17	AMEND: 344.18
12/19/17	AMEND: 232	12/07/17	ADOPT: 9792.27.1, 9792.27.2, 9792.27.3, 9792.27.4, 9792.27.5, 9792.27.6, 9792.27.7, 9792.27.8, 9792.27.9, 9792.27.10, 9792.27.11, 9792.27.12, 9792.27.13, 9792.27.14, 9792.27.15, 9792.27.16, 9792.27.17, 9792.27.18, 9792.27.19, 9792.27.20, 9792.27.21, 9792.27.22, 9792.27.23
12/13/17	AMEND: 10032, 10036	12/05/17	AMEND: 5155
12/07/17	AMEND: 12200.3, 12200.5, 12200.14, 12202, 12205.1, 12220.3, 12220.5, 12220.14, 12222, 12225.1, 12301.1, 12342, 12350, 12352, 12357, 12358	11/28/17	AMEND: 9789.25
12/01/17	ADOPT: 5259 AMEND: 5000, 5033, 5035, 5037, 5054, 5060, 5101, 5102, 5120, 5144, 5170, 5191, 5212, 5230, 5240, 5250, 5540	11/28/17	ADOPT: 6056.1 AMEND: 6052, 6056, 6057, 6060 REPEAL: 6062
11/30/17	AMEND: 12218.11, 12236	<b>Title 9</b>	
11/29/17	AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, 10190	03/20/18	AMEND: 7140.5
<b>Title 5</b>		02/12/18	ADOPT: 4020, 4020.1
02/26/18	ADOPT: 71396	01/16/18	AMEND: 7140.5
02/20/18	ADOPT: 11526 AMEND: 11520, 11524, 11525	01/12/18	AMEND: 4350
02/20/18	ADOPT: 11534.1 AMEND: 11530, 11533, 11534	12/05/17	AMEND: 400
01/29/18	AMEND: 19810	11/22/17	ADOPT: 4700, 4710, 4711, 4712, 4713, 4714, 4715, 4716, 4717
01/29/18	AMEND: 40601, 40803, 40804, 40804.1, 40806, 40900, 40901		
01/25/18	ADOPT: 854.1, 854.2, 854.3, 854.4, 854.5, 854.9 AMEND: 850, 851, 851.5, 853, 855, 856, 859 REPEAL: 853.5, 853.6, 853.7, 853.8		
01/22/18	AMEND: 27000		

**Title 10**

04/20/18 ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6538  
 03/27/18 AMEND: 30.60 REPEAL: 30.105  
 03/26/18 AMEND: 2318.6, 2353.1, 2354  
 03/26/18 AMEND: 2318.6, 2353.1  
 03/22/18 AMEND: 3525, 3527, 3561, 3569, 3570, 3575, 3602, 3603, 3681  
 03/20/18 AMEND: 3541  
 03/07/18 AMEND: 6656, 6657, 6660, 6664  
 02/23/18 AMEND: 2644.18, 2644.20  
 01/29/18 AMEND: 6704, 6708, 6710  
 01/23/18 AMEND: 2498.4.9  
 01/22/18 AMEND: 2498.6  
 01/17/18 AMEND: 2498.6  
 01/17/18 AMEND: 2498.5  
 11/27/17 ADOPT: 2303.23, 2303.24, 2303.25, 2303.26, 2303.27, 2303.28 AMEND: 2303, 2303.1, 2303.2, 2303.4, 2303.5, 2303.8, 2303.9, 2303.11, 2303.12, 2303.13, 2303.14, 2303.15, 2303.17, 2303.19, 2303.21, existing 2303.22 renumbered as 2303.29, existing 2303.23 renumbered as 2303.30, and existing 2303.24 renumbered as 2303.22

**Title 11**

04/11/18 ADOPT: 118.1  
 04/03/18 AMEND: 51.26  
 04/03/18 ADOPT: 51.30  
 03/29/18 AMEND: 2021  
 03/13/18 AMEND: 1045  
 03/07/18 AMEND: 115.1  
 03/07/18 AMEND: 115.2  
 03/07/18 AMEND: 115.3  
 03/07/18 AMEND: 115.4  
 03/07/18 AMEND: 115.5  
 02/27/18 AMEND: 1951, 1953, 1954, 1955, 1956, 1959, 1960  
 02/22/18 AMEND: 1009  
 02/22/18 AMEND: 1001, 1005, 1008  
 02/22/18 ADOPT: 80.4  
 01/30/18 AMEND: 20  
 01/29/18 ADOPT: 26.20  
 01/16/18 AMEND: 2084, 2086, 2088, 2089, 2090, 2091, 2092, 2095, 2096, 2107, 2109  
 01/02/18 ADOPT: 4260, 4261, 4262, 4263, 4264  
 11/29/17 AMEND: 2030, 2038, 2060  
 11/27/17 AMEND: 301, 303, 308, 411, 415, 420

**Title 13**

04/18/18 AMEND: 1151.9.1  
 03/12/18 AMEND: Appendix (Article 2.0)  
 02/27/18 ADOPT: 1267.1 AMEND: 1201, 1217, 1232, 1242, 1268, 1269

02/26/18 ADOPT: 227.38, 227.40, 227.42, 228.00, 228.02, 228.04, 228.06, 228.08, 228.10, 228.12, 228.14, 228.16, 228.18, 228.20, 228.22, 228.24, 228.26, 228.28  
 AMEND: 227.02, 227.04, 227.12, 227.14, 227.16, 227.18, 227.20, 227.22, 227.24, 227.26, 227.28, 227.30, 227.32, 227.34, 227.36, 227.38, 227.40, 227.42, 227.44, 227.46, 227.48, 227.50, 227.52, 227.54

02/15/18 AMEND: 170.00 renumbered as 206.00, 170.02 renumbered as 206.02, 170.04 renumbered as 206.04, 170.06 renumbered as 206.06, 170.08 renumbered as 206.08, 170.10 renumbered as 206.10, 170.12 renumbered as 206.12, 171.00 renumbered as 206.20, 171.02 renumbered as 206.22, 172.00 renumbered as 206.30, 172.05 renumbered as 206.35, 172.10 renumbered as 206.40, 173.00 renumbered as 206.50, 173.02 renumbered as 206.52, 173.04 renumbered as 206.54, 173.06 renumbered as 206.56, 173.08 renumbered as 206.58, 174.00 renumbered as 206.60, 180.00 renumbered as 206.62, 180.02 renumbered as 206.64, and 181.00 renumbered as 206.66

02/13/18 AMEND: 553.70  
 02/01/18 AMEND: 1212.5, 1218, 1239, 1264  
 01/25/18 AMEND: 1152.3  
 12/28/17 ADOPT: 1294  
 12/22/17 ADOPT: 17.00, 17.02, 17.04, 17.06  
 AMEND: 15.00, 15.01  
 12/07/17 AMEND: 1152.6.1

**Title 14**

04/24/18 AMEND: 131  
 04/19/18 AMEND: 4800  
 04/02/18 AMEND: 265  
 04/02/18 ADOPT: 749.9  
 03/29/18 AMEND: 29.15  
 03/27/18 AMEND: 1038, 1299.03, 1666.0  
 03/02/18 AMEND: 120.7, 705  
 03/02/18 ADOPT: 197  
 02/27/18 ADOPT: 1.18, 2.05 AMEND: 1.05, 1.11, 1.61, 2.10, 2.25, 5.35, 5.41, 5.88, 7.00, 7.50, 8.00 REPEAL: 1.60  
 02/27/18 AMEND: 150, 150.02, 150.03, 705  
 02/22/18 ADOPT: 131  
 02/20/18 AMEND: 13800

02/07/18 AMEND: 3697, 3698, 3699  
 02/06/18 AMEND: 1038  
 01/25/18 AMEND: 1038  
 01/03/18 AMEND: 18943, 18944, 18945.1  
 01/02/18 ADOPT: 722  
 12/27/17 AMEND: 699.5  
 12/21/17 ADOPT: 128  
 12/20/17 AMEND: 933, 933.1, 933.2, 933.3, 933.4, 933.5, 933.6, 933.7, 933.10, 933.11, 934, 934.1, 934.2, 934.3, 934.5, 934.6, 934.7, 934.8, 934.9, 935, 935.1, 935.2, 935.3, 935.4, 936, 936.1, 936.2, 936.3, 936.4, 936.5, 936.6, 936.7, 936.8, 936.9, 936.10, 936.11, 936.11.1, 936.12, 937, 937.2, 937.5, 937.6, 937.7, 937.9, 937.10, 938, 938.1, 938.4, 938.5, 938.6, 938.7, 938.8, 938.10, 939, 939.1, 939.2, 939.3, 939.4, 939.5, 939.9, 939.10, 939.12, 939.16, 940, 943, 943.1, 943.2, 943.3, 943.4, 943.5, 943.6, 943.7, 943.8, 943.9, 943.9.1, 949, 949.1, 949.2, 949.3, 949.4, 949.5, 949.6, 949.7, 953, 953.1, 953.2, 953.3, 953.4, 953.5, 953.6, 953.10, 953.11, 954, 954.1, 954.2, 954.3, 954.5, 954.6, 954.7, 954.8, 954.9, 955, 955.1, 955.2, 955.3, 955.4, 956, 956.1, 956.2, 956.3, 956.4, 956.5, 956.6, 956.7, 956.8, 956.9, 956.10, 956.11, 956.12, 957, 957.2, 957.5, 957.7, 957.9, 957.10, 958, 958.1, 958.4, 958.5, 958.6, 958.7, 958.8, 958.10, 959, 959.1, 959.2, 959.3, 959.4, 959.5, 959.12, 959.16, 960, 961, 961.4, 963, 963.1, 963.2, 963.3, 963.4, 963.5, 963.6, 963.7, 963.8, 963.9, 963.9.1, 969, 969.1, 969.2, 969.3, 969.4, 969.5, 969.6, 969.7, 1032.10  
 12/13/17 ADOPT: 3504.6  
 12/12/17 AMEND: 3950 REPEAL: 3951, 3952, 3953, 3954, 3955, 3956, 3957, 3958, 3959, 3960, 3961, 3962, 3963, 3964, 3965  
 12/06/17 AMEND: 4970.00, 4970.03, 4970.05, 4970.10  
 12/05/17 AMEND: 265  
 12/05/17 AMEND: 18660.40  
 11/28/17 ADOPT: 17403.3.2, 17403.3.3 AMEND: 17402, 17403.0, 17403.8, 17405.0, 17409.3, 18103.1, 18221.5

**Title 14, 27**

12/11/17 AMEND: Title 14, Sections: 18474, 18475, 18476, 18478, 18489, 18491, 18492, 18493, 18494, 18499.3, 18499.4, 18499.5, 18499.6, 18499.7, 18499.8,

18499.9, Appendix A, Forms 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, Title 27, Sections: 22240, 22241, 22242, 22243, 22244, 22246, 22247, 22249, 22249.5, 22250, 22251, 22252, 22253, 22254, Appendix 3, Forms 100, 101, 102(a), 102(b), 102(c), 103(a), 103(b), 103(c), 104, 105, 107, 109, 110, 111, 112, 113

**Title 15**

04/17/18 ADOPT: 2240 REPEAL: 2240  
 04/09/18 AMEND: 3016, 3315  
 03/05/18 ADOPT: 3378.9, 3378.10 AMEND: 3000, 3023, 3043.8, 3044, 3084.9, 3269, 3335, 3337, 3341, 3341.2, 3341.3, 3341.5, 3341.6, 3341.8, 3341.9, 3375, 3375.1, 3375.2, 3376, 3376.1, 3378, 3378.1, 3378.2, 3378.3, 3378.4, 3378.5, 3378.6, 3378.7, 3378.8 REPEAL: 3334  
 03/01/18 ADOPT: 3349.1, 3349.2, 3349.3, 3349.4, 3349.5, 3349.6, 3349.7, 3349.8, 3349.9 AMEND: 3349  
 02/07/18 ADOPT: 3999.24  
 02/05/18 AMEND: 1006, 1062  
 02/01/18 ADOPT: 3087, 3087.1, 3087.2, 3087.3, 3087.4, 3087.5, 3087.6, 3087.7, 3087.8, 3087.9, 3087.10, 3087.11, 3087.12  
 01/02/18 AMEND: 3000, 3030, 3190, 3269  
 12/29/17 ADOPT: 3371.1 AMEND: 3043.7, 3044 REPEAL: 3371.1  
 12/21/17 AMEND: 8004, 8004.1  
 12/18/17 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  
 12/12/17 AMEND: 8199  
 11/30/17 AMEND: 1  
 11/27/17 AMEND: 3600(b), 3600(e)

**Title 16**

04/20/18 AMEND: 1749  
 03/19/18 AMEND: 4422  
 03/14/18 AMEND: 1805.1, 1811  
 03/05/18 AMEND: 2070, 2071  
 03/01/18 AMEND: 9.1, 12, 12.1, 12.5, 15.1, 16, 19, 20, 43, 45, 87.9  
 01/25/18 ADOPT: 1715.65  
 01/17/18 AMEND: 1760  
 01/17/18 AMEND: 420.1 REPEAL: 424.5  
 01/11/18 AMEND: 427.10, 427.30  
 01/03/18 AMEND: 1937.11



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12/20/17 ADOPT: 2039.5  
 12/19/17 AMEND: 1735.2  
 12/07/17 ADOPT: 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814

**Title 17**

04/20/18 AMEND: 6000, 6025, 6035, 6040, 6045, 6050, 6051, 6055, 6060, 6065, 6070, 6075 REPEAL: 6015, 6020  
 04/13/18 ADOPT: 40127, 40132, 40190, 40191, 40192, 40194, 40196  
 03/15/18 AMEND: 30145, 30145.1, 30205, 30231, 30275, 30278.1, 30309, 30310, 30311, 30314, 30336.8, 30408, 30409, 30456.8, 30535  
 12/07/17 ADOPT: 40100, 40101, 40102, 40115, 40116, 40118, 40126, 40128, 40129, 40130, 40131, 40133, 40135, 40137, 40150, 40155, 40156, 40159, 40162, 40165, 40167, 40169, 40175, 40177, 40178, 40180, 40182, 40200, 40205, 40220, 40222, 40223, 40225, 40232, 40234, 40236, 40238, 40240, 40242, 40250, 40252, 40254, 40256, 40258, 40260, 40262, 40264, 40266, 40268, 40270, 40272, 40275, 40277, 40280, 40282, 40290, 40292, 40299, 40300, 40305, 40306, 40310, 40400, 40401, 40403, 40405, 40406, 40408, 40410,

40411, 40412, 40415, 40500, 40510, 40512, 40513, 40515, 40517, 40525, 40550, 40600, 40601

**Title 18**

03/19/18 ADOPT: 35001, 35002, 35003, 35004, 35005, 35006, 35007, 35008, 35009, 35010, 35011, 35012, 35013, 35014, 35015, 35016, 35017, 35018, 35019, 35020, 35021, 35022, 35023, 35024, 35025, 35026, 35027, 35028, 35029, 35030, 35031, 35032, 35033, 35034, 35035, 35036, 35037, 35038, 35039, 35040, 35041, 35042, 35043, 35044, 35045, 35046, 35047, 35048, 35049, 35050, 35051, 35052, 35053, 35054, 35055, 35056, 35057, 35058, 35059, 35060, 35061, 35062, 35063, 35064, 35065, 35066, 35067, 35101 AMEND: 1032, 1124.1, 1249, 1336, 1422.1, 1705.1, 2251, 2303.1, 2433, 3022, 3302.1, 3502.1, 4106, 4703, 4903, 5200, 5202, 5210, 5211, 5212, 5212.5, 5213, 5214, 5216, 5217, 5218, 5219, 5220, 5220.4, 5220.6, 5221, 5222, 5222.4, 5222.6, 5223, 5224, 5225, 5226, 5227, 5228, 5229, 5230, 5231, 5231.5, 5232, 5233, 5234, 5234.5, 5235, 5236, 5237, 5238, 5240, 5241, 5242, 5244, 5245, 5246, 5247, 5248, 5249, 5249.4, 5249.6, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5267, 5268, 5310, 5311, 5312, 5331, 5335, 5335.4, 5335.6, 5336, 5336.5, 5337, 5337.4, 5337.6, 5338, 5338.4, 5338.6, 5700 REPEAL: 1807, 1828, 4508, 4609, 4700, 4701, 4702, 5201, 5210.5, 5215, 5215.4, 5215.6, 5232.4, 5232.8, 5239, 5243, 5250, 5255, 5256, 5333, 5333.4, 5333.6  
 01/05/18 ADOPT: 30100, 30101, 30102, 30201, 30202, 30203, 30204, 30205, 30301, 30302, 30303, 30304, 30305, 30401, 30402, 30403, 30501, 30502, 30601, 30602, 30603, 30604, 30605, 30606, 30701, 30702, 30703, 30704, 30705, 30707, 30708, 30709, 30710, 30711, 30800, 30801, 30802, 30803, 30804, 30805, 30806, 30807, 30808, 30809, 30810, 30811, 30812, 30813, 30814, 30815, 30816, 30817, 30818, 30819, 30820, 30821, 30822, 30823, 30824, 30825, 30826, 30827, 30828, 30829, 30830, 30831, 30832

**Title 20**

03/01/18 ADOPT: 1685 AMEND: 1680, 1681, 1682, 1683, 1684  
 01/30/18 ADOPT: 4.5, 8.3, 9.5 AMEND: 1.3, 1.4, 1.7, 1.9, 1.13, 1.14, 1.17, 3.1, 3.3, 4.6 (renumbered from 4.5), 6.3, 7.2, 7.3, 7.6, 8.1, 8.2 (renumbered from 8.3), 8.4, Article 9 (title), 9.4, 9.6 (renumbered from 9.5), 12.1, 13.7, 13.8, 13.11, 13.12, 13.13, 13.14, 14.1, 14.2, 14.5, 14.6, 15.1, 15.3, 16.1, 16.2, 17.1 REPEAL: 8.2, 8.6, 9.6, 9.7  
 01/25/18 AMEND: 1602, 1605.3, 1606

**Title 21**

01/04/18 ADOPT: 1478.1, 1478.2 AMEND: 1476  
 11/28/17 ADOPT: 1700.1, 1700.2, 1700.3, 1705.1, 1706.1, 1707.1 AMEND: 1700 [renumbered to 1701.1], 1701 [renumbered to 1701.2], 1702.1, 1703 [renumbered to 1702.2], 1704.1 [renumbered to 1703.1], 1704.2 [renumbered to 1703.2], 1704.3 [renumbered to 1703.3], 1704.4 [renumbered to 1703.4], 1704.5 [renumbered to 1703.5], 1704.6 [renumbered to 1703.6], 1705.1 [renumbered to 1704.1], 1705.2 [renumbered to 1704.2], 1705.3 [renumbered to 1704.3], 1705.4 [renumbered to 1704.4], 1705.5 [renumbered to 1704.5], 1705.6 [renumbered to 1704.6], 1705.7 [renumbered to 1704.7], 1705.8 [renumbered to 1704.8]

**Title 22**

04/12/18 AMEND: 7000  
 04/10/18 AMEND: 20000  
 03/01/18 AMEND: 2706-5, 2706-7  
 02/08/18 AMEND: 97232  
 01/24/18 AMEND: 97177.10, 97177.67, 97177.70  
 01/11/18 ADOPT: 97268 AMEND: 97215, 97218, 97219, 97253, 97254, 97255  
 12/18/17 ADOPT: 2925  
 12/08/17 AMEND: 2608-1, 2627(b)-1  
 12/05/17 AMEND: 2706-2, 3301(d)-1, 3201-1, 3303-1, 3303.1(c)-1 REPEAL: 3303(b)-1

**Title 22, MPP**

04/11/18 AMEND: 101215.1, 101216.1, 101416.2  
 03/13/18 ADOPT: 85100, 85101, 85118, 85120, 85122, 85140, 85142, 85164, 85165, 85168.1, 85168.2, 85168.4, 85170, 85187, 85190

12/21/17 ADOPT: 130000, 130001, 130003, 130004, 130006, 130007, 130008, 130009, 130020, 130021, 130022, 130023, 130024, 130025, 130026, 130027, 130028, 130030, 130040, 130041, 130042, 130043, 130044, 130045, 130048, 130050, 130051, 130052, 130053, 130054, 130055, 130056, 130057, 130058, 130062, 130063, 130064, 130065, 130066, 130067, 130068, 130070, 130071, 130080, 130081, 130082, 130083, 130084, 130090, 130091, 130092, 130093, 130094, 130095, 130100, 130110, 130200, 130201, 130202, 130203, 130210, 130211

**Title 23**

04/19/18 ADOPT: 3949.14  
 04/16/18 ADOPT: 335, 335.2, 335.4, 335.6, 335.8, 335.10, 335.12, 335.14, 335.16, 335.18, 335.20  
 03/29/18 AMEND: 595  
 03/26/18 AMEND: 315, 316  
 03/08/18 ADOPT: 3909.6  
 02/22/18 AMEND: 700.1 (renumbered to 638.1), 700.2 (renumbered to 638.2), 700.3 (renumbered to 638.3), 700.4 (renumbered to 638.4), 700.5 (renumbered to 638.5), 700.6 (renumbered to 638.6)  
 01/24/18 ADOPT: 700.1, 700.2, 700.3, 700.4, 700.5, 700.6  
 12/26/17 ADOPT: 3949.13  
 12/15/17 AMEND: 64300, 64305, 64310, 64315  
 12/14/17 AMEND: 64444, 64445, 64445.1, 64447.4, 64465, 64481

**Title 25**

01/18/18 AMEND: 10001

**Title 27**

04/06/18 AMEND: 25705  
 02/05/18 AMEND: 25705  
 02/01/18 AMEND: 27000  
 01/29/18 AMEND: 27001  
 01/02/18 ADOPT: 25603.3  
 12/28/17 AMEND: Appendix B; Div. 3; Subd. 1; Ch. 2  
 12/20/17 AMEND: 27001

**Title MPP**

01/17/18 AMEND: 47-260  
 01/17/18 AMEND: 46-430  
 12/28/17 AMEND: 41-440, 42-711, 42-716, 42-717, 44-207