



# 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. CALIFORNIA CONSERVATION CORPS**

NOTICE IS HEREBY GIVEN that the California Conservation Corps, 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 **June 1, 2018** and closing on **July 16, 2018**. All inquiries should be directed to the contact listed below.

The California Conservation Corps 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:

The addition/removal of designated positions, in response to organizational changes within the department and the statewide consolidation of IT classifications.

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 **July 16, 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 **July 1, 2018**.

The California Conservation Corps 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: Craig Castleton, COI Filing Officer, (916) 341-3221, [craig.castleton@ccc.ca.gov](mailto:craig.castleton@ccc.ca.gov).

**TITLE 4. CALIFORNIA SCHOOL FINANCE AUTHORITY**

Article 4, Sections 10200, 10201, 10203, 10204, 10205, 10206, and 10207  
Title 4, Division 15  
California Code of Regulations

NOTICE IS HEREBY GIVEN that the California School Finance Authority (CSFA or the Authority), organized and operating pursuant to Sections 17170 through 17199.5 of the Education Code, proposes to adopt the regulations as described below after considering all comments regarding the proposed action. Any person interested may present comments relevant to the proposed action to the attention of the Contact Person as listed in this Notice no later than 5:00 p.m. on Monday, July 16, 2018. CSFA, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals 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 person(s) designated in this notice as Contact Person and will be mailed to those persons who submit statements related to this proposal or who have required notification of any changes to the proposal.

**PROPOSED REGULATORY ACTION**

CSFA proposes to adopt Sections 10200, 10201, 10202, 10203, 10204, 10205, 10206, and 10207 of Title 4 of the California Code of Regulations (Regulations) as permanent regulations. The Regulations implement CSFA's responsibilities related to the Project Acceleration Notes and Credit Enhancement Alternatives (PANACEA) Program.

**AUTHORITY AND REFERENCE**

Authority: Sections 17179 and 17180 of the Education Code. Section 17179 sets forth that the Authority is vested with all powers to carry out the powers and re-

sponsibilities expressly granted or imposed upon it. Section 17180(a) provides the Authority with the ability to adopt bylaws for the regulation of its affairs and the conduct of its business. Section 17180(o) of the Education Code provides CSFA the authority to adopt guidelines for grants, bonds, and other evidences of indebtedness.

Reference: Sections 17173, 17180, 17199.4, 47600 et seq, 47605, and 47612.5 of the Education Code. The Regulations include a number of the requirements of the Program contained in the reference code provisions. They also rely on a number of provisions in the Charter Schools Act of 1992, commencing with section 47600 of the Education Code. Section 17180(d) provides CSFA with the authority to receive grants from the federal government.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

CSFA was created in 1985 to assist school districts and community college districts in financing school construction projects (Education Code section 17170, et seq.). CSFA is authorized to adopt bylaws for the regulation and conduct of its business, is vested with all powers reasonably necessary to carry out its powers and responsibilities, and may receive and accept grants from a federal agency (Education Code sections 17179 and 17180).

In 2017, the U.S. Department of Education awarded a grant of \$8,000,000 to CSFA, pursuant to the Credit Enhancement for Charter School Facilities Program (CFDA # 84.354A), authorized under Title V, Part B, Subpart 2 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (Grant). Program funds may be used to credit enhance the financing of acquisition, renovation, or construction of charter school facilities, or the refinancing of existing charter school facility debt.

For purposes of the Program, the Authority intends to use the funds for the interim financing of charter school facilities awarded an Advance or Final Apportionment through the Charter School Facilities Program (CSFP) or awaiting the issuance of long-term debt through the Authority’s Conduit Bond and Note Financing Program. While the Authority also was awarded a grant award for \$8,300,000 in 2011 under the same Grant program, this Program is distinguished from the previous Grant award by the fact that it focuses on credit enhancement for short-term interim financing while the previously awarded Grant focuses on credit enhancement for the issuance of long-term debt, especially bonds and long-term notes.

Regulations implementing the Program must be in place to allow CSFA the ability to establish application and eligibility requirements, eligible uses of Program funds, criteria for evaluation and selection, and internal controls to ensure the integrity of the Program. In addition, regulations are necessary to ensure uniformity and consistency in the process of review and selection of applicants for Program awards. These Regulations are critical in order to lower financing costs for the acquisition, renovation, or construction of California public charter schools, as well as to accelerate the construction of permanent facilities to house California’s public school students.

The eligibility for Program funds is based on meeting all of the following eligibility criteria: (1) in the case of an Application associated with CSFP funding, an Advance or Final Apportionment has been awarded under CSFP; (2) an approved charter has been awarded and is in place and current; (3) the Charter School is in good standing with its Charter Authorizer and is in compliance with the terms of its charter at the time of Application submission; and (4) the Charter School is established pursuant to Education Code section 47600 et seq., and also meets the federal definition of Charter School as defined in section 5210(1) of the ESEA as amended by the NCLB of 2001. In addition, eligibility further requires that an Applicant meet at least one of the following evaluation criteria whereby preference is to be established based on the number met and level of need, where applicable: (1) location of the Applicant in a district or county with low academic performance (50% or less of students meeting proficiency in State standards for mathematics or English–language Arts); (2) location of the Applicant in a district or county with a high level of eligibility for free and reduced–price meals (60% or more of pupils); (3) the Applicant having a high level of eligibility for free and reduced–price meals (greater than 50% of pupils); (4) location of Applicant in a district or county where there is a high need for facilities improvement; and (5) the Applicant having received an award under CSFP<sup>1</sup>.

**ANTICIPATED BENEFITS OF THE  
PROPOSED REGULATION**

The proposed Regulations allow CSFA the ability to establish application and eligibility requirements, eligible uses of Program funds, criteria for evaluation and selection, and internal controls to ensure the integrity of the Program. In addition, the Regulations are necessary to ensure uniformity and consistency in the process of review and selection of applicants for Program awards. These Regulations are critical in order to lower financ-

<sup>1</sup> This latter criterion regarding having a CSFP is common to both the initial criteria and evaluation criteria.

ing costs for the purchase, renovation, or construction of California public charter schools. The Authority is proposing permanent regulations through the Office of Administrative Law’s permanent rulemaking process.

EVALUATION OF  
INCONSISTENCY/INCOMPATIBILITY WITH  
EXISTING STATE REGULATIONS

After conducting a thorough evaluation of the other regulations on this matter, specifically the Authority’s regulations for its Grant awarded in 2011, California Code of Regulations, Title 4, Division 15, Article 3, entitled “Charter School Facilities Credit Enhancement Grant Program,” the Authority has found that the proposed regulations are neither inconsistent nor incompatible with the existing State regulations.

SUMMARY OF PROPOSED REGULATIONS

The Regulations are briefly summarized below.

**Section 10200: “Purpose”**

This section sets forth that the purpose for the Authority’s administration of the Program is to provide credit enhancement in order to facilitate the financing of purchase, construction, and/or renovation of facilities for California public charter schools through the Charter School Facilities Program (CSFP) and the Authority’s Conduit Bond and Note Issuance Program.

**Section 10201: “Definitions”**

The Act sets forth the definitions of certain terms. This section sets forth definitions of key terms used in the regulations. The definitions are necessary to provide clarification of key terms used in the regulations and to ensure uniform application of the regulations.

**Section 10202: “Applicant Eligibility Criteria”**

This section provides that applicants for the Program meet certain minimum requirements. The provisions within this section establish that eligible applicants meet the following minimum requirements: (1) in the case of an Applicant seeking funding associated with a CSFP project, the Applicant has received an Advance or Final Apportionment through CSFP; (2) have a current charter in place throughout the application process and the term of the award; (3) be in good standing with their chartering entity and in compliance with the terms of the charter; and (4) have been established as a charter school pursuant to Education Code section 47600 et seq. and meet the federal definition of charter school.

**Section 10203: “Award Allocation and Eligible Use of Program Funds”**

This section establishes the eligible uses of the Program funds as being applied toward the primary debt

service reserve requirement for debt issued for financing the acquisition, renovation, or construction of charter school facilities, or for the refinancing of existing facility debt, or interim financing for charter schools that have received awards through CSFP. The regulations also set forth a maximum award per application, as well as the parameters for holding, release, return, and expiration of Program funds or reservation of a Program award.

**Section 10204: “Application Review and Evaluation Criteria”**

This section clarifies that the process for considering applications is to be on a rolling, first-come-first-serve basis to the extent that funding and appropriations are available, with the opportunity to submit an application each month by an established deadline to be posted on the Authority’s website. In addition, this section sets forth the following five criteria for prioritizing Applicants for purposes of targeting communities in need, with increasing preference based on the number of criteria met and level of need, where applicable: (1) location of the Applicant in a district or county with low academic performance (50% or less of students meeting proficiency in State standards for mathematics or English-language Arts); (2) location of the Applicant in a district or county with a high level of eligibility for free and reduced-price meals (60% or more of pupils); (3) the Applicant having a high level of eligibility for free and reduced-price meals (greater than 50% of pupils); (4) location of Applicant in a district or county where there is a high need for facilities improvement; and (5) the Applicant having received an award under CSFP.

**Section 10205: “Content of Application”**

This section sets forth the specific documentation that is required for a Program Application to be considered complete while providing the Authority with the discretion to request additional documentation when deemed necessary.

**Section 10206: “Audits and Conflicts of Interest”**

This section sets forth specific internal controls, including the discretion for the State to conduct internal audits, as well as federal rules governing conflict-of-interest and procurement of contracts, discretion to conduct site visits of facilities or projects receiving an award, the requirement that participants routinely submit documentation to support continued eligibility, and the requirement that awardees comply with all State and federal requirements throughout the award period.

**Section 10207: “Funding Contingency”**

This section sets forth that the execution of a Performance agreement is required for release of Program funds, and to clarify that, the issuance of Program funds is contingent upon the availability of such funds from the U.S. Department of Education.

**INCORPORATED BY REFERENCE FORMS**

The PANACEA Program (CFDA #84.354A) Application (Form CSFA 07–01, May 2018) was generated to provide an application for the grant program.

**OTHER MATTERS PRESCRIBED BY STATUTES APPLICABLE TO THE SPECIFIC STATE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS**

No other matters prescribed by statute are applicable to CSFA or to any specific Regulation or class of Regulations pursuant to Section 11346.5(a)(4) of the Government Code pertaining to the proposed Regulations or CSFA.

**MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

CSFA has determined that the proposed regulations do not impose any additional mandate on local agencies or school districts for a new program or higher level of service of an existing program.

**FISCAL IMPACT**

CSFA has determined that the Regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non–discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

While CSFA will incur additional expenses in implementing and administering the Program, the U.S. Department of Education provides that CSFA may charge such additional expenses for CSFA’s administrative costs against interest earned on the Program grant funds. Therefore, there is no fiscal impact on the State’s General Fund or requirement of additional appropriations by the Legislature. There will be no cost or savings to any State Agency pursuant to Government Code Sections 11346.1(b) or 11346.5(a)(6).

**INITIAL DETERMINATION REGARDING ANY SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

CSFA has made an initial determination that the Regulations will not have any significant, statewide adverse

economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**EFFECT ON SMALL BUSINESSES**

CSFA has determined that the adoption of the Regulations will not affect small business. The Program is a voluntary financing program available to charter schools to assist in the financing of charter school facilities.

**COST IMPACTS**

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

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

CSFA has determined, pursuant to Government Code section 11346.3(b)(1)(A)–(D), that the Regulations will not have an effect on jobs and business expansion, elimination or creation. As such, to the extent that the awards benefit the long–term viability of charter schools and the expansion of charter schools, the Program and its proposed regulations have the potential to directly benefit economically vulnerable populations and communities throughout the State.

**COST IMPACT ON HOUSING**

The Regulations will not have any effect on housing costs.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), CSFA must determine that no reasonable alternative to the Regulations considered by CSFA or that has otherwise been identified and brought to the attention of CSFA would be more effective in carrying out the purpose for which the Regulations are proposed, would be as effective and less burdensome to affected private persons than the proposed Regulations, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CSFA invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

AGENCY CONTACT PERSON(S)

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director  
California School Finance Authority  
300 S. Spring Street, Suite 8500  
Los Angeles, CA 90013  
(213) 620-4608  
or  
915 Capitol Mall, Room 101  
Sacramento, CA 95814  
(916) 651-7710

Or by email to [kjohantgen@treasurer.ca.gov](mailto:kjohantgen@treasurer.ca.gov)

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Mark Paxson, General Counsel  
State Treasurer's Office  
915 Capitol Mall, Room 110  
Sacramento, CA 95814  
(916) 653-2995

Or by email to [mpaxson@treasurer.ca.gov](mailto:mpaxson@treasurer.ca.gov)

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to CSFA. The written comment period on the Regulations will end at 5:00 p.m. on July 16, 2018. All comments to be considered by CSFA must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, CSFA will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to title 1, Chapter 1, Section 44 of the California Code of Regulations. Any written comments on any modifications to the proposed regulations should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF PROPOSED REGULATIONS

Pursuant to the California Government Code, CSFA has established a rulemaking file for this regulatory ac-

tion, which contains those items required by law. The file is available for inspection at CSFA's office at 915 Capitol Mall, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on CSFA's website at [www.treasurer.ca.gov/csfa](http://www.treasurer.ca.gov/csfa).

PUBLIC HEARING

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to CSFA at least 15 days before the end of the written comment period. Such request must be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, CSFA may adopt the Regulations substantially as described in this Notice, without further notice. If CSFA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through CSFA's Web site described above) for at least fifteen (15) calendar days before CSFA adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

CSFA is required to prepare a Final Statement of Reasons pursuant to Government Code section 11346.9. Once CSFA has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on CSFA's website described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.

## TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

### PUBLIC COMMENTS DUE BY JULY 16, 2018

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4011 or by letter to:

Commission on POST  
Attn: Janna Munk  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605-1630

### AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code §13503 (authority of Commission on POST) and Penal Code §13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code §13503(e) which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On October 3, 2015, Governor Brown, signed into law Senate Bill 11 (Beall) mandating POST to make available a 3-hour crisis intervention behavioral health course to law enforcement personnel and Senate Bill 29 (Beall) mandating crisis intervention behavioral health training for field training officers.

Senate Bill 11 added Penal Code § 13515.27(a), requiring POST to establish and keep updated a classroom-based continuing training course that includes instructor-led active learning relating to behavioral health and law enforcement interaction with persons with mental illness, intellectual disability, and sub-

stance use disorders. The course shall be made available to each law enforcement officer with a rank of supervisor or below assigned to patrol duties or who supervises officers who are assigned to patrol duties.

Senate Bill 29 added Penal Code § 13515.28(a)(1), requiring field training officers (FTOs) receive a minimum of 8 hours of crisis intervention behavioral health training within 180 days of assignment. The crisis intervention behavioral health training must be classroom-based, delivered in 4-hour segments or longer, and include active learning.

The proposed changes to Regulation 1004, 1005, 1081 and Commission Procedure D-13 will make the Field Training Program compliant with the requirements of Penal Code § 13515.27(a) and Penal Code § 13515.28(a)(1).

The benefit anticipated by the proposed amendments to the regulations will be the increased effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California residents.

During the process of developing these regulations and amendments, POST has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

### ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digests. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

### ESTIMATE OF ECONOMIC IMPACT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.



Costs to any Local Agency or School District for Which Government Code §§ 17500–17630 Require Reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, Including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulations would have no effect on housing costs.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT PER GOVERNMENT CODE  
§ 11346.3(b)

The adoption of the proposed amendments of regulations will neither create, nor eliminate, jobs in the State of California, nor result in the elimination of existing businesses or create, or expand, businesses in the State of California.

The proposed amendments of the regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California residents. Additionally, the proposed amendments make the regulations compliant with Penal Code § 13515.29 and § 13515.295. There would be no impact that would affect worker safety or the state’s environment.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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.

CONSIDERATION OF ALTERNATIVES

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the attention of the Commission, 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 than the proposed action.

CONTACT PERSON

Questions regarding this proposed regulatory action may be directed to Janna Munk, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630, at [janna.munk@post.ca.gov](mailto:janna.munk@post.ca.gov) (916) 227–4827. General questions regarding the regulatory process may be directed to Christy Correa [Christy.correa@post.ca.gov](mailto:Christy.correa@post.ca.gov), (916) 227–4847, or by FAX at (916) 227–5271.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630. These documents are also located on the POST Website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

AVAILABILITY AND LOCATION OF THE  
RULEMAKING FILE AND THE FINAL  
STATEMENT OF REASONS

The rulemaking file contains all information upon which POST is basing this proposal and is available for

public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) named above.

## TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

### “Exemption Amendments, 2018” Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Chapter 4 Subchapters 7, Article 2 Amend: §§ 1038 and 1038.1

#### NATURE OF PROCEEDING

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

#### PUBLIC HEARING

The Board will hold a public hearing on Thursday, July 19, 2018, at its scheduled meeting held at the Tri-County Fairgrounds, 1234 Fair Street, Bishop, CA 93514. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

#### WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m. on Monday, July 9, 2018.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including

written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

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

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

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

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

(916) 653-0989

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

PublicComments@BOF.ca.gov

#### AUTHORITY AND REFERENCE

(pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14)  
14 CCR § 1122

Note: Authority cited: Sections 4551, 4553 and 4584, Public Resources Code. Reference: Sections 4290, 4291, 4516, 4527, 4584 and 4597, Public Resources Code; and *EPIC v. California Department of Forestry and Fire Protection and Board of Forestry* (1996) 43 Cal. App.4th 1011.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

(pursuant to GOV § 11346.5(a)(3)(A)-(D))

Pursuant to the Z’berg-Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. (FPA) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

PRC § 4551 requires the Board to “. . . adopt district forest practice rules . . . to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water re-

sources . . . ,” and PRC § 4553 requires the Board to continuously review the rules in consultation with other interests and make appropriate revisions.

PRC § 4584 authorizes the Board to adopt regulations to provide an exemption, from all or portions of the FPA, to a person engaging in certain forest management activities specified by the statute.

### Wildfire Threat

Catastrophic wildfire in California is a significant threat to life, public health, infrastructure, private property, and natural resources. This threat has grown in recent years and is likely to continue due to factors such as continued population growth, changing land use patterns, drought, and shifts in climatic conditions.

Data suggests a trend toward increasing acres burned statewide, with particular increases in conifer vegetation types. This trend is supported in part by the fact that the three largest fire years since 1950 have all occurred within the last 10 years, with the costliest and deadliest wildfires in state history both occurring in 2017.

In order to address this ongoing threat, the state developed the 2010 Strategic Fire Plan (most recently updated April 2016) which outlined a vision to create a “. . . natural environment that is more resilient and man-made assets which are more resistant to the occurrence and effects of wildland fire through local, state, federal and private partnerships.” In order to achieve this vision, the Fire Plan states that a major policy component necessary to achieve that vision is fuel hazard reduction that creates resilient landscapes and protects the wildland and natural resource values. In an effort to implement this policy, the legislature and Board have developed several tools to incentivize and assist landowners with landscape level forest management, including funding mechanisms and statutory and regulatory exemptions intended to ease the burdens associated with planning and financing these activities in order to achieve the public benefit of a fire-resilient landscape.

One such tool has been the “La Malta” Exemption, which was created following the legislative approval of Assembly Bill (AB) 2420 (Chaptered 2004), and later amended through AB 1515 (chaptered 2008). The bills amended PRC § 4584(j) (as it is currently numbered) with the intent of reducing to risk of catastrophic wildfire in the state by allowing landowners a simplified regulatory pathway for the elimination of “. . . vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, fire duration and intensity, fuel ignitability, or ignition of tree crowns.” The exemption provided a simplified pathway to certain types of harvests but places limits on the diameter of trees which may be harvested while imposing costly fuel reduction standards. Input from the regulated public and monitoring and re-

porting efforts by the Department of Forestry and Fire Protection (Cal Fire) determined that the exemption was under-utilized by the public and was, therefore, not achieving the widespread fire resiliency that the legislature intended to create.

In an effort to appeal to a wider base of landowners with the goal of treating more acres, the legislature amended, through Assembly Bill 744 (chaptered 2013), PRC § 4584(j), which then authorized the Board to develop a Pilot Project exemption which included a statutory increase on the diameter limit of harvestable trees and provided the Board latitude in developing less financially burdensome fuel treatment standards. The Board adopted 14 CCR § 1038(j) Forest Fire Prevention Pilot Project (FFPPP) in 2014 based off the new statute and existing regulations of 14 CCR § 1038(i), the Forest Fire Prevention Exemption. As intended by legislature, the Pilot Project was created to assess whether increasing the diameter of trees that may be removed and adjusting the level of fuel treatment required pursuant to the existing Forest Fire Prevention Exemption would reduce the risk of catastrophic fires in specific geographic regions within California.

Over the last eight years, the state has been experiencing widespread and catastrophic tree mortality as a result of drought conditions and bark beetle activity. Between 2010 and 2014, nearly eight million trees died, followed by 3.3 million in 2014, 29 million in 2015, and 62 million in 2016. Since 2016, roughly 2 million trees have died per month in California, bringing the total to roughly 129 million dead trees throughout the state since 2010. This large number of dead and dying trees created several significant issues for the public, including the loss of valuable timber resources and serious public health and safety issues in the falling hazard created by structurally weakened trees as well as the increase to the wildland fuel load, which influences wildfire intensity and behavior.

In 2015, the Board adopted “Drought Mortality Amendments, 2015,” first through the emergency rule-making process, and later certified and made permanent through the regular rulemaking process. The effect of this adoption was to provide a person engaging in the cutting or removal of dead or dying trees of any size an exemption from the plan preparation and submission requirements (PRC § 4581) and from the completion report and stocking report requirements (PRC §§ 4585 and 4587) of the FPA, to capture mortality, address the fuel conditions being made worse by the drought and tree mortality and reduce the falling hazard associated with deteriorating trees. Additionally, when initially adopted, the exemption was given an expiration date of December 31, 2018, which was chosen to correspond to

the estimate of how many years it would take for the rate of tree mortality to return to historical levels.

The problem is that within the regulatory exemptions to the FPA there are issues with clarity, consistency, and application.

In December 2017, in response to their annual request for regulatory review, the Board received comments from Cal Fire that certain provisions within the FPRs, specifically portions of 14 CCR § 1038 — Exemptions, could be improved to aid both the Department and the public in regulatory implementation, interpretation and enforcement.

Within 14 CCR § 1038(j), the Department identified an interpretation issue stemming from provision 14 CCR § 1038(j)(12), which states “Fuel treatments conducted under 14 CCR § 1038(j)(8), (9), (10) and (11) shall be achieved on at least 80 percent of the treated area.” Cal Fire identified an issue where members of the regulated public were interpreting this provision to mean that trees larger than the 26 inches, the diameter limit of 14 CCR § 1038(j)(8), could be harvested on 20 percent of the treated area. However, because this diameter limit is statutory (within PRC § 4584 (j)(11)(B)), and the Board does not have authority to create regulations which conflict with statutory requirements, this interpretation is not defensible and has created issues with enforcement and implementation of the regulation. The proposed action seeks to make permanent, through regular rulemaking, amendments to 14 CCR § 1038(j) which clarify that requirements pertaining to “80% of the treated area” are related only to the treatment of fuels in a manner which is consistent with the statutory goals of the FFPPP.

Currently the Drought Mortality Exemption of 14 CCR § 1038(k) is set to expire on December 31, 2018, which was chosen by the Board to correspond to the estimate of how many years it would take for the rate of tree mortality to return to historical levels. Since its adoption in 2015, the Drought Mortality Exemption, which allows for the harvesting of dead or dying trees in response to drought-related stress, has been used over two thousand times to treat over a quarter of a million acres statewide, and has been used sixty times to treat over two thousand acres in the first three months of 2018. This high level of past and ongoing use indicates that drought-related tree mortality is an ongoing issue within the state and demonstrates a need to extend the use of the exemption. The proposed action seeks to amend 14 CCR § 1038(k), through regular rulemaking, to extend the sunset date of the Drought Mortality Exemption to provide ongoing regulatory relief for landowners affected by statewide drought-related tree mortality.

Cal Fire, in its response to the Board, also identified an inconsistency with notification requirements for

timber operations pursuant to 14 CCR § 1038. Some of the exemptions provided by the regulation (14 CCR § 1038(c), (j), and (m)) require timber operators to notify Cal Fire prior to the commencement of timber operations; however others do not require any such notification, which can cause confusion on the part of the exemption submitter and issues with enforcement with Cal Fire. Cal Fire has the authority (under PRC § 4119) and responsibility to inspect timber operations conducted pursuant to the FPA in order to ensure regulatory and statutory compliance. Notification allows Cal Fire to adequately and efficiently schedule inspections of exemption operations. The proposed action seeks to amend, through regular rulemaking, 14 CCR § 1038.1 to require notification to the Department as to when the commencement of operations will occur.

The purpose of the proposed action is threefold: 1) to clarify that requirements pertaining to “80% of the treated area” are related only to the treatment of fuels in a manner which is consistent with the statutory goals of the Forest Fire Prevention Pilot Project; 2) to extend the sunset date of the Drought Mortality Exemption to provide regulatory relief for landowners affected by statewide drought-related tree mortality; and 3) to standardize notification to the Department as to when the commencement of operations will occur.

The effect of this proposed action is to clarify the fuel treatment standards of 1038(j), extend the sunset date for Drought Mortality Amendments an additional 3 years, and to implement standardized notification procedures.

The primary benefit of the proposed action is the maintenance of a comprehensive regulatory scheme which allows for the clear and consistent application and enforcement of exemption notices and operations. The extension of the Drought Mortality Exemption may benefit public safety throughout the state through addressing the fuel conditions being made worse by the drought and tree mortality and reduce the falling hazard associated with deteriorating trees. The extension may also provide economic benefit to landowners within California who are provided a simplified regulatory mechanism for harvesting dead and dying trees related to drought conditions. Additionally, the standardization of notification processes will improve the efficiency of Cal Fire inspections and enforcement of exemption operations.

There is no comparable federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action (including 14 CCR § 1038) to ensure the consistency and compatibility of the pro-

posed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to regulatory exemptions from portions of the Forest Practice Act and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules; it simply amends current regulatory language.

Statute to which the proposed action was compared: Public Resources Code Section 4584.

No documents are incorporated by reference.

**MANDATED BY FEDERAL LAW  
OR REGULATIONS**

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

The proposed action neither conflicts with nor duplicates Federal regulations.

There are no comparable Federal regulations related to the system of forest practice applicable to timber management on state and private timberlands developed pursuant to the FPA. No existing Federal regulations meeting the same purpose as the proposed action were identified.

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

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

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

The proposed action does not impose a mandate on local agencies or school districts.

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

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

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the

act, within the meaning of Section 17556 of the Government Code.

Regarding costs or savings to any state agency, the anticipated fiscal impact of the Drought Mortality exemption was expected to be less than \$50,000. The anticipated fiscal impact of the extension of the exemption is expected to be similar. The Drought Mortality exemption also includes an unbudgeted monitoring component. Specifically, the Department must monitor and report on the statewide use of the exemption, including the number of harvest area acres, the areas of application and the degree of compliance. Additionally, the Department must, at a minimum, annually report its findings to the Board. The estimated cost to the Department to complete this monitoring and reporting to gauge the degree of compliance is \$40,738. This is based on an estimated cost of \$138/exemption ( $\approx$ 2 hours of a Forester I time per exemption) multiplied by 41% (based off the current rate of inspection for Drought Mortality exemptions) of the 720 exemptions expected to be submitted to Cal Fire during the effective period (1/1/19 to 12/31/21) of the regulation. The Board expects 720 exemptions to be submitted based off current exemption use figures, as 60 exemptions have been submitted within the first 3 months of 2018 which represents 20 exemption submissions per month which can be extrapolated to 720 exemptions for the 36 months of the regulations effective period. Therefore, the maximum total estimated fiscal impact is \$90,738. The Department would not require additional funding for the implementation of the requirements described because the \$90,738 is absorbable within the existing budget. In general, the cost to administer the Forest Practice Program, which includes review and inspection of the 14 CCR 1038(k) exemption, is covered by the Timber Regulation and Restoration Fund.

Other amendments within the proposed action will not have a fiscal impact. These amendments include clarification of existing regulations and one minor reporting requirement. This reporting requirement will provide Cal Fire with additional time to schedule inspections, which may increase efficiency of Department operations, but does not alter the inspection activities or requirements, which remain unchanged.

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

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

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

The proposed action will not significantly affect housing costs.

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states (by making it costlier to produce goods or services in California).

**FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE RELIED UPON TO SUPPORT INITIAL DETERMINATION IN THE NOTICE THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**  
(pursuant to GOV § 11346.2(b)(5) and GOV § 11346.5(a)(8))

The fiscal and economic impact analysis for these Exemption Amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience practicing forestry in California that the Board brings to bear on regulatory development.

The majority of amendments within the proposed action are simple clarifications of existing regulations and one very minor reporting requirement and do not impose new regulatory burdens on the public; however the extension of the Drought Mortality exemption (14 CCR § 1038(k)) may have economic and fiscal impact. The assessment of these impacts includes:

- Economic analysis done in May 2015 for a previous exemption, the “Drought Mortality Amendments, 2015,” which this proposed action seeks to extend.
- Research done for the Protection of Habitable Structures Exemption, which involved extensive outreach, including a compilation of responses from seven (7) Registered Professional Foresters (RPF(s))/Licensed Timber Operators (LTO(s)) working throughout the State.

- Information provided by Cal Fire regarding the number of exemptions, the number of acres per exemption, and the number of inspections conducted on Drought Mortality exemptions since their adoption in 2015. The Department received 2073 Drought Mortality exemptions since their adoption, consisting of 250,175 acres. The exemption notices ranged from 1 to 10,026 acres. The Department conducts inspections on approximately 41% of submitted exemptions.
- Additional outreach, done in February 2016, specific to how the 1038(k) exemption benefits landowners.

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

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

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

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

The Board is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This initial determination is based on the same record facts, evidence, documents, testimony, or other evidence as listed as the basis for the Significant Statewide Adverse Economic Impact.

- 720 exemptions are expected to be submitted to CAL FIRE during the effective period (01/01/19 to 12/31/21) of the regulation.
- Preparation costs are estimated to be between \$50 and \$5,000 depending on many factors including the size of the harvest area, RPF involvement, topography, brush, size of trees and number of trees.

- Similarly, implementation costs depend heavily on many factors including harvest area, topography, brush, size of trees, number of trees, delivered log price and infrastructure constraints. The following two scenarios are provided in an attempt to convey the cost of implementation.
  - Scenario 1: The estimated cost per exemption would be \$15,000 if the harvest area was 20 acres and the implementation cost per acre was \$750 (for the harvest and removal of dead and dying trees in compliance with the operational provisions of the Forest Practice Rules).
  - Scenario 2: The estimated cost per exemption would be \$15,000 if there was 50 thousand board feet (MBF) in dead and dying trees to be harvested and removed (in compliance with the operational provisions of the Forest Practice Rules) on 20 acres and the implementation cost per MBF was \$300.
- The minimum estimated cost to move in equipment or a crew is \$500.
- The cost of new notification requirements will likely range from \$0 to \$25 per exemption, which is based on the estimation that the required notification is very minor and will likely require 1 to 10 minutes of labor per exemption to execute.
- Therefore, the combined cost of preparation and implementation ranges from \$550 to \$20,525 per exemption and, while it may be higher in some instances, is likely to cost roughly \$5,000 per exemption, as the median exemption acreage for drought mortality exemptions is 7 acres.

#### BUSINESS REPORT

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

The proposed action does not impose a business reporting requirement.

#### SMALL BUSINESS

(defined in GOV § 11342.610)

Small business, within the meaning of GOV § 11342.610, is expected to be affected by the proposed action. The types of small businesses that will be beneficially impacted by the proposed action are industrial and nonindustrial forest landowners, forestry consulting, logging, tree removal, landscapers, lumber mills, biogenic energy producers and shavings plants.

Small business, pursuant to 1 CCR § 4(a):

- (1) Is legally required to comply with the regulation;

- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May incur a detriment from the enforcement of the regulation if it does not comply with the regulation.

Pursuant to 1 CCR § (b), the reason(s) the regulation affects small business are the same as provided in the Economic Impact Analysis in the Initial Statement of Reasons.

#### ALTERNATIVES INFORMATION

In accordance with GOV § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

#### CONTACT PERSON

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

Board of Forestry and Fire Protection  
 Attn: Eric Hedge  
 Regulations Coordinator  
 P.O. Box 944246  
 Sacramento, CA 94244-2460  
 Telephone: (916) 653-8007

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

#### AVAILABILITY STATEMENTS

(pursuant to GOV § 11346.5(a)(16), (18))

All of the following are available from the contact person:

- 1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.

2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### FINAL STATEMENT OF REASONS

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

#### INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board web site at: [http://bofdata.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/)

## TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

### “Timberland Conversion Exemptions, 2018” Title 14 of the California Code of Regulations (14 CCR)

#### Division 1.5, Chapter 4 Subchapters 7, Article 7 Amend: § 1104.1

#### NATURE OF PROCEEDING

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

#### PUBLIC HEARING

The Board will hold a public hearing on Thursday, July 19, 2018, at its scheduled meeting held at the Tri-County Fairgrounds, 1234 Fair Street, Bishop, CA 93514. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

#### WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m. on Monday, July 9, 2018.

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



Written comments shall be submitted to the following address:

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

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

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

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

(916) 653–0989

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

PublicComments@BOF.ca.gov

**AUTHORITY AND REFERENCE**  
 (pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14)  
 14 CCR § 1122

Note: Authority cited: Sections 4551, 4553, 4584, 4604, 4611 and 4628, Public Resources Code. Reference: Sections 4512, 4513, 4584, 4597, 4628 and 21083.2(b)(3), Public Resources Code.

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

Pursuant to the Z’berg–Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. (FPA) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

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

PRC § 4584 authorizes the Board to adopt regulation to provide an exemption, from all or portions of the

FPA, to a person engaging in certain forest management activities specified by the statute.

The Forest Practice Act of 1973 recognizes that the “forest resources and timberlands of the state are among the most valuable of the natural resources of the state”, and that “it is the policy of this state to encourage prudent and responsible forest resource management . . .” (PRC § 4512). The act also recognizes that some landowners who own timberland and forest resources may wish to utilize their land for purposes other than the growing, harvesting, and management of timber. In order to avoid infringement on constitutional limitations of private property rights, the Act contains provisions for the conversion of timberland through several mechanisms including Article 9 of the Act, and PRC § 4584(g).

PRC § 4584 (g) allows the Board to adopt regulations exempting an individual from all or portions of the FPA when the landowner is engaged in “[t]he one–time conversion of less than three acres to a nontimber use,” can demonstrate a bona fide intent to convert the land use, and has met certain other criteria. The Board has interpreted and implemented these statutory provisions through the adoption of 14 CCR § 1104.1 — Conversion Exemptions. These regulations were adopted by the Board, pursuant to their statutory authority, to provide landowners relief from certain onerous or burdensome portions of the FPRs, including Plan preparation and conversion permit requirements, while maintaining environmental quality by requiring Timber Operations to comply with all other applicable provision of the Act and existing regulations.

Since their initial adoption as part of the Forest Practice Rules in 1974, the less than three–acre Conversion Exemption regulations of 14 CCR § 1104.1 have been widely utilized by landowners seeking to accomplish various conversion goals, from the construction of residences from which to manage their timberland, to improving rangeland resources, and the Department of Forestry and Fire Protection (Department) has received over 15,000 applications to date. However, the widespread use and longevity of the regulations have brought to light various misapplications and other shortcomings which have been addressed through statutory and regulatory amendments in order to clarify and make specific the intent of the statute while maintaining the Conversion Exemption as a functional tool for forest land management.

In 1997, the North Coast Unified Air Quality Management District brought to the Board issues with air quality which were related to the slash treatment requirements of the less than three–acre Conversion Exemptions. During discussion on this matter, the Board heard testimony from Licensed Timber Operators (LTOs) requesting that an allowance be made for LTOs

to transfer the responsibility for slash and woody debris cleanup to the timberland owner. The Board responded to these points by amending the regulations within 14 CCR § 1104.1 to clarify and improve the language surrounding slash treatment to improve air quality, and to include the ability for responsibility of slash treatment to be transferred to the landowner with the intent of lowering out-of-pocket cleanup costs for landowners and, ultimately, maintaining the less than three-acre Conversion Exemption regulations as a viable tool which addressed both landowner needs as well as the intent of the Act.

In 2002, the California Assembly identified that the Conversion Exemption was being abused by individuals with no intention of converting the land to a non-timber use and using the exemption as an opportunity to harvest timber without going through the Plan preparation process. In order to address this concern, amendments were made to PRC § 4584 through Assembly Bill 671 (2002) which included provisions that no person or entity was allowed more than one exemption within a 5-year period (with some exceptions for hardships), and required certification by the landowner affirming their economic ability to carry out the conversion and that the conversion was feasible, and were implemented by the Board as amendments to 14 CCR § 1104.1. The new regulations, along with their authorizing statutory provisions, served to re-enforce the purpose of the exemption as a tool for landowners who are acting in good faith to convert their property one-time to a non-timber use, and improved the Department's ability to enforce the exemption by making the landowner acknowledge this explicitly.

In 2016, the less than three-acre Conversion Exemption regulations were once again brought before the Board to address an uncommon, but relatively significant, issue with their application. As they existed, the regulations strictly prohibited the use of the Conversion Exemption where Timber Operations took place on significant archeological sites, requiring landowners to pursue permitting options which were exponentially more expensive, including Timber Harvest Plans, Timberland Conversion Permits, and full Environmental Impact Reports. This prohibition extended even to cases where professional and Departmental archeologists agreed that the impact of the action could be easily avoided or mitigated. The Board addressed this issue through the amendment of 14 CCR § 1104.1 to enable landowners to proceed with a Conversion Exemption where a significant archaeological site (14 CCR § 895.1) exists, though limiting this enablement to situations where specific protection measures would avoid harm to the site.

The problem is that within the less than three-acre Conversion Exemptions to the FPA there are issues with clarity, consistency, and application.

In December 2017, in response to its annual request for regulatory review, the Board received comments from CAL FIRE that certain provisions within the FPRs, specifically portions of 14 CCR § 1104.1 — Conversion Exemptions, could be improved to aid both the Department and the public in regulatory clarity, consistency, implementation, and enforcement.

The Department has stated that it has been experiencing historically high numbers of illegal timberland conversion; and though Forest Practice Rules do not explicitly forbid using the less than three-acre Conversion Exemption along with illegal conversion activities, this type of action has occurred. These actions do not appear to comply with the stated intent of the Act, which is to allow a "one-time conversion of less than three-acres . . .," as they may result in multiple conversions on one ownership and for, potentially, the conversion of more than three acres. The proposed action seeks to make permanent, through regular rulemaking, amendments to 14 CCR § 1104.1(a) to allow the Director to refuse to accept less than three-acre Conversion Exemptions on ownerships where conversion has already occurred, unless otherwise determined to be consistent with the purposes of the Forest Practice Act.

In their December 2017 response, the Department also identified an issue wherein the Forest Practice Rules require that an LTO is responsible for the treatment of logging slash and woody debris, and this responsibility cannot be transferred, the only exception being for a less than three-acre Conversion Exemption where, pursuant to 14 CCR § 1104.1(a)(2)(D), the landowner may assume responsibility for the slash treatment. While landowners who accept the responsibility for slash treatment may have the best of intentions, few have the capability to conduct slash treatment themselves. Fewer still have the experience necessary to complete the work to Forest Practice Rule standards. As a consequence, the Department has frequently issued violations to landowners for not adequately treating the slash. Additionally, given other statutory responsibilities of LTOs, there may be consistency issues with transferring the responsibility of fuel treatment. PRC § 4526.5 defines a Timber Operator as someone who is engaged in Timber Operations, and PRC § 4527 includes fire hazard abatement activities within the definition of Timber Operations. PRC § 4571 additionally requires anyone engaged in Timber Operations to obtain a license from the Board (become a Licensed Timber Operator). Given these statutory definitions, the existing language within 1104.1(a)(2)(D) may not be con-

sistent with statute, which would require that the treatment of slash and woody debris (as an act of fire hazard abatement), is required to be performed by an LTO. The proposed action seeks to eliminate the allowance for landowners to accept responsibility for slash treatment under a less than three-acre conversion exemption of 14 CCR 1104.1(a)(2)(D).

Additionally, as identified by the Department, the notification requirements of the less than three-acre Conversion Exemption do not require a project map, unlike other FPR requirements for notification of adjacent landowners and Native Americans. The Department has received comments from Native American contacts indicating that the lack of a map with the notification letter makes project review more challenging and time consuming. The proposed action seeks to make the mapping notification requirements for adjacent landowners and Native Americans which are found within other provisions of the FPRs, to be applicable to the notification requirements of the less than three-acre Conversion Exemption of 14 CCR § 1104.1(a)(3).

Furthermore, the Department, in their response to the Board, also identified an issue with clarity and enforcement within how the Department is notified of the commencement of Timber Operations. Currently, the Forest Practice Rules include a requirement common to multiple harvesting document types to notify the Department prior to the commencement of timber operations. This requirement allows CAL FIRE's forest practice inspectors to know when to begin inspections of active harvest operations. The less than three-acre Conversion Exemption does not require any such notification, which can cause confusion on the part of the exemption submitter and issues with enforcement with CAL FIRE. CAL FIRE has the authority (under PRC § 4119) and responsibility to inspect timber operations conducted pursuant to the FPA in order to ensure regulatory and statutory compliance. Notification allows CAL FIRE to adequately and efficiently schedule inspections of exemption operations. The proposed action seeks to amend, through regular rulemaking, 14 CCR § 1104.1(a)(2)(I) to require notification to the Department as to when the commencement of operations will occur.

The purpose of the proposed action is: 1) to make explicit the Department's ability to refuse to accept less than three-acre Conversion Exemptions where prior, unpermitted conversion has occurred on a contiguous ownership, unless otherwise determined by the Director to be consistent with the purposes of the FPA; 2) to eliminate the ability of the landowner to accept responsibility of slash and woody debris treatment for timber operations pursuant to less than three-acre Conversion Exemptions; 3) to require a map as part of notification

to adjacent landowners and Native Americans to improve review of Conversion Exemptions pursuant to 14 CCR § 1104.1(a); 4) to require notification to the Department as to when the commencement of operations will occur; and 5) to improve clarity of the regulations.

The effect of this proposed action is to, within the less than three-acre Conversion Exemptions, disallow the use of the less than three-acre Conversion Exemption where prior conversion has occurred on a contiguous ownership, to eliminate the ability of the LTO to transfer responsibility of slash and woody debris cleanup to the landowner, to require the inclusion of a map as part of notification to adjacent landowners and Native Americans, to improve the notification procedure for the commencement of timber operations, and to improve other issues of clarity and consistency as they exist.

The primary benefit of the proposed action is the maintenance of a comprehensive regulatory scheme which allows for the clear and consistent application and enforcement of less than three-acre Conversion Exemptions. These measures may benefit environmental quality throughout the state through reducing the acreage of timberland that is converted and through improved slash treatment and timing, which can improve air quality and reduce fuel loading and fire hazard. Additionally, the improvement of notification processes will benefit the efficiency of CAL FIRE inspections and enforcement of exemption operations.

There is no comparable federal regulation or statute.

Board staff conducted an evaluation on whether the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action (including 14 CCR §§ 1038, 1101, 1102, 1103, and 1104) to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to regulatory exemptions from portions of the Forest Practice Act and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules; it simply amends current regulatory language.

Statute to which the proposed action was compared: Public Resources Code Sections 4119, 4512, 4526.5, 4527, 4571, and 4584.

No documents are incorporated by reference.

MANDATED BY FEDERAL LAW  
OR REGULATIONS

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

The proposed action neither conflicts with nor duplicates Federal regulations.

There are no comparable Federal regulations related to the system of forest practice applicable to timber management on state and private timberlands developed pursuant to the FPA. No existing Federal regulations meeting the same purpose as the proposed action were identified.

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

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

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

The proposed action does not impose a mandate on local agencies or school districts.

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

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

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

There are no anticipated costs or savings to any state agency as a result of the proposed amendments to 14 CCR § 1104.1. The proposed amendments represent a continuation of existing forest practice regulations with regards to how the state receives, processes, and reviews Notices of Conversion Exemption Timber Operations. There is the addition of requirement that applicants notify the Department prior to the commencement of Timber Operations, which may improve the efficiency of scheduling inspections by the Department, but the benefit will not be significant.

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

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

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

The proposed action will not significantly affect housing costs.

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states (by making it costlier to produce goods or services in California).

FACTS, EVIDENCE, DOCUMENTS,  
TESTIMONY, OR OTHER EVIDENCE RELIED  
UPON TO SUPPORT INITIAL DETERMINATION  
IN THE NOTICE THAT THE PROPOSED ACTION  
WILL NOT HAVE A SIGNIFICANT ADVERSE  
ECONOMIC IMPACT ON BUSINESS  
(pursuant to GOV § 11346.2(b)(5) and GOV  
§ 11346.5(a)(8))

The fiscal and economic impact analysis for these Exemption Amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience practicing forestry in California that the Board brings to bear on regulatory development.

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

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

- (A) will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses;
- (B) will not eliminate existing businesses within California;
- (C) will not beneficially affect the expansion or contraction of businesses currently doing business within California;

- (D) will yield nonmonetary benefits. For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the Informative Digest/Policy Statement Overview.

**COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

(pursuant to GOV § 11346.5(a)(9))

The Board is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This initial determination is based on the same record facts, evidence, documents, testimony, or other evidence as listed as the basis for the Significant Statewide Adverse Economic Impact.

- 300 Notices of Conversion Exemption Timber Operations are expected to be submitted to CAL FIRE during the effective period (1 year) of timber operations permitted under a Notice of Conversion Exemption Timber Operations.
- Though implementation costs depend heavily on a variety of factors including harvest area, topography, brush, size of trees, number of trees, delivered log price, and infrastructure constraint, the proposed action only affects the costs of implementation for those landowners who would have assumed responsibility for slash disposal, which the Department estimates at between 1–5% of applicants. Given that conversions may range in size from 0.1 to 3 acres, and assuming an additional fuel treatment cost of \$500 per acre, additional total implementation costs for an individual range from \$50 (0.1 acres × \$500/acre) to \$1,500 (3 acres × \$500/acre), and total implementation costs range from \$150 (1% of 300 Notices × 0.1 acres/Notice × \$500/acre) to \$22,500 (5% of 300 Notices × 3 acres/Notice × \$500/acre).
- The cost of new notification requirements will likely range from \$0 to \$25 per exemption, which is based on the estimation that the required notification is very minor and will likely require 1 to 10 minutes of labor per exemption to execute. These costs will add a total additional \$0 to \$7500 to the costs of implementation during the effective period of a Notice of Conversion Exemption Timber Operations.

**BUSINESS REPORT**

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

The proposed action does not impose a business reporting requirement.

**SMALL BUSINESS**

(defined in GOV § 11342.610)

Small business, within the meaning of GOV § 11342.610, is expected to be affected by the proposed action. The types of small businesses that will be beneficially impacted by the proposed action are industrial and nonindustrial forest landowners, forestry consulting, logging, tree removal, landscapers, lumber mills, biogenic energy producers and shavings plants.

Small business, pursuant to 1 CCR § 4(a):

- (1) Is legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May incur a detriment from the enforcement of the regulation if it does not comply with the regulation.

Pursuant to 1 CCR § (b), the reason(s) the regulation affects small business are the same as provided in the Economic Impact Analysis in the Initial Statement of Reasons.

**ALTERNATIVES INFORMATION**

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**CONTACT PERSON**

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

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

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

AVAILABILITY STATEMENTS  
(pursuant to GOV § 11346.5(a)(16), (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

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

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board website at: [http://bofddata.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://bofddata.fire.ca.gov/regulations/proposed_rule_packages/)

**TITLE 17. CALIFORNIA INSTITUTE  
FOR REGENERATIVE MEDICINE**

**Division 4 — California Institute for  
Regenerative Medicine  
Chapter 6, Section 100650**

**Date: June 1, 2018**

**Deadline for Submission of Written Comment:  
July 16, 2018 — 5:00 p.m.**

**Public Hearing Date: None Scheduled**

SUBJECT MATTER OF PROPOSED  
REGULATION: INTELLECTUAL PROPERTY  
SUBMITTAL OF COMMENTS

Any interested party may present comments in writing about the proposed amendments to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on July 16, 2018. Comments regarding this proposed action may also be transmitted via e-mail to [ipregs@cirm.ca.gov](mailto:ipregs@cirm.ca.gov) or by facsimile transmission to 510-340-9159.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person's representative requests a public hearing, he or she must do so in writing no later than July 2, 2018.

**Sections Affected:** The proposed regulatory action adds Section 100650 to Chapter 6 of Title 17 of the California Code of Regulations, and the document incorporated by reference into section 100650.

**Authority:** Article XXXV of the California Constitution and Health and Safety Code Section 125290.40, subdivision (j).

**Reference:** Section 125290.30, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

The California Institute for Regenerative Medicine ("Institute" or "CIRM") was established in early 2005

with the passage of Proposition 71 (the “Act”), the California Stem Cell Research and Cures Initiative. The statewide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004, and called for the establishment of a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

The Independent Citizens’ Oversight Committee (“ICOC”) is the 29-member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non-profit academic and research institutions, patient advocacy groups and the biotechnology industry.

The mission of the CIRM is to accelerate stem cell treatments to patients with unmet medical needs. A secondary goal is to strengthen California’s biotechnology industry and create collateral economic benefits such as high-paying jobs and increased tax revenues.

To consider rules governing IP created with CIRM funding, one begins with Proposition 71’s requirement regarding intellectual property, which is to strike a balance between the opportunity for the State to benefit from licensing revenues and royalties, versus the need to ensure that these requirements do not unreasonably hinder essential research and therapy development. It is this balancing test that has guided the agency’s development of IP policies since 2005 and their periodic calibration since.

The core principles of the CIRM intellectual property regulations are unchanged:

First, CIRM does not take an ownership interest in any IP. Like the federal government, CIRM believes our awardees are more incentivized to exploit IP when they own their discoveries.

Second, although CIRM won’t own IP, we want to make sure our awardees take reasonable steps to push IP forward and so we make that a requirement.

Third, we don’t require that awardees publish their results, but if they do we maintain commonly accepted requirements that materials be made available for research purposes in California.

Finally, while the vast bulk of return to the state will be in the form of reduced health care costs and increased productivity resulting from therapies and cures, we have imposed direct return through pricing and access provisions, as well as revenue sharing — and it’s revenue sharing that will be the focus of revisions.

Current revenue sharing provisions: 1) licensing revenue, or 2) commercial revenue. Licensing revenue is a cut that the state gets when our awardee licenses technologies to third parties and receives revenue down the

road from that third party. It’s important to note that licensing revenue is never collected from the third party but is only ever an obligation of our original grant recipient. How much our awardee must share depends on a formula that considers how great CIRM’s involvement was during the project period of the grant — and the share will be either 15% or 25%. For-profit awardees are treated differently.

The other type of revenue sharing is commercial revenue: if our awardee licenses (or self-commercializes) a successful product, then we impose a royalty on net commercial revenues. What is important to understand about NCR is that this ONLY applies to for-profit awardees. So in essence, and again this is a general rule, a non-profit awardee will share licensing revenues with the state. And a for-profit awardee, a commercializing entity — it could be the awardee or it could be a pharma company down the road — will owe a royalty on commercial revenues.

Project goals: We want to ensure that our revenue sharing rules are clear and self-executing, where possible. Part of making that possible is ensuring that the rules use objective instead of subjective standards where possible. In other words, we should explicitly state an expected outcome as opposed to trying to require a type of behavior, such as “reasonable efforts.”

CIRM has heard clearly from industry that they are less concerned about the given balance point or particular royalty rate, so much as they prize predictability of making that calculation in advance. Revenue sharing rules should be simple to calculate prior to taking an award and provide certainty and confidence in those calculations.

Finally, CIRM will have achieved its goals when CIRM team resources are focused on supporting CIRM’s mission, rather than expending its efforts grappling with interpretation of our own rules and trying to enforce them on a case by case basis.

Proposed changes: In addition to refining reporting and other requirements, we primarily propose the following revisions:

- 1) Eliminate the disparate treatment of awardees and treat all awardees alike; AND
- 2) Eliminate the concept of licensing revenue for all awardees and focus instead on the “commercial revenue” concept currently applicable only to for-profit awardees.
- 3) In doing so, we intend to make no substantive changes to our current access and pricing provisions.

By eliminating licensing revenue and focusing on commercial successes, we believe we can optimize CIRM’s remaining resources which will allow the team to focus on CIRM’s strategic mission. By simplifying

our revenue-sharing rules, we will make them easier to understand, explain and administer. As a result, potential applicants will be able to more accurately predict the cost of CIRM money and thus, likely make CIRM's programs more attractive to follow-on investment and commercialization.

In summary, Proposition 71 requires CIRM to adopt intellectual property standards that provide for a return to the State. CIRM's existing regulations fulfill that charge by providing for return to the state and mechanisms to ensure CIRM is able to monitor the development and commercial success of IP generated with state funds. IP reporting provides CIRM with the necessary visibility into development activities and march-in provisions ensure there is an enforcement mechanism for compliance. Pricing, access and revenue sharing satisfy the requirement of return to the state and materials sharing ensures broad access for research results funded with public dollars. Each of those elements is carried forward with this set of revisions, with changes primarily designed to eliminate license revenue sharing and treat all awardees uniformly.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

To the extent the regulation facilitates use of the funds and encourages development of intellectual property and return to the state as required by law, and to the extent California institutions apply for and receive research funds, such requirements are indirectly attributable to increased economic activity spurred by the investment research funds in the state and resultant positive business and employment development. Also, to the extent the regulation makes it possible for the expenditure of research funds in the state, and to the extent that research results in medical treatments and cures for chronic disease and injury, the regulation indirectly benefits the health and welfare of California residents who will benefit from such treatments and cures.

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

CIRM has conducted an evaluation for any other regulations on this area and has concluded that this is the only regulation concerning intellectual property for CIRM-funded research projects. Therefore, the proposed regulation is neither inconsistent nor incompatible with any other existing state regulations.

**Incorporated by Reference Documents:** The following sections as contained in the 2018 version of the "2018 Intellectual Property Policy for CIRM Awards," sections "I" through and including "XII."

#### DISCLOSURES REGARDING THE PROPOSED AMENDMENTS

CIRM has made the following initial determinations:

**Mandate on local agencies and school districts:** CIRM has determined that the proposed regulation does not impose a mandate on local agencies or school districts, nor do they require reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the regulation does not constitute a "new program or higher level of service of an existing program" within the meaning of Section 6 of Article XIII of the California Constitution.

**Effect on Small Business:** CIRM has determined that the proposed amendment will have no impact on small businesses. The regulation implements terms on awarding grants for stem cell research. This research is conducted almost exclusively by large public and private institutions. As such, the amendments to the regulation are not expected to adversely impact small business as defined in Government Code Section 11342.610.

**Impact on Local Agencies or School Districts:** CIRM has determined that there are no costs to any local agency or school district that are required to be reimbursed pursuant to Government Code section 17500 et seq.

**Other Nondiscretionary Cost or Savings to Local Agencies:** CIRM has determined that there are no other nondiscretionary cost or savings imposed upon local agencies that will result from the proposed regulation.

**Costs or Savings to State Agencies:** CIRM has determined that no savings or increased costs to any agency will result from the proposed regulation, other than increased efficiency and resultant savings from CIRM the reduced administrative burden on CIRM.

**Effect on Federal Funding to the State:** CIRM has determined that no costs or savings in federal funding to the state will result from the proposed regulation.

**Effect on Housing Costs:** CIRM has determined that the proposed regulation will have no effect on housing costs.

**Significant Statewide Adverse Economic Impact Directly Affecting Businesses:** CIRM has made an initial determination that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California Businesses to compete with businesses in other states.

**Cost Impacts on Representative Private Persons or Businesses:** CIRM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.



**Government Code section 11346.3(d) — Business Report:** Proposed Section II of the policy incorporated by reference by the proposed regulation restates and describes certain reporting requirements to ensure efficient use of CIRM-funded inventions and to track sources of potential revenue due to the State by virtue of CIRM-funded research. To the extent that such a report is a report contemplated by Government Code section 11346.3(d), it is necessary for the health, safety and welfare of the people of the state that the regulation apply to businesses. All awardees, both for-profit businesses and non-profit institutions, are subject to the same reporting and revenue sharing requirements, as well as requirements to document appropriate exploitation of CIRM-funded technologies. These requirements ensure publicly-funded research does not become stale due to lack of prosecution, which in turn could negatively impact the public welfare that would otherwise benefit from the treatments and cures that might result from CIRM-funded research results. In addition, reporting of research progress and exploitation from both for- and non-profit awardees ensures CIRM can monitor compliance with revenue sharing requirements and ensure the state shares in the benefits of publicly-funded research, as required by Proposition 71.

#### RESULTS OF ECONOMIC IMPACT ANALYSIS

The Economic Impact Analysis is based on the fact that the proposed regulation does not impose new requirements on existing business operations or functions of other agencies or individuals, but implements standards for using state grant funds for scientific research. In most cases, such grants include funds to cover overhead and other indirect costs of the research, including most compliance activities. CIRM has made an initial determination that it is unlikely the proposed amendments will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California, nor directly impact the health and welfare of California residents, worker safety, and the state's environment. However, to the extent the regulation facilitates use of the funds and encourages invention and return to the state as required by law, and to the extent California institutions apply for and receive research funds, such requirements are indirectly attributable to increased economic activity spurred by the investment research funds in the state and resultant positive business and employment development. Also, to the extent the regulation

makes it possible for the expenditure of research funds in the state, and to the extent that research results in medical treatments and cures for chronic disease and injury, the regulation indirectly benefits the health and welfare of California residents who will benefit from such treatments and cures.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), CIRM 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 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 the law than the proposal described in this Notice. CIRM invites interested persons to submit statements or arguments with respect to alternatives to the proposed amendments during the written comment period.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed amendments, all of the information upon which the regulation is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, CIRM may adopt the proposed regulation substantially as described in this notice. If CIRM makes modifications that are sufficiently related to the originally proposed text of the regulation or policy incorporated thereby, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before it adopts the regulation or policy as amended. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

AGENCY CONTACT

Written comments about the proposed regulatory action, requests for copies of the Initial Statement of Reasons or proposed text of the amendments, and inquiries regarding the rulemaking file may be directed to:

C. Scott Tocher  
General Counsel  
California Institute for Regenerative Medicine  
1999 Harrison Street, Suite 1650  
Oakland, CA 94612  
(510) 340-9159

Questions on the substance of the proposed regulatory action may be directed to:

Ben Huang  
California Institute for Regenerative Medicine  
(510) 340-9138

The Notice of Proposed Regulatory Amendment, the Initial Statement of Reasons and any attachments, and the proposed text of the proposed regulation and existing regulation are also available on CIRM’s website, [www.cirm.ca.gov](http://www.cirm.ca.gov).

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9, subdivision (a), may be obtained from the contact person named above.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND WILDLIFE**

FISH AND GAME CODE SECTION 1653  
CONSISTENCY DETERMINATION  
REQUEST FOR

Temescal Creek Hydromodification Removal Project  
(Tracking Number: 1653-2018-017-001-R5)  
San Diego County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on May 17, 2018, that the San Diego River Park Foundation proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves restoring stream channel and ad-

jacent native upland buffer areas through removal of an earthen crossing and a corrugated metal culvert. The project will also include re-contouring the channel slopes to align with upstream and downstream topography and restoration of native vegetated areas on the slopes. The proposed project will be carried out on Temescal Creek, located at Eagle Peak Ranch, 5030 Eagle Peak road, Julian, San Diego County, California.

On April 18, 2018, the San Diego Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Temescal Creek Hydromodification Removal Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (File No. R9-2018-0075) for coverage under the General 401 Order on May 4, 2018.

The San Diego River Park Foundation is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the District will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, the San Diego River Park Foundation will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF FISH AND WILDLIFE**

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES  
Research on the Morro Bay Kangaroo Rat

The Department of Fish and Wildlife (Department) received a proposal from Howard O. Clark, a biological consultant with Colibri Ecological Consulting, requesting authorization to take the Morro Bay kangaroo rat (*Dipodomys heermanni morrensis*) (kangaroo rat), a Fully Protected mammal, for scientific research purposes consistent with conservation and recovery of the

species. The kangaroo rat is listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Mr. Clark is planning to conduct surveys throughout the historical range of the kangaroo rat in California, specifically in the vicinity of Los Osos, San Luis Obispo County, California, in accordance with a standard protocol approved by the Department and the U.S. Fish and Wildlife Service (Service). The proposed research activities include capturing or attempting to capture the kangaroo rat using live traps to determine the distribution and status of local populations. If any kangaroo rats are found dead, they will be salvaged (including any parts thereof) and donated to a scientific institution open to the public, as designated by the Department and the Service. No adverse effects on individual kangaroo rats or kangaroo rat populations are expected.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize qualified professional wildlife researchers, with Mr. Clark as the Principal Investigator, to carry out the proposed activities. The applicant is also required to have a valid federal recovery permit for the kangaroo rat and a Scientific Collecting Permit (SCP) to incidentally take other mammal species in California.

Pursuant to California Fish and Game Code (FGC) Section 4700(a)(1), the Department may authorize take of Fully Protected mammal species after a 30-day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 4700 for take of Fully Protected mammals, it would issue the authorization on or after July 1, 2018, for an initial and renewable term of up to, but not to exceed five years. Contact: Dr. Scott Osborn, [Scott.Osborn@wildlife.ca.gov](mailto:Scott.Osborn@wildlife.ca.gov), (916) 324-3564.

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

**NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2,

142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

**PUBLIC**

**MEETING:** On **July 19, 2018**, at 10:00 a.m. in the Auditorium of the Harris State Building 1515 Clay Street Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**BUSINESS**

**MEETING:** On **July 19, 2018**, at 10:00 a.m. in the Auditorium of the Harris State Building 1515 Clay Street Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**ANNOUNCEMENT OF SECOND PUBLIC  
COMMENT PERIOD**

**Draft Technical Support Document on the  
Proposed Updates of the Public Health Goals for  
Cis- and Trans-1,2-Dichloroethylene  
in Drinking Water**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is announcing the availability of the revised draft technical support document for the proposed updates of the Public Health Goals (PHGs) for cis- and trans-1,2-dichloroethylene (cis-/trans-1,2-DCE) in drinking water. The document proposes an updated PHG of 13 parts per billion (ppb) for cis-1,2-DCE and 50 ppb for trans-1,2-DCE.

OEHHA initiated a 45-day public comment period on the first draft document on August 4, 2017, and held a public workshop on September 18, 2017. Subsequently, an external scientific peer review of the draft PHG document was conducted pursuant to Health and Safety Code Section 116365(c)(3)(D). OEHHA has revised the draft document based on public and peer review comments. The revisions include additional clarifying statements, but did not change the proposed updated PHGs.

OEHHA is soliciting comments on the revised draft technical support document during a 30-day comment period. The second draft technical document is posted on the OEHHA website at <http://www.oehha.ca.gov/>. The public is encouraged to submit written information via OEHHA's website, rather than in paper form. Comments may be submitted electronically through the following link <https://oehha.ca.gov/comments>. Hard-copy comments may be mailed, faxed, or hand-delivered to the address below. Any written comments concerning this draft PHG document, regardless of the form or method of transmission, must be received by the PHG program by 5:00 p.m. on July 2, 2018, to be considered. OEHHA will evaluate all the comments received and revise the document as appropriate. After any subsequent revisions, OEHHA intends to post the final document on its website along with responses to the major comments submitted during the external scientific peer review and the public comment periods.

PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to

occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996<sup>1</sup> requires OEHHA to develop PHGs based exclusively on public health considerations.<sup>2</sup> PHGs published by OEHHA are used by the State Water Resources Control Board in setting California's drinking water standards (Maximum Contaminant Levels, or MCLs).<sup>3</sup>

If you would like to receive further information on this announcement or have questions, please contact Hermelinda Jimenez at [PHG.Program@oehha.ca.gov](mailto:PHG.Program@oehha.ca.gov) or at (916) 324-7572.

Pesticide and Environmental Toxicology Branch  
Office of Environmental Health Hazard Assessment  
California Environmental Protection Agency  
P.O. Box 4010, MS-12B  
Sacramento, California 95812-4010  
Attention: PHG Program

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

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

File# 2018-0406-01  
BOARD OF EDUCATION  
California Education for a Global Economy

This rulemaking action implements the California Education for a Global Economy Initiative, otherwise known as Proposition 58, the purpose of which is to ensure that all children in California public schools master the English language and access high-quality, innovative, and research-based language programs that prepare them to participate in a global economy. The regulations specify: community engagement and parental notice procedures, the requirements for language acquisition programs, and the process for parents to request the establishment of language acquisition programs at their children's schools other than, or in addition to, those offered by their local educational agencies.

<sup>1</sup> Codified at Health and Safety and Code section 116270 et seq.

<sup>2</sup> Health and Safety and Code section 116365(c).

<sup>3</sup> Health and Safety and Code section 116365(a) and (b).

Title 5  
 ADOPT: 11301, 11309, 11310, 11311, 11312  
 AMEND: 11300, 11316 REPEAL: 11301, 11309,  
 11310  
 Filed 05/18/2018  
 Effective 07/01/2018  
 Agency Contact: Hillary Wirick (916) 319-0644

File# 2018-0430-01  
 CALIFORNIA GAMBLING CONTROL  
 COMMISSION  
 Conflict-of-Interest Code

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

Title 4  
 AMEND: 12590  
 Filed 05/17/2018  
 Effective 05/17/2018  
 Agency Contact: Kate Patterson (916) 263-4793

File# 2018-0412-01  
 DEPARTMENT OF DEVELOPMENTAL SERVICES  
 Developmental Center Safe to Serve Evaluation

This is a resubmittal of rulemaking action no. 2018-0208-01S by the Department of Developmental Services, which establishes procedures to form committees tasked with evaluating individuals believed not to be "safe to serve" in a particular developmental center, receiving and considering input from interested parties, and reporting their findings to the appropriate court.

Title 17  
 ADOPT: 51101, 51102, 51103, 51104, 51105,  
 51106  
 Filed 05/23/2018  
 Effective 07/01/2018  
 Agency Contact: Alyssa Carroll (916) 654-3405

File# 2018-0501-05  
 DEPARTMENT OF FISH AND WILDLIFE  
 Rock Crab Fishery Closure Update

This file and print request amends the commercial rock crab fishery closure to open a portion of the waters between the Sonoma/Mendocino County line and the Mendocino/Humboldt County line. This action is exempt from the Administrative Procedure Act pursuant to Fish and Game Code section 5523(c).

Title 14  
 AMEND: 131  
 Filed 05/16/2018  
 Effective 04/20/2018  
 Agency Contact: Christy Juhasz (707) 576-2887

File# 2018-0518-01  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Huanglongbing Disease Interior Quarantine

This emergency rulemaking action expands the quarantine area for Huanglongbing ("HLB") disease in the Norwalk area of Los Angeles County in response to confirmation, on April 26, 2018, of the detection of citrus tissue samples containing HLB in this area. This emergency action provides authority for the state to perform quarantine activities against HLB within this additional area. The total area under quarantine in Los Angeles County is 681 square miles.

Title 3  
 AMEND: 3439(b)  
 Filed 05/18/2018  
 Effective 05/18/2018  
 Agency Contact: Kyle Beucke (916) 403-6741

File# 2018-0416-03  
 DEPARTMENT OF INSURANCE  
 Low Cost Auto Plan of Operations

This request for filing and printing, pursuant to Government Code section 11343.8, amends the California Automobile Insurance Low Cost Program Plan of Operations. This action is exempt from the Administrative Procedure Act pursuant to California Insurance Code section 11620(c).

Title 10  
 AMEND: 2498.6  
 Filed 05/22/2018  
 Effective 05/22/2018  
 Agency Contact: Michael Riordan (415) 538-4226

File# 2018-0409-01  
 DEPARTMENT OF JUSTICE  
 Firearms: Identifying Info and the Unique Serial Number Application (USNA) Process

This rulemaking action by the Department of Justice establishes the procedures and process for owners of self-manufactured or self-assembled firearms to report these firearms to the Department of Justice and to receive a unique serial number for placement on the firearm. These are new requirements pursuant to Assembly Bill 857, (Stats. 2016, ch. 60), Firearms: identifying information.

Title 11  
 ADOPT: 5505, 5506, 5507, 5508, 5509, 5510, 5511,  
 5512, 5513, 5514, 5515, 5516, 5517, 5518, 5519,  
 5520, 5521, 5522  
 Filed 05/21/2018  
 Effective 07/01/2018  
 Agency Contact: Sundee Thind (916) 227-7622

File# 2018-0405-03  
DIVISION OF LABOR STANDARDS  
ENFORCEMENT  
Child Performer Services Permit

In this resubmitted rulemaking action, the Division of Labor Standards Enforcement within the Department of Industrial Relations adopts several sections in the California Code of Regulations to set standards for the child performer services permit program. The regulations specify who is required to comply with the permit requirements, set application and renewal fees, require application information, and establish standards for processing permit applications and permit renewals. The regulations also establish suspension and revocation procedures.

Title 8  
ADOPT: 11770, 11771, 11771.1, 11771.2, 11772, 11773  
Filed 05/17/2018  
Effective 07/01/2018  
Agency Contact: Jennifer Stevens (916) 263-1563

File# 2018-0405-01  
FAIR EMPLOYMENT AND HOUSING COUNCIL  
National Origin Discrimination

This action expands and clarifies the Council's existing rules that interpret how the Fair Employment and Housing Act applies to the protected class of national origin in the employment context.

Title 2  
ADOPT: 11027.1  
AMEND: 11028  
Filed 05/17/2018  
Effective 07/01/2018  
Agency Contact: Brian Sperber (213) 337-4495

File# 2018-0409-03  
MENTAL HEALTH SERVICES OVERSIGHT AND  
ACCOUNTABILITY COMMISSION  
Mental Health Service Act Innovative Projects

The Mental Health Services Oversight and Accountability Commission amended regulations concerning the Innovative Programs component of the Mental Health Services Act.

Title 9  
AMEND: 3850, 3850.010  
Filed 05/17/2018  
Effective 07/01/2018  
Agency Contact:  
Filomena Yeroshek (916) 445-8701

File# 2018-0501-01  
OFFICE OF ADMINISTRATIVE LAW  
Public Availability of Changes to Regulations —  
Reference Citation

This action amends a single reference citation, without regulatory effect. The action updates the format of a cited statutory subdivision to align with the current version of the amended statute.

Title 1  
AMEND: 44  
Filed 05/21/2018  
Agency Contact: Nicole Carillo (916) 323-6808

File# 2018-0502-05  
SECRETARY OF STATE  
Electronic Poll Book

This action by the Secretary of State adopts regulations for the certification of electronic poll books.

Title 2  
ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 20163, 20164, 20165  
Filed 05/16/2018  
Effective 05/16/2018  
Agency Contact:  
Rodney Rodriguez (916) 695-1447

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN December 20, 2017 TO  
May 23, 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 further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**  
05/21/18 AMEND: 44  
**Title 2**  
05/17/18 ADOPT: 11027.1 AMEND: 11028  
05/16/18 ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 20163, 20164, 20165  
05/16/18 ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 20163, 20164, 20165

05/09/18	AMEND: 321	20277, 20278, 20279, 20280 AMEND:
05/09/18	AMEND: 11034	20200, 20201, 20213 (Renumbered
04/25/18	AMEND: 18401	20215), 20214 (Renumbered 20216),
04/25/18	AMEND: 18450.1	20216 (Renumbered 20217), 20217
04/23/18	ADOPT: 1859.90.4 AMEND: 1859.2,	(Renumbered 20218), 20220, 20220.5
	1859.90, 1859.90.2, 1859.90.5	(Renumbered 20260), 20221, 20222
04/16/18	AMEND: 1859.2, 1859.51, 1859.70,	(Renumbered 20225), 20223
	1859.82, 1859.93.1	(Renumbered 20226), 20224
04/12/18	AMEND: 1859.2, 1859.81	(Renumbered 20232), 20227, 20225
04/04/18	AMEND: 41000	(Renumbered 20230), 20226
04/02/18	ADOPT: 243, 243.1, 243.2, 243.3, 243.4,	(Renumbered 20229), 20230
	243.5, 243.6, 548.120, 548.120.1,	(Renumbered 20231), 20235
	AMEND: 249, 266, 266.1, 266.2, 266.3,	(Renumbered 20233), 20236
	548.121, 548.122, 548.123, 548.124	(Renumbered 20234), 20247
04/02/18	AMEND: 38000, 38000.5, 38000.10	(Renumbered 20236), 20249.5
03/20/18	AMEND: 18746.1, 18746.4	(Renumbered 20237), 20250
03/20/18	AMEND: 18746.3	(Renumbered 20238), 20255
03/20/18	REPEAL: 18901	(Renumbered 20250), 20258
03/14/18	ADOPT: 61200, 61201, 61210, 61211,	(Renumbered 20240), 20260
	61212, 61213, 61214, 61215, 61216,	(Renumbered 20241), 20261
	61217	(Renumbered 20242), 20265
03/12/18	AMEND: 586.1(a)	(Renumbered 20251), 20266
03/12/18	ADOPT: 599.855	(Renumbered 20252), 20267
03/08/18	ADOPT: 20020, 20021, 20022, 20023,	(Renumbered 20253) REPEAL: 20202,
	20024, 20025, 20026, 20027	20203, 20204, 20205, 20206, 20207,
02/27/18	AMEND: 1181.2, 1181.3, 1182.2,	20208, 20209, 20210, 20211, 20212,
	1182.7, 1182.9, 1182.10, 1182.15,	20215, 20245, 20249, 20251, 20252,
	1183.1, 1183.2, 1183.3, 1183.4, 1183.6,	20253, 20254, 20256, 20257, 20259,
	1183.8, 1183.9, 1183.10, 1183.11,	20262
	1183.12, 1183.13, 1183.15, 1183.16,	
	1183.17, 1184.1, 1185.1, 1185.2, 1185.3,	01/11/18 ADOPT: 20130, 20131, 20132, 20133,
	1185.7, 1185.8, 1186.2, 1186.4, 1187.5,	20134, 20135, 20136, 20137, 20138
	1187.7, 1187.8, 1187.9, 1187.12,	01/08/18 ADOPT: 20140, 20141, 20142, 20143,
	1187.14, 1187.15, 1190.1, 1190.2,	20144
	1190.3, 1190.5	12/20/17 AMEND: 1859.76
02/22/18	AMEND: 58100	
02/22/18	AMEND: 59800	<b>Title 3</b>
02/13/18	AMEND: 18420.1, 18432.5, 18440,	05/18/18 AMEND: 3439(b)
	18531.10, 18533, 18901.1 REPEAL:	04/30/18 AMEND: 3439(b)
	18450.4	04/04/18 AMEND: 3591.15
02/13/18	AMEND: 18535	03/27/18 AMEND: 3439(b)
02/13/18	AMEND: 18247.5, 18402, 18420,	03/26/18 AMEND: 3439(b)
	18423, 18435, 18450.5, 18521.5	03/13/18 AMEND: 3591.15
	REPEAL: 18225, 18450.3	03/01/18 AMEND: 6628
02/13/18	AMEND: 11034	02/27/18 AMEND: 3439(b)
02/07/18	AMEND: 56800	02/16/18 AMEND: 3439(b)
01/23/18	AMEND: 59530	02/12/18 AMEND: 6000, 6739
01/18/18	AMEND: 18351	01/29/18 AMEND: 3439(b)
01/11/18	ADOPT: 20202, 20203, 20204, 20205,	01/29/18 AMEND: 3439(b)
	20206, 20207, 20208, 20209, 20210,	01/25/18 ADOPT: 2852.5 AMEND: 2850, 2851,
	20211, 20212, 20213, 20214, 20222,	2852, 2853, 2854, 2855, 2856
	20223, 20224, 20228, 20235, 20260,	
	20261, 20262, 20263, 20264, 20265,	01/24/18 AMEND: 2
	20266, 20267, 20268, 20270, 20271,	01/22/18 AMEND: 3439(b)
	20272, 20273, 20274, 20275, 20276,	01/18/18 AMEND: 3439(b)
		01/16/18 AMEND: 3439(b)
		01/16/18 AMEND: 3424(c), 3591.12

**CALIFORNIA REGULATORY NOTICE REGISTER 2018, VOLUME NO. 22-Z**

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

**Title 4**

05/17/18 AMEND: 12590  
 05/15/18 AMEND: 12204, 12220, 12238, 12560  
 04/30/18 AMEND: 10170.2, 10170.3, 10170.4,  
 10170.5, 10170.6, 10170.7, 10170.9,  
 10170.10  
 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,  
 10091.8, 10091.9, 10091.10, 10091.12,  
 10091.13, 10091.14, 10091.15  
 02/23/18 ADOPT: 7213, 7214, 7215, 7216, 7217,  
 7218, 7219, 7220, 7221, 7222, 7223,  
 7224, 7225, 7227, 7228, 7229  
 02/22/18 AMEND: 10302, 10305, 10315, 10317,  
 10320, 10322, 10325, 10326, 10327,  
 10328, 10330, 10335, 10337 REPEAL:  
 10325.5  
 02/21/18 AMEND: 1865  
 02/21/18 AMEND: 1689, 1689.1  
 02/15/18 AMEND: 10302, 10305, 10315, 10317,  
 10320, 10322, 10325, 10326, 10327,  
 10328, 10330, 10335, 10337  
 01/25/18 AMEND: 1685, 1688  
 01/24/18 ADOPT: 4002.10, 4206, 4207 AMEND:  
 4001, 4200, 4201  
 01/17/18 AMEND: 12386, 12391, 12566  
 01/09/18 ADOPT: 1597.5, 1597.6 AMEND: 1554,  
 1581.1, 1588, 1597, 1853  
 01/08/18 AMEND: 12120, 12303, 12362  
 01/02/18 AMEND: 12261, 12264  
 12/28/17 AMEND: 4300, 4302, 4304, 4306, 4307,  
 4308

12/21/17 AMEND: 8078.8, 8078.10

**Title 5**

05/18/18 ADOPT: 11301, 11309, 11310, 11311,  
 11312 AMEND: 11300, 11316 REPEAL:  
 11301, 11309, 11310  
 05/08/18 AMEND: 75020  
 04/30/18 AMEND: 41906.5, 41906.6  
 04/30/18 AMEND: 42909  
 02/26/18 ADOPT: 71396  
 02/20/18 ADOPT: 11526 AMEND: 11520, 11524,  
 11525  
 02/20/18 ADOPT: 11534.1 AMEND: 11530,  
 11533, 11534  
 01/29/18 AMEND: 19810  
 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  
 01/11/18 AMEND: 9517.3

**Title 8**

05/17/18 ADOPT: 11770, 11771, 11771.1,  
 11771.2, 11772, 11773  
 05/08/18 AMEND: 31001, 32020, 32030, 32040,  
 32050, 32055, 32060, 32075, 32080,  
 32085, 32090, 32091, 32100, 32105,  
 32120, 32122, 32130, 32132, 32135,  
 32136, 32140, 32142, 32145, 32147,  
 32149, 32150, 32155, 32162, 32164,  
 32165, 32166, 32168, 32169, 32170,  
 32175, 32176, 32178, 32180, 32185,  
 32190, 32200, 32205, 32206, 32207,  
 32209, 32210, 32212, 32215, 32220,  
 32230, 32295, 32300, 32305, 32310,  
 32315, 32320, 32325, 32350, 32360,  
 32370, 32375, 32380, 32400, 32410,  
 32450, 32455, 32460, 32465, 32470,  
 32500, 32602, 32605, 32612, 32615,  
 32620, 32621, 32625, 32630, 32635,  
 32640, 32644, 32645, 32647, 32648,  
 32649, 32650, 32661, 32680, 32690,  
 32700, 32720, 32721, 32722, 32724,  
 32726, 32728, 32730, 32732, 32734,  
 32735, 32736, 32738, 32739, 32740,  
 32742, 32744, 32746, 32748, 32750,  
 32752, 32754, 32761, 32762, 32763,  
 32770, 32772, 32774, 32776, 32980,  
 32990, 32992, 32993, 32994, 32995,  
 32996, 32997 REPEAL: 32036, 32037,  
 32610, 32611, 32806, 32808, 32810,  
 95000, 95010, 95020, 95030, 95040,  
 95045, 95050, 95070, 95080, 95090,



95100, 95150, 95160, 95170, 95180, 95190, 95200, 95300, 95310, 95320, 95330	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
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 renumbered as 206.58, 174.00  
 renumbered as 206.60, 180.00  
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 05/07/18 ADOPT: 98201, 98202, 98203  
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 03/01/18 AMEND: 2706-5, 2706-7  
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 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)  
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 04/06/18 AMEND: 25705  
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 12/20/17 AMEND: 27001

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