



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

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

TITLE 2. CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees’ Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend § 599.500 through § 599.516 of the California Code of Regulations (CCR), Title 2, entitled “Definitions, Coverage, Enrollment, Conversion, Minimum Standards, Alternative Benefit Plans, Contributions, Contingency Reserve Fund, Contracting Agency Participation and Medicare Part B.” The proposed regulations will make changes to inaccurate code section references, out-of-date language and other technical changes to bring the regulations into alignment with current law and practices.

II. WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes on July 29, 2019. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-4607; e-mail at Regulation_Coordinator@calpers.ca.gov or mailed to the following address:

Anthony Martin, Regulation Coordinator
 California Public Employees’ Retirement System
 P.O. Box 942702
 Sacramento, California 94229-2702
 Phone: (916) 795-3038

III. PUBLIC HEARING

Pursuant to Government Code (GC) § 11346.8, a public hearing on this matter has not been scheduled.

However, if an interested person or his or her duly authorized representative submits in writing to the CalPERS Regulations Coordinator a request for a public hearing no later than 15 days prior to the close of the written comment period, a public hearing shall be scheduled before the CalPERS Pension and Health Benefits Committee. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulation Coordinator.

V. AUTHORITY AND REFERENCE

The Board has general authority to take regulatory action under GC §§ 22750, 22751, 22775, 22794, 22796, 22797, 22818. The Board has specific authority to amend § 599.500, subdivision (o). Reference citation: California Government Code §§ 22775 and 22796.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CalPERS benefit programs and administrative processes are subject to numerous regulatory requirements, several of which have been identified by team members as outdated, as subject to confusion among stakeholders, or which otherwise represent an opportunity to realize efficiencies through their modification or clarification. In these cases, the recommended regulatory changes are appropriate for the continued administration and good governance of CalPERS.

CalPERS seeks to make changes to inaccurate code section references and other technical changes to bring the regulations into alignment with current law and practices. Currently, the Public Employees’ Medical and Hospital Care Act (PEMHCA) regulations mention statutes and agencies that no longer exist; reference antiquated terms and outdated provisions and practices; and have cross-references that are inaccurate.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposed regulatory action will not affect worker safety or the state’s environment. The proposed regulations will make changes to inaccurate code section references, out-of-date language and other technical changes to bring the regulations into alignment with current law and practices.

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

CalPERS has evaluated and determined that the proposed regulations are not inconsistent, nor incompatible with existing State regulations. There are no other comparable existing State regulations pursuant to GC Section 11346.5, subdivision (a), paragraph (3)(D).

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to the California Public Employees' Retirement Law.

**VIII. DISCLOSURES REGARDING THE
PROPOSED REGULATORY ACTION**

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose requirements on local agencies and school districts that contract with CalPERS above and beyond the normal scope of health enrollment procedures.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action will not reflect a cost or savings to any State agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action will not impose costs to any local agency or school district.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action will not impose nondiscretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** There are no costs or savings in federal funding to the state.
- F. **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES:** The Board concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action.

- H. **RESULTS OF ECONOMIC IMPACT ASSESSMENT:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) affect worker safety or the state's environment.

CalPERS believes making corrections to inaccurate code section references and other nontechnical changes to regulations benefits the health and welfare of California residents by ensuring program integrity and sustainability of the CalPERS health benefits programs which cover more than 1.5 million active and retired state, local government, and school employees, and their family members.

- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action will have no significant effect on housing costs.
- J. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GC SECTIONS 17500 THROUGH 17630:** There are no costs to any local agency or school district which must be reimbursed in accordance with GC Sections 17500 through 17630.

IX. CONSIDERATION OF ALTERNATIVES

In accordance with GC Section 11346.3, subdivision (a), paragraphs (A) through (D), the Board must determine that no reasonable alternative considered by the Board 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 provisions of the law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed rulemaking action to:

Yesenia Croft, Assistant Division Chief
 Health Account Management Division
 California Public Employees' Retirement System
 P.O. Box 720724
 Sacramento, CA 94229-0724
 Telephone: (916) 795-0938
 Fax: (916) 795-4105
 E-Mail: Yesenia.Croft@calpers.ca.gov

Richard Ramsey, Staff Services Manager II
 (Backup contact)
 Health Account Management Division
 California Public Employees' Retirement System
 P.O. Box 720724
 Sacramento, CA 94229-0724
 Telephone: (916) 795-1546
 Fax: (916) 795-4105
 E-Mail: Richard.Ramsey@calpers.ca.gov

Please direct requests concerning processing of this rulemaking action or other information upon which the rulemaking is based to the CalPERS Regulation Coordinator, at the address shown in Section II.

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date, the file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Anthony Martin, Regulation Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at www.calpers.ca.gov.

XII. AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed text of the regulations after the public comment period closes.

If the Board modifies its regulatory action, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the

Board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.

XIII. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting the CalPERS Regulation Coordinator at the address shown in Section II.

TITLE 2. FAIR EMPLOYMENT AND HOUSING COUNCIL

REGULATIONS REGARDING RELIGIOUS CREED AND AGE DISCRIMINATION

The Fair Employment and Housing Council (Council) of the Department of Fair Employment and Housing (DFEH) proposes to amend sections 11016, 11063, 11075, 11076, 11078, and 11079 of Title 2 of the California Code of Regulations after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Council will hold a public hearing starting at **10:00 a.m. on July 31, 2019**, at the following location:

Elihu M. Harris State Building
 1515 Clay Street, Room 2
 Oakland, CA 94612

At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Council requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

The meeting facilities are accessible to individuals with physical disabilities. Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in the meeting, should contact Brenda Valle, DFEH ADA Coordinator, at (844) 541-2877 (voice or via relay operator 711) or TTY (800) 700-2320 or via email: brenda.valle@dfeh.ca.gov or accommodations@dfeh.ca.gov as soon as possible or at least 72 hours before the meeting.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the

proposed regulatory action to the Council. The written comment period closes at **5:00 p.m. on July 31, 2019**. The Council will consider only comments received by that time. Written comments can be mailed to:

Fair Employment and Housing Council
c/o Brian Sperber
Legislative & Regulatory Counsel
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: (213) 337-4495

Comments may also be submitted by e-mail to FEHCouncil@dfeh.ca.gov.

AUTHORITY AND REFERENCE

Government Code section 12935 authorizes the Council to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific section 12900 et seq. of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies, makes specific, and supplements existing state regulations interpreting the Fair Employment and Housing Act ("FEHA") set forth in Government Code section 12900 et seq. In compliance with the Administrative Procedure Act, the Council proposes to adopt these rules as duly noticed, vetted, and authorized regulations. The overall objective of the proposed regulations is to clarify what constitutes discrimination based on religious creed or age. This action has the specific benefit of clarifying potentially misunderstood areas of the law, in turn reducing litigation costs and court overcrowding. Ultimately, the proposed action furthers the mission of the DFEH by protecting Californians from employment discrimination.

The proposed amendments specifically do the following: (1) reiterate and demonstrate the applicability of the disparate impact theory to age and religious creed discrimination claims; (2) state that an employer's pre-employment inquiries about an applicant's availability or request for information related to work scheduling shall not be used to ascertain the applicant's religious creed, disability, or medical condition; (3) state applications, including online application technologies, that limit or screen out applicants based on religious creed or age is unlawful; (4) reiterate and demonstrate the applicability of the business necessity affirmative defense; and (5) clarify forms of advertisements that unlawfully deter or limit the employment of people age 40 and over.

The Council has determined that the proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Council has concluded that these are the only regulations that concern the Fair Employment and Housing Act.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Council has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: No additional costs or savings beyond those imposed by existing law.

Cost to any local agency or school district, which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: No additional costs or savings beyond those imposed by existing law.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: No additional costs or savings beyond those imposed by existing law. Therefore, the agency 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/analysis: The Council anticipates that the adoption of the regulations will not impact the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses within the state, or the expansion of businesses currently doing business within the state. To the contrary, adoption of the proposed amendments is anticipated to benefit the health and welfare of California residents and businesses and improve worker safety by clarifying and streamlining the operation of the law, making it easier for employees and employers to understand their rights and obligations, and reducing litigation costs for businesses. These regulations would not affect the environment.

Statewide adverse economic impact directly affecting businesses and individuals: The Council has made an initial determination that the proposed action 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.

Significant effect on housing costs: None.

Small Business Determination: The Council anticipates that the regulations will not create additional costs

or savings beyond those imposed by existing regulations. Similarly, the Council has determined that there is no impact on small businesses as a result of this proposed action because these regulations primarily serve to clarify existing law.

Business Report: The Council has determined that the proposed regulations do not require a report to be made.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Council must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the Council's attention would be more effective in carrying out the purpose for which this 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.

The Council has thus far not become aware of a better alternative and invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Brian Sperber, Legislative & Regulatory Counsel
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: (213) 337-4495
E-mail: brian.sperber@dfeh.ca.gov

The backup contact person for these inquiries is:

Linda Verde, Administrative Assistant II
Department of Fair Employment and Housing
2218 Kausen Drive, Ste. 100
Elk Grove, CA 95758
Telephone: (916) 478-7248
E-mail: linda.verde@dfeh.ca.gov

Please direct requests for copies of the proposed text (express terms) of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, should other sources be used in the future, to Brian Sperber at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Brian Sperber at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Council may adopt the proposed regulations substantially as described in this notice. If the Council 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 for at least 15 days before the Council adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Brian Sperber at the address indicated above. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons will be available on the Council's web page: <http://www.dfeh.ca.gov/fehcouncil/>.

Copies also may be obtained by contacting Brian Sperber at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations, and any modified texts and the Final Statement of Reasons can be accessed through the Council's web page at <http://www.dfeh.ca.gov/fehcouncil/>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the

Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **July 18, 2019**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on July 16, 2019**.

BACKGROUND/OVERVIEW

Governing Statutes. The Act’s conflict-of-interest provisions ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. Section 87100 prohibits a public official from using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. Under Section 87103(c), a public official has a financial interest in a decision within the meaning of Section 87100 if it is “reasonably foreseeable” that the decision will have a “material financial effect” on the certain enumerated interests including “[a]ny source of income . . . aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.” (Section 87103(c).)

Existing Regulation. Regulation 18702.3 provides the materiality standards for interests in sources of income. The regulation establishes two general categories of sources of income. Subdivision (a) pertains to income from the sale of goods and services, while subdivision (b) addresses income from the sale of personal or real property. Aside from circumstances where the source of income is expressly involved in a governmental proceeding before the public official, neither subdivision establishes clear, bright-line rules for determining the materiality of a governmental decision’s financial effect on a source of income.

Under subdivision (a)(2), the financial effect of a governmental decision on an official’s financial interest in a source of income, where the income is derived from the sale of goods or services, is material if “[t]he source is an individual that will be financially affected under the standards applied to an official in Regulation

18702.5. . . .” Under Regulation 18702.5, however, a financial effect on personal finances is material if the individual will “receive a measurable financial benefit or loss from the decision.” Regulation 18702.5 provides no definition for the term “measurable financial benefit or loss.”

Similarly, Regulation 18702.3(a)(3) also provides that a financial effect on a source of income that is a nonprofit organization is material where the nonprofit “will receive a measurable financial benefit or loss. . . .” Again, however, there is currently no express threshold or definition for the term “measurable financial benefit or loss.”

Regulation 18702.3 also does not provide any direction for public officials with source of income interests in government entities. Typically, money received from a government entity is not considered “income” for purposes of the Act, because “income” does not include “[s]alary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a state, local, or federal government agency. . . .” Thus, a public official generally will not reach the question of whether a financial effect on a governmental source of income is material. However, under certain circumstances, governmental funds received by a public official may constitute “income,” such as when an official receives funds as the result of a consulting contract. As noted, Regulation 18702.3 currently provides no guidance with respect to those uncommon scenarios.

Regulation 18702.3(c) establishes an alternate “nexus” test for materiality. That standard provides, “[a]ny reasonably foreseeable financial effect on a person who is a source of income to a public official is deemed material if the public official receives or is promised the income to achieve a goal or purpose which would be achieved, defeated, aided, or hindered by the decision.” The rationale for the nexus test is that when an employee earns a salary to accomplish a purpose that may be advanced by what he or she does as an official, we presume that the private employer is benefiting from the actions of the employee in his or her official capacity.

REGULATORY ACTION

Repeal and Adopt 2 Cal. Code Regs. Section 18702.3 — Materiality Standard: Financial Interest in a Source of Income.

Amendments to Regulation 18702.3. The Commission may consider amendments to all provisions of current Regulation 18702.3, including, but not limited to, the appropriate materiality standards for economic interests in sources of income. At a minimum, Commission staff anticipates proposing the following:

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- Consolidating and reorganizing Regulation 18702.3, subdivisions (a) and (b), and removing the distinction between income from the sale of goods and services and income from the sale of real or personal property.
- Establishing a bright-line materiality standard where the source of income is an individual whose personal finances will be affected by the governmental decision.
- Establishing bright-line materiality standards where the source of income is a non-profit organization.
- Including a new subdivision addressing source of income interests in government entities.
- Amending the language of the nexus test to specifically include the public official's spouse.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues. The Commission must determine that no alternative considered by the agency 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.

FISCAL IMPACT STATEMENT

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

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

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

AUTHORITY

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

REFERENCE

Sections 87100, 87102.5, 87102.6, 87102.8 and 87103.

CONTACT

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **July 18, 2019**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on July 16, 2019**.

BACKGROUND/OVERVIEW

Governing Statutes. The Act's conflict-of-interest provisions ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. Section 87100 prohibits a public official from using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. Under Section 87103(c), a public official has a financial interest in a decision within the meaning of Section 87100 if it is "reasonably foreseeable" that the decision will have a "material financial effect" on the certain enumerated interests including "[a]ny business entity in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more" (Section 87103(a)), or "[a]ny business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management" (Section 87103(d)).

Existing Regulation. Regulation 18702.1 sets forth the materiality standards applicable to a governmental

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

decision's reasonably foreseeable financial effect on a public official's financial interest in a business entity. Regulation 18702.1(a)(1)–(7) provide that a decision's effect on an official's interest in a business is material if the business takes certain specified actions, or if the business is subject to an action by the official's agency directed solely at the business. Regulation 18702.1(b) sets forth a broad and general materiality standard applicable to a decision's reasonably foreseeable financial effect on an official's financial interest in either a publicly traded business or a privately held business.

REGULATORY ACTION

Repeal and Adopt 2 Cal. Code Regs. Section 18702.1 — Materiality Standard: Financial Interests in Business Entities.

Repeal and Adoption of Regulation 18702.1. The Commission may consider all provisions of existing Regulation 18702.1, the repeal of existing Regulation 18702.1, and the adoption of new proposed Regulation 18702.1, setting forth updated materiality standards applicable to a decision's effect on an official's business interest. At a minimum, Commission staff anticipates proposing the following:

- The addition of “bright-line” materiality standards which would provide additional clarity and guidance regarding when an effect on an official's financial interest in a business not explicitly involved in the decision at issue is material.
- The incorporation of new materiality standards applicable to a decision's effect on a real property interest of the official's business interest.
- The reestablishment of the “Small Shareholder Exception,” under which a decision's effect on an official's investment interest in a business of \$25,000 or less, which is also less than one percent of the business's shares, would only be material under the regulation's materiality standards applicable to a business not explicitly involved in the decision.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues. The Commission must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burden-

some to affected private persons than the proposed action.

FISCAL IMPACT STATEMENT

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

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

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

AUTHORITY

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

REFERENCE

Sections 87100, 87102.5, 87102.6, 87102.8 and 87103.

CONTACT

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

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

The Public Employment Relations Board (PERB or Board) proposes to adopt and amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to adopt proposed new sections 32036, 32038, 32039, 32610, 32610.5, 32611, 32611.5, 33013 and 33020, and amend sections 31001, 32020, 32030, 32050, 32055, 32060, 32075, 32080, 32090, 32091, 32100, 32105, 32120, 32130, 32132, 32135, 32136, 32140, 32142, 32145, 32147, 32149, 32150,

32155, 32162, 32164, 32168, 32169, 32170, 32176, 32178, 32180, 32185, 32190, 32200, 32205, 32206, 32207, 32209, 32210, 32212, 32215, 32220, 32230, 32295, 32300, 32305, 32310, 32315, 32320, 32325, 32350, 32400, 32410, 32450, 32455, 32460, 32465, 32470, 32602, 32605, 32612, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32645, 32647, 32648, 32649, 32650, 32661, 32680, 32690, 32980, and 32998.

Section 31001 provides for meetings of the Public Employment Relations Board. Section 32020 provides a definition for the term “Board.” Section 32030 provides a definition for the term “Board itself.” Proposed section 32036 adopts a definition of “PECC,” the Public Employees Communication Chapter (Government Code section 3555 et seq.). Proposed section 32038 adopts a definition of “PEDD,” the Chapter titled Prohibition on Public Employers Deterring or Discouraging Union Membership (Government Code section 3550 et seq.). Proposed section 32039 adopts definitions of terms under the “PEDD,” the Chapter titled Prohibition on Public Employers Deterring or Discouraging Union Membership (Government Code section 3550 et seq.). Section 32050 provides a definition for the term “General Counsel.” Section 32055 provides a definition for the term “Chief Administrative Law Judge.” Section 32060 provides a definition for the term “headquarters office.” Section 32075 provides a definition for the term “regional office.” Section 32080 provides a definition for the term “day.” Section 32090 provides for filing by facsimile machine. Section 32091 provides for filing by electronic mail (e-mail) message. Section 32100 provides for when regulations contained in Chapter 1 apply to PERB proceedings. Section 32105 provides for the severability of PERB’s regulations. Section 32120 provides for the filing of collective bargaining agreements. Section 32130 addresses the computation of time for filing. Section 32132 concerns the requirements for an extension of time in which to file documents with the Board. Section 32135 concerns filing requirements. Section 32136 concerns late filing requirements. Section 32140 concerns service requirements. Section 32142 concerns designation of recipients for service and filing. Section 32145 concerns waiver of time period requirements for filing. Section 32147 provides for expediting matters before the Board. Section 32149 concerns issuance of investigative subpoenas. Section 32150 concerns issuance of subpoenas. Section 32155 concerns circumstances under which a Board agent or Board member will be disqualified to hear a case. Section 32162 concerns the confidentiality of Board investigations. Section 32164 concerns an application for joinder. Section 32168 concerns the conduct of hearings. Section 32169 concerns the taking of depositions. Section 32170 concerns the powers and authority of a

Board agent conducting a hearing. Section 32176 concerns the rules of evidence in unfair practice cases. Section 32178 concerns the burden of proof in unfair practice cases. Section 32180 addresses the rights of parties in PERB hearings. Section 32185 concerns ex parte communications with Board agents. Section 32190 concerns filing and rulings on motions. Section 32200 concerns the appeal of rulings on motions and other interlocutory matters. Section 32205 concerns requests for continuances. Section 32206 concerns the production of statements of witnesses after testimony. Section 32207 concerns the stipulation of facts for purposes of hearings. Section 32209 addresses the procedure for correction of hearing transcripts. Section 32210 concerns the filing of informational briefs. Section 32212 concerns briefs and oral argument. Section 32215 concerns issuance of proposed decisions. Section 32220 concerns contemptuous conduct by a party or a party’s agent. Section 32230 concerns the refusal of a witness to testify. Section 32295 concerns ex parte communications with members of the Board itself, or legal advisers to Board members. Section 32300 concerns the filing of exceptions to Board agent decisions. Section 32305 provides that proposed decisions become final if no timely exceptions are filed. Section 32310 provides for the filing of responses to exceptions. Section 32315 provides for oral argument on exceptions. Section 32320 concerns issuance of decisions by the Board itself. Section 32325 concerns the remedial powers of the Board. Section 32350 provides a definition of administrative decisions. Section 32400 provides that a motion for reconsideration is not required in order to exhaust administrative remedies. Section 32410 provides for the filing of requests for reconsideration. Section 32450 concerns the filing of requests for injunctive relief. Section 32455 concerns the investigation of requests for injunctive relief. Section 32460 provides for recommendations by the General Counsel concerning requests for injunctive relief. Section 32465 provides for decisions by the Board itself concerning requests for injunctive relief. Section 32470 addresses the authority of the General Counsel concerning requests for injunctive relief where a quorum of the Board itself is unavailable. Section 32602 provides for the processing of unfair practice charges. Section 32605 concerns the number of copies of unfair practice charges required for filing. Proposed section 32610 defines employer unfair practices under the Public Employees Communication Chapter (PECC). Proposed section 32610.5 defines employee organization unfair practices under the Public Employees Communication Chapter (PECC). Proposed section 32611 defines employer unfair practices under the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD). Proposed section 32611.5 defines employee organization unfair

practices under the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD). Section 32612 specifies in which “regional office” unfair practice charge filings should be made. Section 32615 concerns the information required to be included in an unfair practice charge. Section 32620 concerns the processing of unfair practice charges, including the Board’s policy on deferral to arbitration. Section 32621 concerns the amending of unfair practice charges. Section 32625 concerns the withdrawal of unfair practice charges. Section 32630 concerns the dismissal of unfair practice charges. Section 32635 provides for the appeal of dismissals of unfair practice charges. Section 32640 concerns the issuance of complaints in unfair practice charge cases. Section 32644 provides for the filing of an answer in unfair practice charges where a complaint issues. Section 32645 concerns non-prejudicial errors in unfair practice charges and related documents. Section 32647 concerns amendments to complaints in unfair practice charge cases before hearing. Section 32648 concerns amendments to complaints in unfair practice charge cases during a hearing. Section 32649 concerns the filing of answers to amendments to complaints in unfair practice charge cases. Section 32650 concerns the conduct of informal settlement conferences in unfair practice charge cases. Section 32661 concerns the filing of repugnancy claims regarding unfair practice charge cases deferred to arbitration. Section 32680 concerns the conduct of hearings on unfair practice charges. Section 32690 concerns notice of hearing in unfair practice charge cases. Section 32980 provides for the enforcement of compliance with final decisions of the Board. Section 32998 concerns the reimbursement for services rendered by the State Mediation and Conciliation Service. Proposed section 33013 adopts a definition of an “Arbitration Decision” as a decision issued by a Board agent following interest arbitration pursuant to the Public Employees Communication Chapter (PECC). Proposed section 33020 provides the rate for reimbursement for arbitration services provided by a Board agent pursuant to the Public Employees Communication Chapter (PECC).

PUBLIC HEARING

The Board will hold a public hearing concerning the proposed regulatory amendments in order to implement the Public Employee Communication Chapter (PECC), the Prohibition on Public Employers Deterring or Discouraging Union Membership chapter (PEDD), and modifications to the process by which Board decisions may be designated or re-designated as precedential or non-precedential. The public hearing will be held at **10:00 a.m., on July 30, 2019, in Room 103 of its head-**

quarters building, located at 1031 18th Street, Sacramento, California 95811. Room 103 is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing. Any person wishing to testify at the hearing is requested to notify the Office of the General Counsel as early as possible by calling (916) 322-3198 to aid scheduling and to permit arrangements for an interpreter to be made if necessary.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 327-6377 or by e-mail at sfarro@perb.ca.gov. Written comments will also be accepted at the public hearing held on July 30, 2019. The written comment period closes at **5:00 p.m. on July 30, 2019**. The Board will only consider comments received at the Board offices by that time. Submit written comments to:

Sheena J. Farro, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811

AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers-Milias-Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Government Code section 3563(f) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer-Employee Relations Act (HEERA). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County

Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Employment Protection and Governance Act (Trial Court Act). Pursuant to Government Code sections 3541.3(g) and 71825(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act). Pursuant to Government Code sections 3541.3(g) and 3524.52(a), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Judicial Council Employer–Employee Relations Act (JCEERA). Pursuant to Government Code sections 3541.3(g) and 3555(c), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Public Employee Communication Chapter (PECC). Pursuant to the Government Code sections 3541.3(g) and 3551(a), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Prohibition on Public Employers Deterring or Discouraging Union Membership chapter (PEDD).

General reference for **section 31001** of the Board’s regulations: Sections 3509, 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1, and 71825, Government Code; and Section 99561, Public Utilities Code. General reference for **section 32020** of the Board’s regulations: Sections 3501(f), 3509, 3513(h), 3540.1(a), 3541, 3551(a), 3555.5(c), 3562(b), 71639.1(a) and 71825(a), Government Code; and Section 99560.1(b), Public Utilities Code. General reference for **section 32030** of the Board’s regulations: Sections 3501(f), 3509, 3513(h), 3540.1(a), 3541, 3551(a), 3555.5(c), 3562(b), 71639.1(a) and 71825(a), Government Code; and Section 99560.1(b), Public Utilities Code. General reference for **proposed section 32036**: Section 3555.5(c), Government Code. General reference for **proposed section 32038**: Section 3551(a), Government Code. General reference for **proposed section 32039**: Sections 3551(a), 3552 and 3553, Government Code. General reference for **section 32050** of the Board’s regulations: Section 3541(f), Government Code. General reference for **section 32055** of the Board’s regulations: Sections 3509, 3513(h), 3541.3(k), 3551(a), 3555.5(c), 3563(j), 71639.1 and 71825, Government Code; and Section 99561(j), Public Utilities Code. General reference for **section 32060** of the Board’s regulations: Sections 3509, 3513(h),

3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32075** of the Board’s regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32080** of the Board’s regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(f), Public Utilities Code. General reference for **section 32090** of the Board’s regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **section 32091** of the Board’s regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **section 32100** of the Board’s regulations: Section 19604, Business and Professions Code; Section 57031, Food and Agricultural Code; Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509, 3513(h), 3541.3, 3551(a), 3555.5(c), 3557, 3563, 3600, 3601, 3602, 3603, 3611, 71632.5, 71636, 71636.1, 71636.3, 71637, 71637.1, 71639.1, 71823 and 71825, Government Code; Section 2686, Labor Code; and Sections 25051, 25052, 28850, 28851, 30750, 30751, 30754, 30756, 40120, 40122, 50120, 50121, 70120, 70122, 90300, 95650, 95651, 98162.5, 99561, 100301, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 125521, 125526, Appendix 1, Sections 4.2 and 4.4, and Appendix 2, Sections 13.90, 13.91, and 13.96, Public Utilities Code. General reference for **section 32105** of the Board’s regulations: Sections 3509, 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1 and 71825, Government Code; and Section 99561, Public Utilities Code. General reference for **section 32120** of the Board’s regulations: Sections 3509, 3513(h), 3524, 3541.3(f), 3541.3(g), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32130** of the Board’s regulations: Sections 3509, 3513(h), 3541.3, 3544.7(b), 3551(a), 3555.5(c), 3563, 3577(b), 71639.1 and 71825, Government Code; and Sections 99561 and 99564.4(b), Public Utilities Code. General reference for **section 32132** of the Board’s regulations: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(n), 3541.35, 3551(a), 3555.5(c), 3563(m), 3563.5, 71639.1, 71639.15, 71825 and 71825.05, Government Code; and Sections 99561(m) and 99561.4, Public Utilities Code. General reference for **section 32135** of the Board’s regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a),

3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32136** of the Board's regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Sections 12, 12(a) and 1013, Code of Civil Procedure; and Section 99561(m), Public Utilities Code. General reference for **section 32140** of the Board's regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32142** of the Board's regulations: Sections 3501(c), 3513(j), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71601(k), 71639.1, 71801(h), 71807 and 71825, Government Code; and Sections 99560.1(g) and 99560.1(h), Public Utilities Code. General reference for **section 32145** of the Board's regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32147** of the Board's regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32149** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32150** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 3601, 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32155** of the Board's regulations: Sections 3509, 3509.5, 3513, 3520, 3541.3, 3542, 3551(a), 3555.5(c), 3557, 3563, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561, 99562, 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for **section 32162** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32164** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32168** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3541.3(k), 3551(a), 3555.5(c), 3563(g), 3563(j), 71639.1 and 71825, Government Code; and Sections 99561(g) and 99561(j), Public Utilities Code. General reference for **section 32169** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a),

3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32170** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3541.3(k), 3551(a), 3555.5(c), 3563(g), 3563(j), 71639.1 and 71825, Government Code; and Sections 99561(g) and 99561(j), Public Utilities Code. General reference for **section 32176** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3541.3(i), 3551(a), 3555.5(c), 3563(g), 3563(h), 71639.1 and 71825, Government Code; and Section 99561(g) and 99561(h), Public Utilities Code. General reference for **section 32178** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3541.3(i), 3551(a), 3555.5(c), 3563(g), 3563(h), 71639.1 and 71825, Government Code; and Sections 99561(g) and 99561(h), Public Utilities Code. General reference for **section 32180** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32185** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3541.3(i), and 3541.3(n), 3551(a), 3555.5(c), 3563(g), 3563(h) and 3563(m), 71639.1 and 71825, Government Code; and Section 99561(g), 99561(h) and 99561(m), Public Utilities Code. General reference for **section 32190** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32200** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32205** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32206** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32207** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32209** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32210** of the Board's regulations: Sections 3509, 3513(h), 3541.3(a), 3541.3(b), 3541.3(e), 3541.3(g), 3541.3(h), 3541.3(i), 3541.3(l), 3541.3(m), 3541.3(n), 3551(a), 3555.5(c), 3563(a), 3563(b), 3563(e), 3563(f), 3563(g), 3563(h), 3563(k), 3563(l),

3563(m), 71639.1 and 71825, Government Code; and Section 99561, Public Utilities Code. General reference for **section 32212** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32215** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32220** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32230** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32295** of the Board's regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **section 32300** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. General reference for **section 32305** of the Board's regulations: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(k), 3541.3(n), 3541.35, 3551(a), 3555.5(c), 3563(j), (m), 3563.5, 71639.1, 71639.15, 71825, and 71825.05, Government Code; and Sections 99561(j), 99561(m), and 99561.4, Public Utilities Code. General reference for **section 32310** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3563(j), 3563(m), 71639.1, and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for **section 32315** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3563(j), 3563(m), 71639.1, and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. General reference for **section 32320** of the Board's regulations: Sections 3509, 3513(h), 3514.5, 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3563(j), 3563(m), 3563.2, 11425.60, 71639.1 and 71825, Government Code; and Sections 99561(j), 99561(m) and 99561.2, Public Utili-

ties Code. General reference for **section 32325** of the Board's regulations: Sections 3509, 3509.5, 3514.5(c), 3520, 3541.5(c), 3542, 3551(a), 3555.5(c), 3563.3, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code; Section 99561(f), Public Utilities Code; and *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608. General reference for **section 32350** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3557, 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code. General reference for **section 32400** of the Board's regulations: Sections 3509, 3509.5, 3520, 3542, 3551(a), 3555.5(c), 3564, 71639.4 and 71825.1, Government Code; and Section 99562, Public Utilities Code. General reference for **section 32410** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. General reference for **section 32450** of the Board's regulations: Sections 3509, 3513(h), 3551(a), 3555.5(c), 3541.3(j), 3541.3(n), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code. General reference for **section 32455** of the Board's regulations: Sections 3509, 3513(h), 3541.3(j), 3551(a), 3555.5(c), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code. General reference for **section 32460** of the Board's regulations: Sections 3509, 3513(h), 3541.3(j), 3541.3(n), 3551(a), 3555.5(c), 3563(i), 3563(m), 71639.1 and 71825, Government Code; and Sections 99561(i) and 99561(m), Public Utilities Code. General reference for **section 32465** of the Board's regulations: Sections 3509, 3513(h), 3541.3(j), 3541.3(n), 3551(a), 3555.5(c), 3563(i), 3563(m), 71639.1 and 71825, Government Code; and Sections 99561(i) and 99561(m), Public Utilities Code. General reference for **section 32470** of the Board's regulations: Sections 3509, 3513(h), 3541(f), 3541(g), 3541.3(j), 3541.3(k), 3551(a), 3555.5(c), 3563(i), 3563(j), 71639.1 and 71825, Government Code; and Sections 99561(i) and 99561(j), Public Utilities Code. General reference for **section 32602** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code; and Sections

99561(h), 9561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32605** of the Board's regulations: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3523, 3541.3(i), 3541.3(n), 3541.5, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code; and Sections 99561(h), 99561.2, 99566.3 and 99569, Public Utilities Code. General reference for **proposed section 32610** of the Board's regulations: Sections 3555.5(c), 3556, 3558, 3558.8(a), 3558.8(b) and 3558.8(h), Government Code. General reference for **proposed section 32610.5** of the Board's regulations: Sections 3555.5(c), 3556 and 3558.8(b), Government Code. General reference for **proposed section 32611** of the Board's regulations: Sections 3550 and 3553, Government Code. General reference for **proposed section 32611.5** of the Board's regulations: Section 3553, Government Code. General reference for **section 32612** of the Board's regulations: Sections 3509, 3513(h), 3514.5, 3541.3(i), 3541.5, 3551(a), 3555.5(c), 3563(h), 3563.2, 71639.1, 71807 and 71825, Government Code; and Sections 99561(h) and 99561.2, Public Utilities Code. General reference for **section 32615** of the Board's regulations: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32620** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1 and 71825, Government Code; Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code; *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608, and *Coachella Valley Mosquito and Vector Control District v. Public Employment Relations Board* (2005) 35 Cal.4th 1072. General reference for **section 32621** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823, and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for **section 32625** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513, 3514.5, 3515.7, 3519, 3519.5,

3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32630** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32635** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32640** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32644** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32645** of the Board's regulations: Sections 3509, 3514.5(a), 3541.5(a), 3551(a), 3555.5(c), 3563.2, 71639.1 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7 and 99563.8, Public Utilities Code. General reference for **section 32647** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for **section 32648** of the Board's regulations: Sections 3502.5, 3506.5, 3509,

3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(g), 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32649** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32650** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32661** of the Board's regulations: Sections 3506.5, 3509, 3514.5, 3519, 3519.5, 3541.5, 3543.5, 3543.6, 3551(a), 3555.5(c), 3558.8, 3563.2, 3571, 3571.1, 3571.3, 3589, 71639.1 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8 and 99567, Public Utilities Code. General reference for **section 32680** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814 and 71825, Government Code; and Sections 99561(g), 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32690** of the Board's regulations: Sections 3502.5, 3506.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code; and Sections 99561(g), 99561(h), 99561.2, 99563.7, 99563.8, 99566.3 and 99569, Public Utilities Code. General reference for **section 32980** of the Board's regulations: Sections 3509, 3509.5, 3514.5(c), 3520, 3541.5(c), 3542, 3551(a), 3555.5(c), 3563.3, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code; and Sections 99561.3 and 99562, Public Utilities Code; and *Firefighters Union, Local 1186 v. City of*

Vallejo (1974) 12 Cal.3d 608. General reference for **section 32998** of the Board's regulations: Sections 3551(a), 3555.5(c), 3557, 3600, 3601, 3602, 3603 and 3611, Government Code; Sections 25051, 25052, 28850, 28852, 30750, 30751, 30756, 40120, 40122, 50120, 50121, 70120, 70121, 95650, 95651, 98162.5, 100301, 100304, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 120502, 120503, 120505, 125521, 125524, 125525 and 125526; Appendix 1, Section 4.1 and Appendix 2, Section 13.90, Public Utilities Code; Section 11010, Government Code; and Sections 8740 and 8752, State Administrative Manual. General reference for **proposed section 33013** of the Board's regulations: Section 3557, Government Code. General reference for **proposed section 33020** of the Board's regulations: Section 3557, Government Code.

POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB presently administers ten collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers-Milius-Brown Act (MMBA) of 1968, which established collective bargaining for California's city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; the Higher Education Employer-Employee Relations Act (HEERA) of 1979, extending the same coverage to the California State University System, the University of California System and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) of 2003, which covers supervisory employees of the Los Angeles County Metropolitan Transportation Authority; the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, which together provide for collective bargaining rights for most trial court employees; and the Judicial Council Employer-Employee Relations Act (JCEERA) of 2018, which establishes collective bargaining for Judicial Council employees. As of June 27, 2017, Government Code, section 3555 et seq. was enacted, titled the Public Employee Communication Chapter (PECC), which conferred PERB jurisdiction

over violations of the PECC pursuant to PERB’s power and duties set forth in Government Code, section 3541.3. As of January 1, 2018, Government Code, section 3550 et seq. was enacted, titled the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD), which conferred PERB jurisdiction over violations of the PEDD pursuant to PERB’s powers and duties set forth in Government Code, section 3541.3.

These new statutory enactments require amendments to PERB’s existing regulations and the adoption of new regulations in order to fully implement PERB’s jurisdiction. As explained in more detail in the Informative Digest, the regulatory changes proposed by this notice address PERB’s need to implement a process for resolving disputes arising under the PECC and the PEDD, including processing allegations of violations of the PECC and the PEDD and requests for PERB to appoint a Board agent to serve as interest arbitrator pursuant to the PECC.

Additionally, the regulatory changes proposed by this notice seek to increase PERB’s case processing efficiency. The proposed amendment to PERB’s existing regulation concerning the Board’s decisions will allow the Board to designate any type of Board decision as precedential or non-precedential and implement a process similar to California courts that allows parties to request the Board reverse the precedential or non-precedential designation of Board decisions.

INFORMATIVE DIGEST

A. Adoption of New Sections

Proposed Section 32036 adopts a definition of “PECC,” the Public Employee Communication Chapter (Government Code section 3555 et seq.).

Proposed Section 32038 adopts a definition of “PEDD,” the Prohibition on Public Employers Deterring or Discouraging Union Membership chapter (Government Code section 3550 et seq.).

Proposed Section 32039 adopts a section defining terms applicable for matters arising under the PEDD (Government Code section 3550 et seq.), which includes the definition for the term “exclusive representative,” as used in Government Code section 3552.

Proposed Section 32610 clarifies employer unfair practices under the PECC (Government Code section 3555 et seq.). Government Code section 3555.5(c)(1) provides PERB with authority to process alleged violations of the PECC. Because the section of the statute does not specifically identify the types of acts that might be considered to be unfair practices, parties operating under the PECC are left without guidance about how to

operate within the meaning of the law. Section 32610 sets forth the conduct prohibited by the PECC and labels such conduct as unfair practices. Without such rules, PERB’s only method of identifying the types of conduct that constitute unfair practices will be through case-by-case deliberation. Such an approach would leave the parties without guidance for a long period of time.

Proposed Section 32610.5 clarifies employee organization unfair practices under the PECC (Government Code section 3555 et seq.). Government Code section 3555.5(c)(1) provides PERB with authority to process alleged violations of the PECC. Because the section of the statute does not specifically identify the types of acts that might be considered to be unfair practices, parties operating under the PECC are left without guidance about how to operate within the meaning of the law. Section 32610.5 sets forth the conduct prohibited by the PECC and labels such conduct as unfair practices. Without such rules, PERB’s only method of identifying the types of conduct that constitute unfair practices will be through case-by-case deliberation. Such an approach would leave the parties without guidance for a long period of time.

Proposed Section 32611 clarifies employer unfair practices under the PEDD (Government Code section 3550 et seq.). Government Code section 3551 provides PERB with authority to process alleged violations of the PEDD. Because the section of the statute does not specifically identify the types of acts that might be considered to be unfair practices, parties operating under the PEDD are left without guidance about how to operate within the meaning of the law. Section 32611 sets forth the conduct prohibited by the PEDD and labels such conduct as unfair practices. Without such rules, PERB’s only method of identifying the types of conduct that constitute unfair practices will be through case-by-case deliberation. Such an approach would leave the parties without guidance for a long period of time.

Proposed Section 32611.5 clarifies employee organization unfair practices under the PEDD (Government Code section 3550 et seq.). Government Code section 3551 provides PERB with authority to process alleged violations of the PEDD. Because the section of the statute does not specifically identify the types of acts that might be considered to be unfair practices, parties operating under the PEDD are left without guidance about how to operate within the meaning of the law. Section 32611.5 sets forth the conduct prohibited by the PEDD and labels such conduct as unfair practices. Without such rules, PERB’s only method of identifying the types of conduct that constitute unfair practices will be through case-by-case deliberation. Such an ap-

proach would leave the parties without guidance for a long period of time.

Proposed Section 33013 adopts a definition of “Arbitration Decision” issued by PERB pursuant to the PECC (Government Code section 3555 et seq.). Government Code section 3557(b)(4) provides that a City or County may request a Board agent serve as an arbitrator for PECC interest arbitration, which culminates in the issuance of a decision. Proposed subdivision (b) provides that an arbitration decision is not a proposed decision as defined in PERB regulation 32215, or an administrative decision as defined in PERB regulation 32350 in order to clarify the applicable PERB Regulations.

Proposed Section 33020 adopts the rate of reimbursement when a City or County requests a PERB Administrative Law Judge or other PERB employee administer interest arbitration pursuant to the Public Employee Communication Chapter (Government Code section 3555.5(c)). Government Code section 3557(b)(4) provides that a City or County may request a PERB employee serve as an interest arbitrator, and requires the City or County pay for the cost of the arbitrator. The proposed regulation sets the rate for reimbursement at two hundred and eighty dollars (\$280.00) per hour, prorated for each quarter hour of work that is less than a full hour. The proposed regulation also provides that the actual time charged shall begin when a Board agent commences providing such services, shall include travel time and time spent preparing for the arbitration, and shall continue until the services are completed. Without such a rate, parties would be without a price estimate for arbitration services until PERB’s services were complete.

B. Amendment to the Text of Existing Sections

Section 32100 provides for when regulations contained in Chapter 1 apply to PERB proceedings. Proposed subdivision (g) amends this section to provide that all of Chapter 1 will apply to matters arising under the PEDD and matters arising under the PECC other than interest arbitration, except Subchapters 6 and 8, which govern representation matters. Proposed subdivision (g) also provides that Articles 1 and 2 of Subchapter 2, and Subchapter 10 will apply to PERB’s administration of interest arbitration pursuant to the PECC.

Section 32120 provides for the filing of collective bargaining agreements with the Board. The proposed new language to Section 32120 extends its application to matters arising under the PECC and the PEDD.

Section 32320 concerns the issuance of decisions by the Board itself, setting forth actions that the Board may take when issuing decisions, the criteria considered by the Board when determining whether to designate a decision as non-precedential, and providing that the

Board shall serve a copy of the decision on each party. The proposed amendment to subdivision (c) clarifies the regulatory language providing that Board decisions are precedential, unless designated otherwise. The proposed amendment to subdivision (d) provides that a majority of Board members issuing a decision or order shall determine whether all or part of the Board decision will be designated as precedential or non-precedential. Proposed subdivision (e) provides that the Board may wholly or partially reverse a prior designation of a Board decision as non-precedential, and requires that parties requesting the reversal of such a designation must make that request within 20 days following the service of the decision or order. Proposed subdivision (e) requires such a request to be filed in the Sacramento headquarters office, and to include an original and five copies, and to be served in accordance with PERB regulation 32140 governing service. Proposed subdivision (e) requires a request to designate a decision as precedential to state why one or more of the criteria considered is satisfied, and that a request to designate a decision as non-precedential state why none of the criteria is satisfied. Proposed subdivision (f) provides that a response to such a request may be filed with the Board, and requires that such a response be filed in the Sacramento headquarters office within 20 days from service of the request, providing an original and five copies, and to be served in accordance with PERB regulation 32140 governing service. Proposed subdivision (g) provides that such a request will not stay the effectiveness of a Board decision or order. Proposed subdivision (h) provides that the Board’s ruling on such a request is not subject to a request for reconsideration.

Section 32350 provides a definition of an administrative decision. The proposed amendment would add subdivision (a)(4) providing that an interest arbitration decision issued pursuant to the PECC is not an administrative decision.

Section 32602 provides for the processing of unfair practice charges. Subdivision (a) sets forth the alleged violations that PERB will process as unfair practice charges. The PECC and the PEDD provide PERB with the authority to investigate an alleged violation of the PECC as an unfair practice charge pursuant to the Board’s powers and duties provided by Government Code section 3541.3. The amendments to subdivision (a) reference the authority provided to PERB and are necessary to clarify PERB’s jurisdiction over unfair practice charges arising under the PECC and the PEDD.

C. Amendments Only to the Authority and Reference Citations of Existing Regulations

Section 31001 provides for meetings of the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and

reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32020 provides a definition for the term “Board.” The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32030 provides a definition for the term “Board itself.” The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32050 provides a definition for the term “General Counsel.” The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32055 provides a definition for the term “Chief Administrative Law Judge.” The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32060 provides a definition for the term “headquarters office.” The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32075 provides a definition for the term “regional office.” The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32080 provides a definition for the term “day.” The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32090 provides for filing by facsimile machine. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32091 provides for filing by electronic mail (e-mail) message. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32105 provides for the severability of PERB’s regulations. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32130 provides for the computation of time within PERB’s regulations. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32132 concerns the requirements for an extension of time to file documents with the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32135 concerns filing requirements. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32136 concerns late filing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32140 concerns service requirements. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the

Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32142 concerns the proper recipient for filing or service. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32145 concerns the waiver of time period requirements for filing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32147 concerns expediting matters before the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32149 concerns the issuance of investigative subpoenas. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32150 concerns the issuance of subpoenas. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32155 concerns the disqualification of a Board agent or Board Member. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32162 concerns the confidentiality of Board investigations. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32164 concerns an application for joinder. The proposed changes do not make any changes to the

text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32168 concerns the conduct of hearings. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32169 concerns the taking of depositions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32170 concerns the powers and duties of a Board agent conducting a hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32176 concerns the rules of evidence in unfair practice cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32178 concerns the burden of proof in unfair practice cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32180 addresses the rights of parties in PERB hearings. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32185 concerns ex parte communications with Board agents. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32190 concerns filing requirements and rulings on motions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32200 concerns the appeal of rulings on motions and other interlocutory matters. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32205 concerns requests for continuances. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32206 concerns the production of statements of witnesses after testimony. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32207 concerns the stipulation of facts for purposes of hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32209 addresses the procedure for the correction of hearing transcripts. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32210 concerns the filing of informational briefs and oral argument before the Board itself. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32212 concerns briefs and oral argument. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect

the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32215 concerns the issuance of proposed decisions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32220 concerns contemptuous conduct by a party or a party's agent. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32230 concerns the refusal of a witness to testify. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32295 concerns ex parte communications with members of the Board itself or legal advisers to Board members. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32300 concerns the filing of exceptions to Board agent decisions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32305 concerns the finality of Board agents' decisions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32310 provides for the filing of responses to exceptions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32315 provides for oral argument on exceptions. The proposed changes do not make any changes

to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32325 concerns the remedial powers of the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32400 concerns the requirements for exhaustion of administrative remedies. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32410 provides for the filing of requests for reconsideration. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32450 concerns the filing of requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32455 concerns the investigation of requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32460 provides for recommendations by the General Counsel concerning requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32465 provides for decisions by the Board itself concerning requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to in-

clude jurisdiction over matters arising under the PECC and the PEDD.

Section 32470 addresses the authority of the General Counsel concerning requests for injunctive relief where a quorum of the Board itself is unavailable. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32605 concerns the number of copies of unfair practice charges required for filing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32612 specifies the "regional office" where unfair practice charge filings should be made. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32615 concerns the contents of an unfair practice charge. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32620 concerns the processing of an unfair practice charge case. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32621 concerns the amendment of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32625 concerns the withdrawal of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32630 concerns the dismissal of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32635 provides for the appeal of dismissals of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32640 concerns the issuance of complaints in unfair practice charge cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32644 provides for the filing of an answer in unfair practice charges where a complaint issues. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32645 concerns non-prejudicial errors in unfair practice charges and related documents. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32647 concerns amendments to complaints in unfair practice charge cases before hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32648 concerns amendments to complaints in unfair practice charge cases during a hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32649 concerns the filing of answers to amendments to complaints in unfair practice charge

cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32650 concerns informal settlement conferences in unfair practice charge cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32661 concerns repugnancy claims. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32680 concerns the conduct of hearings on unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32690 concerns the notice of hearing in unfair practice charge cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32980 provides for PERB's enforcement of compliance with final decisions of the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32998 provides reimbursement rates for services provided by the State Mediation and Conciliation Service. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

For more information regarding specific proposed regulations or amendments to the existing regulations, please refer to the proposed regulatory language.

CONSISTENT AND COMPATIBLE WITH
EXISTING STATE REGULATIONS

The Board has determined that the proposed regulatory adoptions and amendments are not inconsistent or incompatible with existing regulations. After conducting a review of all regulations that would relate to or affect this area of California law, the Board has determined that due to PERB's exclusive jurisdiction to implement and enforce the PECC and the PEDD and other acts within its jurisdiction, the proposed regulations are the only regulations concerning the implementation of the PECC and the PEDD and the process by which the Board may designate a decision as precedential or non-precedential or consider parties' requests to reverse such a designation. Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

ANTICIPATED BENEFITS OF THE
PROPOSED REGULATION

These proposed regulatory changes would provide a procedural mechanism for PERB to process alleged violations of the PECC and the PEDD by using the established unfair practice charge process. PERB's unfair practice charge process is already familiar to PERB's constituents and employees. Therefore, the application of these existing procedures will aid in expeditiously resolving disputes arising under the PECC and the PEDD. These proposed regulations make clear the rights, duties, and responsibilities of parties once a party brings allegations of a violation of the PECC or the PEDD to PERB, or requests PERB appoint an employee to serve as an arbitrator pursuant to the PECC, which will assist the parties in preparing to bring matters before PERB. These regulations also make clear the rights of parties if a city or county requests PERB appoint an employee to serve as an arbitrator pursuant to the PECC. These regulations will set forth the reimbursement rates for a PERB employee's arbitration services, which will provide the benefit of guidance for parties in order to anticipate costs and facilitate planning, and aid PERB in expeditiously charging parties for the optional service it provides. These regulations will also improve efficiency in the issuance of Board decisions. These proposed regulatory changes will ultimately improve the public sector labor environment and the collective bargaining process by clarifying PERB's procedures, and by making the Board's processes more transparent and accessible, thereby expediting the resolution of labor disputes in furtherance of harmonious labor relations. Ultimately, the guidance provided by these regulations will operate to ensure that exclusive representatives have the ability to effectively communicate with the public em-

ployees it represents in order to ensure the effectiveness of the state's labor relations statutes, and that public employers will not deter or discourage union membership or representation, in furtherance of harmonious labor relations. In so doing, California residents' welfare will receive the benefit of stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that California's public employees provide to California communities.

NO EXISTING AND COMPARABLE
FEDERAL REGULATION OR STATUTE

During the process of developing these proposed regulatory adoptions and amendments, the Board has conducted a search for any similar federal regulations and statutes on this topic and has determined that there are no existing, comparable federal regulations or statutes that govern matters arising under the PECC, the PEDD, or Board precedent, as these proposed regulatory changes apply solely to public employers and employee organizations under the jurisdiction of the California public sector labor relations statutes set forth above. Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing Federal regulations or statutes.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: The proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: The proposed action would not impose any new costs which must be reimbursed.

Other non-discretionary cost or savings imposed upon local agencies: The proposed action would not result in any new costs which must be reimbursed or savings imposed upon local agencies.

Cost or savings to state agency: The proposed action would not result in any new costs or savings.

Cost or savings in federal funding to the state: The proposed action would not result in any new costs or savings.

Cost impact on private persons or directly affected businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The proposed action will have no impact.

Significant effect on housing costs: There will be no effect on housing costs.

Business Reporting Requirement: The proposed action will not require a report to be made.

The Board has determined that the proposed regulations will not affect small business because the proposed regulations will only affect public employers, public employees, and public employee organizations.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board concludes that the adoption of the proposed regulations and amendments 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 adoption of these proposed regulations will implement procedures for PERB's administration and enforcement of the PECC and the PEDD. The adoption of these proposed regulations will also provide the Board with the ability to designate any type of Board decision as precedential or non-precedential in order to improve efficiency in the Board's issuance of decisions. The adoption of the proposed regulations will benefit public employers, employees, employees' representatives and the community at-large by further facilitating the expedient resolution of public sector labor disputes by clarifying PERB's procedures and making the Board's processes more transparent and accessible when disputes arise under the PECC or the PEDD. The guidance provided to parties by the proposed regulations and amendments will aid PERB in its implementation of the PECC and the PEDD, which will ensure that exclusive representatives have the ability to communicate with the public employees it represents, and prevent employers from deterring or discouraging union membership or representation, in furtherance of the policies underlying the state's labor relations statutes. In so doing, California residents' welfare will receive the benefit of stable collective bargaining and dispute resolution, which translates to continuous delivery of the important services that these public employers and employees provide to California communities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), a rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less bur-

densome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action should be directed to:

Sheena J. Farro, Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 322-3198
E-mail: sfarro@perb.ca.gov

The backup person for these inquiries is:

Ronald Pearson, Supervising Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 322-3198
E-mail: ronald.pearson@perb.ca.gov

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, to Sheena Farro at the above address.

PRELIMINARY ACTIVITIES

PERB held a public meeting on August 31, 2017, wherein the public was given the opportunity to provide comments regarding implementation of the PECC, and division management provided options and recommendations to the Board. PERB staff invited comments on possible regulation changes at the PERB Advisory Committee meeting held on May 22, 2018. On June 14, 2018, PERB held a public meeting wherein the public was given an opportunity to provide comments regarding the implementation of the PECC and the proposed text of the regulations. On October 11, 2018, PERB held a public meeting wherein the public was given the opportunity to provide comments regarding the implementation of the PEDD and the proposed text of the regulations, including the proposed modification to the delegation of precedential and non-precedential Board decisions. On October 11, 2018, the Board itself approved the publication of the proposed regulatory text and the commencement of the formal rulemaking

process. PERB has also relied upon the Economic Impact Assessment identified in this notice in proposing regulatory action.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the express terms of the proposed regulations and the initial statement of reasons. Copies of these documents may be obtained by contacting Sheena Farro at the above address, and are also available on the Board's website at www.perb.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the July 30, 2019 hearing and considering all timely and relevant comments, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, the modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations as revised. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Sheena Farro at the above address. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting Sheena Farro at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this notice of proposed action, the initial statement of reasons, and the text of the proposed regulations in underline and strikeout, can be accessed through PERB's website located at www.perb.ca.gov throughout the rulemaking process. Written comments received during the written comment period will also be

posted on PERB's website. The final statement of reasons or, if applicable, notice of a decision not to proceed will be posted on PERB's website following the Board's action.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

DPH-17-019E Newborn Screening Program

NOTICE IS HEREBY GIVEN that the California Department of Public Health (Department) announces a public comment period. This notice of proposed rulemaking commences a rulemaking to make the emergency regulations permanent after considering all comments, objections, and recommendations regarding the regulations.

PUBLIC PROCEEDINGS

The Department is conducting a 45-day written public comment period and will hold a public hearing (pursuant to HSC section 124977(d)(1)), within 120 days from the emergency effective date of May 30, 2019, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

PUBLIC HEARING

At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

Date & Time: July 30, 2019 at 9:00 a.m.

Place: 1415 L Street, Suite 500, Room 1001
Sacramento, CA 95814

Purpose: To hear comments about this action.

An agenda for the public hearing will be posted at the time and place of the hearing.

For individuals with disabilities, the Department shall provide, upon request, assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, and audiocassette or computer disk. Please note that the range of assistive services available may be limited if requests are received without adequate preparation time prior to the public hearing.

To request such services or copies of materials in an alternate format, please write or call Hannah Strom-Martin, California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814, (916) 440-7371, or email hannah.strom-martin@cdph.ca.gov, or use the California Relay Service by dialing 711 at no cost.

WRITTEN COMMENT PERIOD

Written comments pertaining to this proposal, regardless of the method of transmittal, must be received by the Office of Regulations by **5:00 p.m. on July 30, 2019**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written comments may be submitted as follows:

- 1) By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier "DPH-17-019E" in the subject line to facilitate timely identification and review of the comment;
- 2) By fax transmission to: (916) 636-6220;
- 3) By United States Postal Service to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814;
- 4) Hand-delivered to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814.

All submitted comments should include the regulation package identifier "**DPH-17-019E Newborn Screening Program**," the author's name, and the author's mailing address.

AUTHORITY AND REFERENCE

Authority for the proposed regulatory changes is provided in Health and Safety Code (HSC) sections 124975, 124977, 124980, 124985, 124990, 124995, 125000, 125001, 125005, 125025, 125030, and 125035. This proposal implements, interprets and makes specific sections 124977, 124980, 124996, and 125001, 131050, and 131051 of the HSC Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Proposal

The Department proposes to amend sections 6500.50, 6501.5, 6505, 6506, and 6506.5 of the Califor-

nia Code of Regulations (CCR) in order to consolidate two forms used by the Newborn Screening Program (NBSP): the Newborn Screening Test Request Form (CDPH-4409), and the Test Refusal Form (CDPH-4459). The proposed changes are needed in order to reduce administrative redundancies that may affect the health and wellbeing of California's newborns. The preservation of the health and wellbeing of newborns is one of the intentions of the Legislature under the governing statute: The Hereditary Disorders Act, Health and Safety Code sections 124975-124996.

Background

The Department's Genetic Disease Screening Program (GDSP), previously called the Genetic Disease Branch (GDB), administers a statewide Newborn Screening Program (NBSP) in order to screen newborns for specific treatable heritable disorders. This program is implemented by regulations in CCR, Title 17, Division 1, Chapter 4, Subchapter 9, Group 3, Articles 1, 2 and 3.

The NBSP currently oversees the screening of all live births in California (approximately 500,000 annually). Disorders screened for by the program have varying degrees of severity and, if identified early, can be treated before they cause serious health problems, or even death.

In order to continue to maximize the NBSP's ability to screen for disorders impacting the health and wellbeing of California's newborns, the Department proposes the regulatory changes discussed below.

POLICY STATEMENT OVERVIEW

Problem Statement: Updates affecting the NBSP's screening forms are needed in order to maximize the NBSP's ability to effectively screen for treatable heritable disorders in newborns.

Objective (Goals): In order to eliminate redundancies, reduce paperwork, and accommodate changes to the NBSP so that it may continue to effectively collect, screen and report specimens, the Department proposes changes to CCR sections 6500.50, 6501.5, 6505, 6506 and 6506.6. These changes will have the ultimate result of consolidating the information found on forms CDPH-4409 and CDPH-4459 into a single form.

ANTICIPATED BENEFITS

The Department anticipates that the proposed changes will:

- 1) Support and facilitate timely specimen collection, testing, diagnosis, and treatment known to prevent death, intellectual and developmental disabilities, and other medical complications in infants in California.

- 2) Maintain clear, non-redundant, and current written requirements for providers (hospitals/perinatal health facilities, physicians, midwives) and county birth registrars regarding NBSP procedures.
- 3) Protect the health and welfare of newborns born in California.

**STATEMENTS OF DETERMINATION AND
ECONOMIC IMPACT ASSESSMENT**

Evaluation as to Whether the Regulations Are Inconsistent or Incompatible with Existing State Regulations

The Department has made a determination that these regulations are neither inconsistent or incompatible with other state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the NBSP.

Other Statutory Requirements

None.

Local Mandate

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

Fiscal Impact Assessment

The Department has determined that there shall be no significant costs or savings to any local or state agency, or to any school district as a result of the proposed regulations, nor is any impact upon federal funding to the state anticipated.

Other nondiscretionary cost or savings imposed on local agencies

None.

Cost or Savings in Federal Funding to the State

None.

Significant effect on housing costs

None.

Significant Statewide Adverse Economic Impact Directly Affecting Business and Individuals

The proposed action will not directly affect businesses statewide, including small businesses. As a result the Department concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.

Results of the Economic Impact Assessment

The Department has determined that the proposed regulatory action would have no significant economic impact upon the following:

- 1) The creation or elimination of jobs within the State of California.
- 2) The creation of new businesses or the elimination of existing businesses within the State of California.
- 3) The competitive advantages or disadvantages of businesses currently doing business within the State of California.
- 4) The increase or decrease of investment in the state.
- 5) The incentive for innovation in products, materials, and processes.

BENEFITS OF THE PROPOSED REGULATION

The benefits anticipated by the adoption of these regulations are the protection of public health and safety by facilitating the timely collection, testing, diagnosis, and treatment of disorders known to cause developmental disabilities, death, or other medical complications in California's infants. As described above in the discussion of proposed amendments, by reducing paperwork, these regulations will eliminate duplicative responsibilities for parties involved in the NBS services (such as hospitals, physicians, and NBS contracted laboratories) and will provide a more timely notification of infants not screened, which will improve intervention times.

**COST IMPACTS ON REPRESENTATIVE PERSON
OR BUSINESS**

The Department is unaware of any cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

Because the proposed action imposes no fees and is related to the internal program policies of the NBSP only, it shall have no financial impact upon small businesses.

**CONSIDERATION OF
REASONABLE ALTERNATIVES**

The Department has determined that no reasonable alternative considered or otherwise identified or brought to its attention:

- 1) Would be more effective in carrying out the purpose for which the action is proposed.
- 2) Would be as effective or less burdensome to affected private persons; or

- 3) Would be more cost-effective in implementing this statutory policy.

available in Braille, large print, audiocassette, or computer disk.

CONTACT PERSON

Inquiries regarding the proposed regulatory action can be directed to Hannah Strom-Martin within the Department's Office of Regulations at (916) 440-7371 or via email at: hannah.strom-martin@cdph.ca.gov, or to the designated backup contact, Linda Cortez at (916) 440-7367.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review the text of the regulations, Initial Statement of Reasons, and all other information upon which the rulemaking is based at the address noted above, which will also be the location of any public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the proposed Newborn screening form (CDPH-4409). Copies may be obtained by contacting Hannah Strom-Martin at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Hannah Strom-Martin at the address indicated above.

In order to request that a copy of this public notice or the regulation text be mailed to you, please call (916) 558-1710 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made

FINAL STATEMENT OF REASONS

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

INTERNET ACCESS

Materials regarding the action described in this notice (including this Public Notice, Initial Statement of Reasons, Regulation Text and Informative Digest) may be accessed online at the Department's website (www.cdph.ca.gov) by clicking on the following links, in the following order: Programs, Office of Regulations, Proposed Regulations.

TITLE 18. BOARD OF EQUALIZATION

**The State Board of Equalization
Proposes to Adopt
Amendments to
California Code of Regulations, Title 18,
Section 370, *Random Selection of Counties for
Representative Sampling*
and Language for New Property Tax Rule
California Code of Regulations,
Title 18, Section 370.5
*Random Selection of Counties for Survey or
Representative Sampling for
Calendar Years 2016 Through 2020***

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, section (Property Tax Rule) 370, *Random Selection of Counties for Representative Sampling* and language for new section (Property Tax Rule) 370.5, *Random Selection of Counties for Survey or Representative Sampling for Calendar Years 2016 Through 2020*. Property Tax Rule 370 established a five-year rotation or "survey cycle" and prescribed the procedures for selecting, at random, at least three counties and cities and counties, other than the 10 largest counties and cities and counties, in which to perform a representative sampling of assessments, in each year during each five-year survey cycle. Property Tax Rule 370 also clarified how a county or city and county with significant assessment problems would be surveyed in lieu of a county or city and county selected at random and clarified that the Board is not prohibited from conducting

additional surveys, samples, or other investigations of any county assessor's office. The proposed amendments to Property Tax Rule 370 clarify that its provisions apply to surveys for calendar years *other than* 2016 through 2020, pursuant to changes to Government Code section 15643. The Board also proposes to add new Property Tax Rule 370.5 to clarify the five-year change in the assessment practices survey cycle for years 2016 through 2020.

PUBLIC HEARING

The Board will conduct a meeting at 450 N Street, Sacramento, California, on July 30, 2019. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. or as soon thereafter as the matter may be heard on July 30, 2019. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Property Tax Rule 370 and new Property Tax Rule 370.5.

AUTHORITY

Government Code section 15606.

REFERENCE

Government Code sections 15640 and 15643.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

Under Government Code (GC) sections 15640 and 15643, the Board must perform a survey to determine the adequacy of the assessment procedures and practices employed by the county assessor and/or a sampling of the assessments from the local assessment roll in selected counties and cities and counties. GC section 15643 specifies the frequency of surveys and the manner in which the Board is required to select the counties or cities and counties it will survey each year.

GC section 15643 was previously amended in 1996 (Stats. 1996, ch. 1087, section 5 [Senate Bill 1827], emphasis added) ("1996 GC section 15643") to provide as follows:

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the 10 largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. *In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random.* The 10 largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.
- (d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services

As relevant here, Assembly Bill (AB) 681 (Stats. 2015, ch. 404) amended subdivision (b) of GC section 15643, in effect January 1, 2016 through December 31, 2020 ("amended section GC 15643"). AB 681 also added new GC section 15643 ("new GC section 15643"), operative January 1, 2021, which contains identical provisions to 1996 GC section 15643, subdivisions (a) through (d) quoted above, except that the calendar year in subdivision (b) of new GC section 15643 was changed from 1995 to 2021. AB 681 provided for amended GC section 15643 (in effect 2016–2020) to be repealed and new GC section 15643 to become operative January 1, 2021. As a result, this law change modifies the number of county assessment practices surveys

and assessment samplings required of assessors for calendar years 2016 through 2020. Specifically, this law change requires the Board to:

- Continue to survey and conduct the assessment sampling of the ten counties or cities and counties with the largest value of locally-assessed property.
- Survey the assessment procedures and practices in one county or city and county and conduct a sample of the assessments on the local assessment roll in another county or city and county, both selected at random from the 11th to 20th largest counties and cities and counties (amended GC section 15643, subdivision (b)(1));
- Survey the assessment procedures and practices in three counties or cities and counties and conduct a sample of the assessments on the local assessment roll in two other counties or cities and counties. The counties to be surveyed or sampled are selected at random from the 21st to 58th largest counties (amended GC section 15643, subdivision (b)(2)); and
- Conduct a sample of assessments on the local assessment roll in a county or city or county that has significant assessment problems (amended GC section 15643, subdivision (b)(3)).

After calendar year 2020, the statutory requirements for the Board to select the counties or cities and counties it will survey each year will revert to the requirements provided by the 1996 GC section 15643 which was in effect prior to the January 1, 2016 amendments, which are currently codified in new GC section 15643 (operative January 1, 2021).

In 1997, the Board adopted Property Tax Rule 370, pursuant to its authority in GC section 15606, subdivision (c), in order to implement, interpret, and make specific 1996 GC section 15643 and Revenue and Taxation Code (RTC) section 75.60. Property Tax Rule 370 established a five-year rotation or “survey cycle” and prescribed the procedures for selecting, at random, at least three counties and cities and counties, other than the 10 largest counties and cities and counties, in which to perform a representative sampling of assessments each year during each new five-year survey cycle. Property Tax Rule 370 also clarified how a county or city and county with significant assessment problems would be surveyed in lieu of a county or city and county selected at random and clarified that the Board is not prohibited from conducting additional surveys, samples, or other investigations of any county assessor’s office.

Effect, Objective, and Benefits of the Proposed Amendments

Board staff determined that Property Tax Rule 370 is still necessary because after calendar year 2020, the

statutory requirements for the Board to select the counties or cities and counties it will survey each year will revert to the requirements provided by 1996 GC section 15643 in effect prior to the January 1, 2016 amendments, which are currently codified in new GC section 15643 (operative January 1, 2021).

Thus, the Board proposes to amend Property Tax Rule 370 to clarify that its provisions apply to surveys for calendar years other than the five calendar years 2016 through 2020. The Board also proposes to add new Property Tax Rule 370.5 to accommodate the survey cycle for calendar years 2016 through 2020.

The proposed amendments to Property Tax Rule 370 include:

1. Changing the title of Property Tax Rule 370 to add “for Calendar Years Other than 2016 Through 2020.”
2. Adding an introductory phrase to the beginning of subdivision (a) to clarify that the rule applies to calendar years other than 2016 through 2020.
3. Capitalizing the word “Board” when referring to the State Board of Equalization in subdivisions (b)(1) and (c) for consistency.
4. Changing “regulation” to “rule” in subdivision (d) because GC section 15606 authorizes the Board to prescribe “*rules* and regulations” (italics added) governing county assessors when assessing and local boards of equalization when equalizing for property tax purposes, and the regulations the Board has adopted to implement, interpret, and make specific the property tax laws are commonly referred to as “Property Tax Rules” or “Rules.” (See, e.g., the Property Tax Rules published in the Board’s *Property Taxes Law Guide*).
5. Adding a sentence to subdivision (d) clarifying the procedure when the Board is requested to perform a survey that is not otherwise scheduled, consistent with new GC section 15643, subdivision (d).

Proposed new Property Tax Rule 370.5 is similar to Property Tax Rule 370 in structure. Subdivisions (a) and (b) prescribe the new procedures for the random selection of counties and cities and counties that form the pools of the 11th to 20th largest counties and cities and counties and the 21st to 58th largest counties and cities and counties for survey or representative sampling for calendar years 2016 through 2020. Subdivision (c) incorporates the requirement that the Board conduct a sample of assessments on the local assessment roll in a county or city and county that has significant assessment problems for calendar years 2016 through 2020. And subdivision (d) specifies the procedure when the Board is requested to perform a survey that is not otherwise scheduled, consistent with amended GC section 15643, subdivision (d).

Board staff worked with the County Assessors' Association in creating the amendments to Property Tax Rule 370 and language for Property Tax Rule 370.5. Subsequently, interested parties were provided with Board staff's draft of the proposed amendments to Property Tax Rule 370 and the language of proposed new Property Tax Rule 370.5 on December 22, 2016 (see Letter to Assessors 2016/061 available on the Board's website), and invited interested parties to participate in the rulemaking effort. The only comment received regarding the draft of the proposed amendments was from the Los Angeles County Assessor's Office in support of the amendments and language of the proposed new rule as written. Both of these documents are available on the Board's website at <http://www.boe.ca.gov/proptaxes/prop370-proposed-rev-and-adoption.htm>.

Board staff subsequently prepared Formal Issue Paper 17-002 and submitted it to the Board Members for consideration at the Board's June 20, 2017, Property Tax Committee meeting. In the formal issue paper, Board staff recommended that the proposed amendments to Property Tax Rule 370 and the language for proposed new Rule 370.5 be authorized for publication.

At the June 20, 2017 meeting, the Board Members voted to adopt staff's recommended amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5. The Board determined that the proposed amendments and language for the new rule are reasonably necessary for the specific purpose of addressing the issue of a temporary five-year change in the survey cycle.

The adoption of the proposed amendments to Property Tax Rule 370 and new language of Rule 370.5 is not mandated by federal law or regulations. There are no previously adopted or amended federal regulations that are identical to Property Tax Rules 370 or 370.5 or the proposed amendments to Property Tax Rule 370.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 are inconsistent or incompatible with existing state regulations. The Board has determined that the proposed amendments and new rule are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the procedures for selecting, at random, at least three counties and cities and counties, other than the 10 largest counties and cities and counties, in which to perform a representative sampling of assessments, each year during each five-year survey cycle. In addition, there are no previously adopted or amended federal regulations that are identical to Property Tax Rules 370 or 370.5 or the proposed amendments to Property Tax Rule 370.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

**ONE-TIME COST TO THE BOARD,
BUT NO OTHER COST OR SAVINGS TO
ANY STATE AGENCY, LOCAL
AGENCY, OR SCHOOL DISTRICT**

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 will result in an absorbable \$396 one-time cost for the Board to update its website after the amendments and new rule are completed. The Board has determined that the adoption of the proposed amendment to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 will result in no other direct or indirect cost or savings to any state agency, 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 title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

**NO SIGNIFICANT STATEWIDE
ADVERSE ECONOMIC IMPACT
DIRECTLY AFFECTING BUSINESS**

The Board has made an initial determination that the adoption of the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 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.

**NO COST IMPACTS TO
PRIVATE PERSONS OR BUSINESSES**

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

**RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT REQUIRED BY GOVERNMENT
CODE SECTION 11346.3, SUBDIVISION (b)**

The Board assessed the economic impact of the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 on California businesses and individuals and determined that the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the proposed amendments and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 will neither create nor eliminate jobs in the State of California nor create new businesses or eliminate existing businesses within the state nor expand businesses currently doing business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment.

**NO SIGNIFICANT EFFECT ON
HOUSING COSTS**

Adoption of the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 will not have a significant effect on housing costs.

**DETERMINATION
REGARDING ALTERNATIVES**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments and new rule should be directed to Henry Nanjo, Chief Counsel, by telephone at (916) 323-1094, by e-mail at Henry.nanjo@boe.ca.gov, or by mail at State Board of Equalization, Attn: Henry Nanjo, MIC:121, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0073.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Rose Smith, Regulations Coordinator, by telephone at (916) 323-9656, by fax at (916) 324-3984, by e-mail at rose.smith@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rose Smith, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080. Ms. Smith is the designated backup contact person to Mr. Nanjo.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on July 30, 2019, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 during the July 30, 2019, Board meeting. Written comments received by Ms. Rose Smith at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5. The Board will only consider written comments received by that time.

**AVAILABILITY OF INITIAL
STATEMENT OF REASONS AND
TEXT OF PROPOSED REGULATION**

The Board has prepared an underline and strikethrough version of the text of Property Tax Rule 370 and new Property Tax Rule 370.5 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed

amendments and the initial statement of reasons are also available on the Board's website at www.boe.ca.gov.

**SUBSTANTIALLY RELATED
CHANGES PURSUANT TO
GOVERNMENT CODE SECTION 11346.8**

The Board may adopt the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to adoption.

The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Ms. Smith. The Board will consider written comments on the resulting regulation that are received prior to adoption.

**AVAILABILITY OF
FINAL STATEMENT OF REASONS**

If the Board adopts the proposed amendments to Property Tax Rule 370 and the language for new Property Tax Rule 370.5, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

FISH AND GAME CODE
SECTION 1653 CONSISTENCY
DETERMINATION REQUEST FOR
Lower Bear Creek Instream
Habitat Enhancement Project
(Tracking Number: 1653-2019-038-001-R1)
Humboldt County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on June 3, 2019, that the Yurok Tribe and Western Rivers Forestry propose to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the installation of around 20 constructed wood jams and bioengineering structures (i.e. willow baffles, planting islands) along the lower 1.0 mile of the Bear Creek in order to increase habitat complexity, watershed resiliency, and salmonid productivity. The proposed project will be carried out on Bear Creek, between the lower Bear Creek Bridge and the confluence of Bear Creek with the Klamath River, Humboldt County, California.

On May 8, 2019, the North Coast 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 Lower Bear Creek Instream Habitat Enhancement 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 (WDID No. 18190052WNHU; ECM PIN No. CW-858291) for coverage under the General 401 Order on May 28, 2019.

The Yurok Tribe and Western Rivers Forestry are requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW deter-

mines 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 Yurok Tribe and Western Rivers Forestry will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF
FISH AND WILDLIFE**

**HABITAT RESTORATION AND
ENHANCEMENT ACT
CONSISTENCY DETERMINATION
NO. 1653-2019-033-001-R1**

Project: Parks Creek Fish Passage and Cardoza Ranch Efficiency Project

Location: Montague, Siskiyou County

Applicant: California Trout

Background

Project Location: The Parks Creek Fish Passage and Cardoza Ranch Efficiency Project (Project) is located along Parks Creek and Shasta River near 3710 East Louie Road, in the town of Montague, in the County of Siskiyou. The Parks Creek property is owned by Cardoza Ranch Partnership, and the Shasta River Property is owned by The Nature Conservancy. The Project area will include Assessor Parcel Numbers (APNs) 020-020-130, 020-020-120, 020-030-020, 020-030-070, 020-030-100, 020-030-030, and 020-020-090. The Project will affect Parks Creek, a tributary to Shasta River, and Shasta River proper. Both waterways are tributaries to the Klamath River and support populations of Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), and steelhead (*O. mykiss*).

Project Description: California Trout (Applicant) proposes to restore habitat within Parks Creek to provide a net conservation benefit for Chinook salmon, coho salmon, and steelhead. The Project includes: (1) relocating the current point of diversion from Parks Creek to the Shasta River, (2) re-plumbing ranch irrigation infrastructure to the new point of diversion, (3) constructing an on-channel fish screen, and (4) replacing the existing crossing on Parks Creek with a partially buried box culvert.

Project Size: The total area of ground disturbance associated with the Project is approximately 4.223 acres and 300 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 615 cubic yards of native soil, (2) 70 cubic yards of rip-rap, (3) 10 cubic yards of concrete, (4) 80 native riparian tree plantings, (5) 8 pieces of large woody debris, and (6) a single 20-foot aluminum box culvert.

Project Timeframes: Start date: May 2020

Completion date:

December 2022

Work window:

May 15–October 15

Water Quality Certification Background: Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to spawning and rearing habitat along 12.5 miles of Parks Creek and 1.5 miles of Kettle Springs Creek, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1A190018WNSI, Electronic Content Management Identification (ECM PIN) No. CW-856912) for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to fish (Chinook salmon, coho salmon, and steelhead) and birds (tricolored blackbird, willow flycatcher, golden eagle¹, prairie falcon, Swainson’s hawk, and greater sandhill crane¹).

Receiving Waters: Parks Creek,
a tributary of Shasta River
Shasta River,
a tributary of Klamath River

Impacted Area: Total Project Area: 4.223 acres
Total Linear Feet of Stream: 300

¹ Pursuant to Fish and Game Code section 3511, no provision of the code (including sections 1652–1653) shall be construed to authorize the issuance of a permit or license to take fully protected birds.

Dredge Volume: None.

Discharge Volume: Approximately 615 cubic yards of native soil, 70 cubic yards of rip-rap, 10 cubic yards of concrete, 80 native riparian tree plantings, 8 pieces of large woody debris and one 20-foot aluminum box culvert will be discharged to waters of the State.

Project Location: The project is located within the Shasta Valley Hydrological Unit 105.50 at Latitude 41.5632°N, Longitude -122.4444°W, along the Shasta River and Parks Creek. APNs include: 020-020-130, 020-020-120, 020-030-020, 020-030-070, 020-030-100, 020-030-030, and 020-020-090.

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

On May 3, 2019, the Director of CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on May 7, 2019, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2019-0507-02) on May 17, 2019. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) General Protection Measures, (2) Protective

Measures Related to Equipment Use, (3) General Erosion Control During Construction, (4) Guidelines for Temporary Stockpiling, (5) Pre Rainstorm and Post Construction Erosion Control, (6) Minimizing Impacts to Migratory Birds, (7) Protective Measures for Terrestrial Wildlife Species During Construction, and (8) Protective Measures for Coho Salmon Relocation and Dewatering Activities. The specific avoidance and minimization requirements are found in attachments to the NOI: Appendix B, Dewatering Plan; Appendix C, Protective Measures; and Appendix D, General Protective Measures.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in the NOA and NOI. Below is a summary.

A report will be submitted following the completion of each seasonal work period and upon completion. The report will include pre- and post-project monitoring findings and indicate whether performance standards have been achieved. Each report will contain: Summary of findings; Identification and discussion of problems with achieving performance standards; Proposed corrective measures as needed (and with approval by Regional Water Board); and Monitoring data.

Notice of Completion

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

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

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: Janae R. Scruggs, janae.scruggs@wildlife.ca.gov.

Project Authorization

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

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

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653–2019–034–001–R1

Project: South Fork Elk River Debris Jam Barrier Modification
Location: Humboldt County
Applicant: Molly Brown, Bureau of Land Management — Arcata Field Office

Background

The purpose of the South Fork Elk River Debris Jam Barrier Modification (Project) is to modify an instream log jam to allow salmonid fish passage and access to approximately three miles of upstream habitat on the South Fork Elk River. The barrier is identified in the California Fish Passage Database as ID# 736920. Coho salmon have not been observed upstream of the barrier, in Corrigan Creek and Upper South Fork Elk River since 2005, according to juvenile and adult survey results (California Department of Fish and Game 2005, Humboldt Redwood Company 2012, California Department of Fish and Wildlife 2015). According to the National Marine Fisheries Service (NMFS), approximately 3 miles of potential coho spawning and rearing habitat exist upstream of this barrier. Elk River provides a substantial portion of the Humboldt Bay core coho salmon population’s spawning and juvenile rearing habitat (NMFS 2014). The National Marine Fisheries Service decided to list the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of co-

ho salmon as a threatened species under the Endangered Species Act in 1997. The decision included the evaluation of declining coho salmon abundance, productivity, range reductions and diminished life–history diversity. Coho salmon were listed as a California State Threatened species in 2005.

Project Location: The Project is located at Headwaters Preserve at a property owned by the people of the United States and managed by the Bureau of Land Management, Assessor Parcel Number (APN) 314–046–012–000, and affects the South Fork Elk River. The South Fork Elk River supports populations of Coho and Chinook Salmon and steelhead trout together with a community of native non–anadromous fishes.

Project Description: The Bureau of Land Management (Applicant) proposes to restore and enhance access to over 4 kilometers of high quality habitat within South Fork Elk River to provide a net conservation benefit for coastal cutthroat trout (*Oncorhynchus clarkii clarkii*), coho salmon (*O. kisutch*), and steelhead trout (*O. mykiss*). The Project proposes to modify a log debris jam in the South Fork Elk River to provide upstream passage for adult coho salmon and steelhead. Modifications would include shifting and removing select logs and small woody debris with hand tools such as winches, grip hoists, and chainsaws. Logs removed from the jam would be placed in the channel or riparian areas immediately downstream.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.03 acres and 50 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: N/A.

Project Timeframes: Start date: June 2019
 Completion date: October 2023
 Work window:
 June 15–October 31

Water Quality Certification Background: Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 3 miles of spawning and rearing habitat, the Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B190014WNHU, Electronic Content Management Identification (ECM PIN) No. CW–856878) for the Project. The NOA describes the Project and requires the Applicant to comply with terms

of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to Coho salmon and steel-head trout.

Receiving Water: South Fork Elk River

Filled or

Excavated Area Permanent area impacted: none
 Temporary area impacted:
 0.03 acres maximum
 Length temporarily impacted:
 None
 Length permanently impacted:
 50 linear feet

Dredge Volume: None.

Project Location: 40.66970°N / 124.07047° W

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

On May 5, 2019, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on May 7, 2019, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2019-0507-01) on May 17, 2019. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in the NOI, which contains the following categories: (1) Construction-period; (2) Sediment Control and Water Quality Protection Requirements; and (3) General Measures to Avoid Impacts on Biological Resources.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in the NOI.

Notice of Completion

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

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- Juvenile and adult distribution data.

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

Project Authorization

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

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

References:

California Department of Fish and Game. (2005). Stream Inventory Report for Line Creek (Corrigan Creek)

California Department of Fish and Wildlife. (2015) South Fork Elk River spawning data.

Humboldt Redwood Company. (2012). Fisheries Report.

National Marine Fisheries Service. (2014). Final Recovery Plan for the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon (*Oncorhynchus kisutch*). National Marine Fisheries Service. Arcata, CA.

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2019-035-01-R3

Project: San Geronimo Creek Restoration Project
Location: Marin County
Applicant: Sarah Phillips, Marin Resource and Conservation District

Background

Project Location: The San Geronimo Creek Restoration Project (Project) is located at 6355 Sir Francis Drake Boulevard and 6315-6335 Sir Francis Drake Blvd., Marin County (38.016214 Latitude, -122.674947 Longitude), at a property owned by Donna McGuinn and Allison Greene, Assessor Parcel Number (APN) APN 169-071-2 and APN 169-071-32, and affects San Geronimo Creek, immediately upstream and downstream of its confluence with Larsen Creek. San Geronimo Creek supports populations of coho salmon (*Oncorhynchus kisutch*) and steelhead trout (*O. mykiss*).

Project Description: Marin Resource Conservation District (Applicant) proposes to enhance or restore habitat within San Geronimo Creek to provide a net conservation benefit for coho salmon and steelhead trout. The Project will create winter and summer rearing habitat throughout a 370 linear foot (LF) reach by installing a total of 18 pieces of large wood. The large woody structures will be anchored with boulders and

minimal rebar to create a total of 8 structures for added habitat complexity and high flow refugia for salmonids, such as coho salmon and steelhead.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.53 acres and 370 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) Rock Rip-Rap (boulders as ballast), (2) Native Vegetation (native vegetation and biodegradable coir rolls), (3) Large Woody Material, (4) Rootwads, and (5) Anchoring (threaded rebar).

Project Timeframes: Start date: June 2019
 Completion date: October 2019
 Work window:
 June 15 to October 2019

Water Quality Certification Background: Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 0.53 acres of spawning and rearing habitat, the San Francisco Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order), CIWQS Reg. Meas. 429688, CIWQS Place ID 857344 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to coho salmon and steelhead trout, and erosion control.

Receiving Water: San Geronimo, a tributary to Lagunitas Creek

Filled or Excavated Area: Permanent area impacted: none
 Temporary area impacted: 0.53 acres maximum
 Length temporarily impacted: 340 linear feet
 Length permanently impacted: 0 linear feet

Dredge Volume: None.

Discharge Volume 18 pieces of large wood, 37 tons of boulders, rebar, and associated

riparian vegetation, including native seed and plants.

Project Location: 38.016214 Latitude,
-122.674947 Longitude

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

On May 10, 2019, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on May 14, 2018 for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2019-0514-04) on May 24, 2019. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Administrative Measure; (2) Work Period and Design; (3) Weather Restrictions; (4) Dewatering; (5) Rock Armoring; (6) Wildlife Protection and Prevention; (7) Nesting Bird Survey, Prohibitions and Buffers; (8) Special Status Plant Species; (9) Vegetation Protection, Prevention and Restoration; (10) Erosion Control and Sediment; (11) Material Handling, Debris and Waste; (12) Toxic and Handling Material; (13) Spills

and Materials; and (14) Reporting Measures. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Avoidance and Minimization Measures McGuinn–Newman San Geronimo Creek Habitat Enhancement Project*.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan, San Geronimo Creek: Restoring Coho Habitat Project; Restoration and Enhancement Plan and Revegetation Monitoring Plan; and the Avoidance and Minimization Measures McGuinn–Newman San Geronimo Creek Habitat Enhancement Project*, all prepared by Marin Resource Conservation District; and *Riparian Zone Monitoring Plan*, prepared by University Cooperative Extension, dated August 2010.

Notice of Completion

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

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- CIWQS Reg. Meas. 429688, CIWQS Place ID 857344;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant’s NOI. Applicant shall include the project name, CIWQS Reg. Meas. 429688, CIWQS Place ID 857344 with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: deborah.waller@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW’s approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commenc-

ing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA, and comply with other conditions described in the NOI.

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

**DEPARTMENT OF
FISH AND WILDLIFE**

**HABITAT RESTORATION AND
ENHANCEMENT ACT CONSISTENCY
DETERMINATION NO. 1653-2019-036-001-R1.**

Project: Janes Creek at Alliance Road Fish Passage Improvement Project

Location: Humboldt County

Applicant: Mark Andre, City of Arcata

Background

The purpose of the project is to remove a barrier to fish passage, and restore 50 linear feet of stream bank, in Janes Creek, Arcata, California. The existing concrete box culvert at the Alliance Road crossing has been identified as a high priority for improving fish passage in an inventory and assessment conducted for the City of Arcata by Ross Taylor and Associates (RTA). The existing culvert partially blocks fish access to approximately 13,900 feet of potential habitat upstream of the crossing. This project will retrofit the existing concrete box culvert utilizing engineered designs developed by Mike Love & Associates. This culvert retrofit is designed to produce a self-sustaining project that improves fish passage at the Janes Creek crossing at Alliance Road for all life stages of salmonids and lamprey while maintaining the flood conveyance capacity of the channel and crossing.

Project Location: The Janes Creek at Alliance Road Fish Passage Improvement Project (Project) is located at is located at 40.881999° N, 124.091755° W where Janes Creek passes under Alliance Road in Arcata, California, 95521, at a property owned by the City of Arcata. Janes Creek supports populations of coastal cutthroat trout (*Oncorhynchus clarkii clarkii*) and steelhead trout (*O. mykiss*), and has potential habitat to support Pacific lamprey (*Entosphenus tridentatus*), western brook lamprey (*Lampetra richardsoni*), and Coho salmon (*O. kisutch*).

Project Description: Mark Andre and the City of Arcata (Applicant) propose to reconnect upstream habitat within Janes Creek to the lower stream system, Humboldt Bay and Pacific Ocean to provide a net conservation benefit for Pacific lamprey, western brook lamprey, coastal cutthroat trout, coho salmon, and steelhead trout. The Project will retrofit the existing concrete box culvert to improve fish passage while maintaining the flood conveyance capacity of the channel and crossing. Specific project objectives are to increase water depths and decrease water velocities at fish passage flows within the crossing, and to reduce the water surface drop at the crossing outlet while not increasing base flood elevations. A series of three in-stream boulder weirs will be installed downstream of the box culvert outlet to raise the water surface profile to maintain water surface drops not exceeding 0.5 feet and to create a backwater extending through the culvert at low fish passage flows.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.1 acres and 50 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: Approximately 90 tons of rock rip-rap, 10 tons of river-run gravels, 20-40 willow stakes and up to five red alder trees.

Project Timeframes: Start date: June 2019¹

Completion date: October 2020

Work window:

June 1–October 15

Water Quality Certification Background: Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 2.6 miles of spawning and rearing habitat, the Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No 1B180077WNHU, Electronic Content Management Identification (ECM PIN) No CW-848343) for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to species.

¹ Project may commence as of the date of approval of this document.

Receiving Water: Janes Creek, Tributary to Humboldt Bay, Eureka Plain Hydrologic Unit 110.00

Project Location: 40.881999° N, 124.091755° W

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

On May 15, 2019, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on May 21, 2019, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2019-0521-08) on May 31, 2019. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction-period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post-construction and Sediment Control and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources.

The specific avoidance and minimization requirements are found in the NOI.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in the NOI.

Notice of Completion

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

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

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

Project Authorization

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

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

DECISION NOT TO PROCEED

**CALIFORNIA PRISON
INDUSTRY AUTHORITY**

NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code section 11347

Re: Incentive Compensation Authority

Pursuant to Government Code Section 11347, the California Prison Industry Authority (CALPIA) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on January 4, 2019, Register 2019 Number 1-Z, Notice File Number Z2018-1217-02. The proposed rulemaking concerned incentive compensation authority.

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action to:

M. Doherty, Regulatory Analyst
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

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

C. Pesce, Administrative Assistant
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

CALPIA will also post this Notice of Decision Not to Proceed on its website at www.calpia.ca.gov.

**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# 2019-0423-02
BOARD OF BARBERING AND COSMETOLOGY
Definition of Access

This action interprets and makes specific the extent of inspection "access" authorized by section 7313 of the Business and Professions Code.

Title 16
AMEND: 904
Filed 06/05/2019
Effective 10/01/2019
Agency Contact: Kevin Flanagan (916) 575-7104

File# 2019-0423-01
BUREAU OF AUTOMOTIVE REPAIR
Cross References, Punctuation, Redundancy Edits and Statute Conformity

This action without regulatory effect by the Bureau of Automotive Repair revises cross-references and punctuation.

Title 16
AMEND: 3303, 3352, 3353, 3356
Filed 06/04/2019
Agency Contact: Holly O'Connor (916) 403-8627

File# 2019-0524-01
DELTA STEWARDSHIP COUNCIL
Required Findings to Establish Consistency with the Delta Plan

This action by the Delta Stewardship Council amends the requirements for certifications of consistency to incorporate by reference the mitigation measures adopted into the Delta Plan as amended April 26, 2018.

Title 23
AMEND: 5002(b)(2)
Filed 05/30/2019
Effective 07/01/2019
Agency Contact:
Anthony Navasero (916) 445-5471

File# 2019-0419-02
DEPARTMENT OF INSURANCE
Investigation and Prosecution of Workers' Compensation Fraud

This change without regulatory effect filing by the Department of Insurance amends two sections to update internal cross references.

Title 10
AMEND: 2698.52, 2698.57
Filed 05/29/2019
Agency Contact: George Teekell (415) 538-4390

File# 2019-0419-03
 DEPARTMENT OF INSURANCE
 Removal of Duplicative Title 26 Toxics Regulations

This action by the Department of Insurance removes regulations contained in title 26 of the California Code of Regulations that are duplicative or outdated versions of regulations contained in title 10.

Title 26
 REPEAL: 10-2321
 Filed 06/03/2019
 Agency Contact: Bryant Henley (415) 538-4390

File# 2019-0416-01
 DEPARTMENT OF JUSTICE
 Dealer Record of Sale (DRoS) Entry System (DES)

This action updates the instructions for using the Dealer Record of Sale Entry System (DES) for firearm dealers and ammunition vendors.

Title 11
 ADOPT: 4220
 AMEND: 4200, 4210, 4230, 4240
 REPEAL: 4220
 Filed 05/29/2019
 Effective 07/01/2019
 Agency Contact: Kamran Ali (916) 227-5419

File# 2019-0417-04
 DEPARTMENT OF MOTOR VEHICLES
 Interstate Carrier Program

Vehicle Code section 1685.1 authorizes the Department of Motor Vehicles (“DMV”) to enter into an interstate carrier partnership with an interstate carrier partner in order to provide electronic vehicle registration services (the “Interstate Carrier Program” or “ICP”). In this resubmittal of OAL Matter No. 2018-0718-03S, DMV makes specific the form an ICP applicant must submit to DMV to apply to be approved as a partner. Additionally, these regulations specify the ICP administration structure, fees, financial responsibility, compliance requirements, oversight and monitoring requirements, safeguards for protecting information, and transaction-processing requirements.

Title 13
 ADOPT: 226.00, 226.02, 226.04, 226.06, 226.08, 226.10, 226.16, 226.18, 226.20, 226.22, 226.24, 226.26, 226.30, 226.32, 226.38, 226.40, 226.42, 226.44, 226.46, 226.48, 226.50, 226.52, 226.54
 Filed 05/30/2019
 Effective 07/01/2019
 Agency Contact: Tracy Brazil (916) 657-8919

File# 2019-0515-01
 DEPARTMENT OF REHABILITATION
 Conflict of Interest

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

Title 9
 AMEND: 7400
 Filed 05/29/2019
 Effective 06/28/2019
 Agency Contact: Michele M. Welz (916) 558-5833

File# 2019-0521-01
 DEPARTMENT OF TRANSPORTATION
 Affordable Sales Program — Minimum Sales Price

This emergency action by the Department of Transportation adopts a formula for establishing the minimum sales prices of the remaining Phase 1 surplus properties offered for sale under the Roberti Act (Gov. Code, sec. 54235 et seq.).

Title 21
 AMEND: 1476
 Filed 05/31/2019
 Effective 05/31/2019
 Agency Contact: Carolyn Dabney (916) 654-5863

File# 2019-0423-03
 OFFICE OF ENVIRONMENTAL HEALTH
 HAZARD ASSESSMENT
 Proposition 65, Listed Chemicals in Coffee

This action adopts a regulation which provides that exposures to chemicals in coffee which are listed on or before March 15, 2019 as known to the state to cause cancer, that are created by and inherent in the processes of roasting coffee beans or brewing coffee, do not pose a significant risk of cancer.

Title 27
 ADOPT: 25704
 Filed 06/03/2019
 Effective 10/01/2019
 Agency Contact: Carl DeNigris (916) 322-5624

File# 2019-0417-01
 OFFICE OF THE STATE FIRE MARSHAL
 Firefighter Training and Certification Revisions

The Office of the State Fire Marshal (OSFM) is making changes designed to better define the regulatory requirements of the SFM Fire Service Training and Education Program and the enforcement and maintenance of those requirements for students, instructors and academies. The OSFM is also amending and adopting multiple incorporated by reference documents.

Title 19
AMEND: 1990.00, 1990.01, 1990.02, 1990.03,
1990.04, 1990.07, 1990.08, 1990.12
Filed 05/30/2019
Effective 07/01/2019
Agency Contact: Diane Arend (916) 568-2917

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit www.oal.ca.gov.