



# California Regulatory Notice Register

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JUNE 28, 2019

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM**

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

**PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to amend section 599.518, “Coverage: Member Health Appeals Process” under Article 1 of subchapter 3, Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). By proposing this amended regulation in this Article, CalPERS seeks to remove ambiguity from the current 30-day timeframe for a member to request an Administrative Review (AR), allow an additional 30 days to request an AR upon showing of good cause, make similar subdivisions more consistent and complementary and improve member service.

**WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on **June 28, 2019** and closing on **August 12, 2019**. The Regulation 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](mailto: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, CA 94229-2702  
 Phone: (916) 795-9347

**PUBLIC HEARING**

A public hearing will not be scheduled unless an interested person, or his or her duly authorized representative, submits a written request for a public hearing to CalPERS no later than 15 days prior to the close of the written comment period. 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.

**ACCESS TO HEARING ROOM**

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

**AUTHORITY AND REFERENCE**

The Board has the authority to take regulatory action under Government Code (G.C.) sections 22794 and 22796.

Reference citation: G.C. sections 22796 and 22848.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The California Public Employees’ Medical and Hospital Care Act (PEMHCA), Government Code (GC) § 599.518, states a request for AR must be filed with the unit charged with the processing and oversight of health appeals within thirty (30) days of the date the member receives a decision from an appeals process. Members requesting an administrative hearing (AH) must submit the request within 30 days of the date of the CalPERS AR. Upon satisfactory showing of good cause, CalPERS may grant additional time to file a request for an AH, not to exceed 30 days.

Currently, the regulation for an AR does not provide a clear definitive point in time to begin the 30-day timeframe. The AH regulation’s process and the health plans’ Evidence of Coverages state the 30-day timeframe starts from the date of the determination letters. The current process is challenging for the unit charged with processing and oversight of health appeals. CalPERS must contact the member to determine when they received the health plan’s denial. This is not efficient for CalPERS nor the member. The current AR regulation does not permit CalPERS to grant additional time to request an AR if the member could not submit a timely request due to an extenuating circumstance. The processes within the CalPERS Board (e.g. ARs and AHs) are not consistent. There are circumstances outside the members’ control that prevent the request to

CalPERS within the timeframe. In those cases, CalPERS cannot accept the request for an AR due to the strict 30-day filing requirement under the current regulation.

This amendment would remove ambiguity from the current 30-day timeframe for a member to request an AR, allow an additional 30 days to request an AR upon showing of good cause, and make similar subdivisions more consistent and complementary and improve member service. This improves CalPERS' processes by creating flexibility and enhances service to members.

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 § 11346.5, subdivision (a), paragraph (3)(D).

There is no existing, comparable federal regulation or statute.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposed regulatory action will remove ambiguity from the current 30-day timeframe for a member to request an AR and allow an additional 30 days to request an AR upon showing of good cause. This will also make similar subdivisions more consistent and complementary and improve member service when accepting members' AR requests.

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

CalPERS has evaluated and determined that the proposed regulation is 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).

#### PRE-NOTICE CONSULTATION WITH THE PUBLIC

The proposed amendment contains technical changes needed to clarify the language in the Public Employees' Medical and Hospital Care Act (PEMHCA) regarding the Member Health Appeals Process. Therefore, no pre-notice consultation was done with the public.

#### EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to CalPERS members.

#### DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Board has made the following initial determinations:

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose any mandates on local agencies and school districts.
- B. **COSTS OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action will not result in any additional costs or savings to any State agency.
- C. **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action will not result in any costs on any local agency or school district.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose any nondiscretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action will not result in additional costs or savings in federal funding to the State.
- F. **SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT:** The proposed regulatory 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.
- 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 THE ECONOMIC IMPACT ANALYSIS:** The proposed regulatory action: (1) will not create or eliminate jobs within California; (2) will not create new businesses or eliminate existing businesses within California; (3) will not affect the expansion of businesses currently doing business within California; and (4) will not benefit the health and welfare of California residents (except to the extent that they are CalPERS members), worker safety, or the State's environment.

The proposed amended regulation will provide an opportunity for CalPERS to accept AR requests upon showing of good cause and, the AR and AH processes will be clearer and more consistent for the more than 1.4 million active and retired state,

local government, and school employees, and their family members.

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

**CONSIDERATION OF ALTERNATIVES**

In accordance with G.C. section 11346.5(a)(13), 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 of the proposed action,
- as effective as, and less burdensome to affected private persons than the proposed action, or
- 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 above-mentioned public hearing or during the written comment period.

**CONTACT PERSON**

Please direct inquiries concerning the proposed regulatory action to:

Anthony Martin, Regulation Coordinator  
 California Public Employees' Retirement System  
 P.O. Box 942702  
 Sacramento, CA 94229-2702  
 Phone: (916) 795-9347

The backup contact for these inquiries is:

Hoang Tran, Regulation Coordinator  
 California Public Employees' Retirement System  
 P.O. Box 942702  
 Sacramento, CA 94229-2702  
 Phone: (916) 795-2595

Please direct requests for copies of the proposed text 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 Anthony

Martin, Regulation Coordinator, at the address provided.

**AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The entire rulemaking file is available for public inspection by contacting the Regulation Coordinator at the address shown above. To date, the file consists of this notice, the Initial Statement of Reasons (ISOR) and the proposed text of the regulations. A copy of the proposed text and the ISOR is available at no charge by written request to the CalPERS Regulation Coordinator, at the address and phone number listed above. The Final Statement of Reasons can be obtained once it has been prepared.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at [www.calpers.ca.gov](http://www.calpers.ca.gov).

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The Board may, on its own motion or at the recommendation of any interested person, amend the proposed text of the regulation after the public comment period ends.

If the Board amends its regulatory action, a comparison of the original proposed text and the amendments will be prepared 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 regulations. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed of the results of this regulatory action.

**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 above.

**TITLE 2. OFFICE OF THE STATE PUBLIC DEFENDER**

NOTICE IS HEREBY GIVEN that the Office of the State Public Defender, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on June 14, 2019 and closing on July 29, 2019. All inquiries should be directed to the contact listed below.

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

Changes to the conflict-of-interest code include: (1) Updating the designated positions to include new positions and/or those that have changed since the last conflict-of-interest code, (2) Updating designated positions to include classification title changes. Each of the following positions is involved as a State employee, at other than a clerical level, in the function of negotiating or signing contracts awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiations, signing or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

#### LEGAL OFFICES

1. Attorney is assigned to the disclosure Category 1. The Attorney reports to the State Public Defender.

#### INFORMATION TECHNOLOGY

1. The Information Technology Supervisor II is assigned to Category 3. The Information Technology Supervisor II reports to the State Public Defender and is responsible for advising the staff about policy and standards, setting policy standards for contracting, and overseeing regulatory compliance. The Information Technology Supervisor II classification was formerly titled Chief Information Officer.
2. The Information Technology Specialist I is assigned to Category 3. This position reports to the Information Technology Supervisor II. The Information Technology Specialist I classification was formerly titled Senior Information Systems Analyst.
3. The Information Technology Associate is assigned to Category 3. This position reports to the Information Technology Supervisor II. The Information Technology Associate classification was formerly titled Associate Information Systems Analyst.

Our list of designated filers has been updated to represent changes to the staff approving purchases and contracts. All of these staff solicit bids and have a role in the

final decisions of which vendors to use for purchases and/or contracts.

- Legal Offices
  - Attorney I
- Information Technology
  - Information Technology Supervisor II
  - Information Technology Specialist I
  - Information Technology Associate

Information on the code amendment is available on the agency's intranet site under Administration Memo 19-004.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than August 12, 2019, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than July 22, 2019.

The Office of the State Public Defender has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Twanna Moore, Human Resources Analyst by telephone at (916) 322-7043, or by e-mail at [Twanna.Moore@ospd.ca.gov](mailto:Twanna.Moore@ospd.ca.gov).

## TITLE 2. SECRETARY OF STATE

### California Secretary of State Safe at Home Program

The Secretary of State, Safe at Home Program (hereafter referred to as Safe at Home) proposes to amend and adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed actions: The Secretary of State intends to amend sections 22100, 22100.1, 22100.2, 22100.3 and 22100.4, and to add new regulation sections 22100.5, 22100.6, 22100.7, 22100.8, 22100.9, 22101, 22101.1, 22101.2, 22101.3, 22101.4 and 22101.5 of the California Code of Regulations.

PUBLIC HEARING

Safe at Home will hold a public hearing starting at 9:30 a.m., Tuesday, August 20, 2019 in the multipurpose room at the Secretary of State’s Office located at 1500 11th Street, Sacramento, California, 95814. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing also submit a written copy of their testimony for the record.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Safe at Home administration. The written comment period closes at 5:00 p.m., on August 20, 2019. The administration must receive all comments by that time. Submit comments to:

Alicia Wilkerson, AGPA  
 Safe at Home  
 P.O. Box 846  
 Sacramento, CA 95812  
 Telephone (916) 695-1404  
 Email: awilkerson@sos.ca.gov

AUTHORITY AND REFERENCE

Government Code sections 6209 and 6215.9 authorize the Secretary of State to amend and/or adopt these proposed regulations. The regulations implement, interpret and make specific Government Code sections 6205 through 6211, and sections 6215 through 6216.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the administrative requirements and activities of the Safe at Home Program. The purpose is to provide more guidance and certainty to Program Participants, Enrolling Agencies, and local and state governmental entities for how Safe at Home shall interpret and enforce its statutory authority.

Government Code section 6205 et seq. enables state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence, stalking, sexual assault, human trafficking, and elder/dependent adult abuse, to enable interagency cooperation with the Secretary of State in providing name and address confiden-

tiality for victims and their household members, and to enable state and local agencies to accept a program participant’s use of an address designated by the Secretary of State as a substitute mailing address. Section 6215 et seq. enables a very similar program for reproductive healthcare service providers, employees, volunteers and patients.

The proposed rulemaking actions would clarify how basic services will be provided for both programs and help specify how the services may differ between the two programs.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The broad objective of the regulations is to ensure that the purpose of the program (to aid victims of certain crimes or threats in creating a safety plan by providing a mail forwarding service and other ancillary services) is administered in the best interest of the participants. The specific benefits anticipated from the regulations are increased efficiency in enrollment processing, standardized record retention rules, standard notice periods for different types of communication, standardized mail forwarding processes, and improved interagency relations.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Safe at Home has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. California Code of Regulation sections 22100 to 22100.4 currently govern the Safe at Home Program for reproductive health care workers established by Chapter 3.2 (commencing with section 6215) Division 7, Title 1 of the Government Code. This program is administered by the same office and is substantially similar to the confidential mail program established by Government Code section 6205 et seq. The proposed actions will clarify which program (one or both) the regulation applies to so that there is no conflict.

The following documents are incorporated by reference into the proposed new regulations:

1. *Safe at Home Enrolling Agency Agreement*, Form SAH-1A, revised 6/2019
2. *Safe at Home Enrollment Application*, Form SAH-2, revised 6/2019
3. *Safe at Home Declaration Confirming Court Orders*, Form SAH-2A, revised 6/2019
4. *Safe at Home Supplemental Guardianship/Conservatorship*, Form SAH-2B, revised 6/2019

5. *Safe at Home Notice of Renewal*, Form SAH-5, revised 6/2019
6. *Safe at Home Confidential Notice of Intent of Name Change Form*, Form SAH-6, revised 6/2019

DISCLOSURES REGARDING THE  
PROPOSED ACTION

*Safe at Home has made the following initial determinations:*

**Cost or savings to any state agency:** Safe at Home anticipates negligible, if any, cost or savings to any state agency will result from these new or amended regulations. If a state agency wishes to become an Enrolling Agency pursuant to statute and/or regulation, there may be a cost in time associated with the training that is required by Safe at Home. Additionally, some state agencies who have a bona fide need to know the residential address of a participant in order to provide services may incur costs associated with the process Safe at Home has created for determining whether or not that agency receives an exemption pursuant to Government Code section 6207(b).

**Mandate on local agencies and school districts:** Safe at Home understands that school districts often have a bona fide need to know the residential address of a participant in order to place children into proper public schools. Schools who have not done so already pursuant to statutory authority will have to follow the procedures created by Safe at Home for obtaining that exemption. Additionally, Safe at Home has created a process that local law enforcement will have to follow in order to obtain the residential address or name change history of a participant if they need this information for legitimate investigatory purposes pursuant to Government Code section 6208.

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

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

**Costs or savings in federal funding to the state:** None.

**Cost impacts on a representative private person or business:** SAH anticipates some cost associated with the inconvenience to private persons or businesses who want to mail items that to Safe at Home participants using the Safe at Home Designated Address. Some items that are oversized or that indicate contents like liquids or medicines will not be forwarded by Safe at Home pursuant to these regulations. Additionally, these regulations impact process servers who need to serve legal documents on Safe at Home participants.

Process servers must complete this service in person at the Secretary of State office during business hours in Sacramento.

The Board anticipates the fees for returned packages or mail items may range from \$1.25 to \$20.00 per year depending on the cost of postage for a particular item. Legal businesses may incur a cost for hiring a process server to personally serve a participant that can be upwards of \$250.00 per service.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: Although the proposed action *will* directly affect businesses statewide, including small businesses, 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.

**Significant effect on housing costs:** None.

RESULTS OF THE ECONOMIC  
IMPACT ANALYSIS/ASSESSMENT

Safe at Home has concluded that it is (1) unlikely that the proposal will eliminate any jobs, (2) unlikely that the proposal will create any jobs, (3) unlikely that the proposal will create new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Safe at Home has determined the proposed regulation does not affect small businesses because the program does not require anything from private entities generally.

**Benefits of the Proposed Action:** The regulations may benefit the public of California by giving people more explanation about the services provided by Safe at Home and how, specifically, to obtain those services as a participant. There will be a benefit to agencies and organizations that want to become designated Safe at Home Enrolling Agencies because it will be clear how to become an Enrolling Agency. More Enrolling Agencies will benefit prospective applicants who currently do not live within proximity to an existing Enrolling Agency.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), Safe at Home must determine that no reasonable alternative it considered to the regulations 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 or would be as effective and less burden-

some 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.

Any interested person may present statements or arguments relevant to the above determinations at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Alicia Wilkerson, Analyst  
Safe at Home Administration  
P.O. Box 846  
Sacramento, CA 95812  
(916) 695-1404

Or to: [awilkerson@sos.ca.gov](mailto:awilkerson@sos.ca.gov)

The backup contact person for these inquiries is:

Margie Hieter, Program Director  
Safe at Home Administration  
P.O. Box 846  
Sacramento, CA 95812  
(916) 695-1179

Or to: [mhieter@sos.ca.gov](mailto:mhieter@sos.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 Mrs. Wilkerson at the above address.

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

Safe at Home 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 of Register, the rulemaking file consists of this Notice of Proposed Action, the proposed Express Terms of the new and amended regulations, the Initial Statement of Reasons, Form 399 (Economic Impact Statement) and Form 400 (Notice Publication/Regulation Submission). Copies may be obtained by contacting Mrs. Wilkerson 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, Safe at Home may adopt the proposed regulations substantially as described in this notice. If the administration 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 administration adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Alicia Wilkerson at the address indicated above. The administration 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 Mrs. Wilkerson at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at [www.sos.ca.gov/safeathome](http://www.sos.ca.gov/safeathome).

### TITLE 16. MEDICAL BOARD OF CALIFORNIA

**NOTICE IS HEREBY GIVEN** that the Medical Board of California (Medical Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Medical Board of California, 2005 Evergreen Street, Sacramento, CA 95815, at 9:00 a.m., on August 14, 2019.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Medical Board at the identified addresses no later than August 12, 2019, or must be received at the hearing. The Medical Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified pro-

posal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code sections 2018, 3502, and 3510, the Medical Board is considering amendments to Title 16 of the California Code of Regulations (CCR) section 1399.545 (section 1399.545). The proposed regulation implements, interprets, and makes specific Business and Professions Code sections 3502, 3502.1, and 3516.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 3510 authorizes the Physician Assistant Board (PAB) to adopt, amend, and repeal regulations that may be necessary to enable it to carry out the provisions of its practice act. Section 3510 also authorizes the Medical Board to amend or adopt regulations under its jurisdiction, including regulations regarding the scope of practice for physician assistants (PAs). The PAB, a board within the jurisdiction of the Medical Board, is authorized to make recommendations to the Medical Board concerning the scope of practice for PAs under Business and Professions Code section 3509.

Existing law under Business and Professions Code section 3502 provides for regulation of PAs and authorizes a PA to perform medical services, as set forth by regulations, when those services are rendered under the supervision of a licensed physician and surgeon (physician).

Existing law under section 1399.545 interprets Business and Professions Code section 3502 and sets forth the authorized supervision mechanisms for PAs. Section 1399.545(e) currently requires the supervising physician to review, countersign, and date a sample consisting of, at a minimum, five (5) percent of the medical records of patients treated by the PA functioning under adopted protocols within 30 days of the date of treatment by the PA. The regulation also requires the supervising physician to select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient.

However, effective January 1, 2016, Business and Professions Code sections 3502 and 3502.1 were amended with the enactment of Senate Bill (SB) 337

(Pavley, Chapter 536, Statutes of 2015). This bill revised recordkeeping and supervision requirements for PAs, and provided new supervision mechanism options. Due to the amendments to Business and Professions Code sections 3502 and 3502.1, many of the provisions in subdivision (e) of section 1399.545 have been rendered inconsistent or duplicative, which may create confusion among licensees regarding which supervision mechanisms apply.

Moreover, currently, section 1399.545 does not address the new supervision mechanisms for the supervising physician who has delegated authority to the PA to administer, provide, or issue a drug order to a patient for a Schedule II controlled substance, as set forth in Business and Professions Code section 3502.1(e). This proposal would address these issues and create a comprehensive list of all authorized supervision mechanisms in a single place.

Additionally, section 1399.545(e)(4) currently authorizes other supervision mechanisms approved in advance by the PAB. The proposed amendment will clarify that such approval must be in writing by the PAB.

Finally, the proposed amendments to section 1399.545(e) will make non-substantive changes to the numbering and lettering of that subdivision to improve clarity.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

This regulatory proposal will conform Section 1399.545 to the amended Business and Professions Code section 3502 as established in SB 337. The proposed amendments will remove duplicative language and will reference the other supervision mechanisms that are now available through the implementation of SB 337. In addition, language is being added to describe the mechanism in Business and Professions Code section 3502.1 for the administration of Schedule II controlled substances. The benefit of the proposed changes is to alleviate confusion among licensees and other interested parties about the current supervision requirements and provide reference to the requirements in one convenient location.

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

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

DISCLOSURES REGARDING THE  
PROPOSED ACTION

The Medical Board has made the following initial determinations:

Mandate on local agencies and school districts: None.  
 Cost or savings to any state agency: None.  
 Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.  
 Other nondiscretionary cost or savings imposed on local agencies: None.  
 Cost or savings in federal funding to the state: None.  
 Cost impacts on a representative private person or business: The Medical 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.  
 Statewide adverse economic impact directly affecting businesses and individuals: None.  
 Significant effect on housing costs: None.

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts:

In 2016, statutory amendments enacted by SB 337 became effective, which added more options for complying with supervision requirements. This proposal seeks to provide licensees with one convenient list of all currently existing authority to demonstrate adequate supervision of PAs functioning under written protocols.

Since the proposal would simply update and eliminate duplicative existing standards and not impose any new mechanisms or requirements on supervisors of PAs, the Medical Board has determined that there will be no statewide adverse economic impact on businesses.

Effect on Small Business:

The Medical Board has determined that the proposed regulation would not affect small businesses because the proposal would simply update and eliminate duplicative existing standards and not impose any new mechanisms or requirements on supervisors of PAs.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

This regulatory proposal will not create new businesses or jobs or eliminate existing businesses or jobs and will not affect the expansion of businesses currently doing business within the State of California because the proposal would simply update and eliminate duplicative existing standards and not impose any new mechanisms or requirements on supervisors of PAs.

This regulatory proposal will benefit the health and welfare of California residents because the proposed amendment would help alleviate confusion among licensees regarding the requirements for supervision. Inconsistencies between the recent statutory amendments and the existing regulation have caused confusion about what supervision mechanisms are authorized by the Physician Assistant Practice Act. Revisions that update section 1399.545 and eliminate duplicated language and inconsistencies between the regulation and Business and Professions Code sections 3502 and 3502.1 would help resolve these issues.

This regulatory proposal will not affect worker safety because the proposal does not involve worker safety. The proposal would simply update and eliminate duplicative existing standards and not impose any new mechanisms or requirements on supervising physicians or PAs. Therefore, workplace standards would not be altered by this proposal.

This regulatory proposal will not affect the state's environment because it does not involve environmental issues. The proposal would simply update and eliminate duplicative existing standards and not impose any new mechanisms or requirements. Therefore, the environment would not be affected.

CONSIDERATION OF ALTERNATIVES

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

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

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

The Medical Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address below. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, if any, or other information upon which the rule-

making is based, including the PAB's April 24, 2017 meeting minutes, the PAB's October 30, 2017 meeting minutes, the Medical Board's January 18, 2018 meeting minutes, and SB 337 (Pavley, Chapter 536, Statutes of 2015).

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Medical Board may adopt the proposed regulations substantially as described in this notice. If the Medical Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Medical Board adopts the regulation as revised. Please send requests for copies of any modified regulations to the attention of Anita Winslow at the address indicated below. The Medical Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**AVAILABILITY OF THE  
FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Winslow at the address below.

**AVAILABILITY OF  
DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough can be accessed through the Medical Board's website at: [http://www.mbc.ca.gov/About Us/Laws/Proposed Regulations](http://www.mbc.ca.gov/About%20Us/Laws/Proposed%20Regulations) or through the PAB's website at [www.pac.ca.gov](http://www.pac.ca.gov).

**CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Name:

Anita Winslow

Address:

Physician Assistant Board  
2005 Evergreen Street, Suite 1100  
Sacramento, CA 95815-3893

Telephone No.:

(916) 561-8782

Fax No.:

(916) 263-2671

E-Mail Address:

[anita.winslow@mbc.ca.gov](mailto:anita.winslow@mbc.ca.gov)

The backup contact person is:

Name:

Michael Briscoe

Address:

Medical Board of California  
2005 Evergreen St, Ste. 1200  
Sacramento, CA 95815

Telephone No.:

(916) 274-5797

Fax No.:

(916) 263-2387

E-Mail Address:

[regulations@mbc.ca.gov](mailto:regulations@mbc.ca.gov)

**TITLE 16. VETERINARY  
MEDICAL BOARD**

**Substantial Relationship Criteria, § 2040  
Criteria for Rehabilitation, § 2041  
California Code of Regulations**

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (Board) is proposing to take the action described in the Informative Digest.

**PUBLIC HEARING**

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this Notice.

**COMMENT PERIOD**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than August 12, 2019**, or must be received by the Board at the hearing, if one is scheduled. Oral comments should be made at the hearing, if any.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 481, 482, 493, and 4808 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 141, 475, 480, 481, 482, 488, 490, 492, and 493 of said code, the Board is considering amending sections 2040 and 2041 of article 5 of division 20 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST

BPC section 4808 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinary Medicine Practice Act (Act). Additionally, as required under Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018), the primary purpose of this proposal is to implement, interpret, and make specific the provisions of BPC sections 141, 475, 480, 481, 482, 488, 490, 492, and 493 relative to substantial relationship and rehabilitation criteria. The Board is proposing the following changes:

Amend CCR section 2040 of Article 5 of Division 20 of Title 16 of the CCR (Substantial Relationship Criteria):

The proposed regulation, for purposes of denial, suspension, or revocation of a license, would add professional misconduct and out-of-state discipline as grounds requiring the Board to consider the substantially related criteria, and require the Board, in making the substantial relationship determination for a crime, to consider the following criteria: (1) the nature and gravity of the offense; (2) the number of years elapsed since the date of the offense; and (3) the nature and duties of a person holding the license. The proposal would also add that substantially related crimes, professional miscon-

duct, or acts would include violating other state or federal laws governing the practice of veterinary medicine.

Amend CCR section 2041 of Article 5 of Division 20 of Title 16 of the CCR (Criteria for Rehabilitation):

The proposed regulation would clarify that the Board, when considering a license denial or discipline on the ground that the applicant or licensee was convicted of a crime, would have to determine whether the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant or licensee completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Board to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened, and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant's or licensee's rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants and licensees who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial or discipline was based on something other than a conviction.

POLICY STATEMENT  
OVERVIEW/ANTICIPATED  
BENEFITS OF PROPOSAL

As specified in the legislative analyses of AB 2138, this proposal seeks to reduce barriers to licensure for individuals with prior criminal convictions, which may reduce recidivism and provide economic opportunity to California's residents. In addition, the proposal seeks to improve clarity, transparency, and consistency for applicants and licensees in the Board's use of their criminal histories. Further, by reducing barriers to licensure, the Board anticipates benefits to consumers who may have greater access to licensed professionals.

CONSISTENCY AND COMPATIBILITY WITH  
EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies:**

The Board anticipates that there may be an increased cost to the state as a result of amending and adopting the sections identified in the regulatory proposal. By further defining the substantial relationship and rehabilitation criteria for criminal convictions, Board staff may see an increased workload to research convictions and to substantiate that rehabilitation has been achieved.

**Cost or Savings in Federal Funding to the State:** None.

**Nondiscretionary Costs/Savings to Local Agencies:** None.

**Local Mandate:** None.

**Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:** None.

**Business Impact:**

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

**Cost Impact on Representative Private Person or Business:**

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

**Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

The proposed regulations may affect small businesses, who would have a greater pool of licensed professionals from which to hire. The Board estimates approximately 80 to 90 percent (or 2,800 to 3,150) of the approximately 3,500 veterinary practices are small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses:**

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or

new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

**Benefits of Regulation:**

The Board has determined that this proposal may benefit individuals, who would have greater access to licensure, reduce criminal recidivism, and provide economic opportunity to California residents with a criminal history. The public may benefit from the proposal with increased access to licensed professionals, which may benefit the health and welfare of California’s animals. Veterinary businesses may benefit as they would have a larger pool of licensed professionals from which to hire. The regulatory proposal does not affect worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

The following alternatives were considered:

- **Option 1:** To pursue a regulatory change that requires the Board to find rehabilitation if the applicants completed the terms of their criminal probation or parole. Courts give little weight to the fact that an applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole since they are under the direct supervision of correctional authorities and are required to behave in an exemplary fashion. As such, the Board believes that reviewing each individual on the basis of multiple criteria is the better indicator whether individuals are rehabilitated and not a danger to the public’s health, safety, and welfare. For these reasons, the Board rejected this option.
- **Option 2:** Do nothing, meaning the Board would not adopt the regulations. The Board opted not to pursue this option because per AB 2138, the Board is mandated to adopt proposed regulations by July 1, 2020.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

INITIAL STATEMENT OF  
REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name:

Amanda Drummond  
Administrative Program Coordinator

Address:

Veterinary Medical Board  
1747 North Market Blvd., Suite 230  
Sacramento, CA 95834

Telephone No.:

916-515-5238

Fax No.:

916-928-6849

E-Mail Address:

Amanda.Drummond@dca.ca.gov  
The backup contact person is:

Name:

Jessica Sieferman, Executive Officer

Address:

Veterinary Medical Board  
1747 North Market Blvd., Suite 230  
Sacramento, CA 95834

Telephone No.:

916-515-5220

Fax No.:

916-928-6849

E-Mail Address:

Jessica.Sieferman@dca.ca.gov

**Website Access:** Materials regarding this proposal can be found at [www.vmb.ca.gov](http://www.vmb.ca.gov).

**TITLE 22. DEPARTMENT OF  
SOCIAL SERVICES**

ORD #0118-01

ITEM # Children Residential Facilities: Psychotropic Medication (SB 238 and SB 484)

The California Department of Social Services (hereafter known as the Department) hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on August 14, 2019, at the following address:

Office Building # 8  
744 P St. Room 103  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only if attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you need a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 14, 2019.

Following the public hearing the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons

who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at [CDSS Public Hearings for Proposed Regulations \(http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information\)](http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information). Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will be available at the following address:

#### CONTACT

California Department of Social Services  
Office of Regulations Development  
744 P Street, MS 8-4-192  
Sacramento, CA 95814  
Tel: (916) 657-2856, Fax: (916) 654-3286  
Email: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

Title 22, Division 6, Chapter 4 (Small Family Homes), Sections 83001 (Definitions), 83064 (Licensee Duties and Responsibilities), 83070 (Child's Records), 83072.1 (Discipline), and 83075 (Health Related Services); Chapter 5 (Group Homes), Sections 84001 (Definitions), 84044 (Inspection Authority of the Department or Licensing Agency), 84065 (Personnel Requirements), 84070 (Children's Records), 84072.1 (Discipline Policies and Procedures), and 84075 (Health Related Services); and Chapter 9.5 (Foster Family Homes), Sections 89201 (Definitions), 89370 (Children's Records), 89405 (Training Requirements), 89468 (Admission Procedures), and 89475.1 (Emergency Medical Assistance, Injections and Self-Administration of Medications).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulations for Senate Bill (SB) 484 (Chapter 540, Statutes of 2015), and SB 238 (Chapter

534, Statutes of 2015), intend to provide parameters for effective medication management for use of psychotropic medications. As a result, licensed Children's Residential Facilities and Homes may begin to adopt alternative and less invasive treatment approaches rather than relying on psychotropic medication as the first-line or only treatment plan.

The concern over the use of psychotropic medications among children and youth has been well-documented in research journals and the mainstream media for more than a decade. The vast majority of research indicates that children placed in foster care are particularly vulnerable to being over-prescribed psychotropic medications.

Currently, more than half of the children in California group homes are taking powerful psychotropic medications. These psychotropic medications may be mishandled at facilities to control and suppress undesirable behavior of the child rather than develop a comprehensive treatment plan in these facilities.

These proposed regulations implement specific components of SB 484 by requiring facilities and homes to obtain and maintain information in the child's records regarding psychotropic medication including (1) a copy of any court order authorizing psychotropic medications; (2) a separate log for each medication; and (3) a provision that psychotropic medications shall only be used in accordance with the written directions of the prescribing physician and as authorized by the juvenile court. CDSS will annually inspect group homes and short-term residential therapeutic programs that appear to have levels of psychotropic medication utilization warranting additional review. In addition, CDSS concluded the requirements developed from this regulations package should be a best practice standard not exclusive to group homes. CDSS will use its broad authority to apply these same requirements to Small Family Homes and Foster Family Homes.

These proposed regulations integrate components of SB 238 in which CDSS develops and makes accessible training regarding the authorization, uses, risks, benefits, assistance with self-administration, oversight, and monitoring of psychotropic medications, trauma, and substance use disorder and mental health treatments for those children. The training will be required of certain individuals involved in the care and oversight of children in foster care, including group home administrators and foster parents.

The benefit anticipated from the implementation of these proposed regulations is effective management and oversight of the use of psychotropic medication in licensed Children's Residential Facilities and Homes serving children in out-of-home placement.

The CDSS is proposing amendments to bring its children's residential regulations into conformity with the

law and provide necessary clarification for providers who care for children in out-of-home placements.

The CDSS considered other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area and therefore, CDSS finds that these proposed regulations are compatible and consistent with and the intent of the Legislature in adopting SB 238 and SB 484, as well as with existing state regulations.

**COST ESTIMATE**

1. Costs or Savings to State Agencies: CDSS received BCP general funds in: FY 2016-17-\$784,000; FY 2017-18-\$718,000; FY 2018-19-\$275,000; FY 2019-20-\$275,000; \$100,000 ongoing.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500-17630: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: CDSS received BCP federal funds in: FY 2016-17-\$49,000; FY 2017-18-\$49,000; FY 2018-19-\$576,000; FY 2019-20-\$576,000; \$49,000 ongoing.

**LOCAL MANDATE STATEMENT**

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

**STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

The CDSS has made an initial determination that the proposed action will not have a significant statewide adverse economic impact that directly affects businesses, including the ability of California businesses to compete with businesses in other states.

**STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

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

**SMALL BUSINESS IMPACT STATEMENT**

These regulations will impact group homes that operate as small businesses; however, complying with them will have little to no cost impact on these providers.

**STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT**

The adoption of the proposed regulations will not create nor eliminate jobs in the State of California nor result in the creation nor elimination of existing businesses. However, the amendment of the proposed regulations does have the potential to create or expand jobs in the State of California. In December of 2015, San Jose Mercury News reported that Santa Clara County is now employing public health nurses dedicated solely to monitoring children’s psychotropic medication use due to this new legislation.

The new regulations will require foster parents and employees of all levels at residential facilities to receive initial and ongoing training on psychotropic medication as it relates to Welfare and Institutions Code section 16501.4(d). This will increase safe and appropriate utilization of these medications and lead to more positive outcomes for foster children.

**STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

**STATEMENT OF ALTERNATIVES CONSIDERED**

CDSS considered alternative solutions for the proposed amendments derived from SB 484 on psychotropic medication. The Department consulted with stakeholders in the development process for these proposed regulations and no reasonable alternatives have been presented. While Health and Safety Code section 1507.6 only applied to group home facilities, CDSS has chosen to use its broad authority to apply these same requirements to include Children’s Residential Facilities and Homes serving children. The combined efforts from statutory amendments of SB 484 and SB 238, as well as the efforts of a collaborative taskforce developed by DHCS and CDSS, Quality Improvement Project, ensure that legislation regarding psychotropic medication is revisited on an annual basis. In the future, there will be an abundance of opportunities for new regulations to be proposed that may prove equally as effective in implementing the statutory policy or other provision of law.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified

and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Stakeholders were consulted during the development of these proposed regulations and no reasonable alternatives have been presented to CDSS for review.

**AUTHORITY AND REFERENCE CITATIONS**

CDSS adopts these regulations under the authority granted in Health and Safety Code sections 1507.6, 1530 and 1538.9. Subject regulations implement and make specific Health and Safety Code sections 1526.5, 1533, 1534, 1538, and 1538.9 and Welfare and Institutions Code sections 369.5, 739.5, and 16501.4.

**CDSS REPRESENTATIVE  
REGARDING THE RULEMAKING  
PROCESS OF THE PROPOSED REGULATION**

Contact Person:

Everardo Vaca  
(916) 657-2586

Backup:

Sylvester Okeke  
(916) 657-2586

**GENERAL PUBLIC INTEREST**

**FISH AND GAME COMMISSION**

**NOTICE OF FINDINGS**

Crotch Bumble Bee (*Bombus crotchii*), Franklin’s Bumble Bee (*Bombus franklini*), Suckley Cuckoo Bumble Bee (*Bombus suckleyi*), and Western Bumble Bee (*Bombus occidentalis occidentalis*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its June 12, 2019 meeting in Redding, California, accepted for consideration the petition submitted to list Crotch bumble bee (*Bombus crotchii*), Franklin’s bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and Western

bumble bee (*Bombus occidentalis occidentalis*) as endangered under the California Endangered Species Act.

Pursuant to subdivision (e)(2) of Section 2074.2 of the Fish and Game Code, the Commission determined that the amount of information contained in the petition, when considered in light of the California Department of Fish and Wildlife’s (DFW) written evaluation report, the comments received, and the remainder of the administrative record, would lead a reasonable person to conclude there is a substantial possibility the requested listing(s) could occur.

Based on that finding and the acceptance of the petition, the Commission is also providing notice that Crotch bumble bee (*Bombus crotchii*), Franklin’s bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and Western bumble bee (*Bombus occidentalis occidentalis*) are candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the June 12, 2019 Commission meeting, are on file and available for public review from Melissa Miller-Henson, Acting Executive Director, Commission, 1416 Ninth Street, Suite 1320, Sacramento, California 95814, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at P.O. Box 944209, Sacramento, CA 94244-2090 or email FGC@fgc.ca.gov.

**FISH AND GAME COMMISSION**

**NOTICE OF FINDINGS**

**Northern California Summer Steelhead  
(*Oncorhynchus mykiss irideus*)**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its June 12, 2019 meeting in Redding, California, accepted for consideration the petition submitted to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as endangered under the California Endangered Species Act.

Pursuant to subdivision (e)(2) of Section 2074.2 of the Fish and Game Code, the Commission determined that the amount of information contained in the petition, when considered in light of the California Department of Fish and Wildlife’s (DFW) written evaluation report, the comments received, and the remainder of the administrative record, would lead a reasonable person to

conclude there is a substantial possibility the requested listing could occur.

Based on that finding and the acceptance of the petition, the Commission is also providing notice that the northern California summer steelhead is a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the June 12, 2019 Commission meeting, are on file and available for public review from Melissa Miller-Henson, Acting Executive Director, Commission, 1416 Ninth Street, Suite 1320, Sacramento, California 95814, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at P.O. Box 944209, Sacramento, CA 94244-2090 or email FGC@fgc.ca.gov.

**DEPARTMENT OF  
FISH AND WILDLIFE**

**CESA CONSISTENCY  
DETERMINATION REQUEST FOR  
Sonoma 101 North of Pepper  
Road Slide Repair Project  
2080-2019-007-03  
Sonoma County**

The California Department of Fish and Wildlife (CDFW) received a notice on June 17, 2019 that the California Department of Transportation proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the repair of several hillside slip outs on U.S. 101. Proposed activities will include, but are not limited to, the installation of fencing or staking, excavation and regrading of the embankment slope, regrading and conversion of the v-ditch to a concrete-line trap-ditch, replacement of the existing sub-surface, and the installation of erosion control measures. The proposed project will occur along northbound U.S. 101 at Post Mile 9.0, near the city of Petaluma in Sonoma County, California.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (BO) (Service Ref. No. 08ESMF00-2018-F-0668-1) in a memorandum to the California Department of Transportation on April 3, 2018, which considered the effects of the proposed project on state threatened and federally endangered

California tiger salamander (*Ambystoma californiense*).

Pursuant to California Fish and Game Code section 2080.1, the California Department of Transportation is requesting a determination that the BO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, the California Department of Transportation will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF  
FISH AND WILDLIFE**

**FISH AND GAME CODE  
SECTION 1653 CONSISTENCY  
DETERMINATION REQUEST FOR  
Lost River Groundwater & Streamflow Project  
(Tracking Number: 1653-2019-039-001-R1)  
Mendocino County**

California Department of Fish and Wildlife (CDFW) received a Request to Approve on June 17, 2019, that Sanctuary Forest, Inc. proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves installation of approximately 30 instream constructed log and boulder and/or post-assisted structure using approximately 104 pieces of wood. The proposed project will be carried out on the South Fork of Lost River, a tributary to the Mattole River located approximately 5.6 miles southeast of Thorn Junction and 0.8 miles south of the Humboldt/Mendocino county line, in Mendocino County, California.

On May 30, 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 Lost River Groundwater & Streamflow 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. 1B190062WNHU; ECM PIN No. CW-858703) for coverage under the General 401 Order on June 7, 2019.

Sanctuary Forest, Inc. is requesting a determination that the project and associated documents are complete

pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the District will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

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

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

**PUBLIC MEETING:**

On **August 15, 2019**, at 10:00 a.m. in the Council Chambers of the Walnut Creek City Hall 1666 N. Main Street, Walnut Creek, California.

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

**BUSINESS MEETING:**

On **August 15, 2019**, at 10:00 a.m. in the Council Chambers of the Walnut Creek City Hall 1666 N. Main Street, Walnut Creek, California.

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

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

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-

Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

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

**NOTICE TO INTERESTED PARTIES  
June 28, 2019**

**CHEMICAL LISTED EFFECTIVE  
JUNE 28, 2019  
AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER:  
P-CHLORO- $\alpha,\alpha,\alpha$ -TRIFLUOROTOLUENE  
(*PARA*-CHLOROBENZOTRIFLUORIDE, PCBTF)**

Effective **June 28, 2019**, the Office of Environmental Health Hazard Assessment (OEHHA) is adding *p*-chloro- $\alpha,\alpha,\alpha$ -trifluorotoluene (*para*-Chlorobenzotrifluoride, PCBTF) to the list of chemicals known to the State of California to cause cancer for purposes of Proposition 65<sup>1</sup>.

*Chemical:* *p*-chloro- $\alpha,\alpha,\alpha$ -trifluorotoluene (*para*-Chlorobenzotrifluoride, PCBTF) — *CAS No.:* None — *Endpoint:* Cancer — *Listing Mechanism\*:* AB (NTP)(<sup>\*</sup>Listing mechanism: AB — “authoritative bodies” mechanism (Title 27, Cal. Code of Regs. section 25306).

The listing of *p*-chloro- $\alpha,\alpha,\alpha$ -trifluorotoluene is based on formal identification by the National Toxicology Program (NTP), an authoritative body<sup>2</sup>, that the

<sup>1</sup> The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5 et seq.

<sup>2</sup> See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.

chemical causes cancer. The criteria used by OEHHA for the listing of chemicals under the “authoritative bodies” mechanism can be found in Title 27, Cal. Code of Regs., section 25306.

The documentation supporting OEHHA’s determination that the criteria for administrative listing have been satisfied for *p*-chloro- $\alpha,\alpha,\alpha$ -trifluorotoluene is included in the “Notice of Intent to List: *p*-Chloro- $\alpha,\alpha,\alpha$ -trifluorotoluene (*para*-Chlorobenzotrifluoride, PCBTF)” posted on OEHHA’s website and published in the November 23, 2018 issue of the California Regulatory Notice Register (Register 2018, No. 47-Z). The publication of the notice initiated a public comment period that closed on January 23, 2019. OEHHA received one public comment. The comment and OEHHA’s response is posted with the Notice of Intent to List.

A complete, updated Proposition 65 chemical list is available on the OEHHA website at <http://oehha.ca.gov/proposition-65/proposition-65-list>.

**RULEMAKING PETITION  
DECISION**

**DEPARTMENT OF  
CORRECTIONS AND REHABILITATION**

**NOTICE OF DECISION ON  
PETITION TO AMEND REGULATIONS**

**Pursuant to Government Code 11340.7**

**Petitioner**

Sherry Friedrich

**Department Contact Person**

Please direct any inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

**Availability of Petition**

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

**Authority**

Penal Code Sections: 5054 and 5058

**Provisions of California Code of Regulations Affected**

Title 15, Crime Prevention and Corrections  
Division 3, Adult Institutions, Programs and Parole

**Summary of Petition and Department Decision:**

**Section 3076**

**Petitioner’s Request:** Amend the language of the regulations that governs the procedures for recommending recall of sentence pursuant to Penal Code 1170(d)(1).

**Reason for Request:** Petitioner refers to and cites Title 15 Sections 3076, 3076.1 and notes the sections have not been amended since 1992.

Petitioner refers to Assembly Bill 1812 and Assembly Bill 2942 which provides the Department discretion to recommend that courts recall the sentences of inmates based upon “post-conviction factors.” Petitioner is requesting that the Department amend California Code of Regulations, Title 15, Sections 3076 and 3076.1, to further clarify how the Department will exercise its expanded discretion.

**Department’s Response:** The Department of Corrections and Rehabilitation agrees with petitioner that providing updated regulations for Penal Code section 1170(d)(1) is important and will develop regulations which will be made publicly available for comment through the rulemaking process pursuant to the Administrative Procedure Act.

**SUSPENSION OF  
ACTION REGARDING  
UNDERGROUND REGULATIONS**

**BOARD OF PAROLE HEARINGS**

**OFFICE OF ADMINISTRATIVE LAW**

**SUSPENSION OF ACTION REGARDING  
UNDERGROUND REGULATIONS**

**(Pursuant to Title 1, section 280, of the  
California Code of Regulations)**

On January 22, 2019, the Office of Administrative Law (OAL) received a petition challenging the Mentally Disordered Offender Evaluator Handbook issued by the Board of Parole Hearings as an alleged underground regulation.

On June 7, 2019, the Board of Parole Hearings certified to the OAL that it would not issue, use, enforce, or attempt to enforce the August 29, 2016, “Mentally Disordered Offender Evaluator Handbook for Penal Code section 2962.” Therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

**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# 2019-0501-01  
AIR RESOURCES BOARD  
Heavy-Duty Warranty Regulation

This rulemaking action by the California Air Resources Board amends California emission control system warranty regulations and maintenance provisions for 2022 and subsequent model year on-road heavy-duty diesel vehicles and heavy-duty engines with gross vehicle weight ratings greater than 14,000 pounds and heavy duty diesel engines in such vehicles.

Title 13  
AMEND: 1956.8, 2035, 2036, 2040  
Filed 06/12/2019  
Effective 10/01/2019  
Agency Contact: Chris Hopkins (916) 445-9564

File# 2019-0528-01  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION  
Supplemental Reforms to Credit Earning

The Department of Corrections and Rehabilitation submitted this emergency readoption action, pursuant to Penal Code section 5058.3, to amend four regulations that allow inmates to earn credits that may advance release dates and parole dates. The amendments increase the amount of credits inmates may earn in several categories, as specified.

Title 15  
AMEND: 3043, 3043.3, 3043.4, 3043.5  
Filed 06/17/2019  
Effective 06/17/2019  
Agency Contact: Laura Lomonaco (916) 445-2217

File# 2019-0430-01  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
Early Intervention Services

The Department of Developmental Services (DDS) is aligning text to Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Section 1431 et seq.). As a condition of receiving federal funding DDS must ensure that all State policies align with the requirements of Part C.

Title 17  
AMEND: 52000, 52086  
Filed 06/12/2019  
Effective 10/01/2019  
Agency Contact: Sharon DeRego (916) 654-3681

File# 2019-0610-01  
DEPARTMENT OF FISH AND WILDLIFE  
Rock Crab Fishery Closure Update

This file and print request amends the commercial rock crab fishery closure to open a portion of the waters near Cape Mendocino, Humboldt County to the north jetty at the Humboldt Bay entrance. This action is exempt from the Administrative Procedure Act pursuant to Fish and Game Code section 5523(c).

Title 14  
AMEND: 131  
Filed 06/12/2019  
Effective 05/23/2019  
Agency Contact: Christy Juhasz (707) 576-2887

File# 2019-0503-02  
DEPARTMENT OF INSURANCE  
California Earthquake Authority — Update of  
Surcharge Notice

This change without regulatory effect filing by the Department of Insurance amends section 2697.9 of title 10 of the California Code of Regulations to align with recent changes to the Insurance Code.

Title 10  
AMEND: 2697.9  
Filed 06/13/2019  
Agency Contact: Bryant Henley (415) 538-4390

File# 2019-0517-01  
DEPARTMENT OF JUSTICE  
Automated Firearms System Information Updates

The Automated Firearms System (“AFS”) is a repository of firearm records maintained by the Department of Justice (“DOJ”). In this regular rulemaking, DOJ is adopting regulations to create a mechanism by which an individual may electronically correct or update an AFS record through the California Firearms Application Reporting System.

Title 11  
ADOPT: 4350, 4351, 4352, 4353  
Filed 06/13/2019  
Effective 07/01/2019  
Agency Contact: Jacqueline Dosch (916) 227-7614

File# 2019-0506-02  
DEPARTMENT OF SOCIAL SERVICES  
Nonambulatory Children Language Repeal

In this regular rulemaking action the Department of Social Services repealed two subdivisions related to ambulatory and nonambulatory children in child care centers.

Title 22  
AMEND: 101161  
Filed 06/17/2019  
Effective 06/17/2019  
Agency Contact: Sylvester Okeke (916) 657-1908

File# 2019-0516-01  
DEPARTMENT OF SOCIAL SERVICES  
Extended Foster Care

This rulemaking action implements various provisions of the Welfare and Institutions, Family, Probate, and Health and Safety codes, as well as federal statutes

and regulations, to allow former foster youths to continue to receive federal and nonfederal AFDC-Foster Care financial support until their twenty-first birthdays.

Title MPP  
ADOPT: 45-310, 45-311, 45-312  
AMEND: 45-101, 45-201, 45-202, 45-203  
Filed 06/17/2019  
Effective 10/01/2019  
Agency Contact: Oliver Chu (916) 657-3588

**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](http://www.oal.ca.gov).

