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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. COMMISSION ON STATE MANDATES

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period, the Commission will conduct a public hearing on this proposed action on September 27, 2019, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on September 23, 2019**. The Commission will consider only comments received at the Commission offices by that time. Submit comments to:

Jill Magee, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Written comments may be submitted electronically via the Commission website “Drop Box” at <http://www.csm.ca.gov/dropbox.php>.

AUTHORITY AND REFERENCE

Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations. Refer-

ence citations: Government Code sections 11123, 11346.4, 11347, 11347.1, and 17500 et seq.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving county applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6).

The purpose of this rulemaking is to generally clean-up, clarify, and streamline Commission regulations and update language for consistency. Specifically, the proposed regulations: (1) clarify the definitions of “completed,” “new filing,” “party,” “statewide cost estimate,” “statewide estimate of costs,” and “subsequent change in the law”; and clarify the types of matters for which the executive director issues sequential numbers for matters; (2) require electronic filing for all new filings and written materials except as specified, and add electronic formatting requirements; (3) clarify that the tie vote procedures apply to all action items and that the option of assigning a matter to a hearing panel or hearing officer in the case of a tie vote applies to all quasi-judicial “matters” and not only to test claims and incorrect reduction claims; (4) streamline the process for adopting expedited parameters and guidelines; (5) clarify the joint reasonable reimbursement methodology (RRM) regulations, which implement Government Code sections 17557.1 and 17557.2, to make it clear that it is an alternative process and not the same as an RRM included in parameters and guidelines adopted by the Commission pursuant to Government Code section 17557; (6) clarify Commission and party actions in the timeline regulation; (7) clarify that the three-year limitation period that applies to filing incorrect reduction claims also applies to filing amendments to incorrect reduction claims; (8) add completeness language to a request to review the apportionment or base year entitlement of a program in the State Mandates Apportionment System (SMAS) consistent with the other SMAS requests for inclusion and removal; (9) clarify the definition of “matter” in article 7 to include joint reasonable reimbursement methodologies and statewide estimates of costs (joint RRMs and SECs), and joint requests for early termination of a joint RRM; (10) clarify that the informal conference regulation and witnesses/subpoena regulations apply to all quasi-judicial “matters” subject to the article 7 regulations; (11) authorize limits to the length of testimony in Commission hearings consistent with the Bagley-Keene Open Meeting Act; (12) clarify that the regulation for abandoning a matter applies to all quasi-judicial “matters” subject to

the article 7 regulations; (13) clarify the regulation on dismissal of a test claim or other matter; (14) clarify the regulation governing the limited authority to reconsider a prior final decision on a test claim or incorrect reduction claim to make it consistent with Government Code section 17559(a), to clarify the standard of review to reconsider a prior final decision, and to make other clarifying amendments; (15) make minor, non-substantive consistency edits and corrections; and (16) update authority and reference citations.

Therefore, the Commission proposes revised language and citations in Articles 1, 3, 4, 5, 6, 7, 8 and 10 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 (Sections 1181.1; 1181.2; 1181.3; 1181.4; 1181.8; 1181.9; 1183.1; 1183.2; 1183.3; 1183.4; 1183.6; 1183.7; 1183.8; 1183.9; 1183.10; 1183.11; 1183.12; 1183.13; 1183.14; 1183.15; 1183.16; 1183.17; 1183.18; 1184.1; 1185.1; 1185.2; 1185.3; 1185.4; 1185.5; 1185.6; 1185.7; 1185.8; 1185.9; 1186.2; 1186.4; 1186.6; 1186.7; 1187.1; 1187.2; 1187.3; 1187.4; 1187.6; 1187.7; 1187.8; 1187.9; 1187.13; 1187.14; 1187.15; 1188.1; 1188.2; 1190.1; 1190.2; 1190.3; 1190.5) with a proposed effective date of April 1, 2020.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The specific benefits anticipated from the regulation are increased clarity for local agencies, school districts, state agencies, and interested parties/persons participating in the Commission’s processes, consistency in the use of terms, adding requirements for electronic filing so the Commission can more easily manage its records, increasing the speed of hearing and deciding expedited parameters and guidelines, and clarifying the standard of review for requests for reconsideration of test claim and incorrect reduction claim decisions made pursuant to Government Code section 17559(a).

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

After conducting a review of existing regulations, the Commission has concluded that California Code of Regulations, title 2, sections 1181.1 et seq., are the only regulations concerning the Commission’s process. Therefore, the proposed regulations are consistent and compatible with existing state regulations.

DESCRIPTION OF PROPOSED REGULATIONS

I. Clarify the Definitions in Section 1181.2 and Clarify the Types of Matters for which the Executive Director Assigns Matter Numbers for New Filings in Section 1181.4.

The proposed amendments to the definitions in 1181.2(k) and (l) of “new filing” and “party” are to clarify that there are three types of new filings with respect to a program funded through SMAS, only two of which are identified in the current definitions. The three types of SMAS requests are a request for inclusion of a program in SMAS (§ 1186.2), a request for removal of a program from SMAS (§ 1186.4), and request for a review of the apportionment or base year entitlement of a program in SMAS (§ 1186.6).

The definition of “completed” in 1181.2(e) is amended to make clear that it applies to all types of new filings, consistent with Commission practice. There are general requirements for filing and service of all new filings (§ 1181.3), and to include documentary evidence to support an assertion of fact (§ 1187.5), and there are specific requirements for filing of new matters that are included in the specific sections of the Government Code and the Commission’s regulations that pertain to each type of matter.

Government Code citations are added to the definition of “Statewide Cost Estimate” in 1181.2(o) for clarity, and the factors the Commission may consider when adopting a statewide cost estimate are added.

Government Code citations are also added to the definition of “Statewide Estimate of Costs” in 1181.2(p), and clarification that the estimate is based on a “joint” RRM. And a Government Code citation is added to the definition of “subsequent change in the law” in 1181.2(q) for clarification.

In addition, language is proposed in section 1181.2(k) to clarify that a “joint request for an RRM” is actually by statute a “joint request for reasonable reimbursement methodology and statewide estimate of costs.” (Joint RRM and SEC) pursuant to Government Code sections 17557.1 and 17557.2, and section 1183.11 of the Commission’s regulations; and in section 1181.2(l)(4) to clarify the parties to a jointly proposed request to terminate a joint RRM filed pursuant to Government Code section 17557.2 and section 1183.15 of the Commission’s regulations. Similar clarifying changes to the types of new filings in section 1181.4(c)(4) and 1181.4(c)(6) are proposed.

II. Add Requirement to Electronically File All Documents in Specified Formats, and Limit Filing by Other Methods in Section 1181.3.

The proposed amendments require e-filing of all documents unless the executive director approves the

filer’s written request that demonstrates e–filing legible and searchable PDF documents would cause undue hardship or significant prejudice.

The proposed amendment also requires that e–filed documents be unlocked, and the searchable format must use a “true PDF” (i.e., documents digitally created in PDF, converted to PDF, or printed to PDF) or optical character recognition (OCR) function, as necessary, that allows the text to be electronically searched. The proposed amendments further limit file size (500 megabytes), require specific organization and bookmarks, and discourage color documents unless necessary for readability or comprehension.

The proposed amendment prohibits filing scanned documents that are available or obtainable electronically, but provides that documents not available or obtainable in electronic form may be scanned and OCRed and filed in a separate volume.

The remaining proposed amendments are necessary to clarify the filing and service requirements.

Redundant provisions are deleted, and service requirements for e–filing are clarified. In addition, the requirement that filings shall not contain personal identifying information that violates state or federal privacy laws has been moved for clarity to subdivision (b).

III. Clarify, in Section 1181.8, that the Tie Vote Procedures Apply to All Action Items and that the Option of Assigning a “Matter” to a Hearing Panel or Hearing Officer in the Case of Tie Vote Applies to All “Matters.”

The proposed amendment clarifies that the rules on tie votes apply to all agenda items and that the option of assigning a matter to a hearing panel or hearing officer in the case of a tie vote pursuant to section 1187.2 of the regulations applies to all quasi–judicial “matters,” as defined in section 1187.1.

In addition, the requirement that a majority of the votes cast by the members assigned to a hearing panel is required for the approval of a preliminary decision on matters and applications for a finding of significant financial distress is moved for clarity to proposed § 1181.8(c)(2)(A) [current § 1181.8(c)(1)(A)].

IV. Streamline the Process for Adopting Expedited Parameters and Guidelines in Sections 1183.9 and 1183.13.

A new subdivision (d) is proposed to be added to section 1183.9 to provide that if no substantive comments are filed on the draft expedited parameters and guidelines, a draft proposed decision need not be prepared.

Language is also proposed in section 1183.13(a) to clarify that a draft proposed decision is prepared for all proposed parameters and guidelines *except* as provided in section 1183.9(d) for draft expedited parameters and guidelines on which no substantive comments are filed.

V. Clarify the Joint Reasonable Reimbursement Methodology Regulations With Amendments to Sections 1183.11, 1183.15, 1183.16 and 1183.17.

Amendments are proposed to these regulations to clarify that the joint RRM and SEC authorized by Government Code sections 17557.1 and 17557.2 is an alternative process to the parameters and guidelines adopted by the Commission pursuant to Government Code section 17557. Thus, in section 1183.11, “Alternative Process” is added to the title. Language is proposed in section 1183.15(a) to clarify that the regulation addresses the early termination of *joint* RRM and SECs adopted pursuant to Government Code sections 17557.1 and 17557.2 and section 1183.11 of the Commission’s regulations. In addition, proposed language is included in section 1183.15(f) to allow the test claimant to request that Commission staff prepare expedited parameters and guidelines when a joint RRM and SEC is terminated early, which is consistent with the process described in section 1183.16 when the term of a joint RRM and SEC expires. A sentence is added to section 1183.11(d), (f), and (g), and to section 1183.15(c) and (d) to remind the parties that “if representations of facts are made” in submitted comments, “they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.”

Clarifying language is also proposed in section 1183.16, which governs the expiration of a joint RRM and SEC, to make clear in the title that the regulation addresses *joint* RRM and SECs, and clarify that this RRM and SEC is adopted pursuant to Government Code sections 17557.1 and 17557.2 (in contrast to RRM and SECs proposed for inclusion in parameters and guidelines pursuant to Government Code sections 17518.5 and 17557(f)). Additional amendments clarify that Commission staff issues notices and draft proposed decisions regarding Joint RRM and SECs to everyone on the mailing list and posts them on the Commission’s website. Language is proposed in section 1183.16(c), (e), and (f) to remind the parties that in submitting joint RRM and SECs, and comments, “if representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations,” and that notices are issued to everyone on the mailing list, and notices and decisions are posted on the Commission’s website.

Sections 1183.16(a), (d), and (h) and 1183.17(f) are proposed to be amended to add that notices must include “everyone on the mailing list described in section 1183.14” to remind parties that the Commission follows section 1183.14 in notifying parties, and to add that the Commission “shall post a copy of the notice on the Commission’s website” to remind parties that this is

also a Commission procedure. Section 1183.17(i) is proposed to be amended to add that Commission staff issues draft proposed decisions regarding parameters and guidelines amendments for comment.

VI. Clarify Actions in the Timeline in Section 1183.18.

The proposed amendments clarify that “parties, interested parties, and interested persons,” in addition to state agencies, may file comments on the test claim and the draft proposed decision, and that in addition to parties, “interested parties and interested persons” may also file comments on proposed parameters and guidelines and the draft proposed decision on parameters and guidelines, as well as on statewide cost estimates (SCEs).

Another amendment clarifies that Commission staff issues the SCE within 375 days after the test claim is filed, and 10 days after the SCE is adopted. Adoption of the SCE within 365 days is already part of the regulation, and the addition of “issuing” the SCE by day 375 merely makes this provision consistent with the Commission’s practice to issue matters within 10 days of their adoption.

The proposed amendments also clarify that “parties, interested parties, and interested persons” in addition to state agencies may file comments on the test claim with joint RRM and SEC, as well as comment on the draft proposed decision. And amendments to the timelines for joint RRMs and SECs are proposed to clarify that “interested persons” may also file comments and to add “joint” to the title of RRM.

Finally, the section is proposed to be amended in several places to clarify that the Commission notifies or issues decisions to “those on the mailing list,” which is an existing practice.

VII. Clarify the Deadline for Filing Amendments to Incorrect Reduction Claims in Section 1185.1.

The proposed amendment clarifies that the three-year limitations period for filing IRCs also applies to filing amendments to IRCs.

VIII. Add Completeness Language and Clarify in the Title that It Is a “Request” to Review the Apportionment or Base Year Entitlement of a Program in SMAS in Section 1186.6.

The proposed amendments clarify the title of the regulation to indicate that it addresses a “request” for a review of an apportionment or base year entitlement, and to add a subdivision requiring that the request must conform to the filing requirements or be deemed incomplete and returned to the requester for completion. This proposed amendment makes this provision consistent with sections 1186.2 and 1186.4, which address requests for inclusion and removal of a program from

SMAS and consistent with Commission requirements and practice for all new filings to be determined complete.

IX. Clarify the Definition of “Matters” that Are Subject to Article 7 in Section 1187.1.

The proposed amendment expands the definition of “matter” subject to hearings and decisions under article 7 to include requests to approve joint RRMs and SECs and joint requests for early termination of a joint RRM and SEC in accordance with Government Code sections 17557.1 and 17557.2.

X. Clarify that the Informal Conference and Witnesses/Subpoena Regulations Apply to All “Matters” Subject to the Article 7 Regulations by Amending Sections 1187.4 and 1187.7.

The proposed amendment clarifies that 1187.4(e) applies to all “matters,” as defined, and is not limited to records on a test claim. Another proposed amendment changes “claimant rebuttal” to “rebuttal comments” because conferences may be held on any matter as defined in article 7 of the regulations, and for some matters a party other than a “claimant” has an opportunity to rebut.

The proposed amendments to section 1187.7 (regarding witnesses and issuing subpoenas) replace “claim” with “matters,” and makes other conforming changes consistent with the definition of “matters” in article 7 of the regulations. Conforming amendments are proposed to section 1187.7, to delete references to “matters” (replacing it with “documents”), to avoid confusion with the use of the term “matter” as defined in section 1187.1(a).

XI. Clarifies Procedures During Hearings in Section 1187.6.

The proposed amendment to section 1187.6(a) authorizes the Commission chair or a hearing officer to limit the length of testimony or the time allotted for each witness in accordance with the requirements of the Bagley–Keene Open Meeting Act, and consistent with section 1182.10 of the Commission’s regulations, which regulate Commission hearings on county applications for findings of significant financial distress.

Another proposed amendment to section 1187.6(d) clarifies the Commission’s existing hearing procedure that not only the claimant (adding “or requester” if the matter is not a claim) may present its case, but also “aligned parties or interested parties” may present their positions, and then for “opposing parties or interested parties” (rather than the more specific “Department of Finance or affected state agency”) to present their positions. This amendment conforms Commission hearing procedures to a wider variety of matters beyond test claims and IRCs.

XII. Clarify the Abandonment of a Matter in Section 1187.13.

The proposed amendment clarifies that the regulation authorizing matters to be deemed abandoned applies to all “matters” subject to article 7 of the regulations, and not just to test claims or IRCs, and makes the terms used consistent (e.g., “claim or request” is amended to “matter”). In addition, subdivision (a)(2), which addresses the withdrawal of a test claim, is deleted because it is redundant with section 1187.12 governing the withdrawal of matters, including test claims. Any matter that has been withdrawn or abandoned is subject to the dismissal procedures in section 1187.14 of the regulations.

XIII. Clarify the Dismissal of a Matter in 1187.14.

Language is proposed in section 1187.14 to clarify that a Commission hearing on a dismissal is only required for test claims, and not for other “matters” in accordance with subdivisions (a) and (b) of this regulation.

XIV. Clarify the Standard of Review for Reconsideration of an Adopted Decision on a Test Claim or Incorrect Reduction Claim in Section 1187.15.

The proposed amendment clarifies in the title and body of the regulation that only test claims and IRCs are subject to reconsideration by the Commission, as authorized by Government Code section 17559(a). This amendment also provides that the standard of review of a request for reconsideration, is consistent with the standard in Code of Civil Procedure section 1008, which authorizes the courts to reconsider a decision only to consider new or different facts, circumstances, or law, as was established in a recent Commission Decision on Reconsideration. The proposed amendment includes language from Code of Civil Procedure section 1008(f), which clarifies that new or different law does “not include a later enacted statute without a retroactive application.” Additional language is proposed to authorize a reconsideration to consider a clerical error, and to clarify that the written analysis of a request for reconsideration shall address whether the request is timely, complete, diligent, and is based on new or different facts, circumstances, or law that is likely to support an amendment to the findings or conclusions in the adopted decision on the test claim or IRC, or is based on a clerical error. If the Commission grants the request for reconsideration, a second hearing shall be conducted to determine if the adopted decision must be amended based on a clerical error or new or different facts, circumstances, or law. Redundant language stating that the draft proposed decision shall be distributed to “any person who requests a copy” is proposed for deletion since any person may request to be placed on the mailing list and the draft proposed decision is issued to everyone on the

mailing list. Additional language is proposed to clarify that the specified procedures that apply in the event of a “changed decision” apply exclusively to changed test claim decisions and that they also include amendments to parameters and guidelines.

XV. Minor, Nonsubstantive Consistency Edits and Corrections

The following proposed amendments make minor, nonsubstantive consistency edits or correct usage and errors in sections 1181.1, 1181.2, 1181.3, 1181.9, 1183.1, 1183.2, 1183.3, 1183.4, 1183.6, 1183.7, 1183.8, 1183.9, 1183.10, 1183.11, 1183.12, 1183.13, 1183.14, 1183.15, 1183.16, 1183.17, 1183.18, 1184.1, 1185.1, 1185.2, 1185.3, 1185.4, 1185.5, 1185.6, 1185.7, 1185.8, 1185.9, 1186.2, 1186.4, 1186.7, 1187.1, 1187.3, 1187.6, 1187.7, 1187.8, 1187.9, 1187.13, 1187.14, 1187.15, 1188.1, 1188.2, 1190.1, 1190.2, 1190.3, and 1190.5 of the regulations.

Update Usage and Increase Clarity

These amendments are proposed to update usage or improve style and readability, and for consistency with the existing regulations. The proposed amendments replace “web site” with “website” (proposed §§ 1181.3(c)(1) [current § 1181.3(b)(1)], 1183.2, 1187.1); replace “comments” with “may file rebuttals” (§ 1183.18); replace “which” with “that” (§§ 1186.2, 1186.4, 1190.5); replace “that” with “which” § 1190.5(a)(1)); replace “filing party,” “filing person,” and “person who e-files,” with “filer” (proposed § 1181.3(c)(1)(A)–(D) [current § 1181.3(b)(1)(A–E)]); replace “requesting party” with “requester” (proposed §§ 1187.13(a)(2)(B) & (a)(2)(C) [current § 1187.13(a)(3)(B) & (a)(3)(C)], 1187.15(a)(1) [current § 1187.15(b)(1)]); replace “requesting party” or “requesting parties” with “applicant” or “applicants” (§ 1187.7(f)); add “or requester” (§§ 1187.6, 1187.7, 1187.13, 1187.15); replace “publicized” with “noticed” (§§ 1183.6, 1184.1, 1185.7, 1190.5); replace “must” with “shall” (proposed §§ 1181.3(c)(1) [current § 1181.3(b)(1)], 1181.3(c)(2)(B) [current § 1181.3(c)], and 1183.2(c)(2)); replace “for the most reasonable methods of complying” with “of reasonably necessary activities to comply” (§ 1183.10(b)); replace “Commission Staff” with “Commission” or “the Commission” (proposed §§ 1181.3(c)(1) & (c)(2)(B) [current §§ 1181.3(b)(1) & (c)], 1187.15(f)(1)(B) [current § 1187.15(g)(1)(B)], 1190.5(a)(3)); replace “claimant’s or state agency” with “party” (proposed § 1187.15(h) [current § 1187.15(i)]); and replace “staff of the Commission” with “Commission staff” (§ 1187.6).

Additional proposed amendments replace the words “distribute,” “publish,” “provide,” “provided,” “send,” “sends,” “send copies,” “forward,” “forwarded,”

“mail,” and “mailed,” with “issue,” “issue it,” “issue the decision,” “issues,” or “issued” (proposed §§ 1181.3(c)(1)(D) [current § 1181.3(b)(1)(E)], 1181.9, 1183.8, 1183.13, 1183.16, 1183.17, 1183.18, 1184.1, 1185.7, 1185.9, 1187.1, 1187.8, 1187.14, 1187.15(f)(1)(A) [current § 1187.15(g)(1)(A)], 1188.1, 1188.2, 1190.2, 1190.5); replace “review” with “comment” (§ 1183.18); replace “to” with “with” (§§ 1183.8, 1183.12, 1183.18, 1187.7); replace “submit,” “submits,” “submitted,” “submit to,” “submittal,” “submitting,” “for submittal,” “submittal of a,” “prepared,” “provide,” “review and provide,” and “received,” with “file,” “filed,” “filing,” “filed with,” “has been filed,” “to file,” or “may file,” as applicable (§§ 1181.1, proposed 1181.3(c)(1) [current § 1181.3(b)(1)], 1183.1, 1183.6, 1183.8, 1183.9, 1183.10, 1183.11, 1183.12, 1183.13, 1183.15, 1183.16, 1183.17, 1183.18, 1184.1, 1185.2, 1185.7, 1185.8, 1187.6, 1187.7, 1187.14, 1190.5); replace “submit” and “submitted” with “include” or “prepared” (§§ 1181.2, 1183.3); replace “submitted” and “submittal of” with “proposed” or “proposing” (§§ 1183.10, 1183.12, 1186.2); replace “claimed” with “alleged” (§ 1187.3); replace “accorded” with “provided” (§ 1187.3); replace “though” with “if” (§ 1187.6); replace “for the purpose of facilitating” with “to facilitate” (§ 1187.6); replace “all other matters” with “anything” (§ 1187.9); replace “made” with “provided” (§ 1187.14); replace “delivered” and “mailed” with “served on” (§ 1187.15); replace “required” with “determined” (proposed § 1187.15(f)(1)(A) [current § 1187.15(g)(1)(A)]); replace “change or changes” with “amend or amendments” (proposed §§ 1187.15(b)(4) [current § 1187.15(c)(4)], 1190.2, 1190.3); replace “and recommend” with “recommending” (§ 1183.17); and replace “institute” with “initiate” (§ 1188.2).

Additional proposed amendments delete unnecessary words including “as was” (proposed § 1181.3(c)(2)(B) [current § 1181.3(c)], “staff” (§ 1183.16(g)), “in order” (§ 1184.1(m)(2)), “serve and” (§ 1185.6(b)), “for” (§ 1186.7(b)), “the” (§ 1183.16(h)), “submitted,” “and shall be submitted,” and “submitted from” (§§ 1183.1, 1183.2, 1183.3, 1183.4, 1183.6, 1183.7, 1183.8, 1183.9, 1183.10, 1183.12, 1183.13, 1183.17, 1184.1, 1185.1, 1185.2, 1185.3, 1185.4, 1185.7, 1186.2, 1186.4, 1187.9, 1187.14, proposed § 1187.15(b)(5) & (f)(1)(B) [current § 1187.15(c)(5) & (g)(1)(B)], 1190.1, 1190.2, 1190.3, 1190.5), “events” (§ 1187.13(a)), and “preceding” (§§ 1186.2, 1186.4).

Additional proposed amendments add internal citations to other regulations (proposed §§ 1181.3(c)(1)(C) [current § 1181.3(b)(1)(D)], 1183.16(i), 1185.6(b)); replace “section 1187.9” with “subdivision (b) of this section” (§ 1187.9(a)); add “(a)” and “of this section” to a

citation (§ 1188.2(a)(2)); and add “of these regulations” to citations (§§ 1185.2(e), 1185.5(a) & (b), 1185.8(b)).

An additional proposed amendment adds that requests to sever an IRC from a proposed consolidation shall be “filed and served, in accordance with section 1181.3 of these regulations,” (§ 1185.6(b)) to remind parties and interested parties of the need to follow the Commission’s certification, filing, and service procedures.

Correct Minor Errors

These amendments are also proposed to correct errors in the current regulations, including to change “applicant” to “appellant” (§ 1181.1(c)(3)); replace “of” with “after” (§ 1183.13(e)); to correct erroneous citations (§§ 1183.10(b)(1), proposed 1187.15(i) [current § 1187.15(j)]); to add the word “section” (§ 1187.14(a)); to add the word “a” (§§ proposed 1181.3(c)(1) [current § 1181.3(b)(1)], 1183.15(e), 1187.14(a)); to add the word “and” (§ 1183.13(a)); to add the word “the” (§§ 1183.13(e), 1183.16(g), 1187.6(g), 1190.5(b)(3)); to replace “sections” with “section” (§ 1183.14(a)); to replace “fail” with “fails” (§ 1183.16(i)); to replace “on” with “by” (§ 1183.18(a)(5)); and to make capitalization consistent (§§ 1183.13(a), 1183.18(b)(1), 1186.4(d)).

XVI. Update to Authority and Reference Citations in Sections 1187.2 and 1187.6.

The authority statutes for section 1187.2, which addresses the assignment of a matter to a hearing panel or hearing officer, are proposed to be amended to add Government Code section 17532, which authorizes the Commission to designate any commissioner or commissioners for “any investigation, inquiry, or hearing which the commission has power to undertake or to hold.”

The reference statutes for section 1187.6, which governs the conduct of Commission hearings, are proposed to be amended to add Government Code section 11125.7, which authorizes state bodies to adopt “regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.”

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS RELIED ON TO DEVELOP REGULATIONS

The Commission relied on a guide prepared by the California Courts of Appeal titled *Guide to Creating Electronic Documents/Filings*, November 1, 2017 <https://www.courts.ca.gov/documents/DCA-Guide-To-Electronic-Appellate-Documents.pdf> (accessed on April 26, 2019); and on a guide prepared by the Cali-

California Second District Court of Appeal titled *Electronic Formatting Requirements and Guidelines of the Second District Pursuant to California Rules of Court rules 8.72(a) and 8.74(b)*, effective October 2017, Revised June 18, 2018 <https://www.courts.ca.gov/documents/2DCA-Electronic-Formatting-Req-Guide.pdf> (accessed on April 26, 2019). The Commission also relied upon the statutes and cases cited in the authority and reference sections for the regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission 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 non-discretionary costs or savings imposed on local agencies: None.

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Significant effect on housing costs: None.

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

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Commission concludes that the proposal will: (1) not create or eliminate jobs within California; (2) not create new businesses or eliminate existing businesses within California; and (3) not affect the expansion of businesses currently doing business within California.

SMALL BUSINESS DETERMINATION

Because the Commission has no jurisdiction over small businesses and small businesses are not parties before the Commission, the proposed regulatory action will have no impact on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed 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 Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Jill Magee, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Telephone: (916) 323-3562
(jill.magee@csm.ca.gov)

The backup contact person for these inquiries is:

Heidi Palchik, Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Telephone: (916) 323-3562
(heidi.palchik@csm.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the full text of documents relied on, the modified text of the regulations, if any, or other information on which the rulemaking is based to Ms. Jill Magee at the above address or download it from the Commission’s website at <http://www.csm.ca.gov/rulemaking.php>.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND FULL TEXT OF DOCUMENTS RELIED ON

The Commission 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 pro-

posed text of the regulations, the initial statement of reasons, the full text of the documents relied on, and the Commission order to initiate rulemaking proceedings.

Copies may be obtained on the Commission's website (see below) or by contacting Ms. Jill Magee at the address or phone number listed above. All persons on the Commission's interested persons mailing list will be provided a copy of the rulemaking file by making it available on the Commission's website and providing notice of how to locate it.

AVAILABILITY OF CHANGED OR MODIFIED TEXT AND ADDITIONAL DOCUMENTS RELIED ON

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) and any additional documents relied on available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations or additional documents relied on to the attention of Ms. Jill Magee at the address indicated above. The Commission 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 and any Additional Documents relied on may be obtained by contacting Ms. Jill Magee at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the Full Text of Documents relied on and the text of the regulations in underline and strikethrough can be accessed through the Commission's website at <http://www.csm.ca.gov/rulemaking.php>.

TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

The Department of Alcoholic Beverage Control ("ABC") proposes to adopt the proposed regulations described below after considering all comments, objec-

tions, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to ABC. Comments may also be submitted by email to RBSTPComments@abc.ca.gov. The written comment period closes at **12:00 p.m. on September 24, 2019**. ABC will consider only comments received at ABC Headquarters by that time. Submit comments to:

Responsible Beverage Service Training Program
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

AUTHORITY AND REFERENCE

Business and Professions Code Section 25681 and 25685 authorizes ABC to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific sections 25680–25686 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

The Responsible Beverage Service Training Program Act of 2017 (RBSTPA), codified as Business and Professions Code sections 25680–25686, mandates and authorizes the ABC to establish standards for a statewide Responsible Beverage Service (RBS) Training Program to certify all alcohol servers working at ABC on-premises licensed premises have been trained in RBS curriculum and passed an exam testing their knowledge and understanding of the curriculum. The RBSTPA was passed to curb the negative effects of the overuse of alcohol in California.

ABC approved accreditation agencies and training providers under the RBSTPA and these regulations will qualify as ABC licensees under the definition found in

Business and Professions Code section 23009 but will not hold an ABC license to sell, produce, or import alcohol. ABC approved accreditation agencies and training providers, including their owners and officers, must meet existing standards and requirements of ABC licensees, such as not being convicted of a crime of moral turpitude. ABC approved accreditation agencies and training providers are also granted the due process procedure and rights of ABC licensees for departmental decisions concerning their approval.

There are no existing regulations regarding the RBSTPA, or for ABC licensees by approval who do not have an ABC license. The proposed regulation action will implement the RBSTPA as mandated.

SUMMARY OF EFFECT

The proposed action will create California Code of Regulations, Title 4, Division 1, Article 25 by adopting the requirements to implement the RBSTPA, including the required curriculum standards for RBS training courses, approval standards for accreditation agencies and training providers, reporting requirements of ABC on-premises licensees, the establishment of an online alcohol server certification system, and enforcement standards and penalties for violations of the RBSTPA by accreditation agencies, training providers, and ABC on-premises licensees. The implementation of the RBSTPA will ensure that alcohol servers in California will be better trained to curb harms to the California community and economy caused by the overuse of alcohol.

COMPARABLE FEDERAL STATUTE OR REGULATIONS

The ABC has determined that this proposed regulation does not have a comparable federal statute or regulation.

POLICY STATEMENT OVERVIEW

This rulemaking action was required by the legislature in its passage of the RBSTPA to ensure the anticipated benefits are realized through the ABC's implementation, oversight, and enforcement of the program. The adoption of this action will lower the \$35 billion annual costs to the California economy due to the overuse to alcohol by training alcohol servers and their managers in RBS practices. In addition, the overuse of alcohol endangers public health and safety. By training alcohol servers and their managers to limit the overuse of alcohol in California, residents will have a higher quality

of life through the benefits of better public health and safety.

BENEFITS ANTICIPATED

By establishing a uniform and standard education requirement for all alcohol servers, the Legislature sought to improve the likelihood that an alcohol server will intervene before a customer who has overused alcohol endangers the public. It is estimated that the cost for the overuse of alcohol on the California economy is \$35 billion dollars per year. It is estimated that this regulations package will be able to reduce those costs by 10% by 2024, saving the California economy \$3.5 billion dollars per year while increasing public health and safety for all Californians.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The ABC has determined that this proposed regulatory action is not inconsistent or incompatible with existing state regulations. The proposed action contains the only regulations that address the minimum standards for the implementation of an RBS training course curriculum, approval of RBS accreditation agencies and RBS training providers, or ABC licensees by approval that do not hold an ABC license.

DISCLOSURES REGARDING THE PROPOSED ACTION

The ABC has made the following initial determinations:

1. Mandate on local agencies or school districts: None.
2. Costs or Savings to any state agency: The ABC is implementing, overseeing, and enforcing the RBSTPA. It is estimated the costs from 2018 through 2023 will be a total of \$7.6 million for new ABC staff, IT solution funding, and increased enforcement costs to monitor the program. These reasonable costs will be recovered through the administration of the alcohol server certification exam, fees for the approval of accreditation agencies and training providers, and annual renewal fees for accreditation agencies and training providers. The ongoing costs to the ABC after the initial implementation are estimated to be \$1 million ongoing for administration and oversight of the program.
3. Cost to any local agency or school district that is required to be reimbursed by the state: None.

4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Cost impacts on housing costs: None.

DETERMINATION OF STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The ABC has made an initial determination that the adoption of this regulation may have a significant, statewide adverse economic impact directly effecting businesses, including the ability of California businesses to compete with businesses in other states. The ABC has considered alternatives that lessen the adverse economic impact on business and invites you to submit proposals.

Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

The types of businesses affected include any ABC licensee exercising on-premises consumption privileges whether in the retail, distribution, or manufacturing tier, such as: restaurants, bars, movie theaters, wineries, breweries, distilleries, importers, wholesalers, stadiums, casual dining establishments, and supermarkets. These businesses will be required to ensure their alcohol servers and their managers as defined in the regulatory action complete an approved RBS training course and pass the alcohol server certification exam within 60 days of their initial employment. They will also need to keep records of the certification of their employees for inspection by law enforcement upon request. The department is creating an online certification system to allow ABC licensees to check, report, and keep all mandated records in one place to reduce the total economic costs.

In addition, current RBS training providers, both non-profit and for-profit, will need to update their RBS training courses to meet the new standards set by the RBSTPA and this regulatory action. They will then need to submit to departmental or accreditation agency review for approval under the standards set by this regulatory action for both their curriculum and delivery to foster a change in alcohol server behavior. The depart-

ment's online certification system will be available to approved training providers for them to easily comply with the mandatory record keeping and reporting.

DESCRIPTION OF ALL COST IMPACTS THAT A REPRESENTATIVE PRIVATE PERSON OR BUSINESS WOULD NECESSARILY INCUR INREASONABLE COMPLIANCE WITH THE PROPOSED ACTION

ABC on-premises licensees

ABC on-premises licensees employ persons who will qualify as alcohol servers under the statutory definition. The mandatory certification will be a requirement for alcohol servers' continued employment and ABC on-premises licensees believe California law requires employers to reimburse employees for these types of trainings. In addition, alcohol servers in certain hospitality industries have union contracts with their employers requiring wages for time spent in any mandatory training and reimbursement for mandatory training costs. This cost is estimated to be \$89 per alcohol server.

ABC on-premises licensees will need to install a certificate tracking system or modify an existing tracking system to ensure all employees that are alcohol servers are certified according to statute. ABC is developing a full-service database system to minimize the cost of a certificate tracking system for ABC on-premises licensees. Under the current chosen option, ABC and its stakeholders have estimated an average cost of \$200 per ABC on-premises licensed premises to sync their records to the ABC online certificate system in the first year. Further ongoing costs of keeping these records to date will be included in actions of previous record keeping requirements and are negligible.

Training providers

Each training provider, including existing RBS programs, will need to seek accreditation under the standards set by ABC through the RBSTPA regulations. Accreditation will involve approval of an RBS training course used by RBS trainers employed or contracted by a training provider. It is estimated this process will cost training providers \$1000 per curriculum approval. Training providers will also need to modify their existing trainings to comply with the statutorily mandated subjects and ABC regulated subject matter required for accreditation. In discussing with the industry, depending on the current curriculum of a training provider, this content development should cost from \$2,000 to \$10,000. According to the RBSTPA, a training provider will need to keep records of all alcohol servers trained and certified. ABC is developing a full service database system to minimize the cost to training providers. This

reporting is included in actions of previous record keeping by training providers and is negligible.

Alcohol servers

Alcohol servers who are hired after the implementation of the RBSTPA will most likely be required to complete an alcohol server certification prior to being employed by an ABC on-premises licensee. It will cost each individual an estimated \$20 for an RBS training course, \$3 for the RBS certification exam, and \$64 of time opportunity cost per individual who seeks to become certified under the RBSTPA to be employed as an alcohol server at an ABC on-premises licensed premises.

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ASSESSMENT

The ABC has determined the following estimates of all costs and benefits due to the proposed regulatory change.

The costs of implementing the RBSTPA and training 1,000,000 alcohol servers will be borne by alcohol servers, ABC on-premises licensees, training providers, and the state. It is anticipated that the date of filing with the Secretary of State will be January 1, 2020. Total costs in 2020 are estimated to be \$20.8 million. Total costs in 2021 are estimated to be \$80.1 million. Total costs in 2022 are estimated to be \$19.7 million. Total costs in 2023 are estimated to be \$24.7 million. Total costs in 2024, are estimated to be \$61.5 million.

A similar three-year direct costs cycle of new hires and retained alcohol servers will continue moving forward from 2024 coupled with an estimated 20% annual turnover for alcohol servers, and a 2.11% average annual growth in the amount of ABC on-premises licensees.

Benefits of the RBSTPA will most likely not be seen until after the entire California alcohol server population is trained after 2021. Total benefits in 2022 and 2023 are estimated to be \$1.75 billion annually to the California economy through the reduction of the overuse of alcohol by 5%. Total benefits in 2024 are estimated to be \$3.50 billion annually to the California economy through the reduction of the overuse of alcohol by 10%.

For a more extensive and detailed economic impact assessment please see ABC's Standard Regulatory Impact Assessment for this regulation action.

Creation or Elimination of Jobs within California

RBS training providers will receive \$20 million from providing the initial RBS training courses to the 1,000,000 existing alcohol servers. They will also need to spend \$680,000 to update their curriculum and get it approved through ABC. In addition, ABC on-premises

licensees will invest \$11.22 million in creating and maintaining systems to monitor and review their employees' mandatory training requirements, and \$64 million in wages to its employees. ABC on-premises licensees will be responsible for paying for their employees' RBS certification exams, paying \$3 million to ABC. In total, these investments will create an estimated 2,316 jobs.

ABC on-sale licensees anticipate the need to provide \$89 million to pay for their current employees to be trained as mandated by the RBSTPA, or \$89 for each alcohol server the ABC on-sale licensee employs. Through information collected at the stakeholder meetings discussed above, the ABC does not anticipate any reduction of jobs due to this regulation being implemented.

Creation or Elimination of Businesses in California

ABC, through its public outreach and economic analysis, does not anticipate any creation or loss of businesses in California due to the implementation of the RBSTPA. Although there could be less than ten new RBS training providers that enter the market from out of state, it is anticipated that there will also be a consolidation of some existing training providers to pool knowledge and experience to both update and innovate within their existing RBS training programs.

Advantages and Disadvantages for Current California Businesses

The ABC on-sale licensees currently doing business in California are not benefited or disadvantaged by this regulatory action. The ABC licensees will incur additional costs of training, but there are no exempt businesses they will be competing with inside the market since out of state or new businesses will also need to comply.

Current Californian RBS training providers will have advantages due to this regulatory action. The RBS training market will grow and have a uniform standard for the entire state's population of alcohol servers. This will likely draw more out-of-state actors, but in-state training providers are familiar with applicable California law and will need less changes to their existing RBS training courses to be approved by the department.

Incentives for Innovation

The regulatory action will provide incentives to the RBS training providers to better teach alcohol servers and provide behavioral change. Both the need for students to pass the alcohol server certification, and the three-year renewal requirements will incentivize strong RBS programs to create a loyal customer base through innovation. RBS classes will be offered both in person and online so innovation in teaching techniques in both arenas will be incentivized.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

This regulatory action will increase the health and welfare of California residents through the anticipated reduction in community harm due to the overuse of alcohol throughout the state. This will reduce alcohol-related car wrecks, disease, fatalities, and their attached harms both economically and socially. In addition, if obviously intoxicated persons are no longer served in ABC on-premises locations, the workers will have increased safety due to a reduction in alcohol-related assaults or violence in their workplaces.

Expansion of Business Investment

It is anticipated that RBS training providers will invest \$0.68 million over the first year to better hone their course offerings and control a portion of the new RBS training market created by implementing the RBSTPA. In addition, ABC On-Sale Licensees anticipate investing \$11.22 million in creating and maintaining systems to monitor and review their employees' mandatory training requirements over the first year to comply with the law, \$25 million in the cost of training their employees, and \$64 million in wages to its employees. This will effectively be a total investment of \$100.9 million in the industry in 2020-2021.

Small Businesses Affected by Proposed Regulation

An estimated 33% of ABC on-premises licensees qualify as small businesses. The estimated effect of the proposed action is dependent on the number of alcohol servers employed by an ABC on-premises licensee, so the small businesses will be affected in smaller amounts due to their smaller employment numbers.

Summary of Department of Finance Comments to the Standard Regulatory Impact Assessment

The Department of Finance (DOF) stated that it "generally concurs with the methodology used to estimate the annual economic impacts under the proposed regulations." There were no recommended changes or revisions except in the case that the proposed regulations package necessitated a shift in either the proposed options, or other estimated outcomes. The department has not submitted a formal response to the DOF comments due to no changes being requested or encouraged by DOF. The proposed regulations, as currently proposed, are in line with the estimates included within the submitted standard regulatory impact assessment.

**THE NEED TO REQUIRE A
REPORT FROM BUSINESSES**

The RBSTPA required both the ABC on-premises licensees and training providers keep and maintain

records of valid alcohol server certifications issued and received to allow ABC to enforce compliance. Reporting is not required under the RBSTPA unless a request for the records is made by an authorized agent of ABC. However, to lower the economic impact on the state, ABC on-premises licensees, and training providers, ABC is creating an online certificate system to validate all issued alcohol server certifications. This is a form of reporting for both ABC on-premises licensees and training providers. ABC through this regulatory action is requiring actors to keep some of their statutorily required records within an ABC online certificate system to alleviate the need to build multiple tracking databases throughout the state or use paper certificates that are easily recreated and fraudulently provided. This mandatory reporting and validation will ensure the anticipated benefits to the health, safety, and welfare of California residents due to the integrity of the online certification system requiring all alcohol servers to complete the mandatory training and pass the exam, learning to change their behavior in serving alcohol for consumption limiting the overuse of alcohol. It is necessary for the health, safety, or welfare of the people of the state that this regulation, which requires a report, apply to businesses.

CONSIDERATION OF ALTERNATIVES

The ABC must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private 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. For a detailed discussion of alternatives that the agency itself considered, see Section 10 of ABC's Standard Regulatory Impact Assessment on the proposed major regulation action. ABC invites interested persons to present statement or arguments with respect to alternatives to the proposed regulation during the written comment period.

AGENCY CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to the agency representative Robert de Ruyter, Attorney III, Office of the General Counsel, (916) 419-8958 or (designated backup contact) Megan Raisis, Associate Governmental Program Analyst, Responsible Beverage Service Training Program (916) 419-4912.

AVAILABILITY OF DOCUMENTS

The ABC prepared an Initial Statement of Reasons for the proposed action, which includes a summary of the economic impacts of the proposal. In addition, due to this being a major regulation action the ABC prepared a Standard Regulatory Impact Assessment to examine the specific economic impact on businesses and individuals in detail.

Copies of the Initial Statement of Reasons, the Standard Regulatory Impact Assessment, and the full text of the proposed regulations may be accessed on ABC's website listed below or may be obtained from the Responsible Beverage Service Training Program, Department of Alcoholic Beverage Control, 3927 Lennane Drive, Suite 100, Sacramento, CA 95834, on or after August 9, 2019.

The ABC staff has compiled a record for this rule-making action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

CHANGE TO THE PROPOSED FULL TEXT OF THE REGULATION ACTION

If there is any change to the proposed full text of the regulation action in a substantial, or sufficiently related way, it will be made available for comment for at least 15 days prior to the date on which the department adopts the resulting regulation.

FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the department contact persons in this notice or may be accessed on ABC's website listed below.

INTERNET ACCESS

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on ABC's website for this rulemaking at <https://www.abc.ca.gov/law-and-policy/regulations/>.

TITLE 10. DEPARTMENT OF INSURANCE

REG-2019-00012

NOTICE OF INTENT TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA DEPARTMENT OF INSURANCE

NOTICE IS HEREBY GIVEN that the California Department of Insurance (the "Department"), pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. All inquiries should be directed to the contact listed below.

The Department 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: changes to the branches of the Department and the positions under each, reflecting the Department's reorganization as of April 3, 2019; additions of new positions to branches of the Department; and, also other technical changes.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than September 23, 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 15 days before close of the written comment period.

The Department 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.

Requests for the text of the proposed amendment or explanation of the reasons, any inquiries concerning the proposed amendment, or any communication required by this notice should be directed to:

Lisbeth Landsman-Smith
Senior Staff Attorney
Lisbeth.Landsman@insurance.ca.gov
(916) 492-3561

TITLE 11. DEPARTMENT OF JUSTICE

NOTICE OF PROPOSED AMENDMENTS TO THE CONFLICT-OF-INTEREST CODE OF THE DEPARTMENT OF JUSTICE

NOTICE IS HEREBY GIVEN that the Department of Justice, pursuant to Government Code section 87306 of the Political Reform Act (Gov. Code, § 81000 et seq.), proposes to amend its conflict-of-interest code. The purpose of the amendments is to implement Government Code sections 87300 through 87302, and section 87306.

Government Code sections 87300 and 87302 require each government agency to adopt a conflict-of-interest code designating the agency personnel who must file periodic Form 700 Statements of Economic Interests, disclosing certain economic interests. Designated personnel are those who make or participate in making governmental decisions that may foreseeably have a material financial effect on an economic interest. (Gov. Code, § 87302, subd. (a).)

The Department proposes to amend its conflict-of-interest code to include employee positions that make or participate in making governmental decisions that may foreseeably have a material financial effect on an economic interest, as set forth in Government Code section 87302, subdivision (a). The Department proposes other changes to reflect its current organizational structure.

Any interested person may submit written statements, arguments, or comments related to the proposed amendments by submitting them in writing no later than **September 23, 2019** or at the conclusion of the public hearing, if one is requested, whichever comes later, to the agency contact set forth below. The Department has not scheduled a public hearing on the proposed amendments. However, it will hold a hearing if it receives a written request for a hearing from any interested person, or his or her representative, 15 days before the close of the written comment period.

The Department has prepared a written explanation (Statement of Reasons) for the proposed amendments

and has available the information on which the proposed amendments are based. Copies of the proposed amendments and the information on which the amendments are based are available at <https://oag.ca.gov/meetings/public-participation> or may be obtained by contacting the contact person set forth below.

The Department has determined that the proposed amendments will not impose a cost or savings on any state agency, or school district that is required to be reimbursed under part 7 commencing with Section 17500) of Division 4 of the Government Code; will not result in any non-discretionary costs or savings to local agencies; will not result in any cost or savings in federal funding to the state; will not impose a mandate on local agencies or school districts; and will not have any potential cost impact on private persons or businesses including small businesses.

The Department has determined that no alternative considered by the Department would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected private persons than the proposed amendments.

All inquiries concerning this proposal should be directed to: Julia Zuffelato at Department of Justice, 1300 I Street, Sacramento, California 95814, or (916) 210-6040, or Julia.Zuffelato@doj.ca.gov.

TITLE 14. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

NOTICE IS HEREBY GIVEN that the **Sacramento-San Joaquin Delta Conservancy**, 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 August 9, 2019 and closing on September 23, 2019. All inquiries should be directed to the contact listed below.

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

Changes to the conflict-of-interest code include: adding and subtracting positions, addressing electronic filings, and making other technical changes.

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

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than September 23, 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 September 9, 2019.

The **Sacramento-San Joaquin Delta Conservancy** 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:

Aleesah Herup
Associate Governmental Program Analyst
(916) 375-2091
aleesah.herup@deltaconservancy.ca.gov

**TITLE 15. DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to amend Sections 3375 and 3375.3 of Title 15, Division 3, Chapter 1, regarding unfavorable behavior points.

PUBLIC HEARING

Date and Time:

September 30, 2019 — 10:00 a.m. – 11:00 a.m.

Place:

Department of Corrections and Rehabilitation
Conference Room 100N
1515 S Street — North Building
Sacramento, CA 95811

Purpose:

To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period begins **August 9, 2019** and closes on **September 30, 2019 at 5:00 p.m.** Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpm@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

CONTACT PERSONS

Primary Contact

J. Struckmann
Telephone: 916-445-2276
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (916) 445-2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Steve Jimenez
Classification Services Unit
Division of Adult Institutions
916-445-0224

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished. **PC Section 5054** provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of a regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2010, CDCR commissioned the Expert Panel Study of the Inmate Classification Score System to evaluate the factors that justify an inmate’s housing placement, custody level, and propensity for institutional misconduct. The study found that inmates placed in higher security level housing are more likely to engage in more institutional misconduct than if they were placed in a lower security level.

Current regulations require the assessment of an inmate’s unfavorable behavior point for prior disciplinary offenses during incarceration with any correctional agency, regardless how long ago the offense occurred. The proposed regulations enact a 10–year limitation on the length of time a prior disciplinary offense will count towards an inmate’s classification score, thereby potentially placing the inmate in a lower security level where they may maintain appropriate behavior and successfully engage in rehabilitative programming.

This action will:

- Establish a limitation on the effect an inmate’s disciplinary history will have on their classification score.
- Revise procedures for assessing unfavorable behavior points for inmates admitting to CDCR on a new term of commitment.

- Revise procedures for assessing unfavorable behavior points for inmates returning to CDCR on a current term of commitment.

DOCUMENTS INCORPORATED BY REFERENCE

None.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The Department anticipates the proposed regulations will further promote inmate access to rehabilitative services and programs, which will aid in public safety when inmates return to the community. The proposed regulations will also assist in providing opportunity for lower security level placement consistent with the Expert Panel Study, which concluded inmates placed in a lower security level are more likely to refrain from serious institution misconduct. The proposed amendments prioritize safety of inmates and institution staff while allowing inmates, whose disciplinary history is lessened, the opportunity to qualify for lower security levels and potentially increase their access to rehabilitative services and programs.

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing 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 unfavorable behavior points.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

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

EFFECT ON SMALL BUSINESSES

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by helping to make CDCR institutions safer for inmates, staff, and visitors. Additionally, safer institutions may provide an environment more conducive to rehabilitation, thereby reducing recidivism.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

TITLE 19. CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES

NOTICE OF INTENTION TO
AMEND THE CONFLICT-OF-INTEREST
CODE OF THE **California Governor's
Office of Emergency Services**

NOTICE IS HEREBY GIVEN that the **California Governor's Office of Emergency Services**, 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 August 9, 2019 and closing on September 23, 2019. All inquiries should be directed to the contact listed below.

The **California Governor's Office of Emergency Services** 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 additional positions and shifting of positions to different sections to align with the current Cal OES organizational structure and other technical changes.

Information on the code amendment is available on the agency's intranet site and/or attached to this email.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than September 23, 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 September 9, 2019.

The **California Governor's Office of Emergency Services** 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: Sourideth Saengkhamphong, Associate Governmental Program Analyst (916) 845-8323, regulations@caloes.ca.gov.

GENERAL PUBLIC INTEREST

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**30-Day Public Notice and
Comment Period
Unified Program Fee Schedule for
Trinity County CUPA**

Notice is hereby given that the Secretary for the California Environmental Protection Agency (CalEPA) proposes revising the Unified Program fee schedule included in this notice for regulated businesses in Trinity County, pursuant to the California Code of Regulations, Title 27, Section 15241(i). The California Department of Toxic Substances Control (DTSC) is the Certified Unified Program Agency (CUPA) for Trinity County and provided CalEPA with information necessary to revise the fee schedule, which will cover the necessary and reasonable costs to implement the Unified Program according to Title 27, Section 15241(b).

In 2005, CalEPA designated DTSC to be the CUPA for Trinity County, as specified by Health and Safety Code Section 25404.3, Subdivision (f)(2)(A). Health and Safety Code Section 25404.5, Subdivision (a)(2)(B) states that if the Secretary of CalEPA has designated a state agency to act as the CUPA, the Secretary will determine the amount to be paid under the single fee system.

DTSC identified a deficit in the funding in the beginning of 2018 and submitted a request to CalEPA to approve increases to the flat fee on all regulated businesses and on each individual program element. The revised fee rates will result in an overall increase in revenue from \$57,266 to \$166,674. The increase is necessary as the current funding level was established in 2008 and is now insufficient to cover the necessary and reasonable costs incurred by DTSC to implement the CUPA program in Trinity County.

CalEPA will increase the Trinity CUPA fees over a period of two years. CalEPA calculated a revised fee schedule with implementation as follows:

- 50% of the requested increases implemented in Fiscal Year (FY) 2019/2020
- Remaining 50% of the requests implemented in FY 2020/2021

The public comment period for this notice will be from August 9, 2019, through September 9, 2019. CalEPA requests the public to submit written comments by the closing date to the following:

Mr. Gregory Vlasek
 Assistant Secretary for Local Program Coordination
 California Environmental Protection Agency
 P.O. Box 2815, MS-2D
 Sacramento, California 95812-2815
 E-mail address: cupa@calepa.ca.gov

Following the 30-day comment period, the Secretary will consider comments and prepare a response that identifies the comments, the Secretary's findings, and the Secretary's final fee decisions. The Secretary will make responses available upon request and will publish the final fee schedule in the California Regulatory Notice Register pursuant to Title 27, Section 15241(i).

DTSC noticed impending Fiscal Year 2019 fee adjustments in recent invoices to all regulated entities. CalEPA expects the new fees to go into effect immediately upon approval.

**Unified Program Fee Schedule
 For Trinity County
 2019/2020**

Fee Type: Flat Fee for All Businesses — Current Rate: \$80 — Increase Amount: \$153 — New Rate: \$233

Fee Type: Hazardous Materials Business Plan (HMBP) — Current Rate: \$155 — Increase Amount: \$136 — New Rate: \$291

Fee Type: Hazardous Waste Generators (HWG): All — Current Rate: \$170 base — Increase Amount: n/a — New Rate: n/a

Fee Type: HWG: <1 ton — Current Rate: n/a — Increase Amount: \$164 — New Rate: \$334

Fee Type: HWG: 1 ton to <500 tons — Current Rate: n/a — Increase Amount: \$306 — New Rate: \$476

Fee Type: Aboveground Storage Tanks: Less than or equal to 10,000 gallons — Current Rate: \$55 — Increase Amount: \$186 — New Rate: \$241

Fee Type: Aboveground Storage Tanks: Greater than 10,000 to less than 100,000 gallons — Current Rate: \$145 — Increase Amount: \$212 — New Rate: \$357

Fee Type: Underground Storage Tanks: Less Than 19,000 gallons — Current Rate: \$800 — Increase Amount: \$985 — New Rate: \$1,785

Fee Type: Underground Storage Tanks: Between or Equal To 19,000 to 34,000 gallons — Current Rate: \$1,000 — Increase Amount: \$1,205 — New Rate: \$2,205

Fee Type: Underground Storage Tanks: Greater Than 34,000 gallons — Current Rate: \$1,200 — Increase Amount: \$1,318 — New Rate: \$2,518

Fee Type: California Accidental Release Program — Current Rate: \$1,200 — Increase Amount: \$430 — New Rate: \$1,630

Fee Type: Hazardous Waste Recyclers — Current Rate: \$96 — Increase Amount: \$201 — New Rate: \$297

Fee Type: Small Quantity Onsite Hazardous Waste Treatment — Current Rate: \$125 — Increase Amount: -\$125 — New Rate: n/a

Fee Type: Tiered Permitting — Current Rate: n/a — Increase Amount: n/a — New Rate: \$497

Fee Type: Permit by Rule/Conditional Authorization — Current Rate: n/a — Increase Amount: n/a — New Rate: \$497

**Unified Program Fee Schedule
 For Trinity County
 2020/2021**

Fee Type: Flat Fee for All Regulated Businesses — 2019/2020 Rate: \$233 — Increase Amount: \$0 — New Rate: \$233

Fee Type: Hazardous Materials Business Plan — 2019/2020 Rate: \$291 — Increase Amount: \$206 — New Rate: \$497

Fee Type: Hazardous Waste Generators: <1 ton — 2019/2020 Rate: \$334 — Increase Amount: \$163 — New Rate: \$497

Fee Type: Hazardous Waste Generators: 1 ton to <500 tons — 2019/2020 Rate: \$476 — Increase Amount: \$306 — New Rate: \$782

Fee Type: Aboveground Storage Tanks: Less than or equal to 10,000 gallons — 2019/2020 Rate: \$241 — Increase Amount: \$185 — New Rate: \$426

Fee Type: Aboveground Storage Tanks: Greater than 10,000 to less than 100,000 gallons — 2019/2020 Rate: \$357 — Increase Amount: \$211 — New Rate: \$568

Fee Type: Underground Storage Tanks: Less Than 19,000 gallons — 2019/2020 Rate: \$1,785 — Increase Amount: \$986 — New Rate: \$2,771

Fee Type: Underground Storage Tanks: Between or Equal To 19,000 to 34,000 gallons — 2019/2020 Rate: \$2,205 — Increase Amount: \$1205 — New Rate: \$3,410

Fee Type: Underground Storage Tanks: Greater Than 34,000 gallons — 2019/2020 Rate: \$2,518 — Increase Amount: \$1319 — New Rate: \$3,837

Fee Type: California Accidental Release Program — 2019/2020 Rate: \$1,630 — Increase Amount: \$430 — New Rate: \$2,060

Fee Type: **Hazardous Waste Recyclers** — 2019/2020 Rate: \$297 — Increase Amount: \$200 — New Rate: \$497

Fee Type: **Tiered Permitting** — 2019/2020 Rate: \$497 — Increase Amount: \$0 — New Rate: \$497

Fee Type: **Permit by Rule/Conditional Authorization** — 2019/2020 Rate: \$497 — Increase Amount: \$0 — New Rate: \$497

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CESA CONSISTENCY DETERMINATION REQUEST FOR Eden Safe Harbor Agreement 2089-2019-002-01 Mendocino County

The California Department of Fish and Wildlife (CDFW) received a notice on July 24, 2019 that Jennifer and Jonathon Eden (Applicants) propose to rely on a federal Safe Harbor Agreement to carry out a project that may provide a net conservation benefit to a species protected by the California Endangered Species Act (CESA). The proposed project involves the implementation of beneficial management activities to provide a net conservation benefit for northern spotted owl (*Strix occidentalis caurina*). The proposed project will occur on the Eden family property in Philo, Mendocino County, California.

The July 24, 2019 notice requested a CDFW determination pursuant to California Fish and Game Code Section 2089.22, that the Biological Opinion (AFWO-16B0073-18F0191) issued by the U.S. Fish and Wildlife (Service) on July 12, 2019 and safe harbor agreement (TE21179D-0) issued by the Service to the Applicants on June 17, 2019, are consistent with CESA for purposes of the proposed Project. If CDFW determines the federal safe harbor agreement is consistent with CESA for the proposed Project, the Applicants will not be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

RULEMAKING PETITION DECISION

CALIFORNIA ENERGY COMMISSION

Government Code Section 11340.7

Agency: California Energy Commission

Petitioner: Steve Uhler

Relevant Regulations: Title 20 section 1208

Authority: Public Resources Code sections 25218 and 25402

Agency Decision: Petition denied. See attached order

Agency Contact Person: Jared Babula 916-651-1462, Jared.babula@energy.ca.gov

Obtaining Documents:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?doctetnumber=19-BUSMTG-02> see TN# 228746 for petition

ORDER NO: 19-0715-12

STATE OF CALIFORNIA

STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF: STEVE UHLER

PETITION FOR RULEMAKING HEARING

Docket No. 19-BUSMTG-02

ORDER DENYING THE PETITION FOR RULEMAKING HEARING

I. INTRODUCTION AND PROCEDURAL HISTORY

On June 12, 2019, Mr. Steve Uhler (Petitioner) filed a petition with the Executive Director of the California

Energy Commission (Energy Commission) requesting that the Energy Commission initiate a rulemaking hearing to amend California Code of Regulations, title 20, section 1208, to allow a member of the public to open a docket to receive filed documents.

The Executive Director deemed this petition complete on June 18, 2019.

Staff recommends denying the petition because it is not necessary to amend the regulations to provide the public with authority to create a docket. Creation of a docket is an agency function. In addition, the Energy Commission's current regulations and practice ensure a document filing and docketing process that allows the public to submit documents in all types of proceedings and to petition the Energy Commission. Finally, the Public Adviser is available to assist the public.

On July 15, 2019, the Commission held a hearing to consider the petition.

II. FINDINGS

Based on the record, the Commission finds that:

- 1) Public Resources Code section 25218 empowers the Commission to adopt any rule or regulation, or take any action it deems reasonable and necessary to carry out its statutory duty. Thus, the Commission has the authority to initiate a rulemaking, as requested in the petition.
- 2) The creation of a docket is properly the function of the Energy Commission Staff and not the public. Staff typically creates a docket in advance of any public filings into that docket. If members of the public were permitted to create a docket each time they filed a document with the Energy Commission, confusion would result within proceedings regarding the correct docket and Energy Commission documents would become disorganized. The provisions of sections 1208 and 1208.1 provide clear directions to the public on the methods of filing documents in existing proceedings, which includes efilings, emailing, and standard mail.
- 3) A docket is not necessary for the public to submit documents or comments to the Energy Commission when there is no proceeding. Generally, when a member of the public is initiating a petition or request for Energy Commission action, the member of the public is directed by the Energy Commission's regulations to submit that filing to the Executive Director.
- 4) The Public Adviser is available to assist the public in submitting documents and participating in proceedings.

- 5) Amendments to the procedures set forth in sections 1208 and 1208.1 are not necessary. The current process for filing documents with the Energy Commission and the supporting regulatory language do not present any issues or barriers that impact the ability for the public to submit documents to the Energy Commission or otherwise participate in proceedings.

III. CONCLUSION AND ORDER

For the reasons stated above, the Petition is hereby DENIED.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on July 15, 2019.

AYE: Hochschild, Scott, Douglas, McAllister, Monahan

NAY: None.

ABSENT: None.

ABSTAIN: None.

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# 2019-0619-04

AIR RESOURCES BOARD

Gas Station Nozzle Dimensions Regulation

This action by the California Air Resources Board amends Enhanced Vapor Recovery (EVR) device certification regulations. The amendments standardize nozzle spout and bellows dimensions to improve compatibility with newer motor vehicle fill pipes.

Title 17
AMEND: 94010, 94011, 94016, 94017
Filed 07/29/2019
Effective 10/01/2019
Agency Contact: Chris Hopkins (916) 445-9564

File# 2019-0619-01
BOARD OF FORESTRY AND FIRE PROTECTION
14 CCR Section 1052.1 Non-Substantive
Amendments

This change without regulatory effect filing by the Board of Forestry and Fire Protection relocates, and revises the subdivision lettering of, regulatory provisions concerning conditions that constitute an emergency.

Title 14
AMEND: 1052, 1052.1
Filed 07/31/2019
Agency Contact: Eric Hedge (916) 653-9633

File# 2019-0619-05
CALIFORNIA COASTAL COMMISSION
General Update to Add Electronic Communication,
Streamline Procedures

The California Coastal Commission (Commission) filed this action to make comprehensive changes to the Commission's regulations in order to provide for electronic noticing, align regulatory provisions to current law, and to streamline Commission hearing and appeals procedures. The action adopts two regulations, amends 91 regulations, and repeals one regulation.

Title 14
ADOPT: 13012.1, 13024.5
AMEND: 13016, 13018.5, 13020, Ch. 4 Note, 13050.5, 13052, 13053.5, 13054, 13056, 13059, 13060, 13063, 13066, 13067, 13073, 13094, 13102, 13107, 13110, 13111, 13112, 13115, 13117, 13139, 13142, 13143, 13150, 13151, 13153, 13156, 13163, 13165, 13166, 13169, 13170, 13172, 13181, 13182, 13183, 13184, 13185, App. A., 13191, 13192, 13193, 13238.2, 13255.2, 13256.1, 13256.2, 13258, 13317, 13318, 13320, 13329.1, 13329.3, 13332, 13333, 13337, 13340, 13353, 13355, 13359, 13368, 13502, 13511, 13515, 13519, 13523, 13524, 13525, 13531, 13532, 13535, 13537, 13542, 13544, 13544.5, 13547, 13550, 13552, 13555, 13565, 13566, 13571, 13627, 13628, 13630, 13631, 13632, 13633, 13634
REPEAL: 13013.5
Filed 07/30/2019
Effective 01/01/2020
Agency Contact: Robin Mayer (415) 904-5220

File# 2019-0619-02
CALIFORNIA ENERGY COMMISSION
Appliance Efficiency Regulations
This change without regulatory effect filing by the California Energy Commission removes minimum Energy Efficiency Ratio standards for split system heat pumps to align with federal law.

Title 20
AMEND: 1605.1
Filed 07/24/2019
Agency Contact: Corrine Fishman (916) 654-4976

File# 2019-0618-02
DEPARTMENT OF MANAGED HEALTH CARE
Cancellations, Rescissions, and Nonrenewals

This action updates standards to ensure health care service plans comply with state and federal requirements for cancellations, rescissions, and non-renewals of health care coverage.

Title 28
ADOPT: 1300.65, 1300.65.1, 1300.65.2, 1300.65.3, 1300.65.4, 1300.65.5
REPEAL: 1300.65, 1300.65.1, 1300.65.2
Filed 07/30/2019
Effective 10/01/2019
Agency Contact: Jennifer Willis (916) 324-9014

File# 2019-0618-04
FISH AND GAME COMMISSION
Waterfowl, Migratory Hunting Regulations 2019-2020

This rulemaking action by the Fish and Game Commission adjusts the dates for the 2019-2020 season for various California waterfowl hunting zones and decreases the daily bag limit for pintail ducks.

Title 14
AMEND: 502, 509
Filed 07/30/2019
Effective 07/30/2019
Agency Contact: Jon Snellstrom (916) 654-9868

File# 2019-0717-03
OCCUPATIONAL SAFETY AND HEALTH
(CAL-OSHA) DIVISION
Pressure Vessel Fees

This is a readoption of emergency regulations concerning adjustments to the Division of Occupational Safety and Health's (Division's) inspection and permit fees for the inspection and testing of certain tanks, pressure vessels, and boilers. Pursuant to Labor Code section 7721(e), this action must be taken as an emergency and is not subject to review and approval by the Office of Administrative Law (OAL). The Division requested that OAL file the readopted emergency regulations with

the Secretary of State and ensure the printing of the regulations in the California Code of Regulations.

Title 8
 AMEND: 344, 344.1, 344.2
 Filed 07/29/2019
 Effective 08/06/2019
 Agency Contact:
 Denise M. Cardoso (510) 286-7348

File# 2019-0719-01
 OCCUPATIONAL SAFETY AND HEALTH
 (CAL-OSHA) DIVISION
 Recording and Reporting of Occupational Injuries and Illnesses

The Division of Occupational Safety and Health submitted this emergency readoption action so that regulations addressing the electronic recording and reporting of occupational injuries and illnesses remain substantially identical to corresponding federal Occupational Safety and Health Administration regulations, as required by federal law.

Title 8
 AMEND: 14300.35, 14300.41
 Filed 07/29/2019
 Effective 07/31/2019
 Agency Contact: Willie N. Nguyen (510) 286-7348

File# 2019-0719-04
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Protection From Wildfire Smoke

This emergency action clarifies existing regulations regarding general respiratory protection at the workplace by adopting more specific standards with respect to protections from wildfire smoke. (See Cal. Code Regs., tit. 8, sec. 5144.)

Title 8
 ADOPT: 5141.1
 Filed 07/29/2019
 Effective 07/29/2019
 Agency Contact: Christina Shupe (916) 274-5721

File# 2019-0627-03
 OFFICE OF ENVIRONMENTAL HEALTH
 HAZARD ASSESSMENT
 Chemicals Known to the State to Cause Cancer or Reproductive Toxicity

This action was submitted to OAL as a file and print that added to the list of chemicals known to the state to

cause cancer or reproductive toxicity. Specifically, the chemical p-chloro- α,α,α -trifluorotoluene (para-Chlorobenzotrifluoride, PCBTF) was added to the list of chemicals known to the state to cause cancer and Bevacizumab was added to the list of chemicals known to the state to cause reproductive toxicity. Pursuant to Health and Safety Code section 25249.8, this action is exempt from the Administrative Procedure Act.

Title 27
 AMEND: 27001
 Filed 07/30/2019
 Effective 06/28/2019
 Agency Contact: Julian Leichty (916) 323-2395

File# 2019-0617-02
 OFFICE OF STATEWIDE HEALTH PLANNING
 AND DEVELOPMENT
 Office of Statewide Health Planning and Development (OSHDP) California CABG Outcomes Reporting Program (CCORP)

This change without regulatory effect filing by the Office of Statewide Health Planning and Development deletes the listing of California Coronary Artery Bypass Graft (CABG) Outcomes Reporting Program data element specifications for patients discharged on or after January 1, 2018 from regulation and incorporates the data element specifications by reference in a document titled, "California CABG Outcomes Reporting Program, (CCORP) Data Element Specifications, Version 7.1, May 5, 2019." This filing also deletes outdated data reporting requirements for patients discharged on or before December 31, 2017.

Title 22
 AMEND: 97174
 Filed 07/29/2019
 Agency Contact: Denise Stanton (916) 326-3785

File# 2019-0620-03
 PUBLIC EMPLOYMENT RELATIONS BOARD
 Repeal of fair-share/agency fee regulations & Repeal of IHSSEERA

This action amends and repeals regulations, as changes without regulatory effect, to (1) remove provisions governing public sector agency fee arrangements held invalid by the United States Supreme Court in *Janus v. American Federation of State, County, and Min. Employees, Council 31* (2018) 138 S.Ct. 2448 and (2) remove a provision in response to the repeal of the In-Home Supportive Services Employer-Employee Relations Act by Senate Bill 90 (Stats. 2017, ch. 25).

Title 8

AMEND: 32700, 32721, 32724, 32998, 32999, 33015, 40160, 61000, 61020, 81000, 81020, 91000, 91020

REPEAL: 32990, 32992, 32993, 32994, 32995, 32996, 32997, 34020, 34030, 34035, 34040, 34050, 34055, 34060, 34065, 40400, 40410, 40420, 40430, 51700, 51710, 51715, 51720, 51725, 51730, 51735, 51740, 61600, 61610, 61620, 61630, 71700, 71710, 71715, 71720, 71725, 71730, 71735, 71740, 81600, 81610, 81620, 81630, 91600, 91610, 91620, 91630

Filed 07/31/2019

Agency Contact: Jessica Kim (510) 622-0111

Title 14

AMEND: 3504.5

Filed 07/30/2019

Effective 01/01/2020

Agency Contact: Matthew Livers (916) 319-9032

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

File# 2019-0617-03

STATE MINING AND GEOLOGY BOARD

Inspections

This action amends regulations with respect to conducting mine inspections pursuant to the amended Public Resources Code section 2774, defining and updating forms required by statute and amending the qualifications of inspectors, among other things.

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.