



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. CALIFORNIA HIGH SPEED RAIL AUTHORITY**

NOTICE IS HEREBY GIVEN that the California High-Speed Rail Authority (Authority), 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 Friday, October 11, 2019 and closing on the Monday, November 25, 2019. All inquiries should be directed to the contact listed below.

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

Changes to the conflict-of-interest code include the addition and removal of positions based on the Authority's organizational structural changes, additional disclosure categories tailored to positions making or participating in the making of decisions, a note that identifies positions in a consultant or State staff capacity, 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 Monday, November 25, 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 Monday, November 11, 2019.

The Authority has determined that the proposed amendment:

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 costs 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: HSR Legal, [legal@hsr.ca.gov](mailto:legal@hsr.ca.gov), (916) 403-6928

**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

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

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

**STATE AGENCY:**

- Department of Technology
- Department of Health Services

**MULTI-COUNTY:**

- Pacheco Water District

A written comment period has been established commencing on October 11, 2019 and closing on November 25, 2019. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

The Executive Director of the Commission, upon her or its own motion or at the request of any interested per-

son, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than November 25, 2019. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

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

#### EFFECT ON HOUSING COSTS AND BUSINESSES

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

#### AUTHORITY

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

#### REFERENCE

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

#### CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-5854.

#### AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-5854.

#### TITLE 11. DEPARTMENT OF JUSTICE

Notice is hereby given that the Department of Justice (DOJ) proposes to amend California Code of Regulations, title 11, section 999.5 regarding the Attorney General’s review of proposals to transfer health facilities under Corporations Code sections 5914 *et seq.* and 5920 *et seq.*

#### PUBLIC HEARING

No public hearing has been scheduled for the proposed regulatory action; however, any interested person, or his or her duly authorized representative, may request, no later than 15 days before the close of the written comment period, a public hearing pursuant to Government Code section 11346.8.

#### WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on **November 26, 2019** at 5:00 p.m. Only comments received by that time shall be reviewed and considered by DOJ before it amends the regulation. Written comments may be sent to:

Wendi A. Horwitz, Deputy Attorney General  
California Department of Justice  
Charitable Trusts Section  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Fax: (916) 731-2145  
Email: [Wendi.Horwitz@doj.ca.gov](mailto:Wendi.Horwitz@doj.ca.gov)

#### AUTHORITY AND REFERENCE

Authority: 5914, 5918, 5920, and 5925, Corporations Code

Reference: 5914-5926, Corporations Code

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

**Summary of Existing Laws and Regulations:**

Nonprofit corporations that operate or control a health facility are required to provide written notice to, and obtain the approval of, the Attorney General prior to entering into any agreement or transaction to sell, transfer, lease, exchange, option, convey or otherwise dispose of a material amount of its assets, or transfer control, responsibility, or governance of a material amount of its assets. (Corp. Code sections 5914 through 5926.) Corporations Code sections 5914 through 5926 address both procedural and substantive aspects of the review and approval process including the contents of the written notice submitted to the Attorney General, the health care impact statement, public notice and participation in the process, and timing of the Attorney General’s decision.

California Code of Regulations, title 11, section 999.5 implements the review and approval process by specifying the requirements of the written notice, the review procedures, the factors to be considered by the Attorney General, and the procedures to enforce compliance with the terms and conditions of the Attorney General’s approval.

**Effect of the Proposed Rulemaking:**

AB 651 made amendments to the review and approval process described in Corporations Code sections 5914, 5915, 5916, 5917, 5920, 5921, 5922, and 5923 and added Corporations Code section 5926. The new law gives discretion to the Attorney General to require certain components of the written notice to be in languages other than English, if applicable. The new law specifies that the approval process applies regardless of whether a health facility is currently operating or providing health care services or has a suspended license. The new law requires the notice of the public meetings be in languages other than English, if applicable. In addition to other factors, the new law requires the Attorney General to consider whether the proposed transaction will significantly affect cultural interests provided by the facility in the affected community. It requires the Attorney General to conduct a public meeting before granting a waiver to the approval requirements and permits the Attorney General to enforce conditional approvals through specific performance, injunction, and other equitable remedies a court deems appropriate, and to recover attorney’s fees.

The proposed amendments to California Code of Regulations, title 11, section 999.5 incorporate these statutory changes made by AB 651. In addition, a few of

the proposed amendments provide clarification and consistency. One proposed amendment is a correction.

COMPARABLE FEDERAL REGULATIONS

There are no existing federal regulations or statutes comparable to the proposed regulation.

POLICY STATEMENT OVERVIEW AND  
ANTICIPATED BENEFITS OF THE  
PROPOSED REGULATION

The proposed amendments to California Code of Regulations, title 11, section 999.5 incorporate the statutory changes by AB 651 chaptered on October 14, 2017. In addition, a few of the proposed amendments provide clarification and consistency, and one proposed amendment is a correction.

DETERMINATION OF  
INCONSISTENCY/INCOMPATIBILITY WITH  
EXISTING STATE REGULATIONS

The Department has conducted an evaluation for any regulations relating to this area and has concluded that this is the only regulation dealing with notice to, and approval by, the Attorney General of these agreements and transactions. Therefore, the proposed regulation is not inconsistent or incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

None.

MANDATED BY FEDERAL  
LAW OR REGULATIONS

None.

OTHER STATUTORY REQUIREMENTS

None.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

DOJ has made the following initial determinations:  
Mandate on Local Agencies and School Districts: None.  
Cost to any Local Agency or School District: None.  
Cost or Savings to any State Agency: None.

Other Non-Discretionary Cost or Savings Imposed on Local Agencies: None.

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

Significant Effect on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including Ability to Compete:

DOJ initially determines that there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DOJ is not aware of any significant cost impacts that a business would necessarily incur in reasonable compliance with the proposed action. Nonprofit health corporations are already subject to the notice and consent requirements set forth with California Code of Regulations, title 11, section 999.5. The proposed amendments should not create any significant increase in the costs incurred by the nonprofit corporation.

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

Adoption of these regulation amendments will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California;
- (3) Affect the expansion of businesses currently doing business within California; or
- (4) Adversely affect the health and welfare of California residents, worker safety, or the state's environment.

The benefit of the proposed amendments is to avoid confusion by making the regulation consistent with the statutory changes made by AB 651.

#### COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

#### BUSINESS REPORT

None.

#### SMALL BUSINESS DETERMINATION

Pursuant to Government Code section 11342.610, subdivision (b)(6), a "small business" does not include an entity organized as a nonprofit corporation. Because the regulation only applies to nonprofit corporations, DOJ has determined that the proposed regulation does not affect small businesses. There is no adverse economic impact on small businesses.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DOJ must determine that no reasonable alternative to the proposed regulation that would be more effective in carrying out the purpose for which the action is proposed, would be as effective or less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. DOJ invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Wendi A. Horwitz, Deputy Attorney General  
California Department of Justice  
Charitable Trusts Section  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Fax: (916) 731-2145  
Email: [Wendi.Horwitz@doj.ca.gov](mailto:Wendi.Horwitz@doj.ca.gov)

James Toma, Supervising Deputy Attorney General  
California Department of Justice  
Charitable Trusts Section  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Fax: (916) 731-2145  
Email: [James.Toma@doj.ca.gov](mailto:James.Toma@doj.ca.gov)

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. Please direct requests for copies of the proposed text of the regulation, the Initial Statement or Reasons, the modified text of the regulation, or other information upon which the rulemaking is based to the above contact person at the above address.

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

DOJ will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at California Department of Justice, Charitable Trusts Section, 300 S. Spring Street, Suite 1702, Los Angeles, CA 90013, Fax: (916) 731-2145, and on the DOJ website at <https://oag.ca.gov/charities>.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms of the regulation, the Initial Statement of Reasons, any information upon which the proposed rulemaking is based, and an economic impact assessment contained in the Initial Statement of Reasons. Copies may be obtained by contacting the above contact person at the above address.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

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

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Deputy Attorney General Wendi A. Horwitz at the above address.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed on the Attorney General's website at <https://oag.ca.gov/charities>.

**TITLE 11. DEPARTMENT OF JUSTICE**

Notice is hereby given that the Department of Justice (Attorney General) proposes to adopt sections sections 999.300 through 999.341 of Title 11, Division 1, Chapter 20, of the California Code of Regulations (CCR) concerning the California Consumer Privacy Act (CCPA).

**PUBLIC HEARING**

The Attorney General will hold four public hearings to provide all interested persons with an opportunity to present statements or comments, either orally or in writing, with respect to the proposed regulations, as follows:

December 2, 2019  
10:00 a.m.–4:00 p.m.  
CalEPA Building  
Coastal Room, 2<sup>nd</sup> Floor  
1001 I Street  
Sacramento, CA 95814

December 3, 2019  
10:00 a.m.–4:00 p.m.  
Ronald Reagan Building  
Auditorium, 1<sup>st</sup> Floor  
300 S. Spring Street  
Los Angeles, CA 90013

December 4, 2019  
10:00 a.m.–4:00 p.m.  
Milton Marks Conference Center  
Lower Level  
455 Golden Gate Ave.  
San Francisco, CA 94102

December 5, 2019  
10:00 a.m.–4:00 p.m.  
Fresno Hugh Burns Building  
Assembly Room #1036  
2550 Mariposa Mall  
Fresno, CA 93721

The locations of these hearings will be wheelchair accessible. To request any additional accommodations at any of the hearings, please call (415) 510-3886 or visit our website at [www.oag.ca.gov/privacy/ccpa/rsvp](http://www.oag.ca.gov/privacy/ccpa/rsvp).

At the hearing, any person may present statements or comments orally or in writing relevant to the proposed action described in the Informative Digest. The Attorney General requests, but does not require, that persons who make oral statements or comments at the hearing also submit a written copy of the comments made at the hearing. Equal weight will be accorded to oral comments and written materials.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished their presentation or at 4:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

#### WRITTEN COMMENT PERIOD

Any interested party, or their duly authorized representative, may submit written comments relevant to the proposed regulatory action. Comments may be submitted at the hearing, by mail, or by email. The written comment period closes on December 6, 2019 at 5:00 p.m. The Attorney General will only consider comments received by that time.

Submit comments to:

Privacy Regulations Coordinator  
California Office of the Attorney General  
300 South Spring Street, First Floor  
Los Angeles, CA 90013  
Email: [PrivacyRegulations@doj.ca.gov](mailto:PrivacyRegulations@doj.ca.gov)

Please also note that under the California Public Records Act (Gov. Code, section 6250 *et seq.*), written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

#### AUTHORITY AND REFERENCE

Civil Code section 1798.185 authorizes the Attorney General to adopt these proposed regulations. The proposed regulations will implement, interpret, and make specific the provisions of Civil Code sections 1798.100 through 1798.196.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### Summary of Existing Laws (as of September 24, 2019)

On June 28, 2018, Governor Brown signed the California Consumer Privacy Act of 2018 (AB 375) (hereinafter “CCPA”) into law. Among other things, AB 375 enacted and SB 1121 subsequently amended Civil Code sections 1798.100 through 1798.198, which grant “consumers” new rights relating to the access to, deletion of, and sharing of “personal information” collected by “businesses” about them. The definition of “consumer,” “personal information,” and “business” set the scope of the CCPA.

Civil Code section 1798.140, subdivision (g) defines “consumer” as a natural person who is a California resident.

Civil Code section 1798.140, subdivision (o) defines “personal information” broadly to include any information that “identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.” This definition includes not only common identifiers, such as a name, address, and social security number, but other information such as purchasing history or tendencies, biometric information, internet activity, geolocation data, employment information, and education information, among other things. It does not, however, include publicly available information or deidentified or aggregate consumer information.

Civil Code section 1798.140, subdivision (c) defines “business” as a for-profit business or other legal entity that collects and determines the use of consumers’ personal information, and satisfies one or more of the following thresholds:

- (A) Has annual gross revenues in excess of twenty-five million dollars (\$25,000,000);
- (B) Buys, receives, or sells the personal information of 50,000 or more consumers, households, or devices; or
- (C) Derives 50 percent or more of its annual revenues from selling consumers’ personal information.

With this understanding of the scope, the following is a summary of the new rights that the CCPA confers on consumers, as well as the other requirements it places on businesses.

##### Right to Know

Civil Code sections 1798.100, 1798.110, and 1798.115 provide consumers the ability to request that a business disclose:

- (1) Specific pieces of personal information the business has collected about the consumer;
- (2) Categories of personal information it has collected or sold about that consumer;
- (3) The purpose for which it collected or sold the categories of personal information; and
- (4) Categories of third parties to whom it sold the personal information.

Civil Code section 1798.130, subdivision (a)(1) requires that the business provide two or more designated methods for submitting requests, including at least a toll-free phone number and a website (if the business has a website). The business is to disclose and deliver the required information to the consumer within 45 days of receiving a verifiable consumer request. (Civ. Code, section 1798.130, subd. (a)(2).) The disclosure must be free of charge, in writing, through the consumer’s account with the business, or if the consumer



does not have an account with the business, by mail or electronically. (*Ibid.*)

Prior to disclosing any information, a business must verify that the consumer making the request is the same consumer about whom the business has collected personal information. (Civ. Code, sections 1798.100, subd. (c), 1798.110, subd. (b), 1798.115, subd. (b), and 1798.140, subd. (y).) After verifying the requestor’s identity, the business must provide the information for the 12 months preceding the request. (*Id.* at section 1798.130, subds. (a)(2), (a)(3)(B), (a)(4)(B)–(C).) A business is not obligated to provide this information to the same consumer more than twice in a 12-month period. (*Id.* at section 1798.130, subd. (b).) Verification shall be in accordance with the Attorney General’s regulations. (*Id.* at section 1798.185.)

If a business does not take action on a consumer’s request, it must inform the consumer why and what rights the consumer has to appeal the decision, if any. (Civ. Code, section 1798.145, subd. (g)(2).) The business must do so without delay and at least within the time frame by which it must respond to the consumer’s request. (*Ibid.*) If a consumer’s requests are manifestly unfounded or excessive, a business may charge a reasonable fee, or refuse to act on the request. (*Id.* at section 1798.145, subd. (g)(3).)

**Right to Delete**

Civil Code section 1798.105 provides consumers with the ability to request deletion of personal information from businesses that have collected it from the consumer. Businesses must verify that the consumer making the request is the same consumer about whom the business has collected personal information. (Civ. Code, sections 1798.105, subd. (c), 1798.140, subd. (y).) Upon verification, which shall be determined by the Attorney General’s regulations, businesses shall delete the consumer’s personal information from its records and direct any service providers to do so as well within 45 days of receiving a verifiable consumer request. (*Id.* at sections 1798.105, subd. (c), 1798.130, subd. (a)(2).)

Civil Code section 1798.105, subdivision (d), however, provides for certain exceptions where it is necessary for the business to maintain the personal information in order to:

- (1) Complete the transaction for which the personal information was collected, provide a good or service requested by the consumer, perform actions reasonably anticipated within the context of a business’s ongoing business relationship with the consumer, or otherwise perform a contract between the business and the consumer.
- (2) Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal

activity, or prosecute those responsible for that activity.

- (3) Debug to identify and repair errors that impair existing intended functionality.
- (4) Exercise free speech, ensure another consumer’s right to exercise free speech, or exercise another right provided for by law.
- (5) Comply with the California Electronic Communications Privacy Act.
- (6) Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the businesses’ deletion of the information is likely to render impossible or seriously impair the achievement of such research, if the consumer has provided informed consent.
- (7) Enable solely internal uses reasonably aligned with the expectations of the consumer based on the consumer’s relationship with the business.
- (8) Comply with a legal obligation.
- (9) Use the consumer’s personal information, internally, in a lawful manner that is compatible with the context in which the consumer provided the information.

If a business does not take action on a consumer’s request, it must inform the consumer why and what rights the consumer has to appeal the decision, if any. (Civ. Code, section 1798.145, subd. (g)(2).) The business must do so without delay and at least within the time frame by which it must respond to the consumer’s request. (*Ibid.*) If a consumer’s requests are manifestly unfounded or excessive, a business may charge a reasonable fee, or refuse to act on the request. (*Id.* at section 1798.145, subd. (g)(3).)

**Right to Opt-Out of Sale**

Civil Code section 1798.120 provides consumers with the ability to direct businesses not to sell their personal information. Civil Code section 1798.140, subdivision (t) defines “sell” broadly to include selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a consumer’s personal information by the business to another business or a third party for monetary or other valuable consideration. There is no requirement that a business verify the consumer’s identity regarding a request to opt-out.

For consumers under 16 years of age, businesses cannot sell their personal information unless they have opted-in to the sale of their personal information. (Civ. Code, section 1798.120, subd. (c).) For consumers under 13 years of age, a parent or guardian must opt-in on behalf of the child. (*Ibid.*) A business that has received direction from a consumer not to sell the consumer’s

personal information or, in the case of a consumer under 16 years of age, has not received consent to sell the information, must not sell the personal information unless the consumer subsequently provides express authorization for its sale. (*Id.* at section 1798.120, subd. (d).)

Right to Non-Discrimination

Civil Code section 1798.125 prohibits a business from discriminating against a consumer because they have exercised any of their rights under the CCPA. Discrimination includes, but is not limited to, denying goods or services to the consumer, charging different prices or rates for goods or services, providing a different level or quality of goods or services to the consumer, or suggesting that the consumer will receive a different price or quality of goods or services. (Civ. Code, section 1798.125, subd. (a)(1).) The business, however, may charge the consumer a different price or rate, provide a different level or quality of goods or services, or offer financial incentives if that difference is reasonably related to the value provided to the business by the consumer’s data. (*Id.* at section 1798.125, subds. (a)(2) and (b)(1).) The business shall not use financial incentive practices that are unjust, unreasonable, coercive, or usurious in nature. (*Id.* at section 1798.125, subd. (b)(4).)

Other Requirements

The CCPA also requires businesses to make certain disclosures regarding their practices for collecting, using, and selling consumer personal information.

*Notice at or before the point of collection:* Civil Code section 1798.100, subdivision (b) requires a business to inform consumers, at or before the point of collection, of the categories of personal information that it collects from them and the purposes for which they will be used. A business shall not collect additional categories of personal information or use personal information collected for additional purposes without providing the consumer with notice at or before the point of collection. (Civ. Code, section 1798.100, subd. (b).)

*Notice of the right to opt-out of the sale of personal information:* Civil Code section 1798.120, subdivision (b) requires a business that sells consumers’ personal information to third parties to provide notice that their personal information may be sold and that they have the “right to opt-out” of the sale of their personal information. Civil Code section 1798.135, subdivision (a) also requires businesses to provide a clear and conspicuous link on their website titled “Do Not Sell My Personal Information,” where the consumer, or their agent, can opt-out of the sale of the consumer’s personal information.

*Notice regarding incentives:* Civil Code section 1798.125, subdivision (b)(2) requires a business that of-

fers any financial incentives to provide notice to consumers of the financial incentive.

*Privacy policy:* Civil Code section 1798.130, subdivision (a)(5) requires businesses to disclose in a privacy policy a description of a consumer’s rights under the CCPA, how they can submit requests for disclosure, deletion, and opting-out of the sale of personal information, and additional information regarding their data collection and sharing practices. (Civ. Code, section 1798.130, subd. (a)(5).)

*Training:* Civil Code section 1798.130, subdivision (a)(6) requires businesses to ensure that all individuals responsible for handling consumer requests are informed of the requirements in the CCPA and how to direct consumers to exercise their rights under the CCPA.

Rulemaking

Civil Code section 1798.185, subdivision (a) requires the Attorney General to solicit broad public participation and adopt regulations to further the purposes of the CCPA, including, but not limited to, the following areas:

- (1) Updating as needed additional categories of “personal information” in order to address changes in technology, data collection practices, obstacles to implementation, and privacy concerns.
- (2) Updating as needed the definition of unique identifiers to address changes in technology, data collection, obstacles to implementation, and privacy concerns, and additional categories to the definition of designated methods for submitting requests to facilitate a consumer’s ability to obtain information from a business.
- (3) Establishing any exceptions necessary to comply with state or federal law.
- (4) Establishing rules and procedures to facilitate and govern the submission of a request by a consumer to opt out of the sale of personal information and a business’s compliance with a consumer’s opt-out request, and the development and use of a recognizable and uniform opt-out logo or button to promote consumer awareness of the opportunity to opt out of the sale of personal information.
- (5) Adjusting the monetary threshold for the annual gross revenue included in the definition of “business.”
- (6) Establishing rules, procedures, and any exceptions necessary to ensure that businesses provide the notices and information required by the CCPA in a manner that may be easily understood by the average consumer, accessible to consumers with

disabilities, and available in the language primarily used to interact with the consumer.

- (7) Establishing rules and guidelines regarding financial incentive offerings.
- (8) Establishing rules and procedures to further the purposes of Sections 1798.110 and 1798.115.
- (9) Establishing rules and procedures to facilitate a consumer’s or the consumer’s authorized agent’s ability to obtain information, with the goal of minimizing the administrative burden on consumers, taking into account available technology, security concerns, and the burden on the business.
- (10) Establishing rules and procedures to govern a business’ determination that a request for information received by a consumer is a verifiable request, including situations where the consumer has a password-protected account with the business and when they do not.

Civil Code section 1798.185, subdivision (b), further provides that the Attorney General may adopt additional regulations as necessary to further the purposes of the CCPA.

Accordingly, the Office of the Attorney General submits these proposed regulations to fulfill this mandate, and to provide clarity and guidance to the public regarding the CCPA.

#### EFFECT OF THE PROPOSED RULEMAKING

These proposed regulations provide specific guidance regarding: (1) the notices businesses must provide to consumers under the CCPA; (2) the businesses’ practices for handling consumer requests made pursuant to the CCPA; (3) the businesses’ practices for verifying the identity of the consumer making those requests; (4) the businesses’ practices regarding the personal information of minors; and (5) the businesses’ offering of financial incentives. Below is a summary of key provisions of the proposed regulations.

##### Notices to Consumers

The regulations establish the rules regarding how businesses must notify consumers about their rights under the CCPA. Specifically, the regulations address four notices required under the CCPA: (1) notice at or before collection of personal information; (2) notice of the right to opt-out of sale of personal information; (3) notice of financial incentive; and (4) the privacy policy. The regulations require businesses to design and present the various notices in a way that is easy to read and understandable to an average consumer, which includes using plain, straightforward language, a format that draws the consumer’s attention to the notice, and

providing the notice in the languages in which the business provides consumer contracts, among other things. The regulations identify the information that must be included in the specific notices, restrictions on the collection of personal information when notice cannot be given, and situations in which certain notices need not be given.

##### Business Practices for Handling Consumer Requests

The regulations establish rules and procedures about how businesses must handle consumer requests made pursuant to the CCPA. They set forth different methods the businesses are to provide for consumers to submit requests, how businesses are to respond to requests, what factors need to be considered when fulfilling requests, how businesses can seek additional time to respond, and how businesses are to demonstrate compliance with the CCPA. For example, businesses must designate two or more methods for consumers to submit requests to know and request to delete, with at least one method reflecting the manner in which the business primarily interacts with the consumer. Businesses are to confirm receipt of the request and process the request within 45 days of receiving the request. Businesses must utilize a two-step process for online requests to delete personal information where consumers must clearly confirm their intent to do so, and businesses must use reasonable security measures when transmitting personal information.

The regulations clarify sections of the CCPA, such as whether a business can seek a 45-day extension of time to respond to a request once or twice, whether a business must verify a request to opt-out of the sale of personal information, what information must be maintained for recordkeeping purposes, and whether service providers to a business must respond to requests to know and requests to delete. They also set forth circumstances when a business may deny a request, such as when a business cannot verify the identity of the requestor, and when a business can request that a consumer opt back into the sale of personal information. The regulations also address requests made by a consumer’s authorized agent and requests pertaining to household information.

##### Verification of Requests

The regulations establish rules and procedures about how businesses are to verify the identity of consumers making requests to know and requests to delete. All businesses are to establish, document, and comply with a reasonable method of verification that takes into consideration the sensitivity of the personal information at issue and the risk of harm to the consumer posed by any unauthorized access or deletion. For consumers that have a password-protected account with a business, the regulations provide businesses with the ability to utilize their existing password authentication processes if they

implement reasonable security measures to detect fraud.

In the case of non-accountholders, the regulations set forth the verification standards for different kinds of requests. Requests for disclosure of categories of personal information must be verified to a reasonable degree of certainty, which may be demonstrated by matching at least two data points provided by the consumer to information maintained by the business. Requests for specific pieces of personal information must be verified to a reasonably high degree of certainty, a higher bar that requires matching at least three pieces of personal information provided by the consumer with information maintained by the business and a signed declaration under penalty of perjury. The verification standard for requests to delete may vary between the two standards depending on the sensitivity of the personal information and the risk of harm to the consumer posed by unauthorized deletion.

#### Special Rules Regarding Minors

The regulations establish the rules and procedures for businesses to obtain affirmative authorization for the sale of the personal information of minors under 16 years of age. They set forth methods by which a business can verify that the person affirmatively authorizing the sale of the personal information of a consumer under 13 years of age is the parent or guardian of that child.

#### Non-Discrimination

The regulations establish the rules and guidelines regarding discriminatory practices and financial incentive offerings. They explain what kinds of business practices constitute discrimination as set forth in the CCPA. They also provide guidance regarding how to calculate the value of consumer's data in designing financial incentives and require the business to publicly disclose the estimated value of the consumer's data and the method by which the amount was calculated.

#### COMPARABLE FEDERAL REGULATIONS

There are no existing federal regulations or statutes comparable to the proposed regulations.

#### POLICY STATEMENT OVERVIEW AND ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

The California Legislature, in its legislative findings regarding the CCPA, explained that an individual's ability to control the use and sale of their personal information was fundamental to the "inalienable" right of

privacy set forth in the California Constitution. The CCPA furthers this right to privacy by giving consumers: (1) the right to know what personal information is being collected about them and how it is being used and shared; (2) the right to delete personal information collected from them; (3) the right to opt-out of the sale of their personal information; and (4) the right to equal service and price, even if they exercise their privacy rights. (Civ. Code, sections 1798.100–1798.199.)

The regulations will benefit the welfare of California residents because they will facilitate the implementation of many components of the CCPA. By providing clear direction to businesses on how to inform consumers of their rights and how to handle their requests, the regulations will make it easier for consumers to exercise their new rights. The regulations on notice, for example, will also promote greater transparency to the public regarding how businesses collect, use, and share their personal information and on what businesses must do to comply with the CCPA. The regulations on timing and record-keeping will encourage businesses to provide full and timely responses to consumer requests. The increased individual control over personal information granted by the law and specified in the regulations can also protect consumers from some abuses of that information, such as discrimination, harassment, and fraud.

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

Government Code section 11346.5, subdivision (a)(3)(D) requires the Attorney General to evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Attorney General has concluded that these are the only regulations that concern the CCPA. The Attorney General has determined these proposed regulations are not inconsistent or incompatible with any existing state regulations, because there are no existing regulations that address the specific subject matter of the proposed regulations.

#### Other Statutory Requirements

Civil Code section 1798.185, subdivision (a) requires the Attorney General to solicit broad public participation and adopt regulations to further the purposes of the CCPA. During its pre-rulemaking process, the Department scheduled seven public forums in communities throughout the state to solicit public comments. Transcripts of the public forums are posted on [www.oag.ca.gov/privacy/ccpa](http://www.oag.ca.gov/privacy/ccpa).

DISCLOSURES REGARDING THE  
PROPOSED ACTION

The Attorney General has made the following initial determinations:

Mandate on Local Agencies and School Districts: The proposed regulations do not impose a mandate on local agencies or school districts.

Cost to any Local Agency or School District: None.

Cost or Savings to any State Agency: The enactment of the CCPA resulted in an additional regulatory cost to State government, specifically the Attorney General’s office, of approximately \$4,739,000 for the fiscal year (FY) 2019–2020 and \$4,554,000 for fiscal year (FY) 2020–2021 and ongoing. This amount reflects the cost of hiring an additional 23 full–time positions and expert consultants to enforce and defend the CCPA. The anticipated costs are not associated specifically to the proposed regulations, but rather, the law itself. The incremental costs directly attributable to the regulations are negligible.

Other Non–Discretionary Cost or Savings Imposed on Local Agencies: None.

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

Significant Effect on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses: The Attorney General has made an initial determination that the adoption of these regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Attorney General has considered alternatives that would lessen any adverse economic impact on business and invites the public 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: (1) businesses with an annual gross revenues of more than \$25 million; (2) businesses that buy, sell, or share the personal information of more than 50,000 consumers, households, or devices per year; and (3) businesses that derives 50 percent of more of their annual revenue from selling consumer’s personal information. These businesses fall within most sectors of the California econo-

my, including agriculture, mining, utilities, construction, manufacturing, wholesale trade, retail trade, transportation and warehousing, information, finance and insurance, real estate, professional services, management of companies and enterprises, administrative services, educational services, healthcare, arts, accommodation and food services, among others. The Attorney General estimates that 15,000 to 400,000 businesses will be affected by the CCPA, and consequently, the proposed regulations.

The proposed regulations impose a number of reporting, recordkeeping, and other compliance requirements. The proposed regulations specify how businesses are to: (1) provide to consumers the various notices required by the CCPA; (2) handle consumer requests made pursuant to the CCPA; (3) verify the identity of the consumers making requests to know and requests to delete; (4) obtain affirmative authorization for the sale of minors’ personal information; and (5) offer financial incentives. Businesses subject to the CCPA must comply with these rules.

Businesses are also required to maintain records of consumer requests made pursuant to the CCPA and how the business responded to said requests for at least 24 months. Businesses that handle the personal information of 4,000,000 or more consumers will be required to track and post online the number of requests to know, requests to delete, and requests to opt–out that they received in the previous calendar year, and the median number of days within which they substantively responded to those requests. Those businesses are also required to establish, document, and comply with training policies to ensure that all individuals responsible for handling consumer requests or the business’s compliance with the CCPA are informed of all the requirements in the CCPA and these proposed regulations.

Statement of the Results of the Standardized Regulatory Impact Analysis: The Attorney General determined that the proposed regulations are major regulations requiring a Standardized Regulatory Impact Analysis (SRIA). The Attorney General collaborated with Berkeley Economic Advising and Research, LLC to prepare the SRIA, which was submitted to the California Department of Finance on August 15, 2019.

The SRIA explains that while the CCPA gives the Attorney General broad authority to adopt regulations, consumers and businesses will likely incur the benefits and costs of the CCPA regardless of these specific regulations. The compliance costs associated with the CCPA (legal, operational, technical and other business costs) will likely vary considerably depending on the type and size of business and on how it uses personal information. The majority of these compliance costs are attributable to the CCPA, not to the regulations, and thus part of the regulatory baseline.

The SRIA focuses on estimating the incremental impacts of the regulations, beyond the impacts of the CCPA. It estimates that the cost businesses may collectively incur to comply with the regulations over the ten-year period of 2020 to 2030 is \$467 million to \$16,454 million. Compliance costs will likely be highest in the first 12 months after the CCPA and implementing regulations take effect because establishing technological and operational systems necessary to respond to consumer requests comprise most of the costs associated with CCPA compliance.

*Creation or Elimination of Jobs in California*

The SRIA estimates that the regulations (compared to baseline scenario) would result in 9,520 fewer jobs in California by 2030, with the employment impact consisting mainly of skill-switching turnover within information-intensive sectors. The loss would have a negligible effect on continued annual growth of employment across the state.

*Creation or Elimination of Businesses in California*

The Attorney General does not have reliable estimates on the creation or elimination of businesses as a result of the regulations because of the very large number of businesses impacted by the CCPA across many different sectors.

*Competitive Advantages or Disadvantages for Existing Businesses in California*

While compliance costs for businesses operating within California will put them at some competitive disadvantage relative to businesses that operate only outside the state, that disadvantage is likely to be small. This is due to a couple of factors. First, California standards often become national standards because, given the size of the California economy, companies find it easier to adopt a uniform approach rather than differentiating their offerings. Second, direct competition between businesses subject to the regulations and those not subject to them is likely to be limited. Either the business is small and localized and therefore not in direct competition with out-of-state companies or it is large enough that its out-of-state competitors would also be subject to the CCPA and the regulations for their California customers.

*Increase or Decrease in Investment in California*

The CCPA will impose small but consistently positive net costs on the economy. It is estimated that by 2030, the largest potential impact to California’s Gross State Product (GSP) would be less than one tenth of one percent of GSP. Although the relative magnitude of adjustment costs could be substantially higher for some groups and individual businesses, the expected net total cost of CCPA is negligible in relation to the economy as a whole.

*Incentives for Innovation*

The CCPA and its implementing regulations will generate incentives for innovation in privacy products and services to assist both consumers and businesses. For consumers, the granting of new privacy rights provide an incentive to create new privacy features, products, or services that assist consumers in accessing, managing, or deleting their personal information. For businesses, their obligation to respond to consumer requests creates a demand for new products or services that will assist them in complying with the CCPA.

*Benefits of the Regulations*

The CCPA and its implementing regulations will benefit the health and welfare of all California consumers by providing them with increased control over how businesses use, share, and sell their personal information. By providing clear direction to businesses on how to inform consumers of their rights and how to handle their requests, the regulations make it easier for consumers to exercise their rights. They also provide greater transparency to consumers on businesses’ data practices and protect both consumers and businesses from fraudulent requests for personal information.

Summary of Department of Finance’s comments on SRIA and Response: The Department of Finance (DOF) provided comments on the SRIA in a letter dated September 16, 2019.

DOF generally agreed with the methodology used to estimate impacts of proposed regulations and acknowledged that some benefits may be difficult to quantify before implementation of the law and attendant regulations. DOF further commented that the impact of privacy protections will depend on changing consumer awareness and preferences, and stated that they expect that these issues will be addressed in impact assessments of future regulatory packages.

The Attorney General agrees with DOF’s comments on the SRIA.

Cost Impacts on Representative Person or Business: The compliance costs associated with the regulations will vary considerably depending on the type and size of business, the maturity of the business’s privacy compliance system, the number of California consumers it services, and how it uses personal information. For a small business, initial costs are estimated at \$25,000, with ongoing annual costs of \$1,500. For a larger business, initial costs are estimated at \$75,000, with ongoing costs of \$2,500 annually. The Attorney General found no cost impact on consumers.

Business Report: Section 999.317, subdivision (g) requires a business that alone or in combination, annually buys, collects for the business’s commercial purposes, sells, or shares for commercial purposes, the personal information of four million or more consumers, to

compile and report on its website or in its privacy policy, the following metrics for the previous calendar year: (a) the number of requests to know that the business received, complied with in whole or in part, and denied; (b) the number of requests to delete that the business received, complied with in whole or in part, and denied; (c) the number of requests to opt-out that the business received, complied with in whole or in part, and denied; and (d) the median number of days within which the business substantively responded to requests to know, requests to delete, and requests to opt-out.

The Attorney General finds that the report is necessary for the health, safety or welfare of the people of the state because it will allow the Attorney General, policy-makers, academics, and members of the public to monitor compliance with the CCPA. This reporting obligation is limited to those businesses that handle a large amount of personal information, specifically, the personal information of approximately 10 percent of California's total population or more.

**Small Business Determination:** The regulations will affect small businesses, which are likely to face a disproportionately higher share of compliance costs compared to larger enterprises, at least in the short term. In the longer term, however, the differential impacts will be smaller as third-party service providers enter the market to offer small business low-cost compliance solutions. As competition in this new market increases, overall compliance costs are expected to fall.

## CONSIDERATION OF ALTERNATIVES

Government Code section 11346.5, subdivision (a)(13) requires the Attorney General to determine that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Attorney General considered two alternative approaches to the regulations, described in the SRIA and presented below, and determined that they would be less effective in carrying out the purposes for which the regulations are proposed. Specific alternatives to individual regulations are discussed in detail in the Initial Statement of Reasons.

**More stringent regulatory requirement.** A more stringent regulatory alternative considers mandating more prescriptive compliance requirements, such as detailed training programs and record-keeping practices for all

businesses subject to the CCPA. This requirement would be an additional requirement (beyond the proposed regulations) for potentially hundreds of thousands of California businesses and would impose substantial costs. The Attorney General rejects this regulatory alternative in order to ease the compliance burden for smaller businesses subject to the CCPA that do not necessarily have the resources to devote additional staff to handle CCPA-related tasks.

**Less stringent regulatory requirement.** A less stringent regulatory alternative would, among other things, allow limited exemption for GDPR-compliant firms. Limitations would be specific to areas where GDPR and CCPA conform in both standards and enforcement, subject to auditing as needed. This approach could achieve significant economies of scale in both private compliance and public regulatory costs. The Attorney General rejects this regulatory alternative because of key differences between the GDPR and CCPA, especially in terms of how personal information is defined and the consumer's right to opt-out of the sale of personal information (which is not required in the GDPR).

The Attorney General invites all interested parties to present statements or arguments with respect to any alternatives to the proposed regulations during the public comment period.

## CONTACT PERSONS

General or substantive comments concerning this proposed rulemaking, including requests for copies of documents associated with this action such as the text of the proposed regulations, initial statement of reasons, and related forms, should be directed to:

Lisa B. Kim  
Deputy Attorney General  
Consumer Law Section — Privacy Unit  
California Office of the Attorney General  
300 South Spring Street, First Floor  
Los Angeles, CA 90013  
Phone: (213) 269-6000  
Email: [PrivacyRegulations@doj.ca.gov](mailto:PrivacyRegulations@doj.ca.gov)

or

Stacey Schesser  
Supervising Deputy Attorney General  
California Department of Justice  
Consumer Law Section — Privacy Unit  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102  
Phone: (415) 510-4400  
Email: [PrivacyRegulations@doj.ca.gov](mailto:PrivacyRegulations@doj.ca.gov)

AVAILABILITY OF INITIAL STATEMENT OF REASONS, PROPOSED TEXT, RELATED FORMS, AND RULEMAKING FILE

The Attorney General will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at California Department of Justice, Consumer Law Section — Privacy Unit, 300 S. Spring St., Suite 1702, Los Angeles, CA 90013, and on the Attorney General’s website at [www.oag.ca.gov/privacy/ccpa](http://www.oag.ca.gov/privacy/ccpa). The rulemaking file consists of this notice, the text of proposed regulations, the initial statement of reasons, the economic and fiscal impact statement (STD 399) and addendum, and any information upon which the Attorney General is basing this proposal. Copies of these documents are also available upon request by contacting Lisa B. Kim, Deputy Attorney General, at the above listed address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, OAL may adopt the proposed regulations substantially as described in this notice. If the Attorney General makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Attorney General adopts the proposed regulations, as revised. Copies of any modified text will be available on the Attorney General’s website at [www.oag.ca.gov/privacy/ccpa](http://www.oag.ca.gov/privacy/ccpa). Please send requests for copies of any modified regulations to Lisa B. Kim, Deputy Attorney General, or Stacey Schesser, Supervising Deputy Attorney General, at the contact information above (Contact Persons). The Attorney General will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting Lisa B. Kim, Deputy Attorney General, or Stacey Schesser, Supervising Deputy Attorney General, at the contact information above (Contact Persons), or by visiting the Attorney General’s website at [www.oag.ca.gov/privacy/ccpa](http://www.oag.ca.gov/privacy/ccpa).

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice, the Initial Statement of Reasons, the text of the proposed regulations, and related forms will be posted and available for downloading on the Attorney General’s website at: [www.oag.ca.gov/privacy/ccpa](http://www.oag.ca.gov/privacy/ccpa).

**TITLE 14. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

**Division 7:  
Department of Resources Recycling and Recovery**

**Chapter 8.2:  
Electronic Waste Recovery and Recycling**

**Articles/Sections:  
Article 1.0, section 18660.5; Article 2.0, sections 18660.6, 18660.7; Article 2.2, section 18660.20; Article 7, sections 18660.47, 18660.48, 18660.49, 18660.50, 18660.51.**

PROPOSED REGULATORY ACTION

The Department of Resources Recycling and Recovery (“CalRecycle”) proposes to amend California Code of Regulations, Title 14, Division 7, Chapter 8.2 commencing with Section 18660.5. The proposed regulations establish and clarify requirements related to participating in the Covered Electronic Waste (CEW) Recycling Program as a Designated Approved Collector, the responsibilities and options for a Local Government that chooses to designate an approved collector, and CalRecycle’s administrative responsibilities related to Designations. CalRecycle intends to adopt the proposed regulations described herein after considering all recommendations, comments, and objections regarding the proposed action.

PUBLIC HEARING

A public hearing to receive public comments is scheduled for 11/27/2019. The hearing will be held at the:

Joe Serna Jr., Cal EPA Building  
Coastal Hearing Room  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

The hearing will begin at **9:30 a.m.** on **November 27, 2019**, and **will conclude at 11:30 a.m.**, or after all testimony is given. Any person may present statements or



arguments, orally or in writing, with respect to the proposed action. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheelchair accessible. If you have any questions, please contact:

Ana–Maria Stoian–Chu  
 Materials Management and  
 Local Assistance Division  
 California Department of Resources  
 Recycling and Recovery  
 P.O. Box 4025  
 Sacramento, CA 95812–4025  
 Phone: (916) 323–2872  
 FAX: (916) 319–7609  
 E–mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit to CalRecycle written comments relevant to the proposed regulations. **The written comment period for this rulemaking closes on November 26, 2019. CalRecycle will consider only comments received by CalRecycle by that time.** Comments may be submitted via the contact information below. CalRecycle will also accept written comments during the public hearing described above. Please submit your written comments to:

Ana–Maria Stoian–Chu  
 Materials Management and  
 Local Assistance Division  
 California Department of Resources  
 Recycling and Recovery  
 P.O. Box 4025  
 Sacramento, CA 95812–4025  
 FAX: (916) 319–7307  
 E–mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

#### AUTHORITY AND REFERENCES

Public Resources Code Sections (PRC) 40502(a), 42475(b) provide authority for the proposed regulations. The purpose of the proposed action is to implement, interpret, and make specific laws related to the implementation and administration of the CEW Recycling Program. The following is a list of references cited in the proposed regulations: PRC Sections 42463(b), 42472(b), 42474, 42475(a), 42475, 42476, 42477, 42478, and 42479.

The following sections are being implemented, interpreted, made specific, or repealed: Article 1.0, section 18660.5; Article 2.0, sections 18660.6, 18660.7; Arti-

cle 2.2, section 18660.20; Article 7, sections 18660.47, 18660.48, 18660.49, 18660.50, 18660.51.

The Request for Approval was executed by the Director of CalRecycle, Scott Smithline, on 8/5/2019.

#### INFORMATIVE DIGEST/POLICY STATEMENT

The California Integrated Waste Management Act (CIWMA), Public Resources Code (PRC) section 40000 et seq., gives CalRecycle authority to provide for the protection of public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC section 40502(a) requires CalRecycle to adopt rules and regulations to implement the CIWMA, and PRC section 42475(b) provides authority to CalRecycle to adopt regulations necessary to implement the covered electronic waste recycling program (CEW Recycling Program).

The Electronic Waste Recycling Act of 2003 (PRC section 42460, et seq.) established a funding mechanism to provide for convenient collection opportunities and waste processing capabilities for certain electronic products discarded in California. Covered electronic devices (CEDs) include video display devices with screen sizes greater than four inches that have been determined by the Department of Toxic Substance Control (DTSC) to be hazardous when discarded. When CEDs are discarded, they become covered electronic waste (CEW). Under the CEW Recycling Program, approved collectors document the recovery of the CEW before transferring that material to an approved recycler. Approved recyclers receive and dismantle (cancel) the CEW, and subsequently submit claims for payment.

The CEW must be discarded by a California source to be eligible in the program. An approved collector confirms the eligibility and maintains records associated with the source of the CEW. Approved collectors that are California local governments (Local Governments) are relieved of source–specific entries (e.g., names and addresses) in otherwise required collection logs. At the outset of the CEW Recycling Program in 2005, Local Governments argued that this reduced source documentation allowance be extended to service providers acting on behalf of a Local Government. Regulations adopted in 2006 established requirements for a Local Government to designate an approved collector (Designated Approved Collector or DAC) to recover CEW on behalf of a Local Government and, in doing so, be similarly relieved of certain source documentation requirements. This process creates a designation relationship (Designation).

While this provision generally worked well and reduced paperwork burdens, it lacked clarity with regard to who was authorized to issue and receive Designa-

tions and did not achieve a desired programmatic connection to local government household hazardous waste (HHW) programs and Form 303 reporting. It also created vulnerabilities in the CEW Recycling Program when material was brought into the system beyond the scope of the Designation or when collector operations were conducted without the Local Government's knowledge or consent. In March 2017, CalRecycle filed emergency regulations to address the issues identified above and maintain the integrity of this useful tool in the CEW Recycling Program (See **Exhibit 1** for Office of Administrative Law Notice of Approval for File Number 2017-0309-02E). The emergency regulations were readopted in March 2019 (See **Exhibit 2** for Office of Administrative Law Notice of Approval for File Number 2019-0225-01EE).

The emergency regulations addressed primarily two substantial risks to the CEW Recycling Program: 1) inconsistent and/or minimal oversight of CEW collection operations "on behalf of" Local Governments, and 2) limited ability on the part of the state to validate the eligibility of the accumulated CEW transferred into the recycling system.

CalRecycle is now seeking to make the emergency regulations permanent, as well as amend other existing regulations spanning portions of Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. The proposed regulations intend to: (1) consolidate regulations associated with Designations into Article 7; (2) clarify terminology; (3) provide better structure for Local Governments' use of the provision; and (4) identify roles for Local Governments, DACs, and CalRecycle when utilizing elements of the Designation provision.

Program staff held multiple workshops to address various aspects of the proposed regulations prior to the submission of the emergency regulations. Comments from the public were incorporated into those regulations. With respect to the proposed regulations, staff held an informal rulemaking workshop on November 15, 2017 to solicit comments on the draft proposed regulatory text. This workshop was offered both in-person and via webinar. There were no comments at the November 15, 2017 workshop. Due to low turnout, program staff hosted a webinar on January 16, 2018 to explain and discuss the proposed regulations presented at the November workshop.

The Request for Approval to initiate the permanent rulemaking process, executed August 5, 2019, by CalRecycle's director, Scott Smithline, is included as **Exhibit 3**.

***Benefits of the Proposed Regulations***

The proposed rules benefit the State of California by mitigating risks and shoring up weaknesses of the Des-

ignation provision. The requirement for Local Governments to notify CalRecycle 30 calendar days in advance of the use of a Designation (section 18660.49(a)) promotes compliance with DTSC's 30-calendar-day handler notification requirement pursuant to Section 66273.32(c)(1) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations. CEW Recycling Program experience has demonstrated that there is a high correlation between CEW collection events that lacked advance planning and a rate of mismanagement, violations, or risks to the CEW Recycling Program integrity. The requirement for a DAC to communicate with its Local Government at least once per year or at intervals specified by the Local Government (section 18660.48(d)) has the benefit of keeping both parties in communication with one another so that they may act compliantly and links Designations to other pre-existing programmatic reporting requirements (Form 303). By having Local Governments report accurate amounts annually, there is diminished risk that they are unaware of DAC activities conducted on their behalf. These regulations do so without placing excess burden on DACs and Local Governments since it is a voluntary provision of a voluntary program.

The proposed rules benefit Local Governments by allowing them an option to work with willing and able electronic waste collectors in a more cost-efficient fashion by allowing the DAC source documentation relief, in most circumstances. Designations are often established due to the relationship being mutually financially beneficial for Local Governments and DACs. Absent an option to establish Designations, Local Governments may have incurred higher costs for providing electronic waste collection services to their community and instead relied on electronic waste collection services that always required full source documentation to receive state funds.

Contract waste haulers often work closely with both Local Governments and DACs and may benefit from the use of this provision. There may be contractual obligations to provide bulky item pick-ups or illegal disposal clean-up that can be managed via a Designation without the need to acquire additional source documentation.

**PLAIN ENGLISH REQUIREMENTS**

CalRecycle prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements set forth in Government Code Sections 11342.580 and 11346.2(a)(1). CalRecycle considers the proposed regulations nontechnical and drafted to be easily understood by those parties that will use them.

**FEDERAL LAW OR REGULATIONS MANDATE**

CalRecycle has determined that the proposed regulations do not significantly differ from federal law because there are no existing comparable federal statutes or regulations in this subject area.

**CONSISTENCY WITH STATE REGULATIONS**

CalRecycle performed a search of existing state regulations and finds that the proposed regulations are not inconsistent or incompatible with existing state laws or regulations.

**OTHER STATUTORY REQUIREMENTS**

There are no other requirements prescribed by statute that are applicable to CalRecycle or to any specific regulations or class of regulations. (Govt. Code section 11346.5(a)(4)).

**MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS**

CalRecycle has determined that the proposed regulations do not impose a mandate on state agencies, local agencies, or school districts.

**COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

The CEW Recycling Program, including the associated payment system, is a voluntary program intended to relieve the costs of managing certain electronic wastes, and businesses are not required to participate. There are no new or separate costs incurred to participate in or comply with the CEW Recycling Program's optional voluntary Designation provision. Existing regulations already require a document called Proof of Designation and specify its contents. The proposed regulations clarify these requirements and associated procedures.

The proposed regulations also include options for a Local Government. The regulations provide for circumstances and processes that can lead to the termination of a Designation but do not increase costs of compliance for the regulated businesses.

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

***Creation/Elimination of California Jobs***

The requirements and options in the regulations will not create or eliminate jobs within the State of California. CalRecycle has conducted outreach and education as part of this regulatory effort. This outreach has enabled Local Governments to learn more about how Designations may help with their waste management needs. This may be the reason the CEW Recycling Program staff is seeing more Designations being established. While this does not expand businesses, it allows DACs to operate more efficiently and offers better financial arrangements to Local Governments.

***Creation/Elimination of California Businesses***

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The regulations aim to clarify or modify the administrative procedures pertaining to the establishment, use, and termination of Designations. For example, completing the administrative task of completing necessary forms in advance does not increase administrative workload to justify hiring additional personnel, but rather changes the time of year during which forms are completed.

The related emergency regulations that impacted DACs in a similar fashion were approved and became effective March 16, 2017. Since then, CEW Recycling Program staff has seen the number of approved collectors declining from 400 to approximately 350, and the number of DACs remaining steady at approximately 150. At the same time, the number of active compliant Designations has increased to over 500 from 400. This indicates that the new regulations are not a threat to existing businesses within the state.

***Expansion of Businesses Doing Business Within the State***

There are currently approximately 350 approved collectors and 150 DACs in the CEW Recycling Program. Both approved collectors and DACs may consider collaborating with Local Governments to exercise the option to establish or maintain Designations, which requires their thorough understanding of the regulations.

Businesses participating in the Designation process are collectors of electronic waste that are approved participants in the CEW Program. Other actors such as non-participating handlers, transporters, or upstream entities interface with the CEW Recycling Program by providing material management services. The CEW Recycling Program, including the associated payment system containing the Designation provision, is a voluntary program intended to relieve the costs of managing certain electronic wastes. Businesses are not re-

quired to participate in the CEW Recycling Program. However, participants must comply with applicable laws and regulations, including State HHW rules that govern the handling and reporting of CEW.

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

The proposed regulations benefit the health and welfare of the residents of California by: (1) allowing for convenient and safe electronic waste collection activities; (2) reducing the likelihood of Designations being used inappropriately, thereby protecting the integrity of public funds; (3) promoting a level playing field between CEW Recycling Program participants; and (4) fostering fair business practices.

**FISCAL IMPACT**

***Cost or Savings to Any State Agency***

CalRecycle has determined that the proposed regulations do not result in any cost or savings to any state agency.

***Cost to Any Local Agency or School District***

CalRecycle has determined that the proposed regulations do not result in cost to any local agency or school district that is required to be reimbursed pursuant to Government Code section 17500 *et seq.*

***Non-Discretionary Cost or Savings Imposed Upon Local Agencies***

CalRecycle has determined that there are no non-discretionary costs or savings imposed upon any local agencies.

***Cost or Savings in Federal Funding to the State***

CalRecycle has determined that there are no costs or savings in federal funding to the state.

**FINDINGS ON NECESSITY OF REPORTS**

CalRecycle has determined that the requirement for specific reports is necessary for the health, safety, and welfare for the people of the state because it will help to ensure that the law applies equally to covered entities.

**EFFECT ON HOUSING COSTS**

CalRecycle made a determination that the proposed regulations will not have an effect on housing costs.

**EFFECT ON BUSINESSES**

CalRecycle has determined that the proposed regulations will not have a significant, statewide adverse eco-

nomically impact directly affecting business, including the ability of California businesses to compete with businesses in other states. CalRecycle is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new or separate costs incurred to participate in or comply with the CEW Recycling Program. The CEW Recycling Program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already contain the optional Designation provision that is being reformed. The proposed regulations consolidate requirements associated with Designations into one Article 7 and make further amendments to clarify certain requirements. Most of the amendments in the proposed text are the result of stakeholder feedback. The related emergency regulations incorporated a six-month sunset clause whereby invalidated Designations were honored until September 12, 2017, so that financial impacts on collectors were mitigated as they conformed to the emergency regulations. These emergency regulations were readopted on March 17, 2019. The requirements of the proposed regulations that are now being finalized are no more burdensome than the emergency regulations already in effect.

There are currently approximately 350 approved collectors and 150 DACs in the CEW Recycling Program. Both approved collectors and DACs may consider collaborating with Local Governments to exercise the option to establish or maintain Designations, which requires their thorough understanding of the requirements.

**EFFECT ON SMALL BUSINESSES**

The majority of potentially affected businesses are small businesses. Only approved collectors would be directly affected by these rules, and approximately 75 percent of these are small businesses.

**EFFECT ON THE CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA**

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The regulations aim to clarify or modify the administrative procedures pertaining to the establishment, use, and termination of Designations. For example, completing the administrative task of completing necessary forms in advance does not increase administrative workload to justify hiring additional personnel, but rather changes the time of year during which forms are completed.

The related emergency regulations that impacted DACs in a similar fashion were approved and became effective March 16, 2017. They were readopted on March 17, 2019. Since then, program staff has seen the number of approved collectors decline from 400 to approximately 350, and the number of DACs remain steady at approximately 150. At the same time, the number of active compliant Designations has increased to over 500 from 400. This indicates that the new regulations are not a threat to existing businesses within the state.

### CONSIDERATION OF ALTERNATIVES

CalRecycle must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention: (1) would be more effective in carrying out the purpose for which the action is proposed; (2) would be as effective and less burdensome to affected private persons than the proposed action; or (3) would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CalRecycle considered alternatives to the proposed rules and determined that: 1) no alternative would be more effective in carrying out the purpose for which the action is proposed; 2) no alternative would be as effective and less burdensome to affected private persons, while at the same time protecting human health, safety, and the environment, and the integrity of public funds; and 3) no alternative would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

At the CalRecycle December 16, 2015, stakeholder workshop regarding the Designation requirements, a variety of alternative implementations were discussed, including eliminating the provision altogether. Stakeholders voiced the value of the optional provision and supported its continued existence. Discussions centered around ways to modify the provision to provide for better fiduciary oversight of the fund. The white paper 'Reforming Designations: Issues to Consider,' associated with the December 16, 2015, workshop, explored a variety of alternatives for topic areas of concern, which included: issuance/establishment of a Designation, advanced planning/communication, context and conditions, limitations, duration/expiration, and accountability/consequences. Stakeholder input was taken into consideration in developing the final proposed regulations.

### CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Ana-Maria Stoian-Chu  
Materials Management and  
Local Assistance Division  
California Department of Resources  
Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025  
Phone: (916) 323-2872  
FAX: (916) 319-7609  
E-mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

The back-up contact person to whom inquiries concerning the proposed action may be directed:

Lynette Lewis  
Materials Management and  
Local Assistance Division  
California Department of Resources  
Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025  
Phone: (916) 341-6842  
FAX: (916) 319-7856  
E-mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

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

CalRecycle will have the entire rulemaking file, the express terms of the proposed regulations, and all information that provides the basis for the proposed action, available for inspection and copying throughout the rulemaking process at the address provided above. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the text of the proposed regulations, the initial statement of reasons (ISOR), and the economic and fiscal impact statement. Copies may be obtained by contacting Ana-Maria Stoian-Chu or Lynette Lewis at the address, e-mail, or phone number listed above. For more timely access to the text of the proposed regulations, and in the interest of waste prevention, interested parties are encouraged to access CalRecycle's Internet webpage at: <https://www.calrecycle.ca.gov/electronics/reginfo/designatedregs>.

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

CalRecycle may adopt the proposed regulations substantially as described in this Notice after holding the hearing and considering all timely and relevant comments. If CalRecycle makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) days before CalRecycle adopts the regulations as revised. Requests for the modified text should be made to the contact person named above. CalRecycle will transmit any modified text to all persons who testify at the public hearing, all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. CalRecycle will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

**AVAILABILITY OF THE  
FINAL STATEMENT OF REASONS**

The Final Statement of Reasons will be available at the webpage listed herein, or you may contact the individuals listed above.

**TITLE 16. CALIFORNIA  
ARCHITECTS BOARD**

**LANDSCAPE ARCHITECTS  
TECHNICAL COMMITTEE**

**NOTICE OF PROPOSED REGULATORY  
ACTION CONCERNING**

**Substantial Relationship Criteria, section 2655  
Criteria for Rehabilitation, section 2656**

**NOTICE IS HEREBY GIVEN** that the California Architects Board (Board) is proposing to take the action described in the Informative Digest.

**PUBLIC HEARING**

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

by making such request in writing addressed to the individuals listed under Contact Person in this Notice.

**COMMENT PERIOD**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than November 25, 2019, or must be received by the Board at the hearing, should one be scheduled.

**AVAILABILITY OF MODIFICATIONS**

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

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 481, 482, 493 and 5630 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 141, 475, 480, 481, 482, 488, 490, 493, and 5630 of said Code, the Board is considering changes to sections 2655 and 2656 of article 1 of division 26 of title 16 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST**

BPC section 5630 authorizes the Board to adopt, amend, or repeal such rules and regulations as are reasonably necessary, among other things, to establish rules or professional conduct that are not inconsistent with state or federal law and carry out the provisions of the landscape architects practice law. In accordance with the statutory amendments implemented by Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018), by July 1, 2020, BPC section 481 will require the Board to develop criteria, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the professions it regulates. Further, BPC section 493 will require the Board to determine whether a crime is substantially related to the qualifications, functions, or duties of the profession it

regulates by using criteria, including the nature and gravity of the offense, the number of years elapsed since the date of the offense, and the nature and duties of the profession. In addition, BPC section 482 will require the Board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

CCR section 2655 establishes the criteria for determining when a criminal conviction is substantially related to the qualifications, functions and duties of a landscape architect. CCR section 2656 establishes the criteria for determining rehabilitation of an applicant or licensee when considering denial, suspension, or petition for reinstatement of a landscape architectural license on the ground of a criminal conviction.

The passage of AB 2138 requires CCR sections 2655 and 2656 be updated to clearly specify the criteria the Board uses when making a substantial relationship determination for an applicant's or licensee's criminal conviction or formal discipline by another licensing Board and evaluating the rehabilitation of an applicant or licensee when considering denial, suspension, or revocation of a landscape architect license.

The Board is proposing the following changes:

**Amend Title 16 CCR Section 2655 — Substantial Relationship Criteria**

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

**Amend Title 16 CCR Sections 2656 — Criteria for Rehabilitation**

The proposed regulation would clarify that the Board, when considering a license denial or discipline on the ground that the applicant or licensee was convicted of a crime, would have to determine whether the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant or licensee completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Board to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened, and

the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant's or licensee's rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants or licensees who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial of discipline was based on something other than a conviction.

**POLICY STATEMENT  
OVERVIEW/ANTICIPATED  
BENEFITS OF PROPOSAL**

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

**CONSISTENCY AND COMPATIBILITY WITH  
EXISTING STATE REGULATIONS**

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

**FISCAL IMPACT ESTIMATES**

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

Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The Board has made an initial determination that the proposed regulatory action would

have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation affects only landscape architect licensure candidates and licensees who are subject to discipline, and does not affect landscape architectural businesses.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, as the intent of AB 2138 is less restriction from licensure for individuals with criminal convictions or discipline.

Effect on Housing Costs: None.

### EFFECT ON SMALL BUSINESS

The proposed regulations may affect small businesses who would have a greater pool of licensed professionals from which to hire.

### RESULT OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

#### Impact on Jobs/Businesses:

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

#### Benefits of Regulation:

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

### CONSIDERATION OF ALTERNATIVES

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

in implementing the statutory policy or other provision of law.

To date, the following options were considered by the Board and rejected:

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2420 Del Paso Road, Suite 105, Sacramento, California 95834.

### INITIAL STATEMENT OF REASONS AND INFORMATION

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

### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all of the information upon which the proposal is based may be obtained at the hearing or prior to the hearing upon request from the California Architects Board, Landscape Architects Technical Committee at 2420 Del Paso Road, Suite 105, Sacramento, California 95834 or by telephoning the Contact Person listed below.

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

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



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

CONTACT PERSON

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

Name:

Kourtney Nation

Address:

2420 Del Paso Road, Suite 105  
Sacramento, CA 95834

Telephone Number:

(916) 575-7237

Fax Number:

(916) 575-7283

E-Mail Address:

kourtney.nation@dca.ca.gov

The backup contact person is:

Name:

Trish Rodriguez

Address:

2420 Del Paso Road, Suite 105  
Sacramento, CA 95834

Telephone Number:

(916) 575-7231

Fax Number

(916) 575-7283

E-Mail Address:

latc@dca.ca.gov

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

**TITLE 22. DEPARTMENT OF  
PUBLIC HEALTH**

**DPH-13-013 Revision of  
Social Worker Definitions**

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

PUBLIC PROCEEDINGS

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

To request copies of the regulatory proposal in an alternate format, please write or call: Charlet Archuleta, Office of Regulations, 1415 L Street Suite 500, Sacramento, CA 95814, at (916) 445-9403, email to [charlet.archuleta@cdph.ca.gov](mailto:charlet.archuleta@cdph.ca.gov) or use the California Relay Service by dialing 711.

WRITTEN COMMENT PERIOD

Written comments pertaining to this proposal, regardless of the method of transmittal, must be received by Office of Regulations by November 25, 2019, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written comments may be submitted as follows:

1. By email to: [regulations@cdph.ca.gov](mailto:regulations@cdph.ca.gov). It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier "DPH-13-013 Revision of Social Worker Definitions" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 636-6220;
3. By postal service or hand delivered to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814.

All submitted comments should include the regulation package identifier, "**DPH-13-013 Revision of So-**

cial Worker Definitions”, with the comment author’s name and email or mailing address.

### PUBLIC HEARING

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

### ASSISTIVE SERVICES

For individuals with disabilities, The Department will provide assistive services such as the conversion of written materials into Braille, large print, audiocassette, and computer disk. For public hearings, assistive services can include sign–language interpretation, real–time captioning, note takes, reading or writing assistance. To request these assistive services, please call (916) 558–1710 or (California Relay at 711 or 1–800–735–2929), email [regulations@cdph.ca.gov](mailto:regulations@cdph.ca.gov) or write to the Office of Regulations at the address noted above. Note: The range of assistive services available may be limited if requests are made less than 10 business days prior to a public hearing.

### AUTHORITY AND REFERENCE

This rulemaking action implements, interprets, and makes specific the California statutes associated with state licensing of health facilities and prescribing standards for the personnel in these licensed entities and the services provided therein, based on the type of licensed entity and the needs of the persons served thereby. The statutory authorities cited for this regulatory proposal are found in Health and Safety Code sections 1275, 1734, 1580, 100275, and 131200. The references cited in this regulatory proposal are sections 1276, 1276.1, 1316.5, 1570.7, 1727, 1734, 1570.1, 131050, 131051, and 131052.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

#### Summary of Proposal

This regulatory action would revert the definition of a social worker applicable to five types of licensed entities, including intermediate care facilities and home health agencies, to the definition that existed in regulation prior to 2013. This action is necessary to address an

unintended consequence of a 2013 regulatory action by the Department to update title 22 to be consistent with current professional titles used by various oversight and licensing boards under the Department of Consumer Affairs that resulted in the exclusion of qualified unlicensed social workers from these entities.

#### Background

The California Department of Public Health (Department) is authorized to adopt, amend, and enforce regulations pursuant to Health and Safety Code sections 1275, 1580, 1734, and 131200 as necessary for the execution of its duties. Pursuant to Health and Safety Code section 131051, subdivision (b), the Department is also responsible for state licensing of health facilities and other entities, including intermediate care facilities (ICF), intermediate care facilities for the developmentally disabled (ICF–DD), home health agencies (HHA), adult day health centers (ADHC), and referral agencies. Among other standards, the Department prescribes the qualifications for the personnel in these licensed entities and prescribes the services to be provided, based on the type of entity and the needs of the persons served thereby. (Health and Saf. Code, sections 1276, subd. (a), 1276.1, 1580, and 1734.)

#### Problem Statement

Regulations under California Code of Regulations, title 22, define the qualifications to work as a social worker in health facilities and other entities licensed by the Department. In 2013, comprehensive revisions to title 22 resulted in the deletion of the phrase permitting a graduate of an accredited school of social work with one year of social work experience in a health care setting to work as a social worker in ICFs, ICF–DDs, HHAs, ADHCs, and referral agencies. The amendments were made under the belief that Business and Professions Code section 4996 et seq. requires all social workers in these types of licensed entities to be licensed as a clinical social worker (LCSW); presumably, a Master of Social Work (MSW) degree plus one year of experience in a health care setting could not substitute for licensure as a social worker. However, Business and Professions Code section 4996, subdivision (b), only requires licensure for those engaging in the practice of clinical social work, and many of the social work services provided in ICFs, ICF–DDs, HHAs, ADHCs, and referral agencies are non–clinical in nature. The resulting definition limited social worker positions in these types of licensed entities to LCSWs, a problematic outcome because historically, these entities have relied upon and employed qualified unlicensed social workers to meet their many nonclinical social work needs.

With this in mind, this proposed regulatory action amends the definition of “social worker” for ICFs, ICF–DDs, HHAs, and referral agencies to reflect the qualifi-

cations contained in California Code of Regulations, title 22, prior to 2013. The definition of “social worker” for ADHCs is amended to mirror the statutory definition in Health and Safety Code section 1570.7, subdivision (p), added by Assembly Bill (AB) 572. (Chapter 648, Statutes of 2008.)

In addition, the existing regulations for ICFs, HHAs, and ADHCs do not distinguish between services that may be performed by a qualified unlicensed social worker and those that must be performed by a LCSW. Because the proposed amendments would permit both LCSWs and MSWs to provide social work services in these licensed entities, amending the “social worker” definition for these types of licensed entities requires clarifying that an unlicensed social worker shall only provide those social work services for which no license is required under Business and Professions Code section 4996. Nonsubstantive changes are also proposed to update authorities and references, improve clarity, and reduce confusion.

The purpose of this proposal is to adopt or amend California Code of Regulations, title 22, sections 73103, 73449, subdivisions (a), (b), and (c), 74023, 74653, 74713, subdivision (b), 76149, subdivision (a), 78097, and 78339, subdivision (b), as follows:

- The proposed amendment to section 73449, subdivision (a), is a grammatical correction resulting in no regulatory effect.
- The proposed amendments to sections 73103, 74023, 74653, and 76149 revise the definition of “social worker” for ICFs, referral agencies, HHAs, and ICF–DDs, respectively, to include not only a person licensed as a LCSW by the Board of Behavioral Sciences, but also a person who has a MSW degree from an accredited school of social work plus one year of social work experience in a health care setting.
- The proposed amendments to sections 73449, subdivision (b), 74713, subdivision (b), and 78339, subdivision (b), provide that unlicensed social workers in ICFs, HHAs, and ADHCs shall only provide those social work services for which no license is required under Business and Professions Code section 4996 when performing social work services in these types of licensed entities.
- The proposed amendment to section 73449, subdivision (c), reorders the social work service unit requirements to reflect the chronological order of services received by a patient upon admission to an ICF.
- The proposed amendments to section 78097 harmonize the definition of “social worker” for ADHCs with the statutory definition of “social

worker” found in Health and Safety Code section 1570.7, subdivision (p), add Health and Safety Code section 1580 to the Authority section, and add Health and Safety Code section 1570.7 to the Reference section.

- The proposed amendments to sections 73103 and 76149 add Health and Safety Code section 1276.1 to the Reference sections because that section permits the Department to set personnel standards for ICFs and ICF–DDs.
- The proposed amendments to sections 74023, 74653, and 78097 remove Health and Safety Code sections 1275 and 1276 from the Authority and Reference sections, respectively, because those sections grant the Department regulatory authority over health facilities. Referral agencies, HHAs, and ADHCs are not included in the Health and Safety Code definition of health facility.
- The proposed amendments to sections 74653 and 74713 add Health and Safety Code section 1734 to the Authority sections because that section empowers the Department to adopt regulations regarding HHAs. The proposed amendments to section 74713 also remove Health and Safety Code section 208, subdivision (a), from the Authority section because section 208 was repealed in 1995 and replaced with Health and Safety Code section 131200.
- The proposed amendments to section 78339 remove Health and Safety Code section 208, subdivision (a), from the Authority section, since section 208 was repealed in 1995, and replace it with Health and Safety Code sections 1580 and 131200.

#### **Objectives (Goals) of the Regulation**

The broad objectives and anticipated benefits, including nonmonetary benefits, from this proposed regulatory action are:

- To effectuate the Department’s statutory mandate to prescribe appropriate qualifications for personnel in the health facilities and other entities licensed by the Department and to prescribe the services to be provided based on the type of licensed entity and the needs of the persons served.
- To enable qualified unlicensed social workers with a MSW degree plus one year of experience in a health care setting to provide non–clinical social work services in ICFs, referral agencies, ICF–DDs, and HHAs.
- To align the definition of “social worker” in title 22 with federal regulations, where applicable.

#### **Anticipated Benefits**

Including nonmonetary benefits to the protection of public health and safety, worker safety, the environ-

ment, the prevention of discrimination, or the promotion of fairness or social equity, and the increase in openness and transparency in business and government amongst other things. Anticipated benefits from this proposed regulatory action are:

- To reduce confusion for regulation users by harmonizing title 22 regulations with the HSC section 1570.7, subdivision (p).
- To reduce confusion for regulation users by clarifying that social work service staff shall only provide services within their respective scopes of practice.
- To update and clarify existing regulations.

The Department’s proposed amendments will benefit both unlicensed social workers with an MSW degree and the affected licensed entities by eliminating the confusion caused by the 2013 amendments. The proposed amendments reinstate the prior status quo in ICFs, ICF–DDs, HHAs, and referral agencies, enabling qualified unlicensed social workers to work in the licensed entities from which they were excluded in the 2013 amendments. This segment of the social worker work force will have full access to the jobs for which they are qualified.

The proposed amendments align the definition of “social worker” with the definitions used in federal regulations, where applicable. For ADHCs, the amendments align the definitions in the California Code of Regulations with the definitions in the Health and Safety Code, providing clarity and consistency for these facilities.

EVALUATION AS TO WHETHER THE PROPOSED REGULATION ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE AND FEDERAL REGULATIONS

The Department evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the Department’s laws, as well as those statutes and regulations related to social workers. The Department has determined that no other state regulation addresses the same subject matter, and there are no existing state regulations with which the proposed amendments conflict or with which they are incompatible.

FORMS INCORPORATED BY REFERENCE

Not applicable.

MANDATED BY FEDERAL LAW OR REGULATIONS

Not applicable.

OTHER STATUTORY REQUIREMENTS

Not applicable.

LOCAL MANDATE

The Department has determined that the proposed amendments do not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

**A) Cost to any local agency or school district requiring reimbursement pursuant to Section 17561 of Government Code:**

None. The Department is not aware of any cost impacts that a local government agency would necessarily incur in complying with the proposed action.

**B) Cost or savings to any state agency:**

None. The Department is not aware of any cost impacts that state government would necessarily incur in complying with the proposed action.

**C) Other nondiscretionary costs or savings imposed on local agencies:**

None. There are no known costs or savings imposed on local agencies in connection to this proposed action.

**D) Cost or savings in federal funding to the state:**

None. The Department assumes the proposed regulation will not have an impact on Medi-Cal costs associated with social worker services. Based on information provided by the Department of Health Care Services (DHCS), referral agency services are not paid for by the Medi-Cal program. In ICF and ICF/DDs, social services fees are considered a part of their per diem rate. HHAs, social work services are paid on an hourly rate; however, the level of the practitioner providing services does not affect the rate paid for the service.

HOUSING COSTS

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

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

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

STATEMENT OF THE RESULTS OF THE  
ECONOMIC IMPACT ASSESSMENT

The Department has made an initial determination that these amendments would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Jobs will not be created or eliminated within the affected types of licensed entities. The proposed amendments merely restore the prior status quo, permitting the affected licensed entities to employ qualified unlicensed social workers in existing positions. Notably, returning to the original definition of “social worker” to include unlicensed social workers would not diminish the need for LCSWs; licensed entities would still be required to provide a LCSW or a qualified physician for individuals requiring clinical social work services. Existing businesses will not be eliminated or expanded, and new businesses will not be created.

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.

In addition, the proposed regulations would not significantly affect the following:

- a) The creation or elimination of jobs within the State of California. The broader definition increases the number of social workers qualified to work in certain types of licensed entities but does not affect the number of social worker positions within those facilities.
- b) The creation of new businesses or the elimination of existing businesses within the State of California.
- c) The expansion of businesses currently doing business within the State of California.

For additional benefit analysis, see “Anticipated Benefits” under the “Informative Digest/Policy Statement Overview”.

COST IMPACTS ON REPRESENTATIVE  
PERSON OR BUSINESS

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.

BUSINESS REPORTING REQUIREMENT

None.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed amendments will have no adverse impact on small businesses. Small licensed entities providing social work services will be able to employ or contract with qualified licensed or unlicensed social work staff to meet the needs of their patients.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

ALTERNATIVES CONSIDERED

The Department has determined 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 this action is proposed, would be as effective as and less burdensome for affected licensed entities than the proposed action, or would be more cost effective to affected licensed entities and equally effective in implementing the statutory policy or other provision of law.

TECHNICAL, THERETICAL, AND/OR  
EMPIRICAL STUDIES, REPORTS OR  
DOCUMENTS RELIED UPON

None.

CONTACT PERSON

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Krisheidy Guerrero (916) 327-0643. All other inquiries concerning the action described in this notice may be directed to, Charlet Archuleta, Office of Regulations, at (916) 445-9403, or to the designated backup contact, Michael Boutros, Office of Regulations, at (916) 440-7822.

AVAILABILITY STATEMENTS

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

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 445-9403 (or the California Relay Service at 711), or send an email to [regulations@cdph.ca.gov](mailto:regulations@cdph.ca.gov), or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

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

A copy of the Final Statement of Reasons when prepared will be available upon request from the Office of Regulations.

INTERNET ACCESS

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

**TITLE 22. STATE WATER RESOURCES CONTROL BOARD**

**DIVISION 4. ENVIRONMENTAL HEALTH  
CHAPTER 19 (Certification of  
Environmental Laboratories)**

**NOTICE IS HEREBY GIVEN** that the State Water Resources Control Board (State Water Board) proposes to amend, adopt, or repeal the Environmental Laboratory Accreditation Program (ELAP) regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

SUMMARY OF PROPOSED REGULATORY ACTION

The State Water Board proposes to amend California Code of Regulations, Title 22, Division 2, Chapter 19, to update requirements and standards for accreditation of environmental testing laboratories. These proposed amendments are administrative and technical in nature and make the necessary improvements needed to operate a fully functional and effective Environmental Laboratory Accreditation Program.

PUBLIC HEARING

The State Water Board will hold an Administrative Procedure Act (APA) public hearing during a Board workshop to receive written and oral comments regarding the proposed regulations. The hearing will include a presentation by State Water Board staff on the proposed regulations. During the comment period, the public will be allowed three minutes to provide oral comments, unless additional time is approved. While a quorum of the State Water Board may be present, this hearing is for the public to provide comments in accordance with the APA, and the State Water Board will take no formal action.

The public hearing will be held as detailed below.

**Wednesday, December 18, 2019 — 9:30 a.m.**  
Joe Serna Jr. CalEPA Headquarters Building  
1001 I Street, Second Floor  
Sacramento, CA 95814

The State Water Board will consider adoption of the proposed ELAP regulations at the Board's March 17, 2020 State Water Board meeting. The location and start time of the Board meeting are provided below:

**Tuesday, March 17, 2020 — 9:30 a.m.**  
Joe Serna Jr. CalEPA Headquarters Building  
1001 I Street, Second Floor  
Sacramento, CA 95814

Additional information on Board meetings, hearings, and workshops is available on the [State Water Board's Meeting Information webpage](#).

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided, including any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk to the Board at

(916) 341-5600 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

#### SI NECESITA ARREGLOS ESPECIALES

Conforme a la Sección 7296.2, del Código del Gobierno de California, los siguientes servicios o arreglos especiales pueden ser solicitados:

- Servicio de intérprete durante la audiencia;
- Documentos en otro idioma o en un formato alternativo;
- Arreglos razonables relacionados a una discapacidad.

Para pedir estos arreglos especiales o servicios en otro idioma, puede contactar a la Secretaria de la Junta (Board) al (916) 341-5600 lo más pronto posible, pero a más tardar 10 días hábiles antes de la fecha de la audiencia de la Junta (Board). Los usuarios del Sistema TTY/TDD/Voz-a-Voz pueden marcar el 7-1-1 para utilizar el California Relay Service.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Clerk of the State Water Board. Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Clerk to the State Water Board by **12:00 noon on Friday, December 20, 2019**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Note that comments previously submitted about the preliminary drafts of the proposed regulatory action will not be part of the rulemaking record. Outstanding comments about the proposed regulatory action must be resubmitted during the written comment period to be included in the rulemaking record.

You may submit written comments via any of the following:

- Electronic mail (email):  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)
- U.S. Postal Service:  
Ms. Jeanine Townsend; Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100, Sacramento, CA 95812-2000
- Hand Delivery:  
Ms. Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor, Sacramento, CA 95814

Persons delivering comments must check in with lobby security and have them contact Ms. Jeanine Townsend at (916) 341-5600

Also, please indicate in the subject line and/or on the cover page of submittals: **“Comments — Proposed Environmental Laboratory Accreditation Program Regulations.”**

All comments should include the author’s name and U.S. Postal Service mailing address or email in order for the State Water Board to provide any notices that may be required in the future.

Due to limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by the State Water Board. Therefore, emails larger than 15 MB should be submitted in several separate emails or another form of delivery should be used.

The State Water Board requests but does not require that written comments sent by mail or hand-delivered be submitted in triplicate.

The State Water Board requests but does not require that reports or articles in excess of 25 pages be submitted in conjunction with the comments, that the commentator provide a summary of the report or article and describe the reason for which the report or article is being submitted or is relevant to the proposed regulation.

Please note that under the California Public Records Act (Gov. Code, section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

#### AUTHORITY AND REFERENCE

Pursuant to Health and Safety Code Sections 100829 and 100830, the State Water Board is authorized to adopt the subject regulations. This action is proposed to implement, interpret, and make specific Health and Safety Code Sections 100825-100830, 100837-100845, 100850, 100852, 100860.1, 100865-100872, 100880, 100886, 100895, 100905-100915.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### Background and Summary of Existing Relevant Regulations:

In 1988, the California Environmental Laboratory Improvement Act (ELIA) became law and established ELAP to evaluate and provide accreditation to environmental testing laboratories in California. In 1994, the Environmental Laboratory Accreditation Act (Health and Safety Code, Section 100825-10090), and Califor-

nia Code of Regulations, Title 22, Division 4, Chapter 19 were codified to provide the authority and structure of a laboratory accreditation program to standardize and accredit laboratories that analyze environmental regulatory samples and provide data used for important human health and environmental decision making in California. Furthermore, the statutes for state regulatory agencies, such as the State Water Board, the Department of Toxic Substances Control, and the Department of Public Health, require that any analysis of material required by their programs be conducted by a laboratory accredited by ELAP.

Pursuant to Health and Safety Code 100825, only those laboratories that chose to perform analyses on environmental samples for regulatory purposes are subject to regulations adopted under the California Code of Regulations. Therefore, participation in ELAP is voluntary and is a business decision for a laboratory.

**Policy Statement Overview and Summary of Proposed Regulatory Action:**

Problem Statement:

The current regulations were established in 1994. Over time, the requirements for operation of the accreditation program have become outdated, and criteria for determining the competency of a laboratory performing environmental testing has not kept up with the fundamental elements of accreditation standards. Examples of fundamental elements that are lacking in the current regulations include quality system requirements, ethics and integrity policy requirements, data traceability requirements, method validation requirements, sample handling policies, and enforcement. The inadequate requirements in the current regulations have resulted in an ineffective accreditation program and a laboratory community that operates without effective regulatory oversight.

Furthermore, the lack of specificity and detail in the current regulations has impacted ELAP’s ability to consistently assess the quality and competency of laboratories. Similarly, differing interpretation of the current regulations has created an unequal playing field where laboratories operate to different standards and can gain an unfair business advantage over other laboratories. This jeopardizes the validity of the data produced by accredited laboratories and creates a lack of trust in data used to make decisions regarding human health and the environment.

Objective (Goal):

The broad objective of the proposed regulations is to modernize the accreditation program within the authority granted by the Environmental Laboratory Accreditation Act. The proposed regulations include:

- Updates to the administrative process for operating an accreditation program.

- Modification or elimination of outdated requirements.
- Replacement of existing accreditation standards with a standard that results in data of known and documented quality that state agencies can rely on to make regulatory and policy decisions that affect public health and the environment. To achieve this goal, ELAP is proposing to incorporate by reference into the regulations the nationally recognized, consensus-based 2016 TNI Standard — Revision 2.1, Volume 1, Management and Technical Requirements for Laboratories Performing Environmental Analysis (2016 TNI Standard), with two exceptions.

Benefits:

The benefits of the proposed regulations are discussed below.

Benefits to the Laboratories

- Reduces misinterpretation and confusion by clearly defining administrative and technical requirements.
- Promotes elevated performance by specifying the managerial and technical activities that can affect the quality of results.
- Allows for flexibility in the implementation of the standards and accommodates operation and management of laboratories of all sizes and scopes.
- Provides clarification on the types of activities and conditions that lead to enforcement.
- Promotes a fair business environment, where all laboratories are held to the same standards.

Benefits to the State Regulatory Agencies:

- Ensures laboratories produce data of known and documented quality by adopting essential quality system elements.
- Consistency of results across laboratories by standardizing laboratory activities and practices.
- Improved confidence that the data produced has been sufficiently scrutinized through appropriate quality assurance measures before being released by the laboratory.
- Greater legal defensibility of data by having supported documentation for traceability, such that the history of samples and associated data is easily retraceable.
- Accommodates needs of state agencies that rely on ELAP accredited laboratories by allowing ELAP greater flexibility to change what analytical methods are offered for accreditation.

Benefits to the Accreditation Program:

- Allows ELAP to efficiently and effectively help laboratories navigate and interpret the regulations



by providing clarity and specificity to requirements of the program.

- Eliminates the need for ELAP to dedicate resources to maintaining the relevance and pertinence of the accreditation standards, and instead relies on Expert Committees of TNI, with representative members from the national laboratory community, to improve the TNI Standard based on best professional practices in the industry. ELAP would still be required to adopt changes or updates to the 2016 TNI Standard approved by TNI Expert Committee into the regulations by the formal rulemaking process.
- Creates only one accreditation standard for all laboratories, which will simplify on-site laboratory assessments, fee structure, and employee training.
- Addresses resource challenges that ELAP faces by allowing laboratories to contract with third-party laboratory assessment firms to satisfy the onsite assessment requirement of the accreditation program.
- The specificity of the proposed regulations will help with enforcement against noncompliant laboratories.

**Evaluation of Consistency or Compatibility with Existing State Regulations**

The State Water Board evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations and has determined that no other state regulations address the same subject matter and that the proposed regulations are consistent and compatible with other existing state regulations.

**FORMS INCORPORATED BY REFERENCE**

The proposed regulation incorporates by reference the 2016 TNI Standard, accreditation standards published by the NELAC Institute (TNI), a 501 (c)(3) non-profit organization whose mission is to foster the generation of environmental data of known and documented quality through an open, inclusive, and transparent process that is responsive to the needs of the community. TNI was established for the long-term management of the National Environmental Laboratory Accreditation Program (NELAP) and the continued development of accreditation standards. The organization is managed by a Board of Directors and is governed by organizational bylaws.

The standards produced by TNI are integrated documents containing language from relevant International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) standards, and

therefore, are copyright protected and provided through a license agreement. The State Water Board has made the 2016 TNI Standard publicly available for viewing at the CalEPA Headquarters Office in Sacramento, each of the nine (9) Regional Water Quality Control Board Offices, and twenty-four (24) Division of Drinking Water District Offices. Interested parties may contact any of the offices to view the 2016 TNI Standard in the designated public record document review area.

Additionally, TNI has provided access to a read-only, unlicensed version of the 2016 TNI Standard for all interested parties on the [TNI website](#). To access the documents, enter the password: T6E79WS. The link to this document will remain active until public access to the document is no longer needed for the rulemaking process. To obtain a copy of the 2016 TNI Standard, interested parties may contact TNI’s Executive Administrator, Suzanne Rachmaninoff, at [suzanne.rachmaninoff@nelac-institute.org](mailto:suzanne.rachmaninoff@nelac-institute.org). Discounted rates for the 2016 TNI Standard are available for a limited time.

**MANDATED BY FEDERAL LAW OR REGULATIONS**

The proposed regulations are not federally mandated. However, the accreditation requirements of the proposed regulations align with requirements of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. section 300f–300j) and the National Primary Drinking Water Regulations (40 CFR section 141) for laboratories that analyze drinking water for regulatory compliance. The SDWA is the federal law that protects public drinking water supplies by granting the United States Environmental Protection Agency (EPA) the authority to establish minimum water quality standards to protect drinking water supplies and requires all owners or operators of public water systems to comply with the health-related water quality standards. Under the SDWA, laboratories performing drinking water analyses for compliance monitoring must be certified by the EPA or an authorized state-run laboratory certification program (i.e. California ELAP). The proposed regulations fulfill the state-run certification program requirements.

**OTHER STATUTORY REQUIREMENTS**

**Exemption from Peer Review**

Health and Safety Code section 57004, mandates that proposed regulations be peer reviewed when the regulation includes a “scientific basis” or “scientific portions”. However, when certain circumstances exist, exemption is warranted. As stated in the *Unified California Environmental Protection Agency Policy and Guiding Principles for External Scientific Peer Review*,

March 13, 1998 (Cal/EPA Guiding Principles) these circumstances include:

- A particular work product that has been peer reviewed with a known record by a recognized expert or expert body.
- Administrative standards and rules which are primarily management directives for which the underlying scientific principles, computer models, or decision tools have already been appropriately reviewed.

The State Water Board finds that the 2016 TNI Standards are consensus-based standards, developed in accordance with rigorous democratic procedures and the requirements of the federal Office of Management and Budget Circular A-119, and that circumstances exist to warrant exemption of peer review. The State Water Board further finds that the management and technical requirements in the 2016 TNI Standard have been appropriately reviewed and recognized by the United States Environmental Protection Agency as meeting requirements for regulatory compliance in the analysis of drinking water, wastewater, and hazardous waste. Therefore, the State Water Board finds that pursuant to Cal/EPA Guiding Principles the proposed regulations are categorically exempt from CalEPA requirements for peer review of regulations.

#### LOCAL MANDATE

The State Water Board has determined that the proposed regulations do not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 4. Local agencies that have laboratories may incur costs to implement the new regulations; however, these costs are not the result of a “new program or higher level of service” within the meaning of Article XIII B, Section 6 of the California Constitution. The presumed costs apply generally to all individuals and entities that operate laboratories that analyze environmental samples for regulatory purposes in California and do not impose unique requirements on local governments (County of Los Angeles v. State of California, *et al.*, 43 Cal. App. 3d, 46 (1987)). In addition, the local agencies can pass on the costs to the laboratory by increasing service charges or fees to the public. Therefore, no state reimbursement of these costs is required.

#### FISCAL IMPACT

The State Water Board has made the following determinations:

- The proposed regulations do not result in a cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630.
- The proposed regulations do not result in a cost or savings in Federal funding to the State.

#### **Fiscal Effect on Local Government/Other Nondiscretionary Cost or Savings Imposed upon Local Agencies**

For the proposed regulations, the State Water Board considers public water and wastewater treatment facility laboratories as “local government,” and considers the economic impact of the proposed regulation on public water and wastewater treatment facility laboratories as a fiscal impact. The State Water Board estimates that for public laboratories the total costs of the proposed regulation during the three-year implementation period could be \$17,268,908.00, and the cost for any 12-month period after full implementation could be \$9,448,908.00.

#### **Fiscal Effect on State Government**

The proposed regulations may have a fiscal effect on State government because of increased time that ELAP staff will dedicate to program tasks and core functions. At least initially, the on-site assessments will take longer as staff get familiar with the new accreditation standards. The cost to the State for additional time to perform onsite assessments is \$63,198.72.

Time dedicated to laboratory community outreach will also increase dramatically with the adoption of proposed regulations. The outreach would be necessary with the adoption of any new accreditation standard and could include answering questions from laboratories about the standard, putting together informational items and tools for laboratories, hosting webinars on the standard, or any activity that helps the laboratory during the transition to the 2016 TNI Standard. The assumption is that there will be one staff member from ELAP dedicated to laboratory outreach at an annual cost to the State of \$53,484.00.

The total annual cost of the regulation to the State government could be \$116,682.72, which equals the sum of the costs of increased time to perform onsite assessments and the costs of an employee dedicated to laboratory outreach.

HOUSING COSTS

The proposed regulations do not have an effect on housing costs.

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

The State Water Board has done an economic impact assessment of the proposed regulations, as described below, and has determined that the proposed regulations may have a significant statewide adverse economic impact directly affecting environmental laboratories in California.

The proposed regulations make changes to California’s state laboratory accreditation program and effects the requirements that the environmental testing laboratories must meet to analyze environmental samples for regulatory purposes in California. Laboratories that participate in the ELAP program must be compliant with the requirements of the 2016 TNI Standard, with two exceptions. The 2016 TNI Standard is a quality management system–based accreditation standard, which requires processes and procedures for the management of laboratory operations to assure the quality of the test results it generates.

Although the proposed regulations do not specifically require the purchase of new technology or laboratory equipment, hiring new personnel, or any additional investments to comply; to provide conservative estimates of potential costs, the economic assessment assumed that small laboratories (approximately 80 percent ELAP accredited laboratories) would hire a laboratory consultant to assist in implementation of the new requirements and 70 percent may employ one additional full–time person. Medium laboratories (approximately 10 percent ELAP accredited laboratories) were also assumed to hire a laboratory consultant to assist in implementation of the new requirements and 50 percent may employ one additional part–time employee. Large laboratories (approximately 10 percent ELAP accredited laboratories) were assumed to only hire a laboratory consultant to aid in the implementation of the 2016 TNI Standard.

In addition to the requirement to comply with the 2016 TNI Standard, the proposed regulations require laboratories accredited in methods that utilize sophisticated technology to use third–party assessment firms to fulfill the on–site assessment requirement. This requirement is aimed at offsetting programmatic costs and redistributing staff responsibilities. Although the use of third–party assessment firms is allowed in state statute, the use of third–party assessment firms is not currently required in the regulations or utilized as an op-

tion by the program. Therefore, qualifying laboratories will incur costs for services provided by third–party assessment firms because of the proposed regulations.

The proposed regulations would not impact the ability of laboratories to compete with laboratories from other states, because all laboratories analyzing environmental samples for regulatory purposes in California would have to be accredited by ELAP and meet the proposed requirements. Furthermore, if environmental laboratories in California want to provide services to other states, then the proposed regulations would not apply because the laboratory would have to comply with that state’s regulations, accreditation standards, and requirements. However, adopting the 2016 TNI Standard would make it easier for California laboratories to meet the requirements of a state accreditation program that utilizes the TNI Standard, such as Oregon.

The State Water Board has considered proposed alternatives that would lessen any 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.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The State Water Board estimates the cost for any 12–month period during the three–year implementation phase of the proposed regulations is \$14,031,206.53. The estimated cost for any 12–month period after full implementation of the proposed regulations is \$22,257,719.60. As noted above, these are conservative estimates that assume that small laboratories may hire a full–time employee and a laboratory consultant, that medium laboratories may hire a part–time employee and a laboratory consultant, and that large laboratories will only hire a laboratory consultant. Laboratories may, however, find less costly ways to comply.

**Creation of Businesses**

The State Water Board recognizes that to help successfully implement the proposed regulations, laboratories may choose to hire a laboratory consulting firm. Currently, there are three laboratory consulting firms in California and the proposed regulations are assumed to create an additional nine. These businesses are not prevalent in California because the current regulations

limit their ability to prosper in California. However, the proposed regulations utilize the national consensus TNI standards, which laboratory accreditation consulting firms across numerous states support, and could spark the creation and growth of laboratory accreditation consultant businesses in California.

The proposed regulations also allow laboratories to use third-party assessment firms to perform on-site assessments. This is an option that is currently not utilized by laboratories in California because of the current state-specific accreditation standards. However, the national consensus TNI Standard is an accreditation standard that third-party assessment firms have experience assessing laboratories to. The State Water Board expects the size and untapped potential of the third-party assessor market in California could be inviting enough to create additional jobs in California.

#### **Expansion of Businesses**

The State Water Board assumes that any regulatory samples that are being analyzed by laboratories that are unable or unwilling to comply with the proposed regulations will still need to be analyzed and reported by an ELAP-accredited laboratory. Therefore, the State Water Board assumes laboratories that remain accredited would see an increase in business and revenues from the loss of accreditation or closure of some laboratories.

#### **Creation of Jobs in California**

The State Water Board estimates that the proposed regulations will create a total of 355 jobs. It is assumed that 332 jobs will be created in the environmental laboratory industry and 23 jobs will be created in supporting industries.

#### **Elimination of Businesses**

The State Water Board assumes that the proposed regulatory action may result in up to ten laboratory closures. Although, other state accreditation programs that converted their program's accreditation standards to the nationally recognized consensus-based TNI Standard observed that some laboratories closed, particularly the small ones, it is difficult for the State Water Board to know how many laboratory businesses will be eliminated because of the proposed regulations. Laboratories face pressures like heightened competition and pricing constraints, that can also result in closures. Additionally, a saturated laboratory industry in California has resulted in a number of laboratory consolidations and purchases. Therefore, the State Water Board is unable to determine if a closure is a result of a proposed regulation or because of current industry conditions.

#### **Elimination of Jobs in California**

The State Water Board assumes that there will 20 job positions eliminated by the proposed regulations, but

there would be no net elimination of jobs because of the proposed regulations. This is because if the proposed regulations result in closures of laboratories, the regulatory samples that were being analyzed by those laboratories would still have to be analyzed by other ELAP-accredited laboratories. This resulting increase in business at labs that take on the business from closed laboratories could result in the hiring of additional laboratory personnel. If the samples stay local, then it is reasonable to assume that the same individuals that lost employment when a laboratory closed could be hired by the other laboratories picking up the additional sampling.

#### **Benefits of the Regulation to the Health and Welfare of California**

Data produced for regulatory purposes by accredited laboratories is used in state-wide assessment and monitoring programs for protection of human health and the environment. The proposed regulations update California's accreditation standards with a national and industry-recognized accreditation standard and will help ensure that environmental and human health related decisions by state regulatory agencies and other data users are based on data of known and documented quality. In turn, this will benefit the health and welfare of California residents and the environment.

#### **COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

The costs to implement and maintain compliance with the 2016 TNI Standard are assumed to comprise the main economic impacts a laboratory may experience from implementation of the proposed regulations. Although the proposed regulations do not specifically require the purchase of new technology or laboratory equipment, hiring new personnel, or any additional investments to comply, the State Water Board is assuming for the purposes of the economic impact assessment that laboratories will hire new personnel and/or a laboratory consulting firm to help with the implementation process. Based on those assumptions, the State Water Board estimates the cost to implement the proposed regulations for a typical laboratory ranges from \$40,000.00 to \$77,334.40.

#### **BUSINESS REPORT**

The proposed regulations require laboratories to comply with notification, reporting, and records retention requirements of state and federal agencies that data is being reported to. It is necessary that these reporting requirements apply to businesses, including laboratories, in order to protect the health, safety, and welfare of the people of the state.

## SMALL BUSINESS

The proposed regulations will impact less than 500 small businesses. For the purposes of this analysis, the State Water Board considers laboratories that run less than 50 fields of accreditation to be “small businesses,” because it assumes that such laboratories are generally independently owned and operated, and not dominant in their field of operation.

It is difficult for the State Water Board to estimate the number of small laboratory closures that could result as a result of the proposed regulations because small laboratories are already especially vulnerable to other industry pressures that could induce closure or sale, independent of the proposed regulations. Although the TNI Standard can be implemented in any laboratory regardless of size or complexity, other state programs have suggested that smaller laboratories may need more time to implement the TNI Standard. ELAP is, therefore, proposing a three-year, staged implementation period to implement the regulations, and assistance to small laboratories to comply with the TNI requirements. Nonetheless, the State Water Board assumes a total of ten small laboratories will be unable or unwilling to comply with the proposed regulations and will voluntarily forgo ELAP accreditation. Some of those small laboratories may be in-house laboratories at drinking water and wastewater facilities that decide not to actually close, but to forgo ELAP accreditation and remain operational to analyze non-regulatory samples for day-to-day needs of the facility.

Because the State Water Board is concerned about small laboratory closure, it has initiated a Laboratory Mentorship Program. This program partners ELAP-accredited laboratories that have TNI accreditation with laboratories that service remote areas and communities in the state where a laboratory closure may result in loss of service for that community. This mentorship program is helping laboratories with the implementation process and identifying needs of the laboratory to become compliant with the 2016 TNI Standard. Similarly, professional associations like the California Water Environment Association (CWEA) are sponsoring trainings for their small laboratory members. The CWEA training focuses on best practices for aligning with the 2016 TNI Standard and tools and resources for efficient implementation.

Therefore, although the regulations may have an impact on small businesses, the State Water Board plans to assist in compliance to reduce those impacts, as described above.

## ALTERNATIVES STATEMENT

The State Water Board considered two alternative accreditation standards to incorporate into the proposed regulations: (1) a state-created accreditation standard, and (2) a modified version of an existing accreditation standard (the alternative accreditation standard developed by a Subcommittee of the Environmental Laboratory Technical Advisory Committee (ELTAC) is considered as a modified version of an existing standard). The State Water Board’s reasoning for rejecting the alternatives is that they are less effective than the 2016 TNI Standard in carrying out the purpose and objectives for which the action is proposed, represent the status quo, and lack credibility.

The State Water Board engaged in a multi-year, stakeholder-involved process to evaluate the accreditation standard options and select the best accreditation standard for the program. All advisory committees involved in the selection process agreed that the selected accreditation standards should have quality system requirements. A quality system requires direct management and constant improvement of laboratory processes and procedures to ensure quality of the data. This is a core requirement of a modernized accreditation standard and a requirement that encompasses all areas of the laboratory. The quality system requirements described in the 2016 TNI Standard are specific, thorough, and consistently upgraded through a consensus-based standard development process that incorporates best industry practices.

Quality system requirements are a new concept to ELAP and would be a new requirement for laboratories to comply with, so all alternative accreditation standards would result in similar challenges and costs to implement. Therefore, alternatives were assessed based on the effectiveness of the accreditation standard.

The alternative accreditation standard developed by a Subcommittee of ELTAC lacked the necessary quality system requirements to ensure that data produced by laboratories was of known and documented quality. Furthermore, the alternative only required that content of a quality system be included or referenced in a laboratory Quality Manual but does not provide the specificity and detailed criteria of each quality system requirement. Without the specificity and detailed criteria of each requirement, laboratories can interpret and implement these requirements differently, which disqualifies this alternative as a standard because it does not standardize laboratory activities and practices. Additionally, the lack of specificity and detailed criteria of each requirement makes the alternative not auditable

for compliance purposes, which is a fundamental problem with the current accreditation standard.

The alternative standard proposed by the ELTAC Subcommittee, which has not been reviewed or considered by the Environmental Protection Agency (EPA) as an alternative to the federal laboratory certification program, was developed by three ELTAC members and five public participants and is not comparable to the TNI Standard in effectiveness and acceptability by stakeholders. TNI updates the TNI Standard through a consensus-based standard development program where expert committees, made up of national experts in the environmental laboratory community, develop and maintain the standards. The alternative accreditation standard developed by the ELTAC Subcommittee, would require ELAP to review and update the requirements independently, resulting in additional costs to the State Water Board. Furthermore, the TNI Standard, which is approved by the EPA as an acceptable alternative to the federal laboratory certification program and can be used by state laboratory accreditation programs to retain certification authority of laboratories analyzing drinking water samples for compliance monitoring, has been widely effective and successful for other state programs in part because of the known and inclusive consensus-based standard development process.

#### CONSIDERATION OF ALTERNATIVES

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

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

The State Water Board has prepared and is making available the proposed regulation text, which constitute the express terms of the proposed actions, and an Initial Statement of Reasons for the proposed regulatory action. The Initial Statement of Reasons includes the specific purpose for the regulations proposed for adoption, and the rationale for the State Water Board's determina-

tion that the adoption is reasonably necessary to carry out the purpose for which the regulations are proposed. All of the information upon which the proposed regulations are based, with the exception of the 2016 TNI Standards, is contained in the rulemaking file, which is available for inspection and copying throughout the rulemaking process. To inspect or copy the rulemaking file at the State Water Board office, contact Andrew Hamilton, identified below ("Contact Persons").

As noted above, because the standards produced by TNI are copyright protected and provided through a license agreement, these sections are incorporated by reference rather than set out in the regulations. The State Water Board has made the 2016 TNI Standard publicly available for viewing at each of the nine (9) Regional Water Quality Control Board Offices, and twenty-four (24) Division of Drinking Water District Offices. Interested parties may contact any of the offices to view the 2016 TNI Standard in the designated public record document review area. Refer to the "Forms Incorporated By Reference" section above for instructions to access a read-only, unlicensed version of the 2016 TNI Standard. Copies of the standard may also be purchased by contacting TNI's Executive Administrator, Suzanne Rachmaninoff, at [suzanne.rachmaninoff@nelac-institute.org](mailto:suzanne.rachmaninoff@nelac-institute.org).

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the APA hearing and considering relevant comments received by 12:00 noon on December 20, 2019, the State Water Board is proposing to adopt the proposed regulations at its March 17, 2020 board meeting in Sacramento, CA. The specific room location will be set out in the State Water Board's agenda and will be made available to the public at least 10 days in advance. If the State Water Board makes modifications that are substantially related to the originally proposed text, the State Water Board will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the March 17, 2020 board meeting. Any such modifications will also be posted on the State Water Board Web site. Please send request for copies of any modified regulations to the attention of the contact persons provided below ("Contact Persons"). The State Water Board will accept written comments on the modified regulation for 15 days after the date on which they were made available.

Updates to these proposed regulations may be received by subscribing to an e-mail notification list on the [State Water Board's e-mail subscriptions webpage](#).

Subscribe under General Interests, Environmental Laboratory Accreditation Program (ELAP).

AVAILABILITY OF  
FINAL STATEMENT OF REASONS

After the Water Board's adoption of the regulations, the State Water Board will make available the Final Statement of Reasons, which will include responses to comments submitted during the comment period. Copies may be requested from the contact person(s) named in this notice or may be accessed on the website address provided below ("Internet Access").

INTERNET ACCESS

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations may be found on the [State Water Board's Public Notice webpage](#).

Updates to the rulemaking file, including any modifications to the proposed regulatory text, comments on the regulations, and the final statement of reasons, will also be posted to the webpage.

Documents relating to this proposed action may also be found on [ELAP's Regulations webpage](#).

CONTACT PERSONS

Requests for copies of the proposed regulatory text, the initial statement of reasons, any subsequent modifications of the proposed regulatory text, timely submitted comments, the final statement of reasons, or other inquiries concerning the proposed action may be directed to:

Jacob Oaxaca  
Senior Environmental Scientist, Supervisor  
State Water Resources Control Board,  
Environmental Laboratory Accreditation Program  
1001 I Street, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
Telephone: (916) 323-3433  
Electronic mail address:  
[jacob.oaxaca@waterboards.ca.gov](mailto:jacob.oaxaca@waterboards.ca.gov)

In the event Mr. Oaxaca is not available to respond to requests or inquiries, please contact:

Andrew Hamilton  
Environmental Scientist  
State Water Resources Control Board,  
Environmental Laboratory Accreditation Program  
1001 I Street, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
Telephone: (916) 323-3427  
Electronic mail address:  
[andrew.hamilton@waterboards.ca.gov](mailto:andrew.hamilton@waterboards.ca.gov)

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF  
FISH AND WILDLIFE**

FISH AND GAME CODE  
SECTION 1653 CONSISTENCY  
DETERMINATION REQUEST FOR  
Antelope Creek Fish Passage Improvement Project  
(Tracking Number: 1653-2019-050-001-R1)  
Tehama County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on September 26, 2019, that the Resource Conservation District of Tehama County proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves installation of a new fish screen; repair of an existing headgate; installation of a fish bypass return pipe to Antelope Creek; installation of an inverted siphon from the Los Molinas Mutual Water Company (LMMWC) Ditch to the Edwards Ditch under New Creek; installation of headgates to split flows between the siphon and the LMMWC; install flow measurement devices; installation of a siphon discharge structure; installation of rock scour protection upstream of the LMMWC Ditch headgate; and modification of the fish ladder exit. The project will be located on, and adjacent to Antelope Creek approximately nine stream miles upstream of the confluence with the Sacramento River, and on New Creek, a tributary of Antelope Creek, east of Red Bluff in Tehama County, California.

The Central Valley Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Antelope Creek Fish Passage Improvement Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 5A52CR00191) for coverage under the General 401 Order on August 5, 2019.

The Resource Conservation District of Tehama County is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the District

will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

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

**DECISION NOT TO PROCEED**

**CALIFORNIA PRISON  
INDUSTRY AUTHORITY**

**Pursuant to Government Code section 11347**

Re: Inmate Pay Rates, Schedule and Movement

Pursuant to Government Code Section 11347, the California Prison Industry Authority (CALPIA) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on October 12, 2018, Number Z-2018-2018-0928-01. The proposed rulemaking concerns inmate assignments with CALPIA, inmate pay rates, schedule and movement.

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

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

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

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

**DISAPPROVAL DECISION**

**DEPARTMENT OF  
HEALTH CARE SERVICES**

**DECISION OF DISAPPROVAL OF  
REGULATORY ACTION**

Printed below is the summary of an Office of Administrative Law disapproval decision. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

**State of California  
Office of Administrative Law**

**In re:  
Department of Health Care Services**

**Regulatory Action:  
Title 09, California Code of Regulations  
Adopt sections: 10021, 10036, 10037, 10056.5, 10386**

**Amend sections: 10000, 10010, 10020, 10025, 10030,  
10035, 10040, 10045, 10055, 10056, 10057, 10060,  
10095, 10125, 10130, 10145, 10160, 10165, 10190,  
10195, 10240, 10260, 10270, 10280, 10315, 10320,  
10330, 10345, 10355, 10360, 10365, 10370, 10375,  
10380, 10385, 10410, 10425**

**Repeal sections: 10015, 10340**

**DECISION OF DISAPPROVAL OF  
REGULATORY ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2019-0813-02  
OAL Matter Type: Regular (S)**

**SUMMARY OF REGULATORY ACTION**

This rulemaking action regarding narcotic treatment programs (NTPs) would have streamlined the process for licensed patient capacity change requests and calculating related license and application fees, created Office-Based Narcotic Treatment Networks (OBNTNs)



to expand NTP services and availability of medication units to rural communities, and established requirements for NTPs treating patients with buprenorphine and buprenorphine combination products.

**SUMMARY OF REGULATORY ACTIONS**

**DECISION**

On August 13, 2019, the Department of Health Care Services (Department) submitted the above-referenced proposed regulatory action to the Office of Administrative Law (OAL) for review. On September 25, 2019, OAL notified the Department of the disapproval of this regulatory action. The reason for the disapproval was failure to comply with the “clarity” standard of Government Code section 11349.1. This Decision of Disapproval of Regulatory Action explains the reasons for OAL’s action.

**CONCLUSION**

For the reasons set forth above, OAL has disapproved this regulatory action. Pursuant to Government Code section 11349.4, subdivision (a), the Department may resubmit this rulemaking action within 120 days of its receipt of this Decision of Disapproval. A copy of this disapproval decision will be e-mailed to the Department contact person on the date this decision is signed below.

Any changes made to the regulation text to address the clarity issues discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11346.8 and section 44 of title 1 of the CCR. The Department must resolve all issues raised in this Decision of Disapproval before re-submitting to OAL.

Date: October 2, 2019  
 Eric Partington  
 Senior Attorney

For:  
 Kenneth J. Pogue  
 Director

Original: Jennifer Kent, Director  
 Copy: Kenneisha Moore

**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# 2019-0912-01  
**BOARD OF EDUCATION**  
 Child Nutrition Programs

This action by the California State Board of Education implements nutrition guidelines for school lunches and breakfasts.

Title 5  
 AMEND: 1551, 15558, 15559  
 REPEAL: 15560  
 Filed 09/26/2019  
 Effective 01/01/2020  
 Agency Contact: Hillary Wirick (916) 319-0860

File# 2019-0820-01  
**BUREAU OF REAL ESTATE APPRAISERS**  
 Bureau of Real Estate Appraisers

This action by the Bureau of Real Estate Appraisers amends various fees for licensees.

Title 10  
 AMEND: 3582  
 Filed 09/30/2019  
 Effective 01/01/2020  
 Agency Contact: Kyle Muteff (916) 341-6126

File# 2019-0816-01  
**CALIFORNIA HIGHWAY PATROL**  
 Inhalation Hazards Routes — Map 8

In this rulemaking action, the California Highway Patrol amends its regulation to update designated routes for carriers transporting inhalation hazards on highways. Map 8 is modified to remove 0.6 miles of I-5 and 1.3 miles of I-805, and to add 6.6 miles of State Route 905 in the designated routes for transportation of inhalation hazards.

Title 13  
AMEND: 1157.20  
Filed 09/26/2019  
Effective 01/01/2020  
Agency Contact: Tian-Ting Shih (916) 843-3400

File# 2019-0918-01  
DEPARTMENT OF JUSTICE  
Firearms: Identifying Info — Existing and New California Residents

This action readopts emergency regulations that allow new California residents to apply for a serial number with the Department of Justice for any firearm that does not have a unique serial number or other mark of identification in accordance with Penal Code section 29180.

Title 11  
AMEND: 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517  
Filed 09/26/2019  
Effective 10/01/2019  
Agency Contact: Kamran Ali (916) 227-5419

File# 2019-0919-03  
DEPARTMENT OF JUSTICE  
Major League Sports Raffle Program

The Major League Sports Raffle Program (the “Program”) authorizes a major league sports raffle at a home game conducted by an eligible organization for the purpose of directly supporting specified beneficial or charitable purposes in California, or financially supporting another private, nonprofit, eligible organization that performs those purposes. This second emergency readopt rulemaking by the Department of Justice is readopt-

ing (1) an increase to the non-refundable annual registration fee an eligible organization must pay to participate in the Program; (2) an increase to the non-refundable annual registration fee a person affiliated with an eligible organization must pay in order to conduct the manual draw; (3) an increase to the non-refundable annual registration fee a manufacturer or distributor of raffle-related products must pay prior to selling, renting, or distributing raffle-related products; and (4) amendments to compliance and reporting requirements.

Title 11  
AMEND: 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2107  
Filed 09/30/2019  
Effective 10/01/2019  
Agency Contact: Susanne George (916) 830-9032

File# 2019-0819-01  
DEPARTMENT OF PUBLIC HEALTH  
Newborn Screening Forms

Pursuant to Health and Safety Code section 124977, this file and print action certifies the underlying emergency file and print regulations amending the newborn screening program fees. (See OAL Matter Number 2019-0530-03EFP.) This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 124977(d)(1).

Title 17  
AMEND: 6500.50, 6501.5, 6505, 6506, 6506.6  
Filed 09/30/2019  
Effective 09/30/2019  
Agency Contact:  
Hannah Strom-Martin (916) 440-7371

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN July 1, 2019 TO  
September 30, 2019**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 02**

07/17/2019 ADOPT: 1860, 1860.1, 1860.2, 1860.3, 1860.4, 1860.5, 1860.6, 1860.7, 1860.8, 1860.9, 1860.10, 1860.10.1, 1860.10.2, 1860.10.3, 1860.11, 1860.12, 1860.13, 1860.14, 1860.15, 1860.16, 1860.17, 1860.18, 1860.19, 1860.20, 1860.21

07/22/2019 ADOPT: 18329 REPEAL: 18329

07/22/2019 AMEND: 18117, 18215.1, 18215.3, 18217, 18219, 18225.4, 18225.7, 18238.5, 18308.1, 18308.3, 18404.1, 18466, 18531.61, 18535, 18741.1, 18944

08/22/2019 AMEND: 558.1

08/06/2019 AMEND: 59760

08/30/2019 ADOPT: 61300, 61301, 61302, 61303, 61304, 61305, 61306, 61307, 61308, 61309, 61310, 61311, 61312, 61313, 61314, 61315, 61316, 61317, 61318, 61319, 61320

09/16/2019 ADOPT: 12005, 12010, 12060, 12061, 12062, 12063, 12100, 12120, 12130, 12155, 12161, 12162, 12176, 12177, 12178, 12179, 12180, 12185, 12264, 12265, 12266, 12267, 12268, 12269, 12270, 12271

09/05/2019 ADOPT: 59860

08/26/2019 ADOPT: 18702.1 REPEAL: 18702.1

09/06/2019 ADOPT: 18702.3 REPEAL: 18702.3

09/18/2019 AMEND: 52400

**Title 04**

08/08/2019 AMEND: 1581.1, 1597.5

08/06/2019 AMEND: 1588, 1866

08/29/2019 ADOPT: 1435

09/12/2019 ADOPT: 10092.1, 10092.2, 10092.3, 10092.4, 10092.5, 10092.6, 10092.7, 10092.8, 10092.9, 10092.10, 10092.11, 10092.12, 10092.13, 10092.14

**Title 05**

07/11/2019 AMEND: 850, 851, 854.1, 854.2, 854.3, 854.4, 859, 862, 863

08/08/2019 AMEND: 80054, 80054.1

08/08/2019 ADOPT: 80002.1

07/17/2019 AMEND: 55002, 55003, 55063, 55500, 55522

08/01/2019 ADOPT: 11518.37, 11518.77 AMEND: 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.40, 11518.45, 11518.50, 11518.75

07/26/2019 AMEND: 59310

09/04/2019 AMEND: 42930

09/04/2019 AMEND: 41800.1

09/16/2019 AMEND: 19810

09/26/2019 AMEND: 1551, 15558, 15559 REPEAL: 15560

**Title 08**

07/15/2019 AMEND: 11140

## CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NUMBER 41-Z

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07/31/2019 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

07/29/2019 AMEND: 344, 344.1, 344.2

08/26/2019 AMEND: 5154

07/29/2019 AMEND: 14300.35, 14300.41

07/29/2019 ADOPT: 5141.1

08/28/2019 AMEND: 9792.23.5, 9792.23.8

### **Title 10**

08/06/2019 AMEND: 2498.4.9

08/06/2019 AMEND: 2498.5

08/06/2019 AMEND: 2498.6

08/21/2019 AMEND: 1.1, 1.2, 1.1005, 1.1009.5, 1.1010, 1.1013, 1.1018, 1.1027, 5.3, 5.3009, 5.3109, 5.5000, 10.3, 10.101, 10.111, 10.117, 10.124, 10.126, 10.134, 10.136, 10.140.5, 10.143, 10.147, 10.153, 10.155.5, 10.157, 10.161.5, 10.162.5, 10.165, 10.177, 10.178, 10.182, 10.3000, 10.3100, 10.3101, 10.3162, 10.3376, 10.3378, 10.3400, 10.3475, 10.3483, 10.3518, 10.3520, 10.3525, 10.3700, 10.3752, 10.4351, 10.4360, 10.6000, 10.6001, 10.6602, 10.6701, 10.6954, 10.7301, 10.13001, 10.13003, 10.13200, 10.13226, 10.13278, 10.14100, 10.14126, 10.14180, 10.14183, 10.14185, 10.14730, 10.14775, 10.14779, 10.14800, 10.15225, 10.15226, 10.15227, 10.15626, 10.15627, 10.16000, 10.16001, 10.16051, 10.16102, 10.16128, 10.16131, 10.16177, 10.16202, 10.19050, 10.19051, 10.19052, 10.19100, 10.19102, 10.19103, 10.19104, 10.19107, 10.19401, 10.19402, 10.19901, 40.503, 40.600, 40.1300, 40.1703, 50.3306, 50.9002, 95.10, 95.25, 95.1010, 95.1020, 95.1025 REPEAL: 1.1021, 1.1028, 10.6050, 10.6051, 10.6052, 10.6053, 10.6054, 10.6055, 10.9101, 10.9602, 10.11800, 10.11825, 10.11826, 10.11850, 10.11851, 10.11875, 10.11876, 10.14802, 10.19053, 10.19054, 10.19056, 10.19060, 10.19061, 10.19070, 10.19071, 10.19072, 10.19073, 10.19080, 10.19081, 10.19082, 10.19083, 10.19084, 10.19085, 10.19090, 10.19091, 10.19092, 10.19120, 10.19130, 10.19131, 10.19132, 10.19133, 10.19134, 10.19135, 10.19140, 10.19141, 10.19142, 10.19143, 95.4010, 95.4020, 95.4030

08/12/2019 ADOPT: 10000, 10001, 10002, 10003, 10004, 10005, 10006, 10007

09/30/2019 AMEND: 3582

### **Title 11**

07/01/2019 AMEND: 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2107

07/01/2019 AMEND: 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517

07/17/2019 AMEND: 999.12 REPEAL: 999.13

09/09/2019 AMEND: 1005

09/26/2019 AMEND: 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517

09/30/2019 AMEND: 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2107

### **Title 13**

07/22/2019 AMEND: 2235

08/05/2019 ADOPT: 2209, 2209.1, 2209.2, 2209.3, 2209.4, 2209.5, 2209.6, 2209.7, 2209.8, 2209.9, 2209.10

08/13/2019 ADOPT: 2023, 2023.1, 2023.2, 2023.3, 2023.4, 2023.5, 2023.6, 2023.7, 2023.8, 2023.9, 2023.10, 2023.11

09/26/2019 AMEND: 1157.20

### **Title 14**

07/01/2019 AMEND: 362, 364, 364.1, 708.6

07/09/2019 AMEND: 7.50

07/17/2019 ADOPT: 17988.1, 17988.2, 17988.3, 17988.4, 17988.5, 17988.6, 17988.7

07/30/2019 AMEND: 3504.5

07/30/2019 AMEND: 502, 509

07/31/2019 AMEND: 1052, 1052.1

07/30/2019 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

08/08/2019 AMEND: 147, 165, 165.5, 227, 235, 240, 600.4, 662, 665, 696

08/08/2019 AMEND: 1.04, 1.08, 1.11, 1.14, 1.17, 1.19, 1.20, 1.23, 1.24, 1.26, 1.29, 1.32, 1.35, 1.38, 1.39, 1.41, 1.42, 1.44, 1.45, 1.46, 1.47, 1.49, 1.54, 1.56, 1.57, 1.59, 1.61, 1.62, 1.63, 1.65, 1.67, 1.68, 1.70, 1.71, 1.72, 1.73, 1.75, 1.76, 1.77, 1.80, 1.84, 1.86, 1.91, 1.92, 1.93, 2.00, 2.06, 2.08, 2.09, 2.10, 2.11, 2.12, 2.15, 2.20, 2.30, 2.35, 2.40, 2.45, 3.00, 4.00, 4.05, 4.10, 4.15, 4.20, 4.25, 4.30, 5.10, 5.15, 5.25, 5.26, 5.37, 5.45, 5.50, 5.51, 5.65, 5.70, 5.75, 5.79, 5.80, 5.81, 5.82, 5.83, 5.85, 5.86, 5.87, 5.90, 5.91, 5.93, 5.95, 6.31, 6.32, 6.33, 6.34, 6.35, 6.36, 6.37, 8.01, 8.10, 8.20, 27.00, 27.05, 27.10, 27.15, 27.51, 27.56, 27.70, 27.75, 27.85, 27.91, 27.92, 27.95, 28.00, 28.05, 28.06, 28.10, 28.12, 28.15, 28.25, 28.26, 28.28, 28.29, 28.30, 28.32, 28.35, 28.37, 28.38, 28.40, 28.41, 28.42, 28.45, 28.48, 28.50, 28.54, 28.56, 28.58, 28.59, 28.65, 28.70, 28.75, 28.80, 28.85, 28.90, 28.91, 28.95, 29.00, 29.05, 29.10, 29.16, 29.17, 29.20, 29.25, 29.30, 29.35, 29.40, 29.55, 29.60, 29.65, 29.70, 29.71, 29.85, 29.86, 29.87, 29.88, 29.91, 231, 250, 250.1, 250.5, 251, 251.1, 251.3, 251.5, 251.7, 251.8, 251.9, 252, 255, 257, 257.5, 258, 260, 260.1, 260.2, 260.3, 260.4, 260.5, 262, 307, 308, 309, 311, 311.6, 311.7, 313, 350, 351, 353, 365, 366, 367.5, 368, 401, 460, 461, 462, 463, 464, 465, 465.5, 466, 467, 475, 478, 506, 600.4, 601, 625, 670, 674, 677, 700, 701, 706, 707, 708.1, 708.2, 708.3, 708.4, 708.6, 708.7, 708.8, 708.9, 708.10, 708.11, 708.12, 708.13, 708.14, 708.15, 708.16, 708.17, 708.18, 713, 721, 749 and 749.1

08/12/2019 AMEND: 7.50

08/14/2019 AMEND: 13012, 13055

08/27/2019 AMEND: 180.6

08/29/2019 ADOPT: 106.5 AMEND: 106, 107

08/01/2019 ADOPT: 1038.6

08/01/2019 AMEND: 1038, 1038.1, 1038.2, 1038.3, 1038.4

09/06/2019 ADOPT: 1276.04 AMEND: 1270 amended and renumbered as 1270.00; 1270.01; 1270.03; 1270.04; 1270.05; 1270.06; 1271.00; 1273.00; 1273.01; 1273.02; 1273.03; 1273.04; 1273.05; 1273.06; 1273.07; 1273.08; 1273.09; 1274.00; 1274.01; 1274.02; 1274.03; 1274.04; 1275.00; 1275.01; 1275.10 amended and renumbered as 1275.02; 1275.15 amended and renumbered as 1275.03; 1275.20 amended and renumbered as 1275.04; 1276.00; 1276.01; 1276.02; 1276.03 REPEAL: 1270.07; 1270.08; 1270.09; 1271.05; 1272.00; 1273.10; 1273.11; 1274.05; 1274.06; 1274.07; 1274.08; 1274.09; 1274.10

08/09/2019 AMEND: 913, 933, 953, 1052, 1052.4

09/23/2019 AMEND: 190

09/20/2019 ADOPT: 132.7 AMEND: 132.2, 705

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07/01/2019 ADOPT: 3999.100, 3999.101, 3999.108, 3999.109, 3999.110, 3999.111, 3999.112, 3999.113, 3999.114, 3999.115, 3999.116, 3999.125, 3999.126, 3999.127, 3999.130, 3999.131, 3999.133, 3999.134, 3999.135, 3999.136, 3999.137, 3999.138, 3999.139, 3999.140, 3999.141, 3999.142, 3999.143, 3999.144, 3999.145, 3999.146, 3999.147, 3999.201, 3999.205, 3999.215, 3999.216, 3999.217, 3999.218, 3999.219, 3999.240, 3999.241, 3999.300, 3999.301, 3999.302, 3999.303, 3999.304, 3999.305, 3999.306, 3999.307, 3999.308, 3999.309, 3999.310, 3999.315, 3999.325, 3999.326, 3999.368, 3999.375, 3999.380, 3999.381, 3999.382, 3999.383, 3999.384, 3999.385, 3999.390, 3999.391, 3999.392, 3999.393, 3999.394, 3999.396, 3999.400, 3999.401, 3999.410, 3999.411, 3999.415, 3999.418, 3999.419, 3999.427, 3999.428, 3999.430, 3999.431 AMEND: 3999.98, 3999.99, 3999.320 REPEAL: 3352, 3352.1, 3355, 3355.2

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07/15/2019 REPEAL: 3999.24

08/27/2019 AMEND: 1265

08/29/2019 AMEND: 4143.1, 4143.2, 4143.3, 4143.4, 4143.5, 4143.6 REPEAL: 4144.1, 4144.2, 4144.3, 4144.4, 4144.5, 4144.6, 4144.7, 4144.8

09/24/2019 AMEND: 3355.1 (renumbered to 3999.367), 3999.99, 3999.206, 3999.234, 3999.237, 3999.375 (renumbered to 3999.395)

09/10/2019 AMEND: 2249.3, 2449.4, 2449.5, 2449.6, 2449.7, 3492, 3493 REPEAL: 2449.2

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07/11/2019 ADOPT: 3022, 3022.1, 3022.2 AMEND: 3031

07/17/2019 AMEND: 1821, 1822, 1833.1, 1870, 1870.1 REPEAL: 1874

08/28/2019 AMEND: 1399.651, 1399.653, 1399.663, 1399.667, 1399.679, 1399.681, 1399.700, 1399.703, 1399.720

09/19/2019 AMEND: 4170 REPEAL: 4116, 4117, 4118, 4119

08/22/2019 AMEND: 1997

### **Title 17**

07/09/2019 AMEND: 60200, 60201, 60203

07/29/2019 AMEND: 94010, 94011, 94016, 94017

08/07/2019 ADOPT: 30201, 30302, 30302.1 AMEND: 30181, 30191, 30192.6, 30293

08/21/2019 ADOPT: 60004.1, 60004.2, 60004.3, 60004.4 AMEND: 6000, 60002, 60003, 60004, 60005, 60006, 60007

09/12/2019 AMEND: 2500, 2505

09/30/2019 AMEND: 6500.50, 6501.5, 6505, 6506, 6506.6

### **Title 18**

07/10/2019 AMEND: 3500

09/04/2019 ADOPT: 3700 REPEAL: 3700

09/12/2019 AMEND: 1685.5

### **Title 20**

07/24/2019 AMEND: 1605.1

09/03/2019 REPEAL: 1395, 1395.1, 1395.2, 1395.3, 1395.4, 1395.5, 1395.6

### **Title 22**

07/29/2019 AMEND: 97174

08/27/2019 ADOPT: 97040.1, 97041.1 AMEND: 97005, 97018, 97019, 97040, 97041, 97043, 97051

09/23/2019 AMEND: 51479

08/29/2019 AMEND: 64806

09/23/2019 AMEND: 97232

### **Title 23**

08/28/2019 ADOPT: 3013

### **Title 26**

08/13/2019 REPEAL: 19-2510, 19-2520, 19-2530, 19-2540, 19-2550

08/28/2019 REPEAL: 21-1401.2, 21-1401.4

08/29/2019 REPEAL: 14-4324, 14-4330, 14-4661

### **Title 27**

07/01/2019 ADOPT: 25607.36, 25607.37

07/08/2019 AMEND: 27000

07/30/2019 AMEND: 27001

**Title 28**

07/10/2019 AMEND: 1300.75.4, 1300.75.4.1, 1300.75.4.2, 1300.75.4.5, 1300.75.4.7, 1300.75.4.8, 1300.76

07/30/2019 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

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07/05/2019 AMEND: 44-207, 44-315, 89-110

09/03/2019 AMEND: 44-211