



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. 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

MULTI-COUNTY: San Joaquin Valley Unified Air Pollution Control District
 STATE AGENCY: California Behavioral Health Planning Council

A written comment period has been established commencing on March 15, 2019, and closing on April 29, 2019. Written comments should be directed to the Fair Political Practices Commission, Attention Brianne Kilbane, 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 person, 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 April 29, 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 Brianne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to Brianne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 4. DEPARTMENT OF TRANSPORTATION

TO ALL INTERESTED PERSONS

NOTICE IS HEREBY GIVEN that the California Department of Transportation (“Department”), Office of Outdoor Advertising, pursuant to authority granted by Business and Professions Code sections 5250 and 5415, proposes to amend section 2424 of the California Code of Regulations, Title 4, Division 6, Chapter 3.5, concerning the outdoor advertising permit renewal process after considering all comments, objections and recommendations regarding the proposed action.

NO PUBLIC HEARING SCHEDULED

The Department has not scheduled a public hearing on this proposed action. The Department, however, will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Written, email or facsimile comments submitted during the prescribed comment period have the same significance and influence as written or oral comments presented at a public hearing.

If scheduled, the purpose of a public hearing would be to receive written and oral comments about the proposed regulations. It would not be a forum to debate the proposed regulations, and no decision regarding the permanent adoption of the proposed regulations would be rendered at a public hearing.

WRITTEN COMMENT PERIOD

A written comment period has been established commencing on Friday, March 15, 2019 and ending on Monday, April 29, 2019. Any interested person, or authorized representative, may submit written comments relevant to the proposed regulation action to the Department. The written comment period closes at **5:00 p.m. on Monday, April 29, 2019**. For comments to be considered by the Department, they must be submitted in writing to the Department of Transportation, Office of Outdoor Advertising, 1120 N Street, MS-36, Sacramento, California 95814; by fax at (916) 651-9359; or by

e-mail with a subject line of “Permit Renewal Regulation Public Comment” at ODAreulations@dot.ca.gov before the close of the comment period. All written comments received by the Department during the public comment period are subject to disclosure under the Public Records Act.

CONTACT PERSONS

Please direct inquiries and requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other documents or information upon which the rule-making is based, to the contact at the address herein.

California Department of Transportation
Division of Traffic Operations — Outdoor
Advertising Program
Attn: Velessata Kelley or Kia-Maria Zamora
1120 N Street, MS-36
Sacramento, CA 95814
ODAreulations@dot.ca.gov
916-654-6473

AUTHORITY AND REFERENCE

Business and Professions Code, Sections 5250 and 5415, authorize the Department to adopt the proposed regulatory actions that would set the permit renewal process authorized under Business and Professions Code, Sections 5358, 5360, 5463 and 5485.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department proposes to amend Section 2424, Permit Renewal Process, in Title 4 of the California Code of Regulations. Business and Professions Code Section 5250 authorizes the Department to promulgate regulations to enforce the Outdoor Advertising Act (Business and Professions Code 5200 et seq.) consistent with national standards. Business and Professions Code Section 5485 requires the Director to set the annual permit fee. The Outdoor Advertising Act and national standards provide specific requirements and restrictions concerning the specifications of outdoor advertising displays and the conduct of outdoor advertising activities, including licensing and permitting requirements. Moreover, there is statutory authority that concerns violation and enforcement provisions related to displays, permits and licenses.

The proposed regulatory action will implement the Outdoor Advertising Act requirements concerning the setting of the permit renewal process by allowing Permittees the option to pay their renewal fee on an annual

basis or pay one-fifth of the five-year renewal fee during the five-year renewal term. It also provides clarification with regards to when a renewal fee is due and when a penalty fee is assessed.

After conducting an evaluation of any other regulations in this area, the Department has determined that these are the only regulations concerning the outdoor advertising permit renewal process. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations. These proposed regulations will continue to provide consistency and effectively serve the Department, the industry and the public by ensuring that the permit renewal process is clear and understandable.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to state: None.

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

Cost impact on a representative private person(s) or businesses: The Department is not aware of any cost impacts on private person(s) or businesses that would necessarily incur in reasonable compliance with the proposed regulatory action.

Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action *will* directly affect businesses statewide, including small businesses, the Department concludes the adverse economic impact, including the ability of California businesses to compete with businesses in other states, *will not* be significant.

Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Department concludes the proposed regulations are: (1) unlikely to eliminate any jobs for outdoor advertising companies, or other businesses within the State of California; (2) unlikely to eliminate any existing businesses; (3) unlikely to affect the expansion of businesses currently doing outdoor advertising; and (4) unlikely to create any new jobs or businesses for out-

door advertising companies or within the State of California.

Benefits of the Proposed Action: The proposed regulation will ensure that the permit renewal process is clear and understandable and allows Permittees the option to pay their renewal fee on an annual basis or pay one-fifth of the five-year renewal fee during the five-year renewal term. It also provides clarification with regards as to when a renewal fee is due and when a penalty fee is assessed.

Small Business Determination: This proposed regulatory action may affect small business. The Department has determined that the proposed regulatory action will directly affect business statewide, but the Department concludes the economic impact, will not be significant.

CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting the Office of Outdoor Advertising at the above address or phone number.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications 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 Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the Office of Outdoor Advertising at the address above. The Department 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 the Office of Outdoor Advertising 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 proposed regulation can be accessed through the Department's website at www.dot.ca.gov/oda.

**TITLE 13. CALIFORNIA HIGHWAY
PATROL**

TITLE 13 CALIFORNIA CODE OF
REGULATIONS, DIVISION 2, CHAPTER 6,
ARTICLE 1
AMEND SECTIONS 1152.3.1, 1152.5, AND 1152.7

**Explosives Routes and Stopping Places
(CHP-R-2019-01)**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13 of the California Code of Regulations, Division 2, Chapter 6, Article 1, Sections 1152.3.1, 1152.5, and 1152.7, regarding designated routes and stops for the transportation of explosives by commercial vehicles on highways in the state.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Pursuant to Division 14, Transportation of Explosives, commencing with Section 31600 of the California Vehicle Code (CVC), the CHP shall adopt regulations specifying the routes to be used in the transportation of explosives. The CVC requires the CHP to keep

information current in regulations with maps indicating designated routes. The CHP's field commands conduct annual surveys on the explosives routes and stops to determine if changes are necessary. The CHP's Southern, Inland, and Border Divisions proposed to add two required inspection stops and one inspection stop to the designated safe stops. The proposed regulation amendments will add the map labels for these safe stops. These updates will provide carriers additional safe stops to reduce potential risks associated with the transportation of explosives, and enhance public health and safety in the Carson, Nipton, and Jacumba areas.

The proposed amendments have received concurrence from the CHP's Southern, Inland, and Border Divisions; State Fire Marshal; and California Department of Transportation.

This proposed regulatory action will continue to provide a nonmonetary benefit to the protection of the health, safety, and welfare of California's residents, workers, and environment. The changes to the application of the regulation are not substantive and bring the regulation into conformance with existing statute. The proposed changes update and clarify highway stops designated for carriers transporting explosives, and contribute to transportation safety and public health.

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

PUBLIC COMMENT

Any interested person may submit written comments on the proposed action via facsimile at (916) 322-3154, by electronic mail to cvsregs@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
Attention: Dr. Tian-Ting Shih
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 p.m. on April 29, 2019.

PUBLIC HEARINGS

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based, and the proposed regulation text in strikeout and underline format. Requests to review or receive copies of this information should be directed to the CHP either at the above address, by facsimile at (916) 322-3154, or by calling the CHP, CVS, at (916) 843-3400. All requests for information should include the following: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection. Interested parties are advised to call CHP, CVS, for an appointment.

All documents regarding the proposed action are available through the CHP's website at <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above-noted address. Copies will also be posted on the CHP website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations or the substance of the proposed regulations should be directed to Dr. Tian-Ting Shih or Sergeant Adam Roha, at (916) 843-3400.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL IMPACT AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) will involve no nondiscretionary cost or savings to any local agency, no cost to any local agency or school district for which

Government Code (GC) Sections 17500-17630 require reimbursement, no cost or savings to any state agency, nor costs or savings in federal funding to the state; (4) will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Benefits of the Proposed Action: The proposed regulation updating designated routes for carriers transporting explosives will continue to provide benefits, including the nonmonetary benefit of protecting public health and safety for residents, workers, and the environment by providing a regulatory basis for enforcement efforts as they relate to safety compliance ratings.

The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

The CHP has determined that the proposed regulatory action will not affect small businesses. The action is intended to clarify and update the designated routes for commercial vehicles transporting explosives on highways. As a result, no small business will be affected by the update.

ALTERNATIVES

In accordance with Section 11346.5(a)(13), GC, the CHP must determine that no reasonable alternative considered by the CHP, or otherwise identified and brought to the attention of the CHP, 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 CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Section 31616, CVC.

REFERENCE

This action implements, interprets, or makes specific Sections 31303, 31304, 31601, 31602, 31607, 31611, 31614, and 31616, CVC.

TITLE 13. CALIFORNIA HIGHWAY PATROL

AMEND TITLE 13 CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6, ARTICLE 1, SECTION 1153

Explosives Routes and Stopping Places (CHP-R-2019-02)

The California Highway Patrol (CHP) proposes to amend regulations in Title 13 of the California Code of Regulations (CCR) Section 1153, Safe Stopping and Parking Places, related to the designation of safe stopping places, safe parking places, inspection stops, and required inspection stops for commercial vehicles transporting explosives on highways in the state.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Section 31616 of the California Vehicle Code (CVC), Designation of Routes, the CHP shall prescribe, by regulation, a list of safe stopping places for commercial vehicles transporting explosives on highways. Section 31616, CVC further requires the CHP to revise the list and keep it current. The proposed amendments will update the list of safe stopping places in the regulation.

The CHP's field commands conduct annual surveys on the explosives routes and safe stopping places to determine if changes are necessary. The CHP field commands inspected the locations of business establishments serving as safe stopping and parking places. Business owners expressed their willingness to provide their business location and service information in the CCR by signing the CHP 114, Designation as Safe Stopping Place, or CHP 114A, Designation as Safe Parking Place.

The proposed amendments will update the list of safe stopping places to be used by carriers transporting explosives along the designated explosives routes. These

updates are due to permissions received, denied, or a change of business information or ownership. Additionally, the Mountain Pass Joint Port of Entry Commercial Vehicle Enforcement Facility is added as a required inspection stop and the newly opened Carson Platform Scale is added as an inspection stop. The CHP has received concurrence with the proposed regulation amendments from the State Fire Marshal.

This proposed regulatory action will continue to provide a nonmonetary benefit to the protection of the health, safety, and welfare of California's residents, workers, and environment. The changes to the application of the regulation are not substantive and bring the regulation into conformance with existing statute. The proposed changes update and clarify safe stopping places designated for carriers transporting explosives, and contribute to transportation safety and public health.

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

PUBLIC COMMENT

Any interested person may submit written comments on the proposed action via facsimile at (916) 322-3154, by electronic mail to cvsregs@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
Attention: Dr. Tian-Ting Shih
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 p.m., on April 29, 2019.

PUBLIC HEARINGS

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based, and the proposed regulation text in strikeout and underline format. Requests to review or receive copies of this information should be directed to the CHP either at the above

address, by facsimile at (916) 322-3154, or by calling the CHP, CVS, at (916) 843-3400. All requests for information should include the following: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection. Interested parties are advised to call CHP, CVS, for an appointment.

All documents regarding the proposed action are available through the CHP's website at <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above-noted address. Copies will also be posted on the CHP website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations or the substance of the proposed regulations should be directed to Dr. Tian-Ting Shih or Sergeant Adam Roha at (916) 843-3400.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL IMPACT AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) will involve no nondiscretionary cost or savings to any local agency, no cost to any local agency or school district for which Government Code (GC) Sections 17500-17630 require reimbursement, no cost or savings to any state agency, nor costs or savings in federal funding to the state; (4) will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses,

including the ability of California businesses to compete with businesses in other states.

Benefits of the Proposed Action: The proposed regulation updating safe stopping places designated for carriers transporting explosives will continue to provide benefits, including the nonmonetary benefit of protecting public health and safety for residents, workers, and the environment by providing a regulatory basis for enforcement efforts as they relate to safety compliance ratings.

The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

The CHP has determined the proposed regulatory action may affect small businesses. If a business can no longer meet the requirements for safety, they will be deleted from the list of safe stopping and safe parking places. However, due to the very limited amount of commercial vehicles transporting explosives on the designated routes in the state, no foreseeable economic impact is projected for a small business to be removed from the list.

ALTERNATIVES

In accordance with Section 11346.5(a)(13), GC, the CHP has determined that no reasonable alternative considered by the CHP, or otherwise identified and brought to the attention of the CHP, 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 CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Section 31616, CVC.

REFERENCE

This action implements, interprets, or makes specific Sections 31303, 31304, 31601, 31602, 31607, 31611, 31614, and 31616, CVC.

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

PROPOSED ADOPTION OF NEW CHAPTER AND SECTION

CHAPTER 3: NATURALLY OCCURRING LEAD IN CANDY

SECTION 28500: NATURALLY OCCURRING LEVELS OF LEAD IN CANDY

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to add a new chapter and section to Title 27 of the California Code of Regulations, Chapter 3: Naturally Occurring Lead in Candy, section 28500, Naturally Occurring Levels of Lead in Candy.¹ If adopted, this proposed regulation would establish the naturally occurring level of lead in candies containing chili and/or tamarind as required by Health and Safety Code section 110552.

PUBLIC PROCEEDINGS

Public Hearing

A public hearing will be held on May 8, 2019, at which time any person may present statements or arguments orally or in writing relevant to the action described in this notice. The public hearing will commence at 10:00 a.m. in the Sierra Hearing Room, California Environmental Protection Agency Building, 1001 I Street, 2nd Floor, Sacramento, California and will last until noon. The hearing will be webcast and can be accessed the day of the hearing at <https://video.calepa.ca.gov>.

If you have special accommodation needs, please contact Monet Vela at (916) 323-2517 or monet.vela@oehha.ca.gov by April 24, 2019. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Written Comment Period

Any written comments concerning this proposed regulatory action, regardless of the form or method of transmission, must be received by OEHHA by **5:00 p.m. on May 22, 2019**, the designated close of the written comment period. All written comments will be posted on the OEHHA website at the close of the public comment period.

The public is encouraged to submit written information electronically, rather than in paper form. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below.

All submissions should be directed to:

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
P. O. Box 4010
Sacramento, California 95812-4010

Telephone: 916-323-2517

Fax: 916-323-2610

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela at (916) 323-2517, or by e-mail to monet.vela@oehha.ca.gov. Carl DeNigris is a back-up contact person for inquiries concerning processing of this action and is available at (916) 322-5624 or carl.denigris@oehha.ca.gov.

AUTHORITY

Health and Safety Code section 110552(c)(3).

REFERENCE

Health and Safety Code sections 110552(b) and 110552(c)(1).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Health and Safety Code section 110552 requires OEHHA, in consultation with the California Depart-

¹ All further references are to sections of Title 27, Cal. Code of Regs., unless indicated otherwise.

ment of Public Health (CDPH) and the Office of the Attorney General, to determine the “naturally occurring level” of lead in candy containing chili and tamarind. The proposed regulation establishes this naturally occurring level of 0.02 parts per million (ppm) based on a scientific approach summarized in the Initial Statement of Reasons and discussed in detail in the accompanying technical document titled *Naturally Occurring Lead in Certain Candies. Candies Flavored with Chili and/or Tamarind* (OEHHA 2019).

Anticipated Benefits of the Proposed Regulation

The proposed regulation will further the goals of the authorizing statute by establishing a naturally occurring level of lead in candies flavored with chili and/or tamarind. This level will be used by CDPH when testing for levels of lead in candy for the purpose of enforcing other provisions of the statute. The proposed regulation will therefore benefit the health and welfare of California residents by setting a science-based naturally occurring level that will be used to ensure that candy sold or distributed in California is not adulterated.

No Inconsistency or Incompatibility with Existing Regulations

OEHHA has determined that no other state regulations establish a naturally occurring level for lead in candies containing chili and/or tamarind. The proposed regulatory action is therefore neither inconsistent nor incompatible with any other existing state regulations because it sets a naturally occurring regulatory level as required by statute and does not address compliance with any other law or regulation.

LOCAL MANDATE/FISCAL IMPACT

OEHHA has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. OEHHA has also determined that the proposed regulation would not impose any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, that no other nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, and that there will be no costs or savings to any state agency because of the proposed regulatory action. There are also no costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

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

OEHHA has made an initial determination that the adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation establishes a naturally occurring level for lead in candies flavored with chili and/or tamarind and OEHHA has determined this level is achievable by following good agricultural, manufacturing, and procurement practices, or by other currently feasible practices, at little to no additional costs to California businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS
(Gov. Code section 11346.3(b))

Creation or Elimination of Jobs within the State of California

This regulatory action will not significantly impact the creation or elimination of jobs within the State of California because OEHHA has determined this level is achievable by following good agricultural, manufacturing, and procurement practices, or by other currently feasible practices, at little to no additional costs to California businesses.

Most manufacturers of candies containing chili and/or tamarind are located outside of California, with many located in Mexico. OEHHA was able to evaluate the types of candies made by over 100 of the approximately 200 candy manufacturers based in California, and fewer than ten companies currently produce any candies containing chili and/or tamarind. Further, based on the evaluation of recent testing data for similar candies, OEHHA has determined that the few California manufacturers that produce this type of candy are likely already in compliance with the proposed level. And for any manufacturer that might be impacted, OEHHA has determined that the proposed naturally occurring level is achievable with minimal cost to the manufacturer. For example, the lead in chili powder can be significantly reduced by washing the chili peppers before processing and employing simple and relatively low-cost drying procedures or by using higher grade chili peppers at an increase cost ranging from fractions of a cent per candy to no more than three cents per candy.

Additionally, California retailers and distributors are not likely to incur additional costs or face difficulty in obtaining candy products containing chili and/or tamarind that meet the proposed lead level requirements. OEHHA has reviewed test results for levels of lead present in candies containing chili and/or tamarind

that were produced by nine different manufacturers in Mexico for sale into California between 2012 and 2017. Fewer than 8% of these Mexican candies sold in California would have exceeded the proposed level of 0.02 ppm, and no candy was reported to contain more than 0.03 ppm. Given that the majority of Mexican candies flavored with chili and/or tamarind are already in compliance, and that Mexico is a leading producer of such candies, most importers and distributors/retailers of these candies in California are already sourcing compliant candies from Mexican manufacturers. As the majority of candies flavored with chili and/or tamarind manufactured by both Californian and Mexican manufacturers for sale in California are already compliant with the proposed regulation, California retailers of these candies are unlikely to be significantly impacted.

Creation of New Businesses or Elimination of Existing Businesses within the State of California

For the reasons noted above, this proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within the State of California because very few California manufacturers of this type of candy exist and the costs of compliance are likely to be minimal.

The Expansion of Businesses Currently Doing Business within the State

For the reasons noted above, this proposed regulatory action will not impact the expansion of businesses within the State of California because very few California manufacturers of this type of candy exist and the costs of compliance are likely to be minimal.

Benefits of the Proposed Regulation

The proposed regulation would establish a naturally occurring level of 0.02 ppm lead in candies containing chili and/or tamarind for the purpose of enforcing other provisions of the law related to the sale or distribution of candy within California. The proposed regulation will therefore benefit the health and welfare of California residents by setting a science-based naturally occurring level that will be used to ensure that candy sold or distributed in California is not adulterated.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

Some candy manufacturers — those that produce candies containing chili and/or tamarind — may incur costs in order to ensure their product does not exceed the proposed naturally occurring level of lead in candy flavored with chili and/or tamarind. However, based on the evaluation of recent testing data, OEHHA has determined that the few California manufacturers that produce this type of candy are likely already in compliance

with the proposed level. Furthermore, for any manufacturer that might be impacted, OEHHA has determined that the proposed naturally occurring level is achievable with minimal cost to the manufacturer by following good agricultural, manufacturing, and procurement practices such as washing the chili peppers before processing and employing simple and relatively low-cost drying procedures or using higher grade chili peppers. Therefore, any compliance costs are likely to be minimal.

EFFECT ON SMALL BUSINESSES

The proposed regulatory action may adversely impact some small businesses in California. However, for the reasons discussed above any costs are likely to be minimal.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA, 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.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the proposed regulation, all the information upon which the regulation is based, and the text of the proposed regulation. These documents are available on OEHHA's web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any proposed regulation that is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the revised proposed regulation and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment peri-

od, and anyone who requests notification from OEHHA of the availability of such change. Copies of the notice and the changed regulation will also be available on the OEHHA website at www.oehha.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from Monet Vela at Monet.Vela@oehha.ca.gov or the telephone number indicated above. The Final Statement of Reasons will also be available on OEHHA's website at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION

**PROPOSED ADOPTION OF NEW SECTION UNDER ARTICLE 7
NO SIGNIFICANT RISK LEVELS
SECTION 25704 EXPOSURES TO LISTED CHEMICALS IN COFFEE POSING NO SIGNIFICANT RISK**

As required by Government Code section 11346.8(c), and Title 1, section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes to the proposed regulatory action to define the scope of the proposed regulation (Title 27, California Code of Regulations¹, section 25704.)

The proposed regulation was originally the subject of a Notice of Proposed Rulemaking published on June 22, 2018, in the California Regulatory Notice Register

(Register 25-Z, No. Z2018-0612-06), which initiated a 45-day public comment period. Seventy-six written comments from the public were received during the comment period that ended August 30, 2018. In addition, OEHHA heard comments at a public hearing on the proposed regulation held on August 16, 2018.

OEHHA has modified the language of proposed section 25704 to clarify the scope of listed chemicals covered by the proposed regulation. The modified language is in underline and strikeout format below:

§ 25704. Exposures to Listed Chemicals in Coffee Posing No Significant Risk

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

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.10, Health and Safety Code.

OEHHA is requesting comments on the above-described modifications to the proposed regulatory text. There is no need to resubmit comments that were previously provided to OEHHA. In order to be considered, **OEHHA must receive comments by 5:00 p.m. on April 2, 2019, the designated close of the comment period.** All public comments will be posted on the OEHHA website at the close of the comment period.

The public is encouraged to submit written information electronically, rather than in paper form. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below.

All submissions should be directed to:

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
P. O. Box 4010
Sacramento, California 95812-4010

Telephone: 916-323-2517
Fax: 916-323-2610

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

¹ All further references are to sections of Title 27, Cal. Code of Regs., unless indicated otherwise.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

**Chemical Selected by OEHHA for Consideration
for Listing by the Carcinogen Identification
Committee and Request for Relevant Information
on the Carcinogenic Hazard of this Chemical**

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65¹. The Carcinogen Identification Committee (CIC) of OEHHA’s Science Advisory Board serves as the state’s qualified experts and renders an opinion about whether a chemical has been clearly shown to cause cancer². The chemicals identified as carcinogens by the CIC are added to the Proposition 65 list.

OEHHA has selected the chemical below for the CIC’s review for possible listing under Proposition 65. OEHHA is initiating the development of hazard identification materials on this chemical.

**Chemical Selected for Preparation of Cancer
Hazard Identification Materials**

Chemical	CAS No.
Acetaminophen	103-90-2

By this notice, OEHHA is giving the public an opportunity to provide information relevant to the assessment of the evidence of carcinogenicity for acetaminophen. Relevant information includes but is not limited to:

- Cancer bioassays
- Cancer epidemiological studies
- Genotoxicity testing
- Other pertinent data on:
 - Pharmacokinetics
 - Biomarkers
 - Effects on biochemical and physiological processes in humans

Interested parties wishing to provide such information should submit it in accordance with the instructions given below.

The publication of this notice marks the start of a 45-day data call-in period, ending on **Monday, April 29, 2019**. The information received during this period will be reviewed and considered by OEHHA as it prepares the cancer hazard identification materials on acetaminophen.

This chemical was selected using the procedure described in a 2004 document entitled: “Process for Prioritizing Chemicals for Consideration under Proposition 65 by the State’s Qualified Experts.” This document is available on the Internet at <https://oehha.ca.gov/media/downloads/proposition-65/document/finalpriordoc.pdf>

OEHHA selected this chemical from those prioritized by the CIC in 2011. For details, follow this link: https://www.oehha.ca.gov/prop65/public_meetings/cic101211synop.html.

Hazard identification materials for acetaminophen will be presented at a future meeting of the CIC for consideration of listing under Proposition 65. As of the release of this notice, this meeting has not been scheduled.

Hazard identification materials are made available to the public for comment prior to the CIC’s consideration of the chemical for possible listing. The availability of hazard identification materials will be announced in the *California Regulatory Notice Register* and on OEHHA’s website. Public comments received on these materials are sent to the CIC for its consideration prior to the meeting at which the chemical will be considered for listing. OEHHA announces the time, date, location, and agenda of CIC meetings in the *California Regulatory Notice Register* and on its website.

We encourage you to submit relevant information responsive to this request in electronic form, rather than in paper form. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the addresses below:

Mailing Address:

Julian Leichty
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation Program
P.O. Box 4010, MS-12B
Sacramento, California 95812-4010

Fax: (916) 323-2265

Street Address:

1001 I Street
Sacramento, California 95814

In order to be considered at this point in the process, the relevant information must be received at OEHHA by 5:00 p.m. on Monday, April 29, 2019.

¹ The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 *et seq.*

² Title 27, Cal. Code of Regs., section 25302 *et seq.*

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

**REQUEST FOR RELEVANT INFORMATION
ON THE REPRODUCTIVE TOXICITY
(DEVELOPMENTAL TOXICITY ENDPOINT)
OF CANNABIS AND CANNABIS-RELATED
CHEMICALS**

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65¹. The Developmental and Reproductive Toxicant Identification Committee (DARTIC) of OEHHA’s Science Advisory Board serves as the state’s qualified experts and renders an opinion about whether a chemical has been clearly shown to cause reproductive toxicity². The chemicals identified by the DARTIC are added to the Proposition 65 list.

OEHHA has selected the chemicals below for the DARTIC’s review for possible listing under Proposition 65 as causing reproductive toxicity (**developmental toxicity endpoint**). OEHHA is initiating the development of hazard identification materials on these chemicals.

Chemicals Selected for Preparation of Reproductive Toxicity (Developmental Toxicity Endpoint) Hazard Identification Materials

Chemical	CAS No.
Cannabis (marijuana)	—
Marijuana (cannabis) smoke	—
Cannabis extracts	—
Δ-9-Tetrahydrocannabinol (THC)	1972-08-3

Hazard identification materials for these chemicals will be presented at a future meeting of the DARTIC for Committee consideration of possible listings of the chemicals under Proposition 65.

By this notice, OEHHA is giving the public an opportunity to provide information relevant to the assessment of the evidence of developmental toxicity for cannabis (marijuana), marijuana smoke, cannabis extracts and Δ-9-tetrahydrocannabinol (THC). Interested parties or members of the public wishing to provide such information should submit it in accordance with the instructions given below.

The publication of this notice marks the start of a 45-day data call-in period, ending on **Monday, April 29, 2019**. The information received during this period will be reviewed and considered by OEHHA as it prepares the hazard identification materials on these chemicals.

Hazard identification materials are made available to the public for comment prior to the DARTIC’s consideration of the chemical(s) for possible listing. The availability of the hazard identification materials will be announced in the *California Regulatory Notice Register* and on OEHHA’s website. Public comments received on these materials will be sent to the DARTIC for its consideration prior to the meeting at which the chemical(s) are considered for listing. The time, date, location, and agenda of the DARTIC meeting where a chemical will be considered for listing will be published in the *California Regulatory Notice Register* and posted on OEHHA’s website.

We encourage you to submit relevant information responsive to this request in electronic form, rather than in paper form. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the addresses below:

Mailing Address:

Julian Leichty
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010, MS-12B
Sacramento, California 95812-4010

Fax: (916) 323-2265

Street Address:

1001 I Street
Sacramento, California 95814

In order to be considered at this point in the process, the relevant information must be received at OEHHA by 5:00 p.m. on Monday, April 29, 2019.

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

² Title 27, Cal. Code of Regs., section 25302 *et seq.*

**RULEMAKING PETITION
DECISION**

BOARD OF PAROLE HEARINGS

**RESPONSE TO PETITION TO ADOPT,
AMEND, OR REPEAL A REGULATION
PURSUANT TO GOVERNMENT CODE
SECTIONS 11340.6 AND 11340.7**

BPH PETITION RESPONSE 2019–01

The Board of Parole Hearings (board) Legal Division received a Petition to Adopt, Amend, or Repeal a Regulation under Government Code sections 11340.6 and 11340.7 from petitioners Cotton Jones and Ronnie Randon on January 28, 2019. In accordance with subdivision (a) of section 11340.7, this document serves as the board’s response to the petition.

The following information is provided with the response in compliance with subdivision (d) of Government Code section 11340.7:

1. **NAME OF AGENCY:**
Board of Parole Hearings
2. **PARTIES SUBMITTING THE PETITION:**
Cotton Jones (H87387)
Ronnie Randon (J07704)
3. **PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS REQUESTED TO BE AFFECTED:** Petitioners requested the board to repeal or amend California Code of Regulations, title 15, sections 2268, 2280, 2281, 2400, 2401, 2402, and 2403.
4. **REFERENCE TO AUTHORITY TO TAKE THE ACTION:** The petitioners did not cite to the authority of the board to take the action requested. However, the board acknowledges general rulemaking authority under Government Code section 12838.4 and Penal Code sections 3052 and 5076.2 to promulgate, amend, or repeal regulations in division 2 of title 15 of the California Code of Regulations.
5. **REASONS SUPPORTING THE AGENCY’S DECISION:** Petitioners initially contend that California Code of Regulations, title 15, sections 2268(b) and 2400 improperly permit the board, when denying parole, to defer an inmate’s subsequent parole consideration hearing for two, three, four, or five years, in violation of Penal Code section 3041.5(b)(3). Second, petitioners contend that California Code of Regulations, title 15,

sections 2280 and 2401 improperly allow the board to set parole dates in violation of Marsy’s law (Penal Code section 3041.5(b)(3)). Third, petitioners contend that California Code of Regulations, title 15, sections 2268(a), 2280, 2281, and 2403 fail to bifurcate the parole consideration hearing process, into first an “eligibility phase,” followed by a “suitability phase.” Fourth, petitioners contend that California Code of Regulations, title 15, sections 2400 and 2402 improperly grant the board unlimited discretion when setting an inmate’s “term expiration date” in violation of Penal Code section 3041.5(b)(3). Fifth, petitioners contend that the mandatory language of California Code of Regulations, title 15, section 2401, requiring the board to deny parole when an inmate is found unsuitable for parole under the factors in 2402(c), is inconsistent with the statutory criteria for a denial of parole in Penal Code section 3041(b)(1), and the clear and convincing standard in Penal Code section 3041.5(b)(3).

Petitioners’ first request contesting California Code of Regulations, title 15, sections 2268(b) and 2400 is GRANTED.

Petitioners initially contend that California Code of Regulations, title 15, sections 2268(b) and 2400 improperly permit the board, when denying parole, to defer an inmate’s subsequent parole consideration hearing in violation of Penal Code section 3041.5(b)(3). Section 2268(b) states in pertinent part, “[the panel] shall make specific written findings stating the bases for the decision to defer the subsequent suitability hearing for two, three, four, or five years.” (Cal. Code Regs., tit. 15, § 2268, subd. (b).) Section 2400 states in relevant part, “A prisoner committed for first or second degree murder or attempted murder shall have his or her initial parole consideration hearing as provided in § 2268.” (Cal. Code Regs., tit. 15, § 2400.)

On November 4, 2008, the People of the State of California approved Proposition 9, otherwise known as the Victims’ Bill of Rights Act of 2008: Marsy’s Law. This measure amended the California Constitution and Penal Code to provide additional rights to victims during criminal, juvenile, and parole matters. Of relevance, Marsy’s Law amended Penal Code section 3041.5(b) by changing the period for scheduling an inmate’s subsequent parole consideration hearing following a denial of parole, from up to two years for nonmurderers and up to five years for murderers, to fifteen, ten, seven, five, or three years for all inmates. Therefore, California Code of Regulations, title 15, sections 2268(b) and 2400 currently conflict with Penal Code 3041.5(b)(3). Based on this finding, the board GRANTS petitioners’ first re-

quest and will begin the process of developing a regulation package to bring sections 2268(b) and 2400 of the regulations into compliance with Penal Code section 3041.5(b)(3).

Petitioners’ second request contesting California Code of Regulations, title 15, sections 2280 and 2401 is PARTIALLY GRANTED.

Petitioners contend that California Code of Regulations, title 15, sections 2280 and 2401 improperly allow the board to set parole dates in violation of Penal Code section 3041.5(b)(3). Sections 2280 and 2401 state in relevant part, “A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude in respect to the threat to the public. In setting the parole date, the panel shall consider the Sentencing Rules of the Superior Courts.” (Cal. Code Regs., tit. 15, §§ 2280, 2401.)

Petitioners are correct in that that board no longer retains authority to set parole dates. However, the board’s lack of authority to set parole dates is unrelated to Penal Code section 3041.5(b)(3), as alleged by petitioners. Rather, the board’s lack of authority to set parole dates is due to the implementation of Senate Bill 230 (2015–2016 regular session) and the California Supreme Court’s decision in *In re Butler* (2018) 4 Cal.5th 728. Specifically, on January 1, 2016, the Legislature enacted Senate Bill 230, which amended Penal Code section 3041 to remove the board’s authority to set parole release dates. The consequence of this statutory amendment was that inmates deemed suitable for parole were now eligible for immediate release following all statutory review periods (assuming the grant of parole is not overturned), regardless of the date on which the board would have calculated a minimum term. The California Supreme Court validated these statutory amendments in *Butler*, finding that due to the implementation of Senate Bill 230, the “Board of Parole Hearings is relieved of its obligations to calculate base terms and adjusted base terms.” (*Butler; supra*, 4 Cal.5th at 748.)

While the board disagrees with petitioners’ reasons for this request, the board nonetheless finds that other law supports petitioners’ request. Therefore, the board GRANTS petitioners’ second request and will begin the process of developing a regulation package to bring sections 2280 and 2401 of title 15 of the California Code of Regulations into compliance with Senate Bill 230 and *Butler*.

Petitioners’ third request contesting California Code of Regulations, title 15, sections 2268(a), 2280, 2281, and 2403 is DENIED.

Petitioners claim that California Code of Regulations, title 15, sections 2268(a), 2280, 2281, and 2403 fail to bifurcate the parole consideration hearing

process, first into an “eligibility phase,” then followed by a “suitability phase.” Petitioners erroneously contend that the board is first required to set an inmate’s “term expiration date” utilizing the criteria listed in Penal Code Section 3041.5(b)(3), and then subsequently determine suitability for potential “early release.” Petitioners have evidently confused California laws regarding how the board assesses suitability for parole, the legal options available to the board upon reaching a parole suitability decision, and the board’s limitation in determining when to schedule an inmate’s next parole consideration hearing following a decision to deny parole.

The Board’s First Requirement is to Assess Suitability for Parole

The board’s parole decisions are governed by Penal Code section 3041. Subdivision (b) of section 3041 provides that the board shall grant parole “unless [the board] determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual.” (Pen. Code, § 3041, subd. (b).)

The board promulgated sections 2281 and 2402 of title 15 of the California Code of Regulations to promote uniformity and consistency in making the determination of whether consideration of the public safety requires a more lengthy period of incarceration. The regulations provide a nonexclusive list of circumstances tending to show suitability or unsuitability for release that are designed to guide the board’s assessment of whether an inmate poses “an unreasonable risk of danger to society if released from prison,” and thus whether he or she is suitable for parole. (Cal. Code Regs., tit. 15, §§ 2281, subd. (a), 2402, subd. (a).) Under these regulations, when assessing whether an inmate poses an unreasonable risk of danger to society if released from prison, the board must consider all relevant, reliable information available on a case-by-case basis. As set forth in the governing regulations, the board must grant parole to an individual, unless it finds, in the exercise of its judgment after considering the circumstances enumerated in sections 2281 or 2402 of the regulations, that the inmate presents an unreasonable risk to public safety, and is therefore unsuitable for parole.

The California Supreme Court subsequently confirmed this process, but clarified that the Penal Code and corresponding regulations establish that the fundamental consideration in parole decisions is public safety, and that the “core determination” of public safety involves an assessment of an inmate’s “current dangerousness.” (*In re Lawrence*, (2008) 44 Cal.4th 1181, 1205; *In re Shaputis* (2008) 44 Cal.4th 1241; *In re Sha-*

putis (Shaputis II) (2011) 53 Cal.4th 192.) The California Supreme Court specifically found that the factors listed in sections 2281 and 2402 are “designed to guide an assessment of the inmate’s threat to society, if released, and hence could not logically relate to anything but the threat currently posed by the inmate.” (*Lawrence, supra*, 44 Cal.4th at 1206.)

Thus, the relevant case law makes clear that the paramount consideration for the board under the governing statute and corresponding regulations involves an assessment of whether an inmate poses a current unreasonable risk to public safety. To that end, the regulations specify that the panel shall first determine whether an inmate is suitable for release on parole. Regardless of the length of time served, an inmate shall be found unsuitable and denied parole if, in the judgment of the panel, the inmate will pose a current unreasonable risk of danger to society if released from prison. (*Lawrence, supra*, 44 Cal.4th at 1205; *Shaputis, supra*, 44 Cal.4th at 1241; *Shaputis II, supra*, 53 Cal.4th at 192; Cal. Code Regs., tit. 15, §§ 2281, subd. (a), 2402, subd. (a).) Therefore, the aforementioned statutory and regulatory authority confirms that the board’s first responsibility in the parole consideration hearing process is to determine whether an inmate is suitable for parole.

Options Available to the Board after a Parole Suitability Decision

As noted above, the board is required to grant parole unless it determines that the inmate currently poses an unreasonable risk of danger to public safety. (Pen. Code, § 3041, subd. (b), Cal. Code Regs., tit. 15, §§ 2281, subd. (a), 2402, subd. (a).) This means that, if the panel determines that the inmate does not pose a current unreasonable risk to public safety if released, the panel is required to grant parole. (Pen. Code, § 3041, subd. (b), Cal. Code Regs., tit. 15, §§ 2280, 2401.) In contrast, if after assessing the factors outlined in sections 2281 and 2402 of the regulations, the panel determines that an inmate does continue to pose a current unreasonable risk to public safety if released, the panel is required to deny parole, regardless of the length of time served. (*Ibid.*)

Legal Options Available to the Board upon a Denial of Parole

As explained above, Marsy’s Law increased the period of time between subsequent parole hearings for inmates who are denied parole. The increased intervals between parole hearings are applicable to all life inmates. According to its new provisions, upon a decision to deny parole, the board shall schedule the inmate’s next parole consideration hearing as follows:

Fifteen years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to

the decision denying parole are such that consideration of the public and victim’s safety does not require and more lengthy incarceration for the inmate than 10 additional years.

Ten years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim’s safety does not require and more lengthy incarceration for the inmate than seven additional years.

Three years, five years, or seven years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim’s safety requires a more lengthy period of incarceration for the inmate, but does not require a more lengthy incarceration for the inmate than seven additional years.

(Pen. Code, § 3041.5, subd. (b)(3)(A)–(C).)

The Penal Code makes clear that, following a decision to deny parole, the board must schedule the inmate’s next parole hearing in 15 years, unless the board finds, by clear and convincing evidence, that the criteria relevant to the decision denying parole are such that consideration of the public and victim’s safety does not require a more lengthy period of incarceration for the inmate than 10 additional years. If the board makes such a finding, the next hearing shall be in 10 years, unless the board finds, again by clear and convincing evidence and considering the same criteria and considerations, that a period of more than seven years is not required. In that event, the panel may set the next hearing in three, five, or seven years.

Petitioners evidently misinterpret the purpose of Penal Code section 3041.5(b)(3), and erroneously believe that it refers to establishing a final termination date of an inmate’s sentence. This is not the case, as Penal Code section 3041.5(b)(3) relates exclusively to the length of time that the board may defer an inmate’s subsequent parole consideration hearing following a finding of unsuitability and a denial of parole. Therefore, because there is no legal authority for this request, the petitioners’ third request contesting California Code of Regulations, title 15, sections 2268(a), 2280, 2281, and 2403 is DENIED.

Petitioners’ fourth request contesting California Code of Regulations, title 15, sections 2400 and 2402 is DENIED.

Petitioners next contend that California Code of Regulations, title 15, sections 2400 and 2402 improperly

grant the board unlimited discretion when setting an inmate's "term length." Petitioners argue that these regulatory sections violate Penal Code section 3041.5(b)(3) because the statute "limits the board's discretion over the release of an inmate" as it requires the board to set a "finalized term" for an inmate of either 3, 5, 7, 10, or 15 years. Here again, it appears that petitioners misinterpreted these laws. Specifically, petitioners are under the mistaken belief that the language referencing the board's discretion in sections 2400 and 2402 of the regulations relates to the board's discretion in setting an inmate's "term expiration date." Based on this error, petitioners contend that the regulatory discretion in sections 2400 and 2402 violates Penal Code section 3041.5(b)(3), which petitioners incorrectly interpret as parameters for the board when setting an inmate's "term expiration date."

As an initial matter, term expiration dates do not exist. As previously explained, Penal Code section 3041.5(b)(3) establishes parameters for the board when setting an inmate's denial length following a decision to deny parole. The Penal Code makes clear that, following a decision to deny parole, the board must schedule the inmate's next parole consideration hearing in either 15, 10, 7, 5, or 3 years, utilizing a clear and convincing evidence standard. Thus, this term signifies the amount of time before an inmate, who has been denied parole, will receive his or her next parole consideration hearing before the board, rather than the fixing of a term expiration date, as alleged by petitioners.

Moreover, as previously explained, Senate Bill 230 amended Penal Code section 3041 to remove the board's authority to set parole release dates. Following this statutory amendment, inmates deemed suitable for parole became eligible for immediate release "subject to all applicable review periods," regardless of the date on which the board would have calculated a minimum term, so long as the inmate reached his or her minimum eligible parole date or other release date in accordance with other statutory provisions. (Pen. Code, § 3041, subd. (a)(4).)

The board's discretion, as outlined in sections 2400 and 2402 of the regulations, relates to the discretion when assessing an inmate's suitability for parole. The regulations identify circumstances tending to establish suitability and unsuitability for parole. (Cal. Code Regs., tit. 15, § 2402, subs. (c), (d).) However, these circumstances provide only general guidelines, as the importance attached to any circumstance or combination of circumstances in a given case is left to the board's sound judgment. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 655.) Notwithstanding the detailed statutory and regulatory framework, parole suitability decisions are essentially discretionary; they "entail the board's attempt to predict by subjective analysis" the

inmate's suitability for release on parole. (*Ibid.*) Such a prediction requires analysis of individualized factors on a case-by-case basis and the board's discretion in that regard is "almost unlimited." (*Ibid.*) As the California Supreme Court clarified, "It is not the existence or nonexistence of suitability or unsuitability factors that forms the crux of the parole decision; the significant circumstance is how those factors interrelate to support a conclusion of current dangerousness to the public." (*Lawrence, supra*, 44 Cal.4th at 1212.) Therefore, the regulations and relevant case law make clear that the language referencing the board's discretion in sections 2400 and 2402 of the regulations relates only to the board's discretion when determining whether the inmate represents a current unreasonable risk to public safety if released, and not the discretion to set an inmate's term expiration date.

The parameters outlined in Penal Code section 3041.5(b)(3) relate only to an inmate's denial length following a finding of unsuitability and a denial of parole, which represents the amount of time before an inmate will receive his or her next parole consideration hearing before the board, not a final specified term expiration date. Moreover, the language referencing the board's discretion in sections 2400 and 2402 of title 15 of the California Code of Regulations relates to the board's discretion in determining an inmate's suitability for parole. Therefore, because there is no legal authority for this request, the petitioners' fourth request contesting California Code of Regulations, title 15, sections 2400 and 2402 is DENIED.

Petitioners' fifth request contesting California Code of Regulations, title 15, section 2401 is DENIED.

Petitioners contend that the mandatory language of California Code of Regulations, title 15, section 2401, requiring the board to deny parole when an inmate is found unsuitable under the factors in 2402(c), is inconsistent with the statutory criteria for a denial in Penal Code section 3041(b)(1), and the clear and convincing standard in Penal Code section 3041.5(b)(3). Again, petitioners have confused statutory and regulatory authority regarding the board's legal options following an assessment of an inmate's suitability for parole and the board's limitation in determining when to schedule an inmate's subsequent parole consideration hearing following a decision to deny parole.

California Code of Regulations, title 15, section 2401 provides, in relevant part, "A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2402(c). A parole date shall be set if the prisoner is found suitable for parole under Section 2402(d)." (Cal. Code Regs., tit. 15, § 2401.) As previously stated, the board is required to grant parole unless it determines that the consideration of the public safety requires a

more lengthy period of incarceration. (Pen. Code, § 3041, subd. (b).) Sections 2281 and 2402 of the regulations set forth the factors to be considered by the board in carrying out the mandate of the statute. The factors outlined in sections 2281 and 2402 help the board assess the current dangerousness of an inmate in relation to the timing and gravity of current or past convicted offense, and therefore guide the board’s evaluation of whether an inmate is suitable for parole.

As previously explained, following a denial of parole, the board is restricted by the parameters enumerated in Penal Code section 3041.5(b)(3) when determining when to schedule an inmate’s next parole consideration hearing. Once the board makes a determination that an inmate represents a current unreasonable risk of danger to society, it must deny parole as required by sections 2280 and 2401 of the regulations. After denying parole, the board is required to set a denial length in accordance with Penal Code section 3041.5(b)(3). Within the parameters of the statute, the board, utilizing a clear and convincing evidence standard, must schedule the inmate’s next parole consideration hearing in either 15, 10, 7, 5, or 3 years.

Here again, petitioners have confused the statutory and regulatory authority regarding the board’s requirements to either grant or deny parole following an assessment of an inmate’s suitability and the board’s limitation in determining when to schedule an inmate’s next parole consideration hearing following a decision to deny parole. These two concepts are unrelated. The mandatory language in the regulations requiring the board to either grant or deny parole relates solely to the determination of an inmate’s suitability for parole. In contrast, the criteria specified in Penal Code section 3041.5(b)(3) relates solely to the setting of a denial length, which determines the length of time before an inmate receives his or her subsequent parole consideration hearing following a denial of parole. Therefore, because there is no legal authority for this request, the petitioners’ fifth request contesting section 2401 of title 15 of the California Code of regulations is DENIED.

6. BOARD CONTACT PERSON:

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 Board of Parole Hearings
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 BPH.Regulations@cdcr.ca.gov

7. NOTICE TO INTERESTED PERSONS:

Under subdivision (d) of Government Code section 11340.7, the board will provide a copy of

this decision to the Office of Administrative Law for publication in the California Regulatory Notice Register. Any interested persons have the right to obtain a copy of the petition that is the subject of this decision by sending a request to the board. In submitting such a request, please reference **BPH PETITION RESPONSE 2019-01** in the request.

DATE OF DECISION: February 27, 2019

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2019-0122-06
BOARD OF ACCOUNTANCY
 Registration Forms for Out-of-State Accounting Firms

This action, without regulatory effect, amends the Out-of-State Accounting Firm Registration Form PP-13 to change informative references in the instructions from Board of Equalization to California Tax and Fee and Administration, aligning with statutory changes to the roles of those agencies.

Title 16
 AMEND: 20
 Filed 03/06/19
 Agency Contact: Aaron Bone (916) 561-1792

File# 2019-0220-02
CALIFORNIA HIGHWAY PATROL
 Explosives Routes and Stopping Places

The California Highway Patrol filed this action to update the routes for the transportation of explosives by commercial vehicles on highways in the state by removing 2.2 miles and extending 10.4 miles of designated routes in the Mojave Area.

Title 13
 AMEND: 1152.3
 Filed 03/06/2019
 Effective 03/06/2019
 Agency Contact: Tian-Ting Shih (916) 843-3400

File# 2019-0118-04
 COMMISSION ON TEACHER CREDENTIALING
 Conflict-of-Interest Code

OAL filed this regulation(s) or order(s) of repeal with the Secretary of State, and will publish the regulation(s) or order(s) of repeal in the California Code of Regulations.

Title 2
 AMEND: 80225
 Filed 02/27/2019
 Effective 03/29/2019
 Agency Contact: Christopher Rose (916) 445-0474

File# 2019-0207-05
 DEPARTMENT OF CORRECTIONS AND
 REHABILITATION
 Non Substantive Changes — Inmate Housing and
 Serious Rules Violations

This change without regulatory effect filing by the Department of Corrections and Rehabilitation amends two sections to update internal cross-references.

Title 15
 AMEND: 3269.1, 3315
 Filed 03/05/2019
 Agency Contact: Laura Lomonaco (916) 445-2217

File# 2019-0116-02
 DEPARTMENT OF FOOD AND AGRICULTURE
 Industrial Hemp Cultivation, List of Approved Seed
 Cultivars

In this action the Department of Food and Agriculture adopts the list of approved industrial hemp seed cultivars. The adoption of the list of approved seed cultivars is exempt from the Administrative Procedure Act pursuant to Food and Agricultural Code section 81002(c)(2).

Title 3
 ADOPT: 4920
 Filed 02/28/2019
 Effective 02/28/2019
 Agency Contact: Dean Kelch (916) 403-6650

File# 2019-0219-01
 DEPARTMENT OF FOOD AND AGRICULTURE
 Assessments for Control of Beet Leafhopper

The Department of Food and Agriculture submitted this file and print action to increase the current assessment rates imposed on producers, handlers, and producer-handlers for beet leafhopper control.

Title 3
 AMEND: 3601
 Filed 03/06/2019
 Effective 03/06/2019
 Agency Contact: Rachel Avila (916) 403-6813

File# 2019-0116-01
 DEPARTMENT OF HOUSING AND COMMUNITY
 DEVELOPMENT
 Housing Element Annual Progress Reports

The Department of Housing and Community Development submitted this action to repeal regulations related to housing element annual progress reports. These changes were submitted to OAL for filing and printing only, exempt from the APA pursuant to Government Code section 65400(a)(2)(B).

Title 25
 REPEAL: 6200, 6201, 6202, 6203
 Filed 02/28/2019
 Effective 02/28/2019
 Agency Contact: Lauren McAdams (916) 263-5027

File# 2019-0118-03
 DEPARTMENT OF MANAGED HEALTH CARE
 General Licensure Requirements

The Department of Managed Health Care is defining a health care service plan to include an entity that takes on global risk (both institutional and professional risk) for services provided to health plan subscribers and enrollees. This rulemaking also sets out requirements for a restricted health plan license as well as standards for obtaining an exemption from health plan licensing requirements.

Additionally, this rulemaking defines relevant terms concerning financial risk.

Title 28
 ADOPT: 1300.49
 Filed 03/05/2019
 Effective 07/01/2019
 Agency Contact: Jennifer Willis (916) 324-9014

File# 2019-0114-02
 DEPARTMENT OF PUBLIC HEALTH
 Skilled Nursing Facility 3.5 Direct Care Hours

This certificate of compliance rulemaking action by the California Department of Public Health makes permanent, with modifications, regulatory changes originally adopted in emergency action 2018-0619-02 to implement minimum staffing requirements for skilled nursing facilities as established by statutes 2017, chapter 52 (SB 97).

Title 22
AMEND: 72329.2
Filed 02/27/2019
Effective 02/27/2019
Agency Contact: Anita Shumaker (916) 440-7718

File# 2019-0131-03
DEPARTMENT OF PUBLIC HEALTH
Newborn Screening Program Fee Increase 2018
This action makes permanent the emergency rule-making increase in the Newborn Screening Program all-inclusive program participation fee from \$129.25 to \$141.25.

Title 17
AMEND: 6508
Filed 02/28/2019
Effective 02/28/2019
Agency Contact: Laurel Prior (916) 440-7673

File# 2019-0118-01
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
Recycling and Disposal Reporting System
This action implements the Recycling and Disposal Reporting System, pursuant to which waste, recycling, and compost facilities, as well as exporters, brokers, and transporters of recyclables or compost are required to submit information regarding the types, quantities, and destinations of materials that are disposed of, sold, or transferred within or out of the state to the Department.

Title 14, 27
ADOPT: title 14: 18815.1, 18815.2, 18815.3, 18815.4, 18815.5, 18815.6, 18815.7, 18815.8, 18815.9, 18815.10, 18815.11, 18815.12, 18815.13
AMEND: title 14: 17365, 17370.2, 17379.0, 17383.3, 17383.4, 17383.5, 17383.6, 17383.7, 17383.8, 17388.4, 17388.5, 17389, 17414, 17869, 17896.45, 18794.0, 18794.1, 18794.2, 18800; title 27: 20510, 20686, 20690
Filed 03/05/2019
Effective 03/05/2019
Agency Contact: Kate Nitta (916) 341-6067

File# 2019-0225-01
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
Designated Approval Collectors
This emergency rulemaking by the Department of Resources Recycling and Recovery (Department) readopts without modification, changes made in emergency action 2017-0309-02E, which amended existing regulations and adopted new article 7, in title 14, division 7,

chapter 8.2 of the California Code of Regulations relating to Designated Approved Collectors of covered electronic waste.

Title 14
ADOPT: 18660.47, 18660.48, 18660.49, 18660.50, 18660.51
AMEND: 18660.5, 18660.20
Filed 03/05/2019
Effective 03/17/2019
Agency Contact: Meagan Wilson (916) 341-6077

File# 2019-0124-02
DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Conflict-of-Interest Code
This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing only.

Title 22
AMEND: 66250, 66250.1, 66250.2
Filed 03/05/2019
Effective 04/04/2019
Agency Contact: Gregory Lyall (916) 324-0339

File# 2019-0114-01
FAIR EMPLOYMENT AND HOUSING COUNCIL
Criminal History and New Parent Leave Act
This rulemaking action by the Fair Employment and Housing Council amends existing requirements to reference the New Parent Leave Act (Gov. Code section 12945.6).

Title 2
AMEND: 11087, 11095, 11097
Filed 02/27/2019
Effective 04/01/2019
Agency Contact: Jacob Barak (213) 337-4505

File# 2019-0219-03
FISH AND GAME COMMISSION
Klamath River Basin Spring Chinook Salmon Sport Fishing
This emergency rulemaking action by the Fish and Game Commission amends the Klamath River Basin regulations to protect spring Chinook Salmon from take. The spring Chinook Salmon is currently under consideration for listing as endangered under the California Endangered Species Act.

Title 14
AMEND: 7.50
Filed 02/28/2019
Effective 02/28/2019
Agency Contact: Sherrie Fonbuena (916) 654-9866

File# 2019-0118-02
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Guarding of Conveyor Belt Support Rollers — Note

This rulemaking action by the Occupational Safety and Health Standards Board clarifies the requirement to guard conveyor belt support rollers.

Title 8
 AMEND: 3999(b)
 Filed 03/05/2019
 Effective 07/01/2019
 Agency Contact: Lara Paskins (916) 274-5721

File# 2019-0125-02
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Powered Platform Installations — Equipment

This change without regulatory effect by the Occupational Safety and Health Standards Board updates a cross-reference that should have been updated when a subdivision was relettered and renumbered in OAL Matter No. 2007-0216-07S.

Title 8
 AMEND: 3295
 Filed 02/28/2019
 Agency Contact: Christina Shupe (916) 274-5721

File# 2019-0122-07
 STATE WATER RESOURCES CONTROL BOARD
 TMDLs for nitrogen and phosphorus compounds
 Franklin Creek watershed

This action amends the Water Quality Control Plan for the Central Coastal Basin to establish total maximum daily loads for nitrogen and phosphorus compounds in the Franklin Creek watershed.

Title 23
 ADOPT: 3929.17
 Filed 03/04/2019
 Effective 03/04/2019
 Agency Contact: Larry Harlan (805) 594-6195

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN October 3, 2018 TO
 March 6, 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 2

- 02/27/19 AMEND: 80225
- 02/27/19 AMEND: 11087, 11095, 11097
- 02/25/19 ADOPT: 18360.1, 18360.2
- 02/21/19 ADOPT: 574
- 02/20/19 AMEND: 18702.2
- 02/13/19 AMEND: 54700
- 01/31/19 ADOPT: 59840
- 01/24/19 AMEND: 1859.194, 1859.196
- 01/22/19 AMEND: 1859.51(e)
- 01/14/19 AMEND: 18756
- 01/07/19 AMEND: 60802, 60803, 60807, 60808, 60824, 60825, 60827, 60831, 60832, 60833, 60835, 60840, 60842, 60843, 60844, 60845, 60846, 60847, 60848, 60849, 60850, 60851, 60852, 60853, 60854, 60855, 60856, 60858, 60860, 60861, 60863, 61120
- 12/18/18 AMEND: 1859.76
- 12/14/18 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
- 12/12/18 AMEND: 2970
- 12/12/18 AMEND: 18545, 18700, 18730, 18940.2
- 12/05/18 REPEAL: 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445
- 12/04/18 AMEND: 1897
- 11/29/18 ADOPT: 1896.83, 1896.85 AMEND: 1896.60, 1896.61, 1896.62, 1896.70, 1896.71, 1896.72, 1896.73, 1896.74, 1896.75, 1896.76, 1896.77, 1896.78, 1896.81, 1896.82, 1896.84, 1896.88, 1896.90, 1896.91, 1896.92, 1896.95, 1896.96, 1896.97
- 11/27/18 AMEND: 1897
- 11/08/18 ADOPT: 1896.13 AMEND: 1896.4, 1896.12, 1896.17
- 10/29/18 AMEND: 1896.99.100, 1896.99.120
- 10/22/18 ADOPT: 18215.4
- 10/11/18 AMEND: 1859.51(e)

Title 3

- 03/06/19 AMEND: 3601
- 02/28/19 ADOPT: 4920
- 02/21/19 AMEND: 3591.2
- 02/20/19 AMEND: 3591.2
- 02/04/19 AMEND: 1180.3.1
- 01/30/19 AMEND: 6860

CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NO. 11-Z

01/17/19 REPEAL: 1305.00, 1305.01, 1305.02, 1305.03, 1305.04, 1305.06, 1305.07, 1305.08, 1305.09, 1305.10, 1305.11, 1305.12
01/16/19 ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608, 8609
01/07/19 AMEND: 3439
12/18/18 ADOPT: 4921
11/29/18 AMEND: 3899
11/06/18 AMEND: 3435(b)
10/08/18 AMEND: 3591.12

Title 4

02/20/19 AMEND: 1843.2
02/07/19 AMEND: 10315, 10317, 10322, 10325, 10326, 10327, 10328, 10335, 10337
01/22/19 AMEND: 1374, 1374.3
01/16/19 ADOPT: 7213, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229
01/16/19 AMEND: 5000, 5033, 5060, 5100, 5170, 5260, 5350, 5450, 5500, 5540, 5600
REPEAL: 5361, 5362, 5363, 5380, 5560, 5570, 5571, 5572, 5573, 5580, 5590
01/02/19 AMEND: 12200, 12201, 12220, 12221
12/17/18 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
12/12/18 ADOPT: 10200, 10200.1, 10200.2, 10200.3, 10200.4, 10200.5, 10200.6, 10200.7
11/26/18 ADOPT: 7313, 7314, 7315, 7316, 7317, 7318, 7319, 7319.1, 7320, 7321, 7322, 7323, 7324, 7325, 7325.1, 7326, 7327, 7328, 7329
11/26/18 ADOPT: 7413, 7414, 7415, 7416, 7417, 7418, 7419, 7420, 7421, 7422, 7423, 7424, 7425, 7426, 7427, 7428, 7429
11/20/18 AMEND: 1632
11/20/18 AMEND: 1843.3
11/20/18 AMEND: 8078.3, 8078.15
11/19/18 ADOPT: 7213, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229

11/02/18 AMEND: 8078.8, 8078.10
10/31/18 AMEND: 7051, 7054, 7055, 7056, 7063, 7071
10/18/18 AMEND: 1843.2
10/18/18 AMEND: 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.8, 10170.9, 10170.10, 10170.14

Title 5

02/21/19 AMEND: 19810
02/19/19 REPEAL: 1200, 1202, 1203, 1204, 1204.5, 1205, 1206, 1207, 1207.1, 1207.5, 1208, 1209, 1210, 1211, 1211.5, 1215, 1215.5, 1216, 1216.1, 1217, 1218, 1218.6, 1219, 1220, 1225
02/15/19 AMEND: 55200, 55202, 55204, 55206, 55208
02/15/19 AMEND: 55800
01/31/19 AMEND: 850, 854.1, 854.2, 854.3, 854.4, 859, 862, 863
12/31/18 AMEND: 11517.6, 11518, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.40, 11518.45, 11518.50, 11518.70, 11518.75, 11519.5
12/05/18 AMEND: 19810
10/22/18 ADOPT: 20236 AMEND: 20101, 20105, 20107, 20116, 20118, 20122, 20123, 20124, 20125, 20127, 20130, 20134, 20135, 20136, 20140, 20180, 20185, 20190, 20203, 20205, 20235 REPEAL: 20119, 20158, 20125, 20216, 20217, 20251, 20251, 20255, 20251, 20260, 20265
10/17/18 AMEND: 18600

Title 8

03/05/19 AMEND: 3999(b)
02/28/19 AMEND: 3295
02/14/19 AMEND: 9789.39
02/06/19 AMEND: 3389
01/07/19 AMEND: 11140
01/03/19 AMEND: 336
12/26/18 AMEND: 9789.19
11/26/18 AMEND: 9789.25
11/15/18 AMEND: 344, 344.1, 344.2
11/06/18 ADOPT: 9789.19.1 AMEND: 9789.12.1, 9789.12.2, 9789.12.6, 9789.12.8, 9789.12.12, 9789.12.13, 9789.13.2, 9789.16.1, 9789.16.7, 9789.18.1, 9789.18.2, 9789.18.3, 9789.18.11, 9789.19
11/01/18 AMEND: 14300.35, 14300.41
10/30/18 ADOPT: 9792.24.5 AMEND: 9792.22
10/10/18 AMEND: 344.18

10/08/18 ADOPT: 13850, 13851, 13853, 13855, 13856, 13857, 13858, 13859, 13860, 13861, 13862, 13863, 13864, 13865, 13866, 13867, 13868, 13870, 13871, 13872, 13873, 13874

Title 9

02/05/19 AMEND: 4350
 01/15/19 ADOPT: 4011, 4012, 4013, 4014, 4014.1, 4015
 10/04/18 AMEND: 4350

Title 10

02/20/19 AMEND: 3500, 3576, 3577, 3721
 01/14/19 AMEND: 2318.6, 2353.1, 2354
 01/14/19 AMEND: 2318.6
 12/31/18 AMEND: 2632.5, 2632.11
 12/26/18 ADOPT: 2238.10, 2238.11, 2238.12
 11/29/18 ADOPT: 2509.80, 2509.81, 2509.82
 11/27/18 AMEND: 3704
 11/20/18 AMEND: 8000, 8030
 11/19/18 ADOPT: 10000, 10001, 10002, 10003, 10004, 10005, 10006, 10007

Title 11

02/06/19 AMEND: 1008
 02/04/19 AMEND: 1009
 01/25/19 AMEND: 999.12 REPEAL: 999.13
 01/08/19 ADOPT: 5460
 12/31/18 AMEND: 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2107
 12/28/18 AMEND: 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517
 10/24/18 AMEND: 1953, 1955

Title 12

01/08/19 ADOPT: 182.02, 182.03 AMEND: 182.01, 182.02 (renumbered to 182.04)
 01/03/19 AMEND: 553.70
 11/07/18 AMEND: 505.2

Title 13

03/06/19 AMEND: 1152.3
 02/21/19 AMEND: 17.02
 01/28/19 AMEND: 20.05
 01/16/19 AMEND: 550, 551.8, 551.12, 590
 01/08/19 ADOPT: 182.02, 182.03 AMEND: 182.01, 182.02 (renumbered to 182.04)
 01/03/19 AMEND: 553.70
 12/26/18 AMEND: 2025
 12/26/18 AMEND: 1152.7, 1152.7.1
 12/20/18 ADOPT: 1217.2, 1263.2
 12/12/18 AMEND: 1961.2, 1961.3
 12/04/18 ADOPT: 425.01
 11/29/18 AMEND: 17.00
 11/27/18 AMEND: 1157.21
 10/22/18 AMEND: 551.14, 551.24, 555.1, 584
 10/18/18 AMEND: 551.12
 10/10/18 AMEND: Appendix (Article 2.0)

Title 13, 17

02/25/19 AMEND: title 13: 2452, 2461.1; title 17: 93116.3
 02/07/19 AMEND: Title 13: 1956.8, 1961.2, 1965, 2036, 2037, 2065, 2112, 2141, Title 17: 95300, 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95311, 95662, 95663
 01/04/19 ADOPT: title 17: 95483.2, 95483.3, 95486.1, 95486.2, 95488, 95488.1, 95488.2, 95488.3, 95488.4, 95488.5, 95488.6, 95488.7, 95488.8, 95488.9, 95488.10, 95490, 95491.1, 95500, 95501, 95502, 95503 AMEND: title 13: 2293.6; title 17: 95481, 95482, 95483, 95483.1, 95484, 95485, 95486, 95487, 95489, 95491, 95492, 95493, 95494, 95495 REPEAL: title 17: 95483.2, 95488, 95496

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 02/28/19 AMEND: 7.50
 02/26/19 AMEND: 670.2
 02/26/19 AMEND: 107, 174, 176, Appendix A (Div. 1, Subd. 1, Ch. 9)
 02/26/19 AMEND: 29.15
 02/25/19 AMEND: 1.53, 1.74, 5.00
 02/19/19 ADOPT: 1038.6
 02/19/19 ADOPT: 1038.1, 1038.2, 1038.3, 1038.4, 1038.5 AMEND: 1038, 1038.3 [renumbered to 1038.9] REPEAL: 1038.1, 1038.2
 02/15/19 AMEND: 1094, 1094.2, 1094.6, 1094.8, 1094.17, 1094.23
 02/07/19 ADOPT: 13008 AMEND: 13012, 13015, 13018, 13019, 13040, 13050, 13071, 13104, 13105, 13113, 13116, 13136, 13137, 13138, 13144, 13158, 13173, 13204, 13205, 13214.7, 13216, 13217, 13218, 13219, 13221, 13222, 13223, 13224, 13231, 13234, 13238.1, 13241, 13242, 13243, 13244, 13245, 13247, 13300, 13302, 13315, 13328.1, 13328.8, 13328.9, 13331, 13336, 13342, 13343, 13356, 13358, 13371, 13500, 13518, 13530, 13536, 13545, 13546, 13548, 13554, 13576, 13577, 13600, 13610, 13625, 13626, 13635, 13645, 13647, 13648, REPEAL: 13214, 13214.1, 13214.2, 13214.3, 13214.4, 13214.5, 13214.8.

02/06/19 ADOPT: 1720.1, 1724.5, 1724.7.1, 1724.7.2, 1724.8, 1724.10.1, 1724.10.2, 1724.10.3, 1724.10.4, 1724.11, 1724.12, 1724.13 AMEND: 1724.6, 1724.7, 1724.10, 1748, REPEAL: 1724.8, 1748.2, 1748.3

01/02/19 AMEND: 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10, 150.16

12/28/18 ADOPT: 15064.3, 15234 AMEND: 15004, 15051, 15061, 15062, 15063, 15064, 15064.4, 15064.7, 15072, 15075, 15082, 15086, 15087, 15088, 15094, 15107, 15124, 15125, 15126.2, 15126.4, 15152, 15155, 15168, 15182, 15222, 15269, 15301, 15357, 15370, Appendix G, Appendix M, Appendix N

12/17/18 ADOPT: 798 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797

12/17/18 AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07

12/17/18 ADOPT: 820.02

12/17/18 ADOPT: 817.04 AMEND: 790

12/14/18 ADOPT: 4970.17.1 AMEND: 4970.00, 4970.01, 4970.04, 4970.05, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07.2, 4970.08, 4970.09, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13, 4970.19.2, 4970.20, 4970.21, 4970.22, 4970.23, 4970.23.1, 4970.23.2, 4970.24.1, 4970.24.2, 4970.25.1, 4970.25.2

12/13/18 AMEND: 2975

12/10/18 ADOPT: 126.1 AMEND: 125.1, 126 [renumbered to 126.1]

11/28/18 ADOPT: 716 AMEND: 300

11/28/18 ADOPT: 42 AMEND: 43, 651, 703

11/20/18 AMEND: 699.5

11/15/18 AMEND: 632

11/15/18 AMEND: 632

11/15/18 AMEND: Subsection 120.7(m)
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11/13/18 AMEND: 1038, 1038.1, 1038.2

11/06/18 AMEND: 3010, 3011, 3012, 3013, 3015

11/05/18 ADOPT: 29.11

10/30/18 ADOPT: 132.6 AMEND: 132.1, 132.2, 132.3

10/30/18 AMEND: 11600

10/29/18 AMEND: 17041, 17042, 17043, 17044, 17045, 17046

10/29/18 AMEND: 1038

10/16/18 AMEND: 890

10/16/18 AMEND: 1038

10/15/18 AMEND: 895, 895.1, 912.9, 932.9, 952.9

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03/05/19 ADOPT: title 14: 18815.1, 18815.2, 18815.3, 18815.4, 18815.5, 18815.6, 18815.7, 18815.8, 18815.9, 18815.10, 18815.11, 18815.12, 18815.13 AMEND: title 14: 17365, 17370.2, 17379.0, 17383.3, 17383.4, 17383.5, 17383.6, 17383.7, 17383.8, 17388.4, 17388.5, 17389, 17414, 17869, 17896.45, 18794.0, 18794.1, 18794.2, 18800; title 27: 20510, 20686, 20690

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03/05/19 AMEND: 3269.1, 3315

02/26/19 AMEND: 3294.5

02/25/19 AMEND: 3075.2

01/28/19 AMEND: 8004.1

01/23/19 AMEND: 3043.3

01/15/19 AMEND: 3177, 3315

01/09/19 AMEND: 3043, 3043.3, 3043.4, 3043.5

01/07/19 AMEND: 3999.98, 3999.200

01/07/19 AMEND: 8000

12/26/18 ADOPT: 2249.30, 2449.31, 2449.32, 2449.33, 2449.34, 3495, 3496, 3497 AMEND: 2449.1, 3490, 3491

11/14/18 ADOPT: 1350.5, 1352.5, 1354.5, 1358.5, 1408.5, 1418, 1437.5 AMEND: 1302, 1303, 1304, 1321, 1322, 1324, 1325, 1327, 1328, 1329, 1341, 1343, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1370, 1371, 1372, 1373, 1374, 1376, 1377, 1390, 1391, 1400, 1401, 1402, 1403, 1404, 1406, 1407, 1408, 1412, 1413, 1415, 1416, 1417, 1430, 1431, 1432, 1433, 1434, 1436, 1437, 1438, 1439, 1452, 1453, 1454, 1460, 1461, 1462, 1464, 1465, 1467, 1480, 1482, 1483, 1484, 1485, 1487, 1500, 1510, 1511 REPEAL 1378

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11/01/18 ADOPT: 3999.25

10/30/18 ADOPT: 3329.5

10/29/18 REPEAL: 3999.20

10/22/18 ADOPT: 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157

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 10/08/18 AMEND: 3352.2, 3352.3, 3354, 3355.1
 10/03/18 ADOPT: 3378.9, 3378.10 AMEND:
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 02/25/19 AMEND: 1399.515
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 01/31/19 REPEAL: 2624, 2624.1
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 01/29/19 ADOPT: 6020
 01/16/19 ADOPT: 5000, 5001, 5002, 5003, 5004,
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12/05/18 AMEND: 1380.3, 1380.6, 1381, 1381.1,
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 10/25/18 AMEND: 1300.1, 1300.2, 1300.4, 1355,
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 10/15/18 AMEND: 1417
 10/08/18 ADOPT: 1423.1, 1423.2 AMEND: 1418,
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 01/10/19 AMEND: 3030
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 10/10/18 AMEND: 35095
 10/09/18 ADOPT: 40127, 40132, 40190, 40191,
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 11/20/18 AMEND: 25137-1, 17951-4
 10/23/18 ADOPT: 35201

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11/30/18 ADOPT: 4010

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12/05/18 ADOPT: 1751, 1769.1, 1937, 1941, 1942, 2300 AMEND: 1201, 1209, 1211.5, 1211.7, 1212, 1231, 1232, 1232.5, 1233.1, 1233.2, 1233.3, 1233.4, 1234, 1240, 1704, 1706, 1708, 1709, 1710, 1714, 1714.3, 1714.5, 1720.2, 1745.5, 1748, 1768 (renumbered to 1749), 1769, 1936, 1940, 1943, 1944, 1945, 1946, 2308 (renumbered to 2300.1) REPEAL: 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2309

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03/05/19 AMEND: 66250, 66250.1, 66250.2
 02/27/19 AMEND: 72329.2
 02/14/19 ADOPT: 130000, 130001, 130003, 130004, 130006, 130007, 130008, 130009, 130020, 130021, 130022, 130023, 130024, 130025, 130026, 130027, 130028, 130030, 130040, 130041, 130042, 130043, 130044, 130045, 130048, 130050, 130051, 130052, 130053, 130054, 130055, 130056, 130057, 130058, 130062, 130063, 130064, 130065, 130066, 130067, 130068, 130070, 130071, 130080, 130081, 130082, 130083, 130084, 130090, 130091, 130092, 130093, 130094, 130095, 130100, 130110, 130200, 130201, 130202, 130203, 130210, 130211
 12/31/18 AMEND: 66272.62
 12/19/18 AMEND: 66262.41
 12/19/18 AMEND: 72329.2
 12/13/18 ADOPT: 51002.5 AMEND: 51003.1
 12/04/18 ADOPT: 69511.3 AMEND: 69511
 12/04/18 AMEND: 20100.5
 11/29/18 ADOPT: 96060, 96061, 96062, 96065, 96070, 96071, 96075, 96076, 96077, 96078, 96080, 96081, 96082, 96083, 96084, 96085, 96086, 96087
 10/31/18 ADOPT: 66264.121, 66265.121, 66270.28 AMEND: 66264.90, 66264.110, 66265.90, 66265.110, 66270.1, 66270.14
 10/31/18 AMEND: 97215, 97216, 97217, 97221, 97222, 97223, 97224, 97225, 97226, 97227, 97228, 97229, 97232, 97248
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- 01/15/19 ADOPT: 35064 AMEND: 31-002,
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35152.2, 35177, 35179, 35181, 35183,
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- 01/08/19 AMEND: 87224, 87412
- 01/02/19 ADOPT: 85175, 85318, 85320, 85340,
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- 11/15/18 AMEND: 35000, 35011, 31-005,
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- 03/04/19 ADOPT: 3929.17
02/25/19 ADOPT: 3002.1 AMEND: 3002
02/19/19 ADOPT: 3949.15
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335.12(b)-(c) renumbered to 335.6],
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- 11/29/18 ADOPT: 3919.18
11/14/18 AMEND: 3006
11/05/18 AMEND: 2200, 2200.4, 2200.6
11/01/18 AMEND: 1062, 1063, 1064, 1066, 1068
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- 02/28/19 REPEAL: 6200, 6201, 6202, 6203
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- 02/21/19 ADOPT: 432a, 800, 801, 802, 803
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- 02/05/19 AMEND: 25705
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- 03/05/19 ADOPT: 1300.49
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- 02/06/19 AMEND: 41-440, 42-711, 42-716,
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