



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:

- Bay Area Community College District Joint Powers Authority
- Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Corridor Agency

ADOPTION

MULTI-COUNTY: Golden Valley Charter School

A written comment period has been established commencing on December 6, 2019 and closing on January 20, 2020. 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 his 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 his 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 January 20, 2020. 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.

Maria Tenorio, Agriculture Program Supervisor II
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5030; Fax: (916) 900-5345

**AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Brienne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

**DIVISION 3. ECONOMICS
CHAPTER 1. FRUIT AND VEGETABLE
STANDARDIZATION
SUBCHAPTER 4. FRESH FRUITS,
NUTS AND VEGETABLES
Article 6.5. Direct Marketing**

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5345 or by e-mail to maria.tenorio@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on January 21, 2020**. The Department will consider only comments received at the Department by that time. Submit comments to:

AUTHORITY AND REFERENCE

Food and Agricultural Code (FAC) section 14 authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the FAC grants the Department Secretary the authority to amend or repeal rules and regulations.

FAC section 407 authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the FAC that the Secretary is directed or authorized to administer or enforce.

FAC section 47000 establishes the Legislature's findings and declarations with regard to direct marketing. This section specifies, in part, that a regulatory scheme should be developed that provides flexibility to make direct marketing a viable marketing system.

FAC section 47000.5 establishes definitions for "agricultural product," "practice of the agricultural arts," and "Producer" under the Direct Marketing Chapter.

FAC section 47001 specifies, in part, that the Secretary of the Department may adopt regulations to encourage the direct sale by farmers to the public of all types of California agricultural products. These regulations may include provisions to ensure and maintain quality and wholesomeness of the products, and to ensure that the selling activities are conducted without fraud, deception, or misrepresentation.

FAC section 47002 provides, in part, opportunities for California farmers to market their agricultural products directly to the public with exemptions for minimum size, labeling, standard pack, and container requirements. These exemptions allow farmers to sell their product directly to the public without the added expense of commercial preparation.

FAC section 47003 provides, in part, that the Secretary may establish qualifications for persons selling products directly to the public whenever the sales involve the use of any exemption granted under the chapter pertaining to Direct Marketing. In addition, this section provides that certified farmers' markets (CFMs) and other direct marketing outlets and distributors may likewise be subject to qualifications.

FAC section 47004 establishes, in part, that CFMs are California agricultural product point of sale locations that are registered under the provisions of FAC section 47020 and operated in accordance with the chapter gov-

erning direct marketing and regulations adopted pursuant to the Direct Marketing Chapter.

FAC section 47005 grants an enforcing officer the authority to enter and inspect any place or conveyance where products are produced, stored, packed, delivered for shipment, loaded, shipped, transported, or sold pertaining to a certified producer's certificate over which they have jurisdiction.

FAC sections 47005.1 through 47005.3 provide, in part, that an enforcing officer may inspect, seize, and hold all products, containers, and equipment found in any place or conveyance to determine compliance with the Direct Marketing Chapter or regulations adopted thereunder.

FAC section 47020 establishes that the Department is responsible for administering and regulating CFMs and county agricultural commissioners are responsible at the local level for issuing producer and operator certificates and conducting onsite inspections to verify that all agricultural products sold at the CFM are grown by the producer. In addition, this section authorizes the Secretary of the Department to promulgate regulations specifying the information a certified producer is required to submit to the Department.

FAC section 47021 provides, in part, how CFM operator fees shall be used, including, among other things, for investigation and enforcement expenses, including expenses incurred by county agricultural commissioners for actions conducted pursuant to the provisions related to direct marketing.

FAC section 47022 provides, in part, that it is unlawful for any person when operating under the provisions of the Direct Marketing Program or the regulations adopted thereunder to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported, or sell any products in bulk, or in any container or subcontainer, unless such products conform to the provisions of this chapter or the regulations adopted thereunder.

FAC sections 47022.1 through 47022.7, establish, in part, that it is unlawful to engage in various activities related to agricultural commodities that fall under the provisions of the Direct Marketing Chapter or the regulations adopted thereunder.

FAC section 47025 provides that in lieu of prosecution, but not precluding suspension or revocation of certified producer's certificates or CFM certificates, the Secretary of the Department or a county agricultural commissioner may levy a civil penalty against a person who violates these provisions or any regulation implemented pursuant to these provisions, as specified.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action proposes to amend the California Code of Regulations (3 CCR), Title 3, Division 3, sections 1392, 1392.1, 1392.2, 1392.4, 1392.5, 1392.6, 1392.8, 1392.8.1, 1392.9, 1392.9.1, and 1392.9.2; adopt sections 1392.10, 1392.10.1, and 1392.10.2; and repeal sections 1392.4.1, 1392.7, 1392.10, and 1392.11. Specifically, this rulemaking action clarifies and makes specific the conditions of direct marketing at CFMs.

The Direct Marketing/CFM Program ensures that certified producers and market operators are complying with direct marketing statutes and regulations, which are in place to ensure an equitable marketplace for certified producers to conduct business. There are approximately 2,700 certified producers and 700 CFMs in California. In addition, these statutes and regulations are intended to promote consumer confidence in the direct marketing industry by ensuring that selling activities at CFMs are conducted without fraud, deception, or misrepresentation.

On January 1, 2015, Assembly Bill (AB) 1871 (Dickinson) (Chapter 579, Statutes of 2014) was enacted. This measure modified several sections of the FAC related to direct marketing/CFMs. Specifically, responsibilities and requirements for operators, producers, county agricultural commissioners, and the Department were expanded. These changes bring the need for regulatory action to align existing regulations with the newly enacted statutes. This action provides the following:

- Clarification and revision of the intent of the Direct Marketing Article in order to align with recent statutory changes.
- Changes to the authorization of direct marketing to align with new terminology included within recently adopted statutes.
- Amendments to several definitions within the Direct Marketing Article to provide clarity to the definitions and reflect recent statutory changes.
- Revisions to the conditions of direct marketing to reflect changes in statute and to provide for effective administration and enforcement of direct marketing statutes and mandates.
- Amendments to administrative civil penalties and appeal procedures for direct marketing to align with recent statutory changes, and to promote uniform enforcement of direct marketing/CFM statutes and regulations throughout the state.

- Amendments to producer certification procedures to ensure certificates contain uniform information and to allow county agricultural commissioner's flexibility in the way certified producer certificates are validated.
- Amendments to CFM certification requirements to ensure certificates contain uniform information.

Benefits of the Proposed Action: This proposed regulatory action will assist in clarifying and making specific the responsibilities and requirements of CFM operators, producers, county agricultural commissioners, and the Department. This will ensure that county agricultural commissioners and the Department conduct enforcement and investigate claims of fraudulent activities at CFMs in a collaborative and seamless manner. The benefits of this proposed regulatory action include increased consumer confidence, the promotion of a fair and equitable marketplace for certified producers and market operators, and greater collaboration among state and county partners. This regulatory action is intended to protect and promote the direct marketing/CFM industry.

CONSISTENCY EVALUATION

The Department has determined that this proposed regulatory action is not inconsistent with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern CFMs.

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 nondiscretionary cost or savings imposed on local agencies: None.

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

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

Cost impacts on a representative private person or business: Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compli-

ance with the proposed action. This is more consistent with the Administrative Procedure Act (APA) language of Gov. Code sec. 11346.5(a)(9).

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is: (1) likely that the proposal will not create or eliminate jobs and not eliminate existing business; (2) likely that this proposal will not create new business or expand current business opportunities; (3) likely that this proposal will not eliminate jobs; (4) also likely that enhanced enforcement activities will protect consumers and the industry, and assure that consumers are purchasing produce direct from the farm. Finally, this proposed rulemaking will have no impact on the general public and protection of public health and safety.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Department has initially determined that the proposed changes to the regulations would have no significant impact directly affecting small businesses. These regulations do not require any additional costs or outputs for small businesses. These regulations do not establish any new limitations on small businesses. All CFMs and vendors would be operating under the same regulatory structure with regards to the regulatory changes.

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 regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Maria Tenorio, Agriculture Program Supervisor II
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5030; Fax: (916) 900-5345

The backup contact person for these inquiries is:

Jennifer Leidolf, Agriculture Program Supervisor I
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 206-3225; Fax: (916) 900-5345

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Maria Tenorio at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at: 2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. 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 Maria Tenorio at the address or phone number listed previously.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may amend the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Maria Tenorio at the address listed 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 FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Maria Tenorio at the address listed previously.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Department's website at: <http://www.cdfa.ca.gov/is/Regulations.html>

TITLE 8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

Subject: Pressure Vessel Fees
Division 1. Department of Industrial Relations
Chapter 3.2. California Occupational Safety and Health Regulations
Subchapter 2. Regulations of the Division of Occupational Safety and Health
Article 5. Boiler and Tank Permit and Inspection Fee Schedule
Section 344. Shop and Resale Inspection Fees, Consultation and Audit Fees, Boilers and Tanks
Section 344.1. Air Tank, Liquefied Petroleum Gas (L.P.G.), and Boiler Inspection Fees.
Section 344.2. Boiler, Tank and Resale Inspection Reports and Permits to Operate.

The Department of Industrial Relations, Division of Occupational Safety and Health ("the Division") is proposing to permanently amend sections 344, 344.1 and 344.2 of title 8 of the California Code of Regulations¹ to take the action described in the Informative Digest/Policy Statement Overview (hereinafter "the Proposed Rulemaking"), which includes increasing most pressure vessel-related inspection and permitting fees from their pre-emergency regulation amount. The Proposed Rulemaking was adopted by the Division as emergency regulations, pursuant to Labor Code, section 7721, subdivision (e), effective November 15, 2018. The purpose of the Proposed Rulemaking is to codify the emergency regulations as regular, non-emergency regulations after considering all public comments and recommendations.

¹ Unless otherwise specified, all references are to sections of the California Code of Regulations, title 8.

PUBLIC HEARING

The Division will hold a hearing to receive public comments on the Proposed Rulemaking on:

Friday, January 24, 2020

10:00 a.m. to 3:00 p.m., with a noon recess

**Elihu Harris State Building, 2nd Floor, Room 1
1515 Clay Street, Oakland, California, 94612**

At the hearing, any person interested may present statements or arguments, orally or in writing, relevant to the Proposed Rulemaking. The Division requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written comments.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or at 3:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other types of reasonable accommodations to facilitate effective communication for persons with disabilities are available upon request. Please contact the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance. Accommodation requests should be made as soon as possible. Requests for an assistive-listening system or communication access real-time translation should be made no later than five (5) days before the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Proposed Rulemaking by mail or personal delivery to:

Division of Occupational Safety and Health,
Legal Unit
Pressure Vessel Fees Comments
Attn: Denise M. Cardoso, Staff Counsel
1515 Clay Street, Suite 1901
Oakland, CA 94612

Written comments also may be sent to Denise M. Cardoso via e-mail to dcardoso@dir.ca.gov. Please put the words "Pressure Vessel Fees Comment" in the subject line of your e-mail for ease of reference.

To be considered, written comments must be received by the Division at its office not later than 11:59 p.m. on January 24, 2020, or must be received by the Division at the hearing. **The official record of the rulemaking proceeding will be closed at 11:59 p.m. on January 24, 2020.** The Division will consider only comments received by that time.

The Division may thereafter adopt the Proposed Rulemaking substantially as described below or may modify it if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the persons designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to the Proposed Rulemaking or who have requested notification of any proposed changes.

AUTHORITY AND REFERENCE

Labor Code sections 59, 60.5, subdivision (c), and 7721 authorize the Division to adopt regulations governing the assessment of fees for inspections performed by Division safety engineers for shop, field, and resale inspection of tanks and boilers and for the issuance of permits for the operation of such pressurized tanks, vessels and boilers. The Proposed Rulemaking implements, interprets and makes specific section 7721 of the Labor Code governing the assessment of such fees.

Section 344, of Title 8, California Code of Regulations

Authority cited: Sections 60.5, 6308, 7721, 7722 and 7728, Labor Code. Reference: Sections 7650, 7721, 7725 and 7728, Labor Code.

Section 344.1, of Title 8, California Code of Regulations

Authority cited: Sections 60.5, 6308, 7721, 7722 and 7728, Labor Code. Reference: Sections 7650, 7680, 7681, 7682, 7683, 7721 and 7728, Labor Code.

Section 344.2, of Title 8, California Code of Regulations

Authority cited: Sections 60.5, 6308, 7721 and 7728, Labor Code.

Reference: Sections 7650, 7654, 7680, 7683, 7721 and 7728, Labor Code.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Proposed Rulemaking permanently amends sections 344, 344.1 and 344.2 as described below, thereby codifying the emergency regulation that became effective November 15, 2018.

A. EXISTING LAWS RELATED TO PROPOSED RULEMAKING

Labor Code sections 60.5 and 6308 provide that the Division is charged with the administration and enforcement of the provisions of the California Occupational Safety and Health Act, commencing with Labor Code section 6300, as well as other provisions of law affecting the health and safety of employees in the State of California. The Division is responsible for enforcing the provisions of Labor Code sections 7620 through 7771, which comprise Part 6 of Division 5 of the Labor Code and govern the use of tanks and boilers in California that are not specifically exempted by Labor Code sections 7624 and 7625.² Tank is defined as “any unfired pressure vessel used for storage of air pressure or liquefied petroleum gases and any unfired pressure vessel built according to the rules of any nationally recognized pressure vessel code.” (Lab. Code, section 7622.) Boiler is defined as “any fired or unfired pressure vessel used to generate steam pressure by the application of heat.” (Lab. Code, section 7621.)

The Division’s Pressure Vessel Unit enforces the pressure vessel, tank and boiler safety standards through shop, field, and resale inspections, tank and boiler inspections, and the issuance of permits to operate. (Cal. Code Regs., tit. 8, sections 344, 344.1, and 344.2.) Shop inspection is defined as “the inspection and testing of tanks or boilers, manufactured, or in the process of manufacture, repair, or alteration, in the manufacturer’s shops, or at the jobsite, in accordance with the applicable rules of the respective codes under which they are manufactured.” (Lab. Code, section 7725, subd. (c).) Field inspection is defined as “the inspection and testing of installed tanks or boilers or both tanks and boilers, regardless of location.” (Lab. Code, section 7725, subd. (d).) Resale inspection is defined as “the inspection of boilers or tanks in the possession of a dealer or vendor at the request of a user who contem-

plates the purchase thereof.” (Lab. Code, section 7725, subd. (e).)

No tank or boiler shall be operated unless a permit for its operation has been issued by, or on behalf of, the Division. (Lab. Code, section 7680.) The Division’s Pressure Vessel Unit conducts regular inspections of such equipment prior to issuing a permit to operate air tanks, liquefied petroleum gas (L.P.G.) tanks and boilers. (Lab. Code, sections 7681–7683.) Certified inspectors who are certified by the Division and employed by a county, city, insurer or employer to inspect the employer’s tanks and boilers also may perform such inspections. (Lab. Code, section 7650.) The Division is responsible for issuing permits to operate tanks and boilers based on inspection reports received from qualified safety engineers and certified inspectors showing compliance with all applicable statutes and regulations. (Lab. Code, sections 7680–7683.)

Generally, permits for unfired L.P.G. tanks are valid for 3 years and other unfired air tanks are valid for 5 years. (Cal. Code Regs., tit. 8, section 462, subd. (a), and 470.) Permits for fired boilers are valid generally for 12 months, except for specified petroleum, chemical and power generating facilities that may obtain permits for longer periods after meeting specified conditions. (Cal. Code Regs., tit. 8, sections 770–771.)

The owner/operator of a tank or boiler may request the Division to inspect and issue a permit to operate the equipment, or may have the inspection performed by one of the certified inspectors listed in Labor Code section 7650. The Division is authorized to charge fees for conducting inspections, providing consultations, conducting surveys, audits and other activities required or related to meeting national standards for safe design and construction of tanks and boilers, and for processing permit applications, and for field consultations. (Lab. Code, section 7721.) Whenever the inspection to operate a pressurized air tank, L.P.G. or boiler is performed by a certified inspector at a private, non-governmental businesses, the Division may charge a fee to review the inspection report and issue a permit to operate (Lab. Code, section 7721, subd. (b).)

Labor Code section 7721 authorizes the Division to fix collect fees for shop, field, and resale inspections, the permitting of tanks and boilers, and other services rendered. All fees promulgated under sections 7720 through 7728 must cover the Division’s costs in performing its statutory duties, including administrative costs.

Effective November 15, 2018, sections 344, 344.1, and 344.2 were amended via emergency rulemaking as described below under the section titled “Proposed Amendments to Existing Regulations.” The emergency

² Exempted tanks are (a) those under the jurisdiction or inspection of the federal government, (b) air pressure tanks used in household domestic services, (c) tanks of 1 1/2 cubic feet or less not subject to a pressure of more than 150 pounds per square inch, (d) air pressure tanks supplied with air by the same air compressor which supplies air for the brakes of any motor vehicle or street car under the jurisdiction of the federal Department of Transportation or the California Highway Patrol, and (e) tanks not subject to an internal or external pressure or [of] more than 15 pounds per square inch, irrespective of size. (Lab. Code, sections 7624.) Exempted steam boilers are (a) those under the jurisdiction or inspection of the federal government, boilers operated by employers not subject to Division 4 of the Labor Code (sections 3201 et seq.), (b) boilers on which pressure does not exceed 15 pounds per square inch, and (c) boilers on automobiles and road motor vehicles. (Lab. Code, section 7625.)

regulations currently in effect made the following amendments:

1. Section 344: increased the hourly inspection rate from \$135.00 to \$150.00, and deleted subsections (a)(1), (b)(1), (b)(2) and (b)(3);
2. Section 344.1: decreased the hourly fee amount charged for field permit inspections from \$160.00 to \$150.00, deleted subsection (a)(1), separated subsection (a) into subsections (a), (b) and (c), and changed subsection (b) to subsection (d); and
3. Section 344.2: increased the permit to operate fee from \$15.00 to \$45.00, and deleted superfluous language under subsections (a), (b) and (c).

The Proposed Rulemaking would codify the emergency regulations as regular, non-emergency regulations. The Proposed Rulemaking seeks to adopt these amendments on a permanent basis.

PROPOSED AMENDMENTS TO EXISTING
REGULATIONS PRIOR TO NOVEMBER 15, 2018
EMERGENCY REGULATIONS

Section 344. Shop and Resale Inspection Fees, Consultation and Audit Fees, Boilers and Tanks.

Purpose. The purpose for the Proposed Rulemaking is to permanently increase the hourly fee under subsection (a) from \$135.00 to \$150.00. Section 344 applies to all shop inspections, field erection and resale inspections, consultations, surveys, audits, and other reviews and activities required or related to American Society of Mechanical Engineers (ASME) Code or other national standards concerning the design of boilers or pressure vessels or for evaluating a fabricator’s plant facilities when requested by entities desiring these services. Section 344 sets out the hourly inspection fee amounts, rules governing how inspection and travel time is charged, conditions under which a penalty for late payment of fees may be assessed and the penalty amount, and the basis and amount for expenses to be charged by the Division when Division inspectors are requested to inspect pressure vessels, tanks, boilers, parts of tanks and boilers and nuclear components.

The Proposed Rulemaking makes the following changes to section 344:

Title. The Proposed Rulemaking would permanently amend the title of section 344 from “Shop and Resale Inspection Fee Consultation and Audit Fees, Boilers and Tanks” to “Shop, Field and Resale Inspection Program Fees” to more accurately describe the regulation’s subject matter.

Subsection (a). The Proposed Rulemaking would permanently increase the hourly rate for services rendered by the Division under subsection (a) from \$135.00 to \$150.00 per hour. In addition, the Proposed

Rulemaking would permanently delete the heightened fee for inspections requested to be conducted after 5 p.m. on Monday through Friday, and at any hour on Saturday, Sunday or on any State holiday because the Division anticipates that the combined proposed fee modifications to sections 344, 344.1 and 344.2 will achieve full cost recovery of the pressure vessel program. The Division included all expenditures when calculating the proposed fee modifications.

The Proposed Rulemaking also would permanently (1) delete the terms “or any part thereof” after the hourly fee amount, and insert at the end of the subsection the sentence, “Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour” for clarity; (2) insert the terms “all work performed in connection with” before the terms “all shop, field erection and resale inspections . . .” to clarify that the fee applies to all work related to the services specified therein, including, for example, travel and research; and (3) insert the term “and” between the terms “boilers, and nuclear” for clarity.

Subsection (a)(1). The Proposed Rulemaking would permanently delete subsection (a)(1) because the combined proposed fee modifications to sections 344, 344.1 and 344.2 stand to achieve full cost recovery to the pressure vessel program. The proposed modified fees incorporate travel time as an expenditure.

Subsection (b). The Proposed Rulemaking would permanently (1) change “qualified engineers” to “a qualified safety engineer employed by the division” to ensure consistency with Labor Code, section 7650; and (2) delete the last sentence, and combine the content therein into the first sentence for brevity and clarity.

Subsections (c), (c)(1), (c)(2), & (c)(3). The Proposed Rulemaking would permanently delete subsections (c), (c)(1), (c)(2), and (c)(3) because the proposed fee modifications incorporate the expenses addressed therein and render these subsections unnecessary.

Note: Authority cited. Permanently include a reference to Labor Code section 7728 under “Note: Authority cited” because that statute vests the Division with the authority to charge a penalty for late payment of fees.

Reference. Permanently insert under “Reference” Labor Code sections: (1) 7650 because it defines the term “qualified safety engineer” referenced in section 344; and (2) 7725 because it defines the terms “shop inspection,” “field inspection,” and “resale inspection” referenced in section 344.

Necessity. The Division determined that the hourly inspection amount needs to be increased from \$135.00 to \$150.00 to enable the Division to meet the costs it incurs in performing the services described in Part 6, Division 5, of the Labor Code as part of the safety inspections it provides to private sector owners and operators of such equipment. (See Appendix A.) The Division’s

inspection and permit system protects the public and local workers and employers from possible death and serious injury or illness, and protects local businesses and local government from economic disruption and the use of emergency rescue and police services that would result from an explosion or uncontrolled leak of hot, toxic or otherwise harmful contents in pressure vessels, tanks and boilers. By having sufficient fee revenue to meet the Division's costs of conducting these inspection and permit services, the Division will be able to continue protecting the safety and health of the public, the safety and health of employees working in the vicinity of pressure vessels, tanks and boilers and the uninterrupted commerce of businesses and government operating near such equipment.

Authority and Reference

Authority cited: Sections 60.5, 6308, 7721, 7722 and 7728, Labor Code.

Labor Code section 60.5, subdivision (b) provides that the Division of Occupational Safety and Health succeeds to and is vested with all of the powers, duties, purposes, responsibility, and jurisdiction of the Division of Industrial Safety.

Labor Code section 6308, subdivision (a) provides that in enforcing occupational safety and health standards and orders and special orders, the Division may:

[d]eclare and prescribe what safety devices, safeguards, or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law or lawful order.

Labor Code section 7721, subdivision (a) expressly provides:

The division shall fix and collect fees for the shop, field, and resale inspection of tanks and boilers and for consultations, surveys, audits, and other activities required or related to national standards concerning the design or construction of boilers or pressure vessels or for evaluating fabricator's plant facilities when these services are requested of the division by entities desiring these services. The division shall fix and collect the fees for the inspection of pressure vessels by a division safety engineer. The division may charge an additional fee for necessary subsequent inspections to determine if applicable safety orders have been complied with.

Labor Code section 7721, subdivision (b) provides that "[t]he division shall charge a fee for processing a permit."

Labor Code section 7721, subdivision (c) provides that "[t]he division shall fix and collect fees for field consultations regarding pressure vessels."

Labor Code section 7721, subdivision (d) provides that "[w]henever a person owning or having the custody, management, or operation of a pressure vessel fails to pay the fees required under this chapter within 60 days after notification, he or she shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent of the fee."

Labor Code section 7721, subdivision (e) provides that the fees authorized under Labor Code section 7721 "shall be in amounts sufficient to cover the direct and indirect costs of the division for administering" the Division's pressure vessel program, and be embodied in regulations.

Labor Code section 7722 requires the division to "establish criteria upon which fee charges are based . . ." and to deposit such fees collected in the Pressure Vessel Account, which shall be created and used for the administration of the division pressure vessel safety program.

Labor Code 7728 provides:

Whenever an owner or user of any apparatus or equipment fails to pay the fees required under this chapter within 60 days after notification, said owner or user shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent of such fee. For the purposes of this section, the date of the invoice shall be considered the date of notification.

Reference: Sections 7650, 7721, 7725 and 7728, Labor Code.

Labor Code section 7650 states that required inspections "shall be made either by qualified safety engineers employed by the division or by certified inspectors; provided, however, that shop inspections shall be made by the division, acting through its qualified safety engineers when request therefor is made by any manufacturer of tanks or boilers." Subdivision (b) of section 7650 defines a "qualified safety engineer" as "one who is qualified to make inspections or examinations of boilers or tanks according to the rules under which the vessel is constructed" and provides that "[s]uch qualification is to be determined by a written examination prescribed by the division."

Labor Code section 7725, subdivision (a) defines "small tank" to mean "any tank 1,200 gallons water capacity or less"; subdivision (b) defines "large tank" to mean "any tank of more than 1,200 gallons water capacity"; subdivision (c) defines "shop inspection" to mean "the inspection and testing of tanks or boilers, manufactured, or in the process of manufacture, repair, or alteration, in the manufacturer's shops, or at the jobsite, in accordance with the applicable rules of the respective codes under which they are manufactured"; subdivision (d) defines "field inspection" to mean "the inspection and testing of installed tanks or boilers or both tanks and

boilers, regardless of location”; subdivision (e) defines “resale inspection” to mean “the inspection of boilers or tanks in the possession of a dealer or vendor at the request of a user who contemplates the purchase thereof.”

As explained above, Labor Code sections 7721 and 7728 enumerate the various fees the division may fix and collect related to its inspection of pressure vessels, tanks and boilers. Section 344, 344.1 and 344.2 of title 8 of the California Code of Regulations are regulations that interpret, make specific and implement the provisions of these statutes.

Section 344.1. Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Inspection Fees.

Purpose. The purpose of the Proposed Rulemaking is to permanently decrease the hourly fee under subsection (a) from \$160.00 to \$150.00. Section 344.1 applies to the hourly fee charged by the Division, including specified travel time, and penalties for late payment, for field permit inspections of air tanks, liquefied petroleum gas (L.P.G.) tanks and boilers performed by its qualified safety engineers when requested by the owner or operator of such equipment.

The Proposed Rulemaking makes the following changes to section 344.1:

Title. The Proposed Rulemaking would permanently amend the title of section 344.1 from “Air Tank, Liquefied Petroleum Gas (L.P.G.), and Boiler Inspection Fees” to “Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Permit Inspection Program Fees” to more accurately describe the regulation’s subject matter.

Subsection (a). The Proposed Rulemaking would permanently decrease the hourly rate for services rendered by the Division under subsection (a) from \$160.00 to \$150.00 per hour. The proposed decrease would make the hourly fee under section 344.1 consistent with the proposed hourly fee under section 344.

In addition, the Proposed Rulemaking would permanently (1) break subsection (a) into three subsections titled (a), (b), and (c); (2) delete the reference to travel time because anticipated travel expenditures were calculated into the proposed fee modifications; (3) replace the text reading, “for field permit inspection of air tanks, L.P.G. tanks, and boilers by qualified safety engineers employed by the division” with the following text, “for all field, resale and alteration permit inspections of air tanks, liquefied petroleum gas (L.P.G.) tanks, and boilers performed by a qualified safety engineers employed by the division” for clarity; (4) insert the terms “all work performed in connection with all” before the terms “field, resale and alteration permit inspection . . .” to clarify that the fee applies to all work related to the services specified therein, including, for example, travel and research; and (5) delete the terms

“or any part thereof” after the hourly fee amount, and insert at the end of the subsection the sentence, “Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour” for clarity.

New subsection (b). The Proposed Rulemaking would permanently (1) insert the \$150 proposed fee amount and rephrase the sentence structure for clarity; (2) replace the term “subsequent” with “all follow-up” for clarity and consistency with new subsection (c); (3) delete the term “consultation” and specify the stated fee only applies to follow-up inspections where safety requirements have not been complied with within 15 days of the date shown on the preliminary order; (4) insert the terms “all work performed in connection with” before “all follow-up inspections” to clarify that the fee applies to all work related to the services specified therein, including, for example, travel and research; and (5) insert at the end of the subsection the sentence, “Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour” for clarity.

New subsection (c). The Proposed Rulemaking would permanently remove the capitalization from words for consistency with the balance of the regulations, and insert the terms “is” and “of such compliance” for clarity.

Subsection (a)(1). The Proposed Rulemaking would permanently delete subsection (a)(1) because the combined proposed fee modifications to sections 344 to 344.2 stand to achieve full cost recovery to the program. The proposed modified fees incorporate travel time as an expenditure.

Subsection (b). The Proposed Rulemaking would permanently renumber subsection (b) to new subsection (d) and rephrase the sentence structure for clarity and consistency with the balance of the regulation.

Note: Authority cited. Permanently insert under “Note: Authority cited” section 7728 because it vests the Division with the authority to charge a penalty for late payment.

Reference. Permanently insert under “Reference” Labor Code sections: (1) 7650 because it defines the term “qualified safety engineer” referenced in section 344.1; (2) 7680 because it sets forth the permit mandate referenced in section 344.1; (3) 7681 because it sets forth the permit inspection of tanks mandate referenced in section 344.1; (4) 7682 because it sets forth the permit inspection of boilers mandate referenced in section 344.1; and (5) 7683 because it sets forth the permit requirements and specifications referenced in section 344.1.

Necessity. The Division anticipates that the combined proposed fee modifications to sections 344, 344.1 and 344.2 stand to achieve full cost recovery to the pressure vessel program as set forth in [Appendix A](#). Further,

the proposed decrease is necessary to make the hourly fee under section 344.1 consistent with the proposed hourly fee under section 344 for ease of administration.

Authority and Reference

Authority cited: Sections 60.5, 6308, 7721, 7722 and 7728, Labor Code.

Reference: Sections 7650, 7680, 7681, 7682, 7683, 7721 and 7728, Labor Code.

The reasons explained above under the Authority and Reference for section 344 with respect to Labor Code, sections 60.5, 6308, 7650, 7721, 7722, and 7728 apply equally to section 344.1.

Labor Code section 7680 states “[n]o tank or boiler shall be operated unless a permit for its operation has been issued by or in behalf of the division.”

Labor Code section 7681, subdivision (a) requires the Division to “inspect or cause to be inspected each installed tank at least every five years” except for those tanks expressly exempted under subdivision (b). Subdivision (b) exempts from inspection:

Any air pressure tank which contains 25 cubic feet or less and is not subject to pressure of more than 150 pounds per square inch and any liquefied petroleum gas tank used for storage, except a tank used for dispensing purposes as part of a dispensing unit, which contains 575 gallons or less shall be inspected or caused to be inspected by the division when the tank is initially placed into service if the tank is constructed, inspected and stamped in compliance with the American Society of Mechanical Engineers (ASME) Code, or the design, material, and construction of the tank is approved by the division as equivalent to the ASME Code.

Labor Code section 7682 requires the Division to “inspect or cause to be inspected each installed fired boiler internally and externally at least every year” but allows the Division to “grant extensions to permit the interval between internal inspections to be increased to a maximum interval of 36 months where operating experience and design of the boiler has demonstrated to the satisfaction of the division that equivalent safety will be maintained.” For other classes of boilers, section 7682 requires the Division to “establish internal inspection intervals which will ensure the safety of people working in the vicinity of the boiler,” while considering factors such as the design and construction of the boilers and the conditions under which they operate. Section 7682 also requires external inspections of all boilers at the time of the internal inspection and at any other intervals deemed necessary by the Division.

Labor Code section 7683, subdivision (a) provides that if a tank or boiler is found to be in a safe condition of

operation, the Division shall issue a permit for its operation.

Permits for tanks not specified in subdivision (b) of section 7681 expire after five years unless otherwise exempted. (Lab. Code, section 7683, subd. (b).)

Permits for tanks specified in subdivision (b) of Section 7681 remain in effect as long as the tank is in compliance with the law; however, a “new inspection and permit for operation shall be required whenever there is a change in ownership and permanent location of the tank or there is an alteration or change in the tank which affects the tank’s safety.” (Lab. Code, section 7683, subd. (c).)

Permits for boilers shall remain in effect for a period not longer than one year. (Lab. Code, section 7683, subd. (d).)

Section 344.2. Boiler, Tank and Resale Inspection Reports and Permits to Operate.

Purpose. The purpose for the Proposed Rulemaking is to permanently increase the permit fee under subsection (b) from \$15.00 to \$45.00. Section 344.2 applies to the permitting fee charged by the Division to cover the cost of processing each permit to operate, and penalties for late payment.

The Proposed Rulemaking makes the following changes to section 344.2:

Title. The Proposed Rulemaking would permanently amend the title from “Boiler, Tank and Resale Inspection Reports, and Permits to Operate” to “Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Permit to Operate Program Fees” to more accurately describe the regulation’s subject matter.

Subsection (a). The Proposed Rulemaking would permanently delete the text appearing after the term “division” under subsection (a) to clarify that permits to operate must be issued by or in behalf of the Division pursuant to Labor Code section 7680.

Subsection (b). The Proposed Rulemaking would permanently increase the permit fee under subsection (b) from \$15.00 to \$45.00. In addition, the Proposed Rulemaking would rephrase the sentence structure for brevity and clarity.

Subsection (c). The Proposed Rulemaking would permanently rephrase the sentence structure for clarity, and replace the term “L.P.G.” with “liquefied petroleum gas (L.P.G.).”

Note: Authority cited. Permanently insert under “Note: Authority cited” Labor Code sections: (1) 60.5 because it vests the Division with the authority to implement, interpret and makes specific sections 7680 et seq. relating to the permitting of tanks and boilers; and (2) 7728 because it vests the Division with the authority to charge a penalty for late payment.

Reference. Permanently insert under “Reference” Labor Code sections (1) 7683 because it sets forth the permit requirements and specifications referenced in section 344.2; and (2) 7728 because it sets forth the late payment penalty mandate referenced in section 344.2.

Necessity. The Division determined that it must permanently increase its permit fee under subsection (b) from \$15.00 to \$45.00 to enable the Division to meet its expenses and costs for conducting the inspection and permit services described in Part 6, Division 5, of the Labor Code for the pressure vessel, boiler and tank safety inspections performed for private sector owners and operators of such equipment. (See [Appendix A.](#)) As discussed above, the proposed amendment is necessary to allow the Division to adequately fund its Pressure Vessel Unit’s operations and meet its objective of ensuring occupational and public safety.

Authority and Reference

Authority cited: Sections 60.5, 6308, 7721 and 7728, Labor Code.

Reference: Sections 7650, 7654, 7680, 7683, 7721 and 7728, Labor Code.

The reasons explained above under the Authority and Reference for section 344 and 344.1 with respect to Labor Code, section 60.5, 6308, 7650, 7680, 7683, 7721, and 7728 apply equally to section 344.2.

Labor Code section 7654 requires certified inspector to (1) forward a report of his or her inspection, on prescribed forms, to the Division within twenty-one (21) days after each routine inspection; and (2) report to the Division within twenty-four (24) hours, by telegraph or telephone, serious conditions that would jeopardize the life, limb, or safety of employees discovered during his or her inspection.

B. SUBSTANTIAL DIFFERENCE FROM EXISTING, COMPARABLE FEDERAL REGULATION OR STATUTE

None. The Division has determined that there are no applicable governing federal regulations or statutes.

C. POLICY STATEMENT OVERVIEW

The inspection of pressure vessels, tanks and boilers is necessary to (1) protect the lives, health and safety of the public and of employees working in the vicinity of such equipment; (2) avoid business disruption from any equipment-related explosions; and (3) protect the environment from contamination that could result from uncontrolled emissions or spills of the materials, gases and substances stored in such pressure vessel, tanks and boilers.

The broad objective of the Proposed Rulemaking is to correct the Pressure Vessel Account’s deficit by increasing most pressure vessel-related inspection and permitting fees. At the direction of the Department of Industrial Relations, the Division has evaluated the

costs associated with administering its Pressure Vessel Unit, and determined that the Unit is expending significantly more money issuing permits, performing inspections, and providing related services at private, non-governmental businesses than it recoups through the current fees it charges those businesses for permits, inspections, and consultation.³ The Proposed Rulemaking would allow the Division to cover the actual costs in having its qualified safety engineers provide on-site inspection services for the private sector owners/operators using pressure vessels, tanks and boilers in California which must be inspected prior to the issuance of a permit to operate. Without the Proposed Rulemaking, the Division cannot adequately fund its Pressure Vessel Unit’s operations and cannot meet its objective of ensuring occupational and public safety.

D. DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

After conducting an evaluation for any regulations in this area, the Division has concluded that these are the only regulations concerning pressure vessel fees. The Proposed Rulemaking is neither inconsistent nor incompatible with existing state regulations.

OTHER APPLICABLE MATTERS PRESCRIBED BY STATUTE

None. The Division has determined that there are no other matters prescribed by statute applicable to the Division or to the regulations subject to the Proposed Rulemaking.

MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

None. The Proposed Rulemaking does not impose a mandate on local agencies or school districts. The Division has determined that the Proposed Rulemaking does not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the Proposed Rulemaking will not require local agencies or school districts to incur additional costs in complying with the proposal. The Division cannot charge local agencies and school districts fees for inspections and permits of tanks and boilers because there is no express statutory authority allowing the Division to do so. (Gov. Code, section 6103.)

³ Government Code section 6103 prohibits the Division from charging fees for inspections or permits for pressure vessels and boilers owned or operated by public entities including the state or any city, county, district or other political subdivision. The costs associated with such inspections by the Division and permits issued to public entities have been funded through revenues received pursuant to Labor Code section 62.5, subdivision (d).

Further, the Proposed Rulemaking does not constitute a “new program or higher level of service of an existing program within the meaning of section 6 of Article XIII B of the California Constitution.” The California Supreme Court has established that a “program” within the meaning of section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal. 3d 46.) The Proposed Rulemaking does not require any local agency to carry out the governmental function of providing services to the public.

FISCAL IMPACT STATEMENT:
STATE AND LOCAL AGENCIES, SCHOOL
DISTRICTS AND FEDERAL FUNDING

Cost or savings to any state agency: The Proposed Rulemaking will result in the estimated added revenues to the Division of approximately \$964,000.00 annually through fees collected from private businesses for the inspection of tanks and boilers. (See attached, Appendix A.) The Proposed Rulemaking will not result in costs to state agencies that require inspections and permits for pressurized tanks and boilers under the Labor Code, because there is no express statutory authority to charge state agencies such permit fees and therefore state agencies are statutorily exempt from such fees. (Gov. Code, section 6103.)

Cost to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq: None. The Proposed Rulemaking will not result in costs to local agencies and school districts that require inspections and permits for pressurized tanks and boilers under the Labor Code, because there is no express statutory authority to charge public agencies such permit fees, and therefore local agencies and school districts are statutorily exempt from such fees. (Gov. Code, section 6103.)

Other nondiscretionary costs or savings imposed on local agencies: None. The Proposed Rulemaking does not impose non-discretionary costs on local agencies.

Cost or savings in federal funding to the state: The Proposed Rulemaking will create neither costs nor savings in federal funding to the State.

FISCAL IMPACT STATEMENT: BUSINESS

Although the Proposed Rulemaking will affect businesses statewide, including small businesses, the Division

concludes that the adverse economic impact including the ability of California business to compete with business in other states, will not be significant.

DECLARATION OF NO SIGNIFICANT
STATEWIDE ADVERSE ECONOMIC IMPACT

The Division has made an initial determination that the Proposed Rulemaking will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states. The Division relied on the figures in Appendix A in reaching its initial determination.

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES

Private Person Impact: The Division is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the Proposed Rulemaking. Indeed, a private person who does not own or operate a boiler, tank or pressure vessel subject to the Pressure Vessel Safety Orders would not experience a direct cost impact as a result of the Proposed Rulemaking.

Business Impact: The Division has determined that the Proposed Rulemaking will not have a significant statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states.

The Proposed Rulemaking will affect the 26,674 owners and operators of pressure vessels, tanks and boilers in California; 86 percent which are small businesses. Specifically, the Proposed Rulemaking will only affect owners and operators of non-exempt pressure vessels, tanks and boilers by (1) increasing the hourly rate for all services under section 344 by about 11 percent (\$135/\$150); (2) decreasing the hourly rate for all services under section 344.1 by about 6 percent (\$160/\$150); and (3) tripling the permit fee under 344.2 from \$15.00 to \$45.00. The Division anticipates that the Proposed Rulemaking will result in an estimated cost increase of \$829,000 for small businesses, and \$135,000 for other businesses. (See Appendix A.)

The Proposed Rulemaking applies to all non-exempt businesses operating pressure vessels, tanks and boilers in this state, and thus, is neutral in its treatment of California businesses compared to businesses from other states. The Proposed Rulemaking does not require the purchase of new equipment or training or technology, so it will not involve “initial costs” as that term is commonly understood.

RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

The Division does not anticipate the Proposed Rulemaking will result in the creation or elimination of any jobs in the State of California. The Proposed Rulemaking will not affect the creation of new businesses or the elimination of existing business within the State of California, and will not affect the expansion of businesses currently doing business within the state.

The Proposed Rulemaking, by funding the regulation of pressure vessels, tanks and boilers to ensure their safe operation, will (1) protect the lives, health and safety of the public and of employees working in the vicinity of pressure vessels, tanks, and boilers; (2) protect businesses and local governments from economic disruption and expense incurred for emergency rescue and police services that would occur from an explosion or uncontrolled leak of hot, toxic or otherwise harmful contents in pressure vessels, tanks and boilers; and (3) protect the environment from contamination that could result from uncontrolled emissions or spills of the materials, gases and substances stored in pressure vessels, tanks and boilers.

BUSINESS REPORT FINDING

None. The Proposed Rulemaking does not require any person or business to submit a report.

HOUSING COSTS

The Division has made an initial determination that the Proposed Rulemaking will not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The Division must determine that no reasonable alternative considered by it, or that has been identified and brought to its attention, 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.

CONTACT PERSONS

Non-substantive inquiries concerning this action, such as requests for copies of the text of the proposed

amendments, and the location of public records, may be directed to Pamela Claros at (510) 286-7348 or pclaros@dir.ca.gov. Inquiries regarding the substance of the proposed amendments may be directed to Denise M. Cardoso (primary contact) or Chris Grossgart (back-up contact) at (510) 286-7348 or at cgrossgart@dir.ca.gov.

DEADLINE TO SUBMIT WRITTEN COMMENT

11:59 p.m. on January 24, 2020, or comment must be received by the Division at the hearing. The official record of the rulemaking proceeding will be closed at 11:59 p.m. on January 24, 2020. The Division will consider only comments received by that time.

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED
REGULATION/INTERNET ACCESS

An Initial Statement of Reasons, the text of the Proposed Rulemaking, and other information upon which the Proposed Rulemaking is based, have been prepared and are available from the contact persons named in this Notice. The Division will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at 1515 Clay Street, Suite 1901, Oakland, CA 94612. The Initial Statement of Reasons, this Notice of Proposed Rulemaking, and text of the Proposed Regulation also may be accessed through the agency's Internet website at <https://www.dir.ca.gov/dosh/doshreg/Pressure-Vessel-Fees/>.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Division may adopt the proposals substantially as described in this Notice. If the Division makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the amendments as revised. Any such modifications also will be posted on the Division's website.

Please send requests for copies of any modified amendments to the attention of Pamela Claros at the above telephone number or e-mail address. The Division 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 Pamela Claros at the above-referenced telephone number or e-mail address.

**TITLE 14. BOARD OF FORESTRY
AND FIRE PROTECTION**

**“Appeal Amendments, 2020”
Title 14 of the California Code of Regulations
(CCR) Division 1.5, Chapter 10
Article 1, Section 1647**

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. All written comments must be received by the Board office via mail, facsimile, e-mail, or hand delivery no later than **January 21, 2020**.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number: (916) 653-0989

Written comments may also be delivered via e-mail at the following address: PublicComments@BOF.ca.gov.

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Any request should be made to the contact information provided above.

AUTHORITY AND REFERENCE
(pursuant to GOV section 11346.5(a)(2) and
1 CCR section 14)

Authority cited: Section 759, Public Resources Code.
Reference: Sections 765, 768, 769, 770 and 774, Public Resources Code.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW
(pursuant to GOV 11346.5(a)(3)(A)-(D))

The Professional Foresters Law (PFL) (Public Resources Code (PRC) section 750, et seq.), declares the existence of a public interest in the management and treatment of the forest resources and timberlands of this state and provides for the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of forested landscapes and the quality of the forest environment. Goals of such regulation are the enhancement of control of air and water pollution, the preservation of scenic beauty, the protection of watersheds by flood and soil erosion control, the production and increased yield of natural resources, including timber, forage, wildlife, and water, and the provision of outdoor recreation, to meet the needs of the people.

Pursuant to PRC section 759, the Board is authorized to adopt rules and regulations as reasonably necessary to affect the provisions of the article (the Professional Foresters Law), including the regulation and licensing (Registration) of persons who practice the profession of forestry and the procedures and processes surrounding that registration.

Additionally within the PFL, an “examining committee” is established within PRC section 763, which is responsible for the examination of “. . . all applicants for registration as professional foresters and specialty certificates” (PRC section 763(b)(1)) and to “[r]ecom- mend to the board applicants for the license of profes- sional forester and applicants for specialty certificates who fulfill the requirements of [the PFL]” (PRC section 763(b)(2)).

Within the statutory licensing scheme, any applicant who pursues licensing is required to complete “. . . such examination or examinations as are prescribed by the Board” (PRC section 769). The Board of Forestry and

Fire Protection (Board) has adopted regulations for this examination process within Article 3 of Chapter 10 of Title 14 of the California Code of Regulations (14 CCR section 1640 et seq.).

PRC section 765, an additional provision within the statutory framework for the licensing of professional foresters, requires that “[t]he examining committee shall adhere to the rules and regulations of the board. Any applicant for a license pursuant to this article who contends that he has been aggrieved by any action taken by the examining committee with respect to his qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on such appeal may administer an oral or written examination to the applicant as an aid in determining whether the applicant is qualified under the terms of this article.” The Board has implemented this appeal process within regulation as 14 CCR section 1647, which outlines the procedures and requirements for such an appeal.

The problem is that, through evaluation and implementation of the appeals process since the initial regulatory adoption in 1989, the Board has identified issues of clarity within the regulations as well as opportunities to improve that clarity within the requirements and procedures of the Registered Professional Foresters (RPF) examination appeals process, and improve upon and modify the appeals process for both appellant applicants and the Board parties which administer the appeal. Furthermore, the implementation of the appeal procedures is a costly component of administering the Professional Foresters Law, requiring both additional staff time for review and additional costs in grading, which are costs that are not covered in the initial fee for application or license renewal.

The purpose of the proposed action is to improve the clarity of the regulations related to the RPF examination appeals process, as well as to improve upon the procedural requirements and elements of the process to allow for clearer, more efficient and effective appeals with regards to RPF applicants. Additionally, the proposed action establishes a fee to administer that portion of the PFL which is related to the appeals process for examination applicants.

The effect of the proposed action is an improved regulatory appeal procedure for RPF applicants which provides additional clarity to both the applicant and those administering the appeals procedure, and which eliminates unnecessary and potentially burdensome aspects of the appeal procedure. The revised appeal procedure requires that all appeals regard an applicant’s qualifications (as described within PRC section 769), requires that an applicant provide the circumstances leading to the appeal and supporting documentation, and provides that the Board’s executive officer may administer an oral or written examination or re-grading in full or in-

part of the examination to aid in determining whether the applicant has satisfied the qualifications as contested. Additionally, the proposed action provides that the ultimate decision of the Board’s Executive Officer is final and binding. Furthermore, the proposed action establishes a fee of \$100 for an appeal for review in accordance with PRC section 765.

The benefit of the proposed action is an expedient, fair, and more transparent process for the appeal of qualifications of RPF applicants.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV section 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to Registered Professional Foresters and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statute to which the proposed action was compared: PRC section 765.

MANDATED BY FEDERAL
LAW OR REGULATIONS

The proposed action is not mandated by Federal law or regulations.

The proposed action neither conflicts with, nor duplicates, Federal regulations.

There are no comparable Federal regulations related to the licensing of Professional Foresters. No existing Federal regulations meeting the same purpose as the proposed action were identified.

OTHER STATUTORY REQUIREMENTS
(pursuant to GOV section 11346.5(a)(4))

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

LOCAL MANDATE
(pursuant to GOV section 11346.5(a)(5))

The proposed action does not impose a mandate on local agencies or school districts.

FISCAL IMPACT

(pursuant to GOV section 11346.5(a)(6))

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in Federal funding to the State.

The proposed action will not result in costs to any State agency, but may provide up to \$500 annually to the Professional Forester Registration Fund, per PRC section 780. The proposed action represents a continuation of existing regulations related to processes and procedures for the licensing of Professional Foresters.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

HOUSING COSTS

(pursuant to GOV section 11346.5(a)(12))

The proposed action will not affect housing costs.

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

(pursuant to GOV sections 11346.3(a),
11346.5(a)(7) and 11346.5(a)(8))

The proposed action will not have a significant statewide adverse economic impact or directly affect business. There will be no impact on the ability of California businesses to compete with businesses in other states as these regulations will not make it costlier to produce goods or services in California.

**FACTS, EVIDENCE, DOCUMENTS,
TESTIMONY, OR OTHER EVIDENCE
RELIED UPON TO SUPPORT INITIAL
DETERMINATION IN THE NOTICE THAT THE
PROPOSED ACTION WILL NOT HAVE A
SIGNIFICANT ADVERSE ECONOMIC
IMPACT ON BUSINESS**

(pursuant to GOV section 11346.2(b)(5) and GOV
section 11346.5(a)(8))

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of contemplating the implementation of the Professional Foresters Law that the Board brings to bear on regulatory development.

**STATEMENTS OF THE RESULTS OF THE
ECONOMIC IMPACT ASSESSMENT (EIA)**

The results of the economic impact assessment are provided below pursuant to **GOV section 11346.5(a)(10)** and prepared pursuant to **GOV section 11346.3(b)(1)(A)–(D)**. The proposed action:

- Will not create jobs within California (GOV section 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV section 11346.3(b)(1)(A));
- Will not create new businesses (GOV section 11346.3(b)(1)(B));
- Will not eliminate existing businesses within California (GOV section 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV section 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV section 11346.3(b)(1)(D)). For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the Informative Digest/Policy Statement Overview.

**COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS**

(pursuant to GOV section 11346.5(a)(9))

The agency anticipates a cost impact of \$100 that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. It is expected that a rough maximum of 5 individuals will be subjected to this cost impact annually.

BUSINESS REPORT

(pursuant to GOV sections 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS

(defined in GOV section 11342.610)

Small businesses, within the meaning of GOV section 11342.610, are not expected to be affected by the proposed action.

Small business, pursuant to 1 CCR section 4(a):

- (1) Is legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May not incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

Pursuant to 1 CCR section (b), the reason(s) the regulation affects small business are the same as provided in the Economic Impact Analysis in the Initial Statement of Reasons.

ALTERNATIVES INFORMATION

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

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Hedge is not available is Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Dias may be contacted at the above address or phone.

AVAILABILITY STATEMENTS

(pursuant to GOV section 11346.5(a)(16), (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV section 11346.5(b)**).
4. Changed or modified text. After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who submitted comments during the public comment period, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board website at: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>.

**TITLE 14. BOARD OF FORESTRY
AND FIRE PROTECTION**

**“SOUTHERN SUBDISTRICT AND MARIN CO.
STOCKING AMENDMENTS, 2020”**

**Title 14 of the California Code of
Regulations (14 CCR),
Division 1.5, Chapter 4
Subchapter 4
Articles 3 & 13**

**Amend: Sections 913.8, 926.1, 926.8,
926.25, 927.9, 927.10, 927.16**

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board will hold a public hearing on January 22, 2020, at its regularly scheduled meeting commencing at 9:00 a.m., at the Natural Resources Building Auditorium, 1416 9th Street, Sacramento, CA. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) section 11125.1(b)**, writings that are public records pursuant to **GOV section 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends on January 22, 2020 at the conclusion of the public hearing.

The Board will consider comments received at the Board office by that time and those comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board ref-

erence the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number: (916) 653-0989.

Written comments may also be delivered via e-mail at the following address: PublicComments@BOF.ca.gov.

AUTHORITY AND REFERENCE
(pursuant to GOV section 11346.5(a)(2) and
1 CCR section 14)

Authority cited: Sections 4516.5, 4551, 4553, 4561, 4562.5, and 4561.6, Public Resources Code. Reference: Sections 4516.5, 4561, 4561.1, and 4562.5, Public Resources Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**
(pursuant to GOV 11346.5(a)(3)(A)-(D))

The Z’berg-Nejedly Forest Practice Act of 1973 (FPA) describes many of the broad forest management goals and policies of the state, including Public Resources Code (PRC) section 4512(c), which states “The Legislature finds and declares that it is the policy of this state to encourage prudent and responsible forest resource management calculated to serve the public’s need for timber and other forest products, while giving consideration to the public’s need for watershed protection, fisheries and wildlife, sequestration of carbon dioxide, and recreational opportunities alike in this and future generations.”

The FPA further describes the relationship between forest management and atmospheric sequestration of carbon dioxide through PRC section 4512.5(d), which states “. . . there is increasing evidence that climate change has and will continue to stress forest ecosys-

tems, which underscores the importance of proactively managing forests so that they can adapt to these stressors and remain a net sequesterer of carbon dioxide.”

PRC section 4551 describes the mechanism through which forest policy is implemented through the authorization of the Board of Forestry and Fire Protection (Board) to “. . . adopt district forest practice rules and regulations for each district in accordance with the policies set forth in Article 1 (commencing with Section 4511) of this chapter and pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources, including, but not limited to, streams, lakes, and estuaries.” The FPA further states, within PRC section 4554.5, that “[those] rules and regulations shall be continuously reviewed and may be revised.”

Southern Subdistrict Stocking Standards

Included in the FPA is PRC section 4561, which sets forth “resource conservation standards”, which are minimum standards intended to “. . . ensure that a cover of trees of commercial species, sufficient to utilize adequately the suitable and available growing space, is maintained or established after timber operations.” The section goes on to outline various prescriptive standards for minimum tree occupancy required under described site-specific conditions.

PRC section 456.1.2 authorizes the Board to “. . . adopt alternative stocking standards that meet the purposes of Section 4561 if those alternative standards reasonably address the variables in forest characteristics, achieve suitable resource conservation, and contribute to specific forest health and ecological goals as defined by the board.”

In September of 2019, the Board defined such ecological goals and adopted alternative stocking standards for the Northern, Southern, and Coast forest districts under the authority of PRC section 4561.2 (Office of Administrative Law [OAL] Rulemaking Matter 2019–1003–01S). Those forest health and ecological goals, summarized below, were based on a review of the available and applicable literature on the subjects and were necessary in order to address the changes to forest conditions which have occurred since the initial creation of the statutory minimum resource conservation standards. The alternative stocking standards which were adopted to address those defined specific forest health and ecological goals, while addressing variability in forest characteristics and achieve suitable resource conservation.

Those forest health and ecological goals, along with the rulemaking action which substantiated those goals and amended the regulatory minimum resources con-

servation standards within 14 CCR sections 912.7, 932.7, and 952.7, further support the proposed action here.

Additionally, within the FPA, PRC section 4531 requires that Board “. . . divide the state into not less than three districts. In establishing these districts, the board shall take into account differing physical characteristics, including, but not limited to, climate, soil type, and principal forest crops. Insofar as possible, the board shall group together lands that have substantially similar characteristics and that will best be served by substantially similar regulations. Boundaries of such districts may be altered from time to time as the board determines is necessary.” The Board has defined these forest districts within Article 1 of Subchapter 3 of Chapter 4 of Title 14 of the California Code of Regulations (CCR), and has further clarified additional “subdistricts”, which are subsets of those larger districts (14 CCR sections 895.1 and 909.1). Included within these subdistricts is the southern subdistrict of the coast forest district, and included with the regulatory provisions for this southern subdistrict are specific regulatory stocking standards to be met upon completion of timber operations.

Since the initial creation of the southern subdistrict specific regulatory stocking standards, several factors have significantly influenced forest health and management practices throughout the state. Since the initial adoption of these regulations, the socioecological goals of forest management have significantly expanded and have influenced forest stocking and planting procedures. Issues surrounding atmospheric carbon sequestration, the risk and threat of loss and damage from wildfires, growing forest pest conditions, ongoing and potentially long-term drought conditions, climate change, and forest heterogeneity and diversity all serve to influence forest management practices and will impact associated stocking and planting procedures. The **problem** that the proposed action seeks to address is that current regulations do not address any of these changing conditions within the southern subdistrict of the coast forest district and do not provide for optimal stocking conditions in light of those conditions. The proposed action was developed in response to these changing ecological conditions and improved seedling survival rates. This proposal will allow for new point count standards following timber operations within the entirety of the southern subdistrict of the coast forest district which are consistent with those of the larger coast forest district, of which the southern subdistrict is a part.

The amendments seek to address the specific forest health and ecological goals identified by the Board and clarify how those goals will achieve suitable resource

conservation. **The forest health and ecological goals identified by the Board include:**

- Increased carbon sequestration
- Reduction in fire risk, fuels loading
- Increased resilience to forest pests
- Increased resilience to drought/increased water yield
- Appropriate stocking for resilient forests in a changing climate
- Avoidance of large-scale disturbances which promote homogeneity in forests

Marin County Stocking Standards

In addition to those regulations related to subdistricts, the Board has adopted certain county-specific forest practice regulations. Included in these county rules are those specific to the county of Marin within 14 CCR sections 927 *et seq.* These Marin county regulations include requirements for stocking within 14 CCR section 927.10. The Marin county stocking standards were adopted by the Board in 1984 upon a recommendation from the county of Marin, pursuant to PRC section 4516.5, which requires that the Board adopt such regulatory recommendations, provided that those recommendations are consistent with the intent and purpose of the FPA, and are necessary to protect needs and conditions of the county making those recommendations. The **problem** is that, upon review of these regulations pursuant to PRC section 4553 and in light of the Board's determinations related to alternative stocking standards within OAL Rulemaking Matter Number 2019-1003-01S (described above), the Board has determined that the forest health and ecological goals which necessitated adoption of the alternative stocking standards are suitable and appropriate for application throughout the Coast Forest District, and the Marin county stocking standards are inconsistent with these goals.

Eucalyptus Management

The FPA requires, within PRC section 4551.5, that the rules and regulations adopted by the Board under the authority of PRC section 4551 "shall apply to the conduct of timber operations . . .," which is defined within PRC section 4527 as meaning ". . . the cutting or removal, or both, of timber or other solid wood forest products . . . from timberlands for commercial purposes." Timberlands are then further defined within PRC section 4526 as meaning ". . . land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district ba-

sis." The Board has determined and identified such commercial species within 14 CCR section 895.1.

Prior to 2013, the Board had identified Eucalyptus trees as a commercial species within the Coast and Southern Forest Districts, and in 1987, the Board adopted regulations related specifically to the harvesting and of Eucalyptus within the Southern Subdistrict of the Coast Forest District in 14 CCR section 913.8(d) (Board of Forestry and Fire Protection Rulemaking File Number 91). In 2013, however, the Board recognized that Eucalyptus has little to no commercial value in the state and that the Forest Practice Rules were not the appropriate or suitable vehicle to regulate its management or harvesting, or lack thereof. In light of this recognition, the Board amended 14 CCR section 895.1 to remove Eucalyptus from the list of commercial species. The **problem** is that, while the Board removed Eucalyptus from the list of commercial species, the provisions for evenaged silvicultural management of Eucalyptus within 14 CCR section 913.8(d) were overlooked and are currently inconsistent with the Forest Practice Act and Rules. This inconsistency stems from the fact that, as non-commercial species, Eucalyptus is unable to statutory stocking standards, which require that ". . . a cover of trees of commercial species . . . is maintained or established after timber operations" (PRC section 4561), or current regulatory stocking standards, which provide that ". . . [t]he resource conservation standards of the Rules may be met with Group A and/or B commercial species" (14 CCR section 912.7(d)). The propagation of Eucalyptus stands with evenaged silvicultural systems does not satisfy these provisions and its inclusion within 14 CCR section 913.8 is an erroneous oversight within regulation.

The **purpose** of the proposed action is:

- 1) To address the specific forest health and ecological goals identified by the Board to improve forest resilience to drought, fire, forest pests and diseases and increase carbon sequestration rates to defend against global climate change. This is accomplished by amending the point count minimums in the stocking standards of the Southern Subdistrict within 14 CCR section 913.8 to a lower standard which is consistent with the Boards recent amendments to similar stocking standards for the larger coast forest district within 14 CCR section 912.7. The proposed lower standards provided for suitable resource conservation by reducing competition between trees for the essential resources of sunlight, water and nutrients needed for photosynthesis, and eliminates the need for expensive pre-commercial thinning treatments and resulting fuel buildup that can contribute to wildfire risk and carbon release.

Contemporary research indicates the following (see citation and source references below).

- Less competition between trees at lower, more appropriate densities may result in lower mortality rates and hence faster net growth of trees that can sequester more carbon.
 - It is important to reduce the densities of smaller diameter trees, as they can be associated with high severity, large-scale fires that result in the vast majority of carbon storage loss and greenhouse gas emissions on forested land.
 - A reduction in overall forest density helps create forests which are less susceptible to forest pest and disease outbreaks, reducing the amount of forest carbon stored in the dead pool.
 - The current stocking standards encourage excess site occupancy in many areas, exacerbating conditions that can lead to extensive and severe wildfires that result in loss of life, structures, critical habitat and productive forestland.
 - The current stocking standards encourage excess site occupancy in many areas, helping create conditions that are susceptible to forest pest and disease outbreaks far beyond those associated with normal, cyclical outbreaks.
 - The current stocking standards encourage excess site occupancy in many areas, contributing to conditions that increase inter-tree competition for water, reduce tree vigor and limit forest-water yield.
 - The current stocking standards require retention of seedlings and trees at densities that will be unsustainable for future forests in a changing climate. Effects of climate change on California forests include increased competition for water, longer fire seasons with more severe behavior, and greater susceptibility to insect and disease outbreaks.
 - Appropriately stocked forests are more resilient and resistant to a variety of stressors, which may help prevent large-scale, extreme disturbances that create large, homogenous patches of forest type, age and structure.
- 2) To standardize regulatory stocking standards throughout the entirety of the southern subdistrict, and to make the southern subdistrict point-count stocking standards consistent with those of the larger coast forest district which were adopted by the Board in September of 2019.

- 3) To eliminate erroneously remnant provisions of 14 CCR section 913.8(d) related to evenaged silvicultural management of Eucalyptus within the southern subdistrict.
- 4) To address clarity issues, where they exist, within the regulations.

The **effect** of the proposed action is to address those forest health and ecological goals as described within this document to provide for increased forest resilience and suitable resource conservation by adjusting point count standards for the southern subdistrict to a level that reduces competition between trees for the essential resources of sunlight, water and nutrients needed for photosynthesis and requisite for forest resilience to natural stressors. The proposed action would eliminate the need for expensive pre-commercial thinning treatments and the resulting fuel buildup created by such treatments which can contribute to wildfire risk and carbon release. Implementation of the proposed action will help to increase rates of carbon sequestration and reduce the long-term probabilities of large-scale wildfire that can result in homogeneous forest structure across the landscape by reducing tree mortality from drought, insect, and disease. The proposed action is consistent with the legislature’s findings and declaration in PRC section 4512.5(d) for “proactively managing forests so that they can adapt to these stressors and remain a net sequesterer of carbon dioxide.”

The proposed action will also make point-count stocking standard requirements consistent throughout the entirety of the coast forest district, eliminate unnecessary, outdated, and potentially confusing provisions related to the evenaged management of Eucalyptus within the southern subdistrict, and generally improve the clarity of the regulations.

The **benefit** of the proposed action is to provide a mechanism pursuant to PRC section 4512.5(d) to proactively manage forest stocking, so that forests can adapt to these stressors and become more resilient while increasing rates of carbon sequestration to help offset climate change that contributes to these stressors.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV section 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to forest stocking requirements and county-specific forest regulation and found no existing State regulations that met the same purpose as the proposed action. Based on this

evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statute to which the proposed action was compared: 4551, 4561, 4561.2, and 4516.5, Public Resources Code.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed action is not mandated by Federal law or regulations.

The proposed action neither conflicts with, nor duplicates, Federal regulations.

There are no comparable Federal regulations related to minimum resource conservation standards. No existing Federal regulations meeting the same purpose as the proposed action were identified.

**OTHER STATUTORY REQUIREMENTS
(pursuant to GOV section 11346.5(a)(4))**

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

**LOCAL MANDATE
(pursuant to GOV section 11346.5(a)(5))**

The proposed action does not impose a mandate on local agencies or school districts.

**FISCAL IMPACT
(pursuant to GOV section 11346.5(a)(6))**

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in Federal funding to the State.

The proposed action will not result in costs to any State agency. The proposed action represents a continu-

ation of existing forest practice regulations related to the minimum resource conservation standards.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

**HOUSING COSTS
(pursuant to GOV section 11346.5(a)(12))**

The proposed action will not significantly affect housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE
(pursuant to GOV sections 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))**

The proposed action will not have a significant statewide adverse economic impact directly affecting business. The proposed action will not impact the ability of California businesses to compete with businesses in other states by making it costlier to produce goods or services in California or by any other means.

**FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE RELIED UPON TO SUPPORT INITIAL DETERMINATION IN THE NOTICE THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS
(pursuant to GOV section 11346.2(b)(5) and GOV section 11346.5(a)(8))**

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of contemplating professional forestry in California that the Board brings to bear on regulatory development.

STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The results of the economic impact assessment are provided below pursuant to **GOV section 11346.5(a)(10)** and prepared pursuant to **GOV section 11346.3(b)(1)(A)-(D)**. The proposed action:

- Will not create jobs within California (GOV section 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV section 11346.3(b)(1)(A));
- Will not create new businesses (GOV section 11346.3(b)(1)(B));

- Will not eliminate existing businesses within California (GOV section 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV section 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV section 11346.3(b)(1)(D)). For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the Informative Digest/Policy Statement Overview.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS
(pursuant to GOV section 11346.5(a)(9))

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. No adverse impacts are to be expected.

BUSINESS REPORT
(pursuant to GOV sections 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS
(defined in GOV section 11342.610)

Small businesses, within the meaning of GOV section 11342.610, are not expected to be affected by the proposed action.

Small business, pursuant to 1 CCR section 4(a):

- (1) Is legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

Pursuant to 1 CCR section (b), the reason(s) the regulation affects small business are the same as provided in the Economic Impact Analysis in the Initial Statement of Reasons.

ALTERNATIVES INFORMATION

In accordance with **GOV section 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more ef-

fective 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.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Hedge is not available is Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Dias may be contacted at the above address or phone.

AVAILABILITY STATEMENTS
(pursuant to GOV section 11346.5(a)(16), (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV section 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the

comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board website at: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

Amend Title 16 California Code of Regulations Sections 1309, 1360, 1360.1 and 1360.2

Repeal Title 16 California Code of Regulations Sections 1379.68, 1379.70, 1379.72

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

PUBLIC HEARING

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

COMMENT PERIOD

Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this notice, must be received by the Board at its office no later than January 20, 2020, or at the hearing, if applicable.

AVAILABILITY OF MODIFICATIONS

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 481, 482, and 2018 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 141, 480, 481, 482, 488, and 493 of said code, the Board is considering amendments to sections 1309, 1360, 1360.1, and 1360.2, and is considering repealing sections 1379.68, 1379.70, and 1379.72 of division 13 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST

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

Amend 16 CCR section 1309 (Rehabilitation Criteria for Denial of Licensure)

Existing law under 16 CCR section 1309 sets forth the rehabilitation criteria the Board shall consider when deciding whether to deny a license.

This rulemaking proposes to amend this section to clarify that when the Board is deciding whether to deny

the application of a person on the ground that the applicant was convicted of a crime, the Board will be required to consider whether the applicant made a showing of rehabilitation and is presently eligible for a license if the applicant completed the criminal sentence at issue without a violation of parole or probation, and requires the Board consider the following criteria: (1) The nature and gravity of the crime(s); (2) The length(s) of the applicable parole or probation period(s); (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified; (4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation; and (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

The proposal would require a broader set of rehabilitation criteria to be considered for applicants who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when denial was being considered based on something other than a conviction.

Additionally, this proposal would make minor clarifying changes, remove extraneous language, and correct terms.

Amend 16 CCR section 1360 (Substantial Relationship Criteria)

Existing law under 16 CCR section 1360 sets forth the criteria the Board shall consider when deciding whether a crime or act is substantially related to the qualifications, functions, or duties of a licensee when determining whether to deny, suspend, or revoke a license.

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

The proposal would also add that substantially related crimes, professional misconduct, or acts would include violating any provision of state or federal law governing the applicant's or licensee's professional practice.

Additionally, this rulemaking proposes minor technical and clarifying changes to make this section applicable to all individuals licensed and regulated by the Board, and proposes to remove extraneous language.

Amend 16 CCR section 1360.1 (Rehabilitation Criteria for Suspensions or Revocations)

Existing law under 16 CCR section 1360.1 sets forth the rehabilitation criteria the Board shall consider when deciding whether to suspend or revoke a license.

This rulemaking proposes to amend this section to clarify that when the Board is deciding whether to suspend or revoke a license on the ground that the licensee was convicted of a crime, the Board will be required to consider whether the licensee made a showing of rehabilitation and is presently eligible for a license if the licensee completed the criminal sentence at issue without a violation of parole or probation, and requires the Board to consider the following criteria: (1) The nature and gravity of the crime(s); (2) The length(s) of the applicable parole or probation period(s); (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified; (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation; and (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

The proposal would require a broader set of rehabilitation criteria to be considered for licensees who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when discipline was being considered based on something other than a conviction.

Additionally, this rulemaking proposes minor technical and clarifying changes to make this section applicable to all individuals licensed and regulated by the Board, and proposes to remove extraneous language.

Amend 16 CCR section 1360.2 (Rehabilitation Criteria for Petitions for Reinstatement)

Existing law under 16 CCR section 1360.2 sets forth the rehabilitation criteria the Board shall consider when making a decision on a petition for reinstatement of a license.

This rulemaking proposes to amend this section to clarify that when the Board is deciding whether to reinstate a license that was revoked based in part on the ground that the petitioner was convicted of a crime, the Board will be required to consider whether the petitioner made a showing of rehabilitation and is presently eligible for a license if the petitioner completed the criminal sentence at issue without a violation of parole or probation, and requires the Board consider the following criteria: (1) The nature and gravity of the crime(s); (2) The length(s) of the applicable parole or probation period(s); (3) The extent to which the applicable parole or probation period was shortened or lengthened, and

the reason(s) the period was modified; (4) The terms or conditions of parole or probation and the extent to which they bear on the petitioner rehabilitation; and (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

The proposal would require a broader set of rehabilitation criteria to be considered for petitioners who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when discipline was being considered based on something other than a conviction.

Additionally, this rulemaking proposes minor technical changes and clarifying changes to make this section applicable to all individuals licensed and regulated by the Board, and proposes to remove extraneous language.

Repeal 16 CCR section 1379.68 (Substantial Relationship Criteria)

Existing law under 16 CCR section 1379.68 sets forth the criteria the Board shall consider when deciding whether a crime or act is substantially related to the qualifications, functions, or duties of a licensee when determining whether to deny, suspend, or revoke the registration of a polysomnography applicant or registrant.

This rulemaking proposes to repeal this section, so that all of the Board’s applicants and licensees, including polysomnography registrants, are governed by the same regulation to determine substantial relationship criteria, which would be 16 CCR section 1360. Polysomnography registrants are the only allied health care professional under the Board with a separate section addressing this topic. This proposed rulemaking will streamline the Board’s regulations so that 16 CCR section 1360 applies to all health care professionals licensed and regulated by the Board.

Repeal 16 CCR section 1379.70 (Criteria for Rehabilitation for Denial and Reinstatement)

Existing law under 16 CCR section 1379.70 sets forth the rehabilitation criteria the Board must consider when making a decision on an application or petition for reinstatement of a polysomnography registration.

This rulemaking proposes to repeal this section, so that all of the Board’s applicants and petitioners for reinstatement, including polysomnography registrants, are governed by the same regulations to determine to whether the individual has demonstrated rehabilitation, which would be 16 CCR section 1309 and 1360.2. Polysomnography registrants are the only allied health care professional under the Board with a separate section addressing these topics. This proposed rulemaking will streamline the Board’s regulations so that 16 CCR

sections 1309 and 1360.2 applies to all health care professionals licensed and regulated by the Board.

Repeal 16 CCR section 1379.72 (Rehabilitation Criteria for Suspensions and Revocations)

Existing law under 16 CCR section 1379.72 sets forth the rehabilitation criteria the Board must consider when making a decision on a suspension or revocation of a polysomnography registration.

This rulemaking proposes to repeal this section, so that all of the Board’s licensees, including polysomnography registrants, are governed by the same regulation to determine whether the individual has demonstrated rehabilitation when the Board is considering the suspension or revocation of a license, which would be 16 CCR section 1360.1. Polysomnography registrants are the only allied health care professional under the Board with a separate section addressing this topic. This proposed rulemaking will streamline the Board’s regulations so that 16 CCR section 1360.1 applies to all health care professionals licensed and regulated by the Board.

Policy Statement Overview/Anticipated Benefits of Proposal

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

Consistency and Compatibility with Existing State Regulations

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

FISCAL IMPACT ESTIMATES

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

The Board anticipates there may be minor costs to the Board as a result of this proposed rulemaking and amending its policies and procedures for consistency with the proposed changes. The Board, however, already reviews evidence of rehabilitation when making licensing and disciplinary decisions, so these costs are anticipated to be absorbable.

Costs or Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate: None.

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

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

This initial determination is based on the fact that the proposed amendments impact few medical professionals, and the amendments are consistent with the review mandated by AB 2138. Moreover, the Board already reviews evidence of rehabilitation in a manner that is similar to the changes provided for in the proposed amendments.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed rulemaking, as there would be fewer restrictions for individuals with criminal convictions to obtain or maintain licensure.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that this rulemaking proposal will not likely have an effect on small businesses, since few medical professionals will be impacted. Moreover, the Board already reviews evidence of rehabilitation in a manner that is similar to the changes provided for in the proposed amendments. Nonetheless, small businesses may have a greater pool of licensed professionals to choose from as barriers to licensure are reduced.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

The Board has made this initial determination because few medical professionals will be impacted. Moreover, the Board already reviews evidence of rehabilitation in a manner that is similar to the changes provided for in the proposed amendments.

Benefits of Regulation:

Per the legislative analyses of AB 2138, this proposal seeks to reduce barriers for individuals convicted of a crime to obtain or maintain their professional licenses when they have been rehabilitated and are presently eligible for a license. This may benefit individuals with criminal histories, who would have greater access to licensure, and may reduce recidivism. The public may benefit from the proposed rulemaking by gaining increased access to medical providers, which may benefit the health and welfare of California patients. This proposal does not affect worker safety in California nor the state's environment.

CONSIDERATION OF ALTERNATIVES

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

The following alternatives were considered:

- **Option 1:** Pursue a regulatory change that requires the Board to find rehabilitation if the applicant completed the terms of their criminal probation or parole without a violation. Courts give little weight to the fact that an individual did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole since they are under the direct supervision of correctional authorities and are required to behave in an exemplary fashion. Consequently, the Board believes that reviewing each individual on the basis of multiple criteria is the better indicator on whether individuals are rehabilitated and not a danger to the public's health, safety, and welfare. For these reasons, the Board rejected this option.
- **Option 2:** Do not pursue regulatory changes. The Board rejected this option because the Board is mandated to make regulatory changes consistent with AB 2138 by July 1, 2020.

Any interested person may submit comments to the Board in writing relevant to the above determinations directed to the contact person identified below.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the person designated as the contact person below, or by accessing the Board's website at: [http://www.mbc.ca.gov/About Us/Laws/Proposed Regulations](http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations).

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

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

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

CONTACT PERSON

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

Name:

Kerrie Webb

Address:

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

Telephone Number:

(916) 263-2389

Fax Number:

(916) 263-2387

E-Mail Address:

regulations@mbc.ca.gov

The backup contact person is:

Name:

Mary Kathryn Cruz Jones

Address:

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

Telephone Number:

(916) 263-2389

Fax Number:

(916) 263-2387

E-Mail Address:

regulations@mbc.ca.gov

Website Access: Materials regarding this proposal can be found at <http://www.mbc.ca.gov/About Us/Laws/Proposed Regulations>.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

**CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION
Number 2080-2019-009-02**

Project: Walker Creek Bridge Replacement

Location: Glenn County

Applicant: Glenn County

Background

Glenn County represented by Glenn County Public Works Agency (Applicant) proposes to replace the existing County Road 35 bridge over Walker Creek. The Walker Creek Bridge Replacement Project (Project) is located on County Road 35 at Walker Creek, approximately 0.25 mile east of Interstate 5 and 4.5 miles south of the city of Artois in Glenn County, California. The Project will replace the existing low water crossing over the creek with a new two-lane, multi-span, continuous concrete slab bridge. The existing culverts collapsed, and the road is closed at this location.

The existing low water crossing is a single-lane concrete structure approximately 23 feet long and 18 feet wide with 4 to 5-foot diameter corrugated metal pipes. An area of Walker Creek approximately 80 to 100 feet north and south of the new bridge will be graded to replace the existing structure. The new roadway embankment will be approximately 50 feet wide, centered on the existing roadway centerline. All vegetation present in this area will be cleared, as well as up to another 10 feet beyond the toe of the embankment on either side, for a total of up to a 70-foot wide disturbance corridor.

The new bridge will be constructed using cast-in-place reinforced concrete slab sections for the deck and the transition to the approach roadway. There will be 8 internal supports and 5 piles will be driven at each support location to a depth of 30-40 feet below the existing grade. The abutments and adjoining wingwalls will be formed and poured, supported by the piles. The new

abutments will extend approximately 5–8 feet below the existing grade and will generally be located near the existing top of bank. Finally, the bridge deck will be constructed using the concrete slab sections. The deck forms will be supported by falsework bearing directly on the dry channel bottom, or by temporary supports attached directly to the piles. An approach slab will be constructed on each end of the bridge as a transition from the roadway to the bridge.

A temporary water diversion system consisting of upstream and downstream coffer dams and a flow diversion pipe will be installed and remain in place during the entire construction period. The Project includes the construction of an approximately 500 feet long, 10–12 feet wide temporary access ramp that will be removed at the end of the Project.

The Project activities described above are expected to incidentally take¹ giant garter snake (*Thamnophis gigas*; hereafter GGS) where those activities take place within the Project areas. In particular, the Applicant could incidentally take GGS as a result of grading, excavating, pile driving, capture and relocation, crushing by vehicles or heavy equipment, and entombment in burrows through the installation of Project components. GGS are designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. section 1531 et seq.) and threatened species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, section 2050 et seq.). (See Cal. Code Regs., tit. 14, section 670.5, subd. (b)(4)(E).)

GGS individuals are documented as present within 8 miles of the Project area. Because of the proximity of the nearest documented GGS, dispersal patterns of GGS, and the presence of GGS habitat within the Project area, the United States Fish & Wildlife Service (USFWS) determined that GGS is reasonably certain to occur within the Project areas and that Project activities are expected to result in the incidental take of GGS.

According to the Service, the Project will result in the temporary loss of 0.77 acres of aquatic GGS habitat, and 0.26 acres of upland GGS habitat, totaling 1.03 acres of temporary habitat loss. Construction of the Project will also result in the permanent loss of 0.02 acres of aquatic GGS habitat, and 0.23 acres of upland GGS habitat, totaling 0.25 acres of permanent habitat loss.

¹ Pursuant to Fish and Game Code section 86, “ ‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “ ‘take’ . . . means to catch, capture or kill”).

Because the Project is expected to result in take of a species designated as threatened under the ESA, the California Department of Transportation (Caltrans) consulted with the USFWS as required by the ESA². On August 29, 2019, the USFWS issued a biological opinion (USFWS file No. 08ESMF00–2018–F–2324–1) (BO) to Caltrans. The BO describes the Project, requires the Applicant and Caltrans to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

The BO also requires the Applicant and Caltrans to implement and adhere to measures contained within the Biological Assessment dated March 2019 (revised July 2019).

On November 1, 2019, the Director of CDFW received a notice from the Applicant, requesting a determination pursuant to Fish and Game Code section 2080.1 that the BO and its related ITS are consistent with CESA for purposes of the Project and GGS. (Cal. Reg. Notice Register 2019, No. 46–Z, p. 1573.)

Determination

CDFW has determined that the BO, including the ITS, is consistent with CESA as to the Project and GGS because the mitigation measures contained in the BO and ITS, as well as the conditions in the BA, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of GGS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO, ITS, and BA will minimize and fully mitigate the impacts of the authorized take, are roughly proportional in extent to the impact of the authorized taking, and are capable of successful implementation; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of GGS. The mitigation measures listed below are relevant measures included in the BO or the BA (with page numbers noted for mitigation measures in the BA and BO). USFWS incorporated these and other conditions as part of the ITS.

² The proposed Project is receiving federal funding through the Federal Highway Administration (FHWA). Caltrans has assumed FHWA’s responsibilities as the lead agency under the Act for this consultation in accordance with Section 1313, Surface Transportation Project Delivery Program, of the Moving Ahead for Progress in the 21st Century Act (MAP–21) of 2012. The MAP–21 is described in the National Environmental Policy Act Assignment Memorandum of Understanding between FHWA and Caltrans (effective March 30, 2017) and codified in 23 U.S.C. 327.

Avoidance, Minimization, and Mitigation Measures

- Caltrans will purchase snake conservation credits at a 2:1 ratio for permanently affected aquatic and upland snake habitat (2 acres of snake conservation credits to 1 acre of habitat impacted) and at a 1:1 ratio for temporarily affected aquatic and upland snake habitat. Therefore, Caltrans has proposed to offset the total 1.28 acres of affected snake habitat (0.25 acre of permanently affected habitat and 1.03 acres of temporarily affected habitat) with the purchase of 1.53 acres of snake conservation credits from a USFWS–approved snake conservation bank with a service area covering the proposed Project. A bill of sale from the snake conservation bank will be provided to the USFWS before the proposed Project commences. Although not a condition of the BO, CDFW requests to be included in this communication (BO, p. 3; BA, p. 44).
- Within 24 hours prior to commencement of construction activities, the repair site shall be surveyed for GGS by a qualified biologist approved by the USFWS and CDFW. Survey report will be submitted to the USFWS and CDFW. Survey of the Project site shall be repeated if a lapse in construction activity of two weeks or greater occurs (BA, p. 42).
- All construction activities within GGS aquatic habitat and GGS upland habitat (within 200 feet of GGS aquatic habitat) shall commence during the GGS active season (May 1 to October 1) to reduce the potential for direct mortality of the snake. Construction may continue beyond end of GGS active season, if necessary, to ensure the Project will be completed in one year (BA, p. 41).
- All work crews shall be required to complete an Environmental Awareness Training Program presented by a qualified biologist. This training will inform work crews about the presence of GGS and habitat associated with the species and that unlawful take of the animal or destruction of its habitat is a violation of the Act. The program will also include (1) identification of GGS and its habitat; (2) protection measures for GGS; (3) procedures to follow if a GGS (or unknown snake) is observed; and (4) outline of terms and conditions of the BO. This training will emphasize the role of the construction crew in identifying and reporting snake observations to the monitoring biologist. Crews should be directed to assume that any snake encountered may be a GGS until identified by the biological monitor. Proof of instruction (attendee sign-in sheet) will be

submitted to the USFWS and CDFW upon Project completion (BA, p. 41.).

- Resumes for all Recovery permitted biologists and approved biological monitors to be used for initial ground disturbance and routine construction monitoring shall be submitted and approved by the USFWS and CDFW prior to the start of construction (BA, p. 42).
- After project actions are complete, the temporary impact areas shall be restored in accordance with the Site Restoration Plan (BA, p. 41).
- The USFWS/CDFW approved biologist shall be present onsite to monitor vegetation removal, initial ground disturbance, and excavation. If a GGS is encountered during construction, the approved biologist shall have the authority to halt construction. All construction activities having the potential to injure or harass the GGS shall immediately be stopped while the approved biologist evaluates the situation, can implement corrective measures, or ensure that the GGS leaves the site unharmed. The monitor shall remain in the area for the remainder of the workday to make sure the GGS is not harmed. Any GGS encountered during construction activities shall be allowed to move away from the construction site on its own when feasible. Relocation of GGS may be necessary but will only be conducted by Recovery permitted biologists or other qualified biologists with the approval of the USFWS and CDFW. Any dead or injured GGS shall immediately be reported to the biological monitor, the USFWS, and the CDFW (BA, p. 41).
- Any dead GGS will be salvaged and frozen as soon as possible. The carcass will then be delivered to the designated depository as follows (USFWS/CDFW may approve alternative depositories): US Geological Survey Dixon Field Station, 800 Business Park Drive, Suite D, Dixon, CA 95620) (BA, p. 43).

Monitoring and Reporting Measures

- Encounters with listed species shall be reported immediately to the onsite qualified biologist and reported to the USFWS and CDFW within 24 hours. The biologist shall maintain records of all listed species encountered during Project activities, including the following information: location; habitat type; date of observation; general condition and health apparent injuries and state of healing; if moved, location moved to; and diagnostic markings (e.g., identification number) (BA, p. 41).

- Upon completion of the project actions, the temporary impact areas will be restored to preconstruction condition and revegetated in accordance with the Site Restoration Plan. Reestablishment of vegetation within the temporary impact area is expected to take three to five years, and restoration monitoring will be conducted to ensure that the performance criteria established by the Site Restoration Plan are met. Satisfaction of the Site Restoration requirement includes timely submission of annual monitoring reports; an onsite inspection by CDFW upon completion of successful restoration; and written approval from CDFW that the restoration requirement has been satisfied (BA, p. 37–45).

Financial Assurances

- The County of Glenn will provide a Performance Security to ensure funding for successful completion of the Site Restoration. The performance security shall be in the amount of \$56,650.00. This amount is consistent with the cost of additional compensatory mitigation credits at a 1:1 ratio for the total temporary impact area (1.03 acres). The Security shall be in the form of an irrevocable letter of credit or another form of Security approved in advance in writing by CDFW’s Office of the General Counsel. The Security shall be held by the CDFW or in a manner approved by the CDFW and shall be provided to CDFW before construction on the Walker Creek Bridge Replacement Project commences. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the County of Glenn has failed to comply with its Site Restoration requirement. The Security, or any remaining portion of the Security, shall be released to the County of Glenn after the CDFW has conducted a Site inspection and received confirmation that all Project mitigation and restoration requirements have been satisfied (BA, p. 45).

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of GGS, provided the Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the BO, ITS and the BA. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the USFWS amends or replaces the BO and ITS or the BA, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & G. Code, sections 2080.1 and 2081, subs. (b) and (c)).

DECISION NOT TO PROCEED

BOARD OF PHARMACY

NOTICE OF DECISION NOT TO PROCEED

**Pursuant to Government Code section 11347
Re: Notice of Proposed Rulemaking concerning
Remote Dispensing Pharmacy Technicians**

Pursuant to Government Code Section 11347, the California Board of Pharmacy (board) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on April 12, 2019, Register 2019, No. 15–Z. The proposed rulemaking concerned Remote Dispensing Pharmacy Technicians. (OAL Notice Z2019–0402–04.)

Any interested person with questions concerning this rulemaking should contact Lori Martinez at either 916–518–3078 or by e–mail at: Lori.Martinez@dca.ca.gov.

The board will also post this Notice of Decision Not to Proceed on its website.

**RULEMAKING PETITION
DECISION**

**DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

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

Pursuant to Government Code 11340.7

Petitioner

Todd Robben, #BE6907

Department Contact Person

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

Availability of Petition

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

Authority

Penal Code Sections: 5054 and 5058

Provisions of California Code Of Regulations

Affected:

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

Summary of Petition and Department Decision:

Subsection 3375.2(b)(28)

Petitioner's Request: Remove Penal Codes (PC) 422, 646.9, and 192(b) from Subsection 3375.2(b)(28).

Reason for Request: Petitioner states the California Code of Regulations (CCR) is not consistent with PC 667.5(c), is "enlarging" the regulations by adding the PC sections listed above in the request, and nonviolent crimes should not be included in Subsection 3375.2(b)(28).

Department's Response: Petitioner's request is denied. The Department does not solely rely upon PC 667.5(c) for the imposition of a VIO administrative determinant. Rather, CCR Section 3375.2(b)(28) authorizes the Department to conduct a comprehensive review to determine whether an inmate's conviction history represents a greater than usual threat to security and/or public safety than does any other inmate with similar case factors. Offenses such as involuntary manslaughter, threaten to commit a crime with intent to terrorize, and/or stalking indicate that the inmate may pose a significant violent risk to the safety of others, despite

these offenses not being listed within Penal Code section 667.5(c).

Subsection 3375.2(b)(28)

Petitioner's Request: Fix the incorrect references to Subsection 3375.2(b)(29) that occur multiple times in Subsection 3375.2(b)(28).

Reason for Request: Petitioner states the regulation contains a typo or is not written properly and must be corrected.

Department's Response: The Department does acknowledge a typo in the current published edition of the CCR, Title 15, Section 3375.2(b)(28), which is "Updated Through June 1, 2018," as it incorrectly refers to 3375.2(b)(29). The typo has been corrected and is expected to accurately depict CCR Section 3375.2(b)(28) when the 2019 CCR, Title 15 edition is published.

**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# 2019-1010-03

AIR RESOURCES BOARD

Reporting of Criteria Air Pollutants and Toxic Air Contaminants

This action establishes a uniform statewide system of annual reporting of emissions, criteria pollutants, and toxic air contaminants for stationary sources pursuant to Health and Safety Code section 39607.1.

Title 17

ADOPT: 93400, 93401, 93402, 93403, 93404, 93405, 93406, 93407, 93408, 93409, 93410

Filed 11/22/2019

Effective 01/01/2020

Agency Contact: Bradley Bechtold (916) 322-6533

File# 2019-1014-02

AIR RESOURCES BOARD

Amendments to the OHRV Red Sticker Program

This rulemaking action includes provisions to end the certification of new "red sticker" off-highway recreational vehicles (OHRV), end riding restrictions for existing "red sticker" vehicles, establish new emissions

standards for OHRV, and increase incentives for fleet emissions averaging and zero emission OHRV.

Title 13

AMEND: 2411, 2412, 2415, 2416, 2418, 2419.4

Filed 11/26/2019

Effective 01/01/2020

Agency Contact: Bradley Bechtold (916) 322-6533

File# 2019-1017-02

BOARD OF BEHAVIORAL SCIENCES

Licensed Educational Psychologist Supervisors; MFT Referral Services

The Board of Behavioral Sciences submitted this action without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to amend four regulations and three related incorporated by reference forms and to repeal four regulations and one related incorporated by reference form. Changes to three of the four amended regulations and to the three related incorporated forms are being made to align with recent changes made to the Business and Professions Code concerning requirements for supervisors in A.B. 1651 (Stats.2019, c. 321). The four repealed regulations and one related incorporated form are being made because of the repeal of Business and Professions Code section 650.4 in S.B. 1491 (Stats.2018, c. 703).

Title 16

AMEND: 1821, 1833.1, 1870, 1887.4.1

REPEAL: 1889, 1889.1, 1889.2, 1889.3

Filed 11/26/2019

Agency Contact: Christy Berger (916) 574-7817

File# 2019-1009-02

BOARD OF PAROLE HEARINGS

Youth Offender Parole Consideration and Application of Youth Factors

This rulemaking action adopts the process for providing parole consideration hearings for qualified youth offenders, as defined, including: the process for scheduling and conducting the hearings, and the mitigating youth offender factors which must be considered in making parole determinations. This action also adopts provisions to ensure that inmates who do not qualify as youth offenders, but whose controlling offense was committed prior to the age of 26, also receive consideration under the same youth offender factors as qualified youth offenders do.

Title 15

ADOPT: 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448

Filed 11/20/2019

Effective 01/01/2020

Agency Contact: Christopher Hoefl (916) 322-6729

File# 2019-1016-03

CALIFORNIA COASTAL COMMISSION

Continued Updated of Procedures

This action by the California Coastal Commission makes changes to regulations governing procedures for, among other things, application processes, staff reports, certification of local plans, and appeals processes.

Title 14

AMEND: 13032, 13053, 13055, 13056.1, 13057, 13096, 13107, 13108, 13111, 13137, 13149, 13180, 13181, 13183, 13185, 13190, 13191, 13193, 13248, 13250, 13253, 13302, 13318, 13333, 13518, 13519, 13544, 13544.5, 13547, 13549, 13551, 13552, 13569, 13573, 13637

REPEAL: 13025, 13559

Filed 11/27/2019

Effective 01/01/2020

Agency Contact: Robin Mayer (415) 904-5220

File# 2019-1114-03

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

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 2

AMEND: 10500

Filed 11/20/2019

Effective 12/20/2019

Agency Contact: Adam Chayes (916) 565-7109

File# 2019-1017-01

DEPARTMENT OF JUSTICE

Department of Motor Vehicles Bond Form

The Department of Justice submitted this file and print action to adopt the Business Partner Automation Surety Bond for the Department of Motor Vehicles in California Code of Regulations, title 11, section 51.33.

Title 11

ADOPT: 51.33

Filed 11/21/2019

Effective 11/21/2019

Agency Contact: Cara M. Porter (415) 510-3508

File# 2019-1023-03

DEPARTMENT OF JUSTICE

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 11
AMEND: 20
Filed 11/20/2019
Effective 12/20/2019
Agency Contact: Julia Zuffelato (916) 210-6040

File# 2019-1015-02
STATE LANDS COMMISSION
Address and Contact Information Update

This change without regulatory effect filing by the State Lands Commission (Commission) updates address and contact information for the Commission and revises references to the former Marine Facilities Division to the Marine Environmental Protection Division.

Title 2
AMEND: 1901, 2202, 2300, 2315, 2325, 2541, 2561
Filed 11/25/2019
Agency Contact: Patrick Huber (916) 574-0728

File# 2019-1015-01
VETERINARY MEDICAL BOARD
Telemedicine

This action by the Veterinary Medical Board defines telemedicine and specifies requirements for providing telemedicine services.

Title 16
AMEND: 2032.1
Filed 11/27/2019
Effective 01/01/2020
Agency Contact:
Amanda Drummond (916) 515-5238

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

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