



# California Regulatory Notice Register

REGISTER 2019, NO. 9-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

MARCH 1, 2019

## PROPOSED ACTION ON REGULATIONS

TITLE 2. CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM	
<i>Personal Trading Regulations — Notice File No. Z2019-0219-04</i> .....	295
TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	
<i>Conflict-of-Interest Code — Notice File No. Z2019-0219-09</i> .....	298
<i>Amendment</i>	
Multi-County: <i>Sutter-Yuba Behavioral Health</i>	
TITLE 4. CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY	
<i>Investment in Mental Health Grant Program — Notice File No. Z2019-0219-01</i> .....	299
TITLE 4. CALIFORNIA HORSE RACING BOARD	
<i>Occupational Licenses and Fees — Notice File No. Z2019-0208-01</i> .....	304
TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD	
<i>Construction Safety Orders and General Industry Safety Orders — Single-User</i>	
<i>Toilet Facilities — Notice File No. Z2019-0219-07</i> .....	311
TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD	
<i>General Industry Safety Orders — Outdoor Agricultural Operations During</i>	
<i>Hours of Darkness — Notice File No. Z2019-0219-08</i> .....	314
TITLE 10. CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD	
<i>CalSavers Retirement Savings Program — Notice File No. Z2019-0219-11</i> .....	319
TITLE 11. DEPARTMENT OF JUSTICE	
<i>Electronic Recording Delivery System — Notice File No. Z2019-0215-01</i> .....	324
TITLE 14. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION	
<i>Amend Commission Permit Application Fees — Notice File No. Z2019-0215-02</i> .....	327

(Continued on next page)

***Time-  
Dated  
Material***

TITLE 17. AIR RESOURCES BOARD  
*Amendments to California Air Resources Board (CARB)’s Certified Regulatory Program (CRP) — Notice File No. Z2019–0212–05* ..... 330

TITLE 24. BUILDING STANDARDS COMMISSION  
*Emergency Building Standards — 2016 California Administrative Code — Extension to Alfred E. Alquist Hospital Facilities Seismic Safety Act (Assembly Bill 2190 Chaptered as 673 adding Sections 130062 and 130066 to HSC) — Notice File No. Z2019–0219–02* ..... 334

**GENERAL PUBLIC INTEREST**

DEPARTMENT OF FISH AND WILDLIFE  
*California Endangered Species Act Consistency Determination No. 2080–2019–001–05, Cielo Vista Residential Development Project, County of Orange* ..... 337

DEPARTMENT OF FISH AND WILDLIFE  
*Habitat Restoration and Enhancement Act Consistency Determination No. 1653–2019–031–001–R1, Little Lost Man Creek Project, Humboldt County* ..... 340

**SUMMARY OF REGULATORY ACTIONS**

Regulations filed with the Secretary of State ..... 342  
Sections Filed, September 19, 2018 to February 20, 2019 ..... 344

---

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.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328-4880. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON  
REGULATIONS**

Anthony Martin, Regulation Coordinator  
California Public Employees' Retirement System  
P.O. Box 942702  
Sacramento, CA 94229-2702  
Phone: (916) 795-3038

*Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.*

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

**California Code of Regulations  
Title 2. Administration  
Division 1. Administrative Personnel  
Chapter 2. Board of Administration of Public  
Employees' Retirement System**

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

**I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to amend the Section 558.1 to Article 1 of Subchapter 1 of Division 1 of Title 2 of the California Code of Regulations (CCR). The proposed regulation would ensure that (1) CalPERS fully complies with federal and state laws around the misuse of material, non-public information and (2) CalPERS' employees and their spouses have a clear understanding of the agency's personal trading requirements.

**II. WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on March 1, 2019 and closing on April 15, 2019. The Regulation Coordinator must **receive** all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-4607; emailed to [Regulation\\_coordinator@calpers.ca.gov](mailto:Regulation_coordinator@calpers.ca.gov) or mailed to the following address:

**III. PUBLIC HEARING**

A public hearing will not be scheduled unless an interested person, or his or her duly authorized representative, submits a written request for a public hearing to CalPERS no later than 15 days prior to the close of the written comment period. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

**IV. ACCESS TO HEARING ROOM**

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

**V. AUTHORITY AND REFERENCE**

CalPERS authority to make the proposed amendment to the California Code of Regulations derives from the CalPERS Board of Administration's plenary authority and fiduciary responsibility over the assets of the public retirement system, pursuant to the California Constitution (Section 17 of Article XVI) and the Public Employees' Retirement Law (PERL) (California Government Code, Title 2, Division 5, Part 3), including Government Code sections 20120 and 20121. The proposed amendment to section 558.1 implement, interpret and make specific Government Code sections 19990, 87200 and 87300.

**VI. INFORMATIVE DIGEST**

Existing law recognizes the Board's authority to regulate the personal trading of identified Covered Employees. Section 20120 and 20121 of the California Government Code permits the Board to make such rules as it deems proper. Rule 204A-1 under the Investment Advisers Act of 1940 ("Advisers Act") requires each registered investment adviser to adopt a written code of ethics. A code of ethics must require that employees comply with applicable federal securities laws and impose restrictions and monitoring requirements over the personal trading of securities by certain employees. Although CalPERS is not governed by the Advisers Act, CalPERS is still bound by the anti-fraud provisions of

the federal securities laws, including the prohibition on insider trading and other forms of market manipulation. The need to ensure compliance with the federal securities laws through compliance programs and appropriate regulations was underscored in 2008 when the Securities and Exchange Commission issued a report of investigation concerning potential violations of federal securities laws by the Retirement System of Alabama (<https://www.sec.gov/litigation/investreport/34-57446.htm>), that all “access persons” report their personal securities transactions and holdings to the chief compliance officer for review. (17 CFR § 275.204A-1(a)(3)). This provision is modeled on Rule 17j-1 under the 1940 Act, which requires that investment companies have procedures in place to prevent their personnel from abusing their access to information about the investment company’s securities trading and requires access persons to submit reports periodically containing information about their personal securities holdings and transactions. (17 CFR § 270.17j-1(c)(2)). To meet these requirements, the proposed regulation provides as follows.

First, the proposed regulation seeks to refine the definition of “Covered Persons” in a manner that more closely aligns with SEC recommendations and that addresses various functional re-organizations that have occurred in CalPERS since the adoption of the regulation in 2012.

Second, the proposed regulation seeks to align CalPERS rules with recent SEC guidance. This includes guidance around Exchange Traded Funds (ETFs) and Managed Accounts.

Third, the proposed regulation seeks to clarify areas of the previous regulation that caused confusion or were open to multiple interpretations. This includes clarifications around holding periods for derivatives, accounts held at non-designated brokerages, and certification of managed accounts.

**Policy Statement Overview/Anticipated Benefits**

The primary purpose and benefit of the proposed regulation is to ensure that (1) CalPERS complies with federal and state laws prohibiting the misuse of material, non-public information; and, (2) CalPERS’ employees and their spouses have a clear understanding of the agency’s personal trading requirements. The federal and state laws are designed to ensure that the marketplace for securities is fair and to deter individuals from improperly utilizing non-public information to the detriment of other market participants.

There are two principal authorizing statutes. The statutes vest in the Board management and control of the retirement system, and authorize the Board to make such rules as it deems proper, respectively. (Cal. Gov. Code §§ 20120, 20121.)

**Consistency and Compatibility with Existing Regulations**

CalPERS evaluated whether there were any other laws or state regulations on this topic and has concluded that the proposed regulation is neither inconsistent nor incompatible with existing law or existing state regulations.

**Pre-notice Consultation with the Public**

No pre-notice consultation was done with the public, as the proposed regulation does not involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period.

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to CalPERS Board members, employees, and their spouses.

VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: The proposed regulatory action does not impose any mandates on local agencies and school districts.
- B. COSTS OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action will not result in any additional costs or savings to any State agency.
- C. COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory action will not result in any costs on any local agency or school district.
- D. NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES: The proposed regulatory action does not impose any nondiscretionary costs or savings on local agencies.
- E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action will not result in additional costs or savings in federal funding to the State.
- F. ADVERSE ECONOMIC IMPACT: The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES: CalPERS is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed regulatory action.

- H. RESULTS OF THE ECONOMIC IMPACT ANALYSIS: The proposed regulatory action: (1) will not create or eliminate jobs within California; (2) will not create new businesses or eliminate existing businesses within California; and (3) will not affect the expansion of businesses currently doing business within California.
- I. EFFECT ON HOUSING COST: The proposed regulatory action has no effect on housing cost.
- J. COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 17500 THROUGH 17630: there are no costs to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630.

**IX. CONSIDERATION OF ALTERNATIVES**

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

The Board 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.

**X. CONTACT PERSON**

Please direct inquiries concerning the proposed regulatory action to:

Anthony Martin, Regulation Coordinator  
 California Public Employees’ Retirement System  
 P.O. Box 942702  
 Sacramento, CA 94229-2702  
 Phone: (916) 795-3038

The backup contact for these inquiries is:

Christina Nutley, Regulation Coordinator  
 California Public Employees’ Retirement System  
 P.O. Box 942702  
 Sacramento, CA 94229-2702  
 Phone: (916) 795-3038

Please direct requests concerning the copies of the proposed text (the “express terms”) of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information about processing of this regulatory action to Evan Bailey, Regulation Coordinator, at [Regulation\\_coordinator@calpers.ca.gov](mailto:Regulation_coordinator@calpers.ca.gov).

**XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The entire rulemaking file is available for public inspection through the Regulation Coordinator at the address shown in section II. To date, the file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons, the Economic Impact Assessment, and the Economic and Fiscal Impact Statement. A copy of the proposed text, the Initial Statement of Reasons, the Economic Impact Assessment, and the Economic and Fiscal Impact Statement is available at no charge upon telephone or written request to the Regulation Coordinator.

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

**XII. AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed text of the regulations after the public comment period closes.

If the Board modifies its regulatory action, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.

**XIII. AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Evan



Bailey, Regulation Coordinator, at the address shown above in Section II.

**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:** Sutter-Yuba Behavioral Health

A written comment period has been established commencing on March 1, 2019, and closing on April 15, 2019. Written comments should be directed to the Fair Political Practices Commission, Attention Brianne Kilbane, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

The Executive Director of the Commission, upon her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than April 15, 2019. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

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

**EFFECT ON HOUSING COSTS AND BUSINESSES**

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

**AUTHORITY**

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

**REFERENCE**

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

**CONTACT**

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Brianne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

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

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

**TITLE 4. CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY**

The California Health Facilities Financing Authority (“Authority”) proposes to adopt the regulations described below after considering all comments, objections and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Authority has not scheduled a public hearing on this proposed action. However, the Authority 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 Authority. Comments may also be submitted by facsimile (FAX) at (916) 654–5362 or email at [chffa@treasurer.ca.gov](mailto:chffa@treasurer.ca.gov). The written comment period closes at 5:00 p.m. (PT) on, April 15, 2019. The Authority will consider only comments received by the Authority office by that time. Please submit comments to:

Sondra Jacobs  
 Program Manager  
 California Health Facilities Financing Authority  
 915 Capitol Mall, Room 435  
 Sacramento, CA 95814

Following the written comment period, the Authority may thereafter adopt the proposed regulations substantially as described below or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposed regulations will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period and all persons who request notification.

Copies of the proposed regulations and the Initial Statement of Reasons are available from the office listed on the following page. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <https://www.treasurer.ca.gov/CHFFA/imhwa/index.asp>. The Investment in Mental Health Wellness Act of 2013, as codified in Welfare and Institutions Code, Division 5, Part 3.8, commencing with Section 5848.5, was amend-

ed in the Statutes of 2016, thereby expanding the Act to include a continuum of crisis services for children and youth 21 years of age and under. The Investment in Mental Health Wellness Grant Program for Children and Youth regulations and the enacting statute are available at <https://www.treasurer.ca.gov/CHFFA/imhwa/index.asp>. This information is also available to the public as is all information that the Authority considered as the basis for these proposed regulations, at the address listed below.

Following its preparation, the Final Statement of Reasons will be available from the office listed below:

California Health Facilities Financing Authority  
 915 Capitol Mall, Room 435  
 Sacramento, CA 95814  
 Telephone: (916) 653–2799  
 Facsimile: (916) 654–5362  
 Email: [chffa@treasurer.ca.gov](mailto:chffa@treasurer.ca.gov)

**AUTHORITY AND REFERENCE CITATIONS**

The Authority adopts these regulations under the authority granted in Section 5848.5 and 5848.6, Welfare and Institutions Code, and cites the following reference: Section 5848.5, Welfare and Institutions Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Authority was established in 1979 and operates pursuant to the California Health Facilities Financing Authority Act in the Government Code Sections 15430–15462.5.

Welfare and Institutions Code Section 5848.5 was expanded with the passage of SB 833 (Chapter 30, Statutes of 2016, Section 20) to charge the Authority with the responsibility for development of regulations to establish specific selection criteria for Grant awards, define eligible costs, and determine minimum and maximum grant amounts for the purpose of increasing capacity for:

- a. Crisis stabilization
- b. Crisis residential treatment
- c. Mobile crisis support teams
- d. Family respite care

for children and youth age 21 years and under and/or their families as appropriate. (Welfare and Institutions Code 5848.5, subdivision (f)(1) and (f)(2)).

The Legislature also charged the Authority, through Section 5848.5, subdivisions (b)(8)(D) and (b)(8)(E) to ensure that the objectives of adding “at least 200 mobile crisis support teams” and “at least 120 crisis stabiliza-

tion services and beds and crisis residential treatment beds to increase capacity at the local level” is achieved.

To comply with the statutory mandate, these regulations provide the framework for eligible parties to apply for grant funds to expand mental health crisis services for children and youth 21 years of age and under, throughout California. These regulations include relevant definitions; descriptions of eligible applicants, projects, and costs; maximum grant amounts by county; the application process; the evaluation criteria the Authority will use to make grant award determinations; the process by which allocations will be made; the terms and conditions grant recipients will need to agree to; and other provisions related to the administration of the Program.

The Authority anticipates these regulations will benefit children and youth 21 years of age and under with mental health disorders through the awarding of Grant funds for the specific purpose of increasing services to this population. These regulations are compatible and consistent with the intent of the Legislature in expanding the language contained in Welfare and Institutions Code section 5848.5 to include children and youth 21 years of age and under.

The law made provisions for regulations to be developed as emergency regulations and provided the language to justify the need for the emergency as necessary for the immediate preservation of the public peace, health and safety, or general welfare in Section 5848.6, Welfare and Institutions Code which reads in part:

“Any emergency regulations that may be adopted by the California Health Facilities Financing Authority, as described in paragraph (8) of subdivision (d) of Section 5848.5, shall be adopted in accordance with the Administrative Procedures Act. . .”

“The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.”

The regulations were submitted to the Office of Administrative Law (OAL) as emergency regulations. The OAL approved the emergency regulatory action that became effective on November 26, 2018 and will expire on May 29, 2019, during which time the Authority must file the Certificate of Compliance. (The Certificate of Compliance is the process by which these regulations become permanent.)

**DOCUMENTS INCORPORATED  
BY REFERENCE**

Investment in Mental Health Wellness Grant Program for Children and Youth Application, Form No. CHFFA 7 CY-01 (09/2018)

Request for Disbursement Form No. CHFFA 7 CY-02 (09/2018)

Actual Expenditures Report Form No. CHFFA 7 CY-03 (09/2018)

Certificate of Completion & Final Report Form No. CHFFA 7 CY-04 (09/2018)

**DUPLICATION OF REGULATIONS**

The following is a list of the sections within the Investment in Mental Health Wellness Grant Program for Children and Youth Application and Certificate of Completion & Final Report where a section of the Investment in Mental Health Wellness Grant Program for Children and Youth regulations are duplicated.

The Authority has included the regulatory language in the Application and the Certificate of Completion & Final Report for purposes of satisfying the requirement for clarity of regulations and forms incorporated by reference.

**Investment in Mental Health Wellness Grant Program for Children and Youth Application Form No. CHFFA 7 CY-01 (09/2018):**

Evaluation Criteria — Pages 9–13

Paraphrased

Regulations, Section 7319 — Evaluation Criteria, subdivisions (a)(1) through (a)(4)

Evaluation Criteria — Pages 14–18

Paraphrased

Regulations, Section 7319.1 — Evaluation Criteria, subdivisions (a)(1) through (a)(4)

**Certificate of Completion & Final Report Form No. CHFFA 7 CY-04 (09/2018):**

Part III: Program Outcome

Crisis Residential Treatment, Crisis Stabilization and Mobile Crisis Support Team Program(s), items (a) through (h)

Verbatim

Regulations, Section 7319 — Evaluation Criteria, subdivision (a)(3)



Family Respite Care Program, items (a) through (f)

Verbatim

Regulations, Section 7319.1 — Evaluation Criteria, subdivision (a)(3)

STATEMENT OF NECESSITY

**Section 7313 — Definitions**

This section provides definitions for terms:

(a) Where the definition may differ from that found in a dictionary. For example, “Authority”, as defined within these regulations, refers specifically to the California Health Facilities Financing Authority.

(b) That may be unfamiliar to the users of the regulations. For example, “Audited Financial Statements” means an examination and report of an independent accounting firm on the financial activities of a public agency or private nonprofit corporation. Users of the regulations may be unfamiliar with this accounting term.

(c) That are unique to the California Health Facilities Financing Authority and the process for awarding of Grant funds. For example, an “Initial Allocation” is the Grant amount that is recommended to the Authority for Final Allocation. “Final Allocation” is the Grant amount that is approved by the Authority.

**Section 7314 — Eligibility**

This section places into regulation, Welfare and institutions Code Section 5848.5, subdivision (f) that specifies the entities that are eligible to apply for a Grant, specifically to serve children and youth, 21 years of age and under. This section provides clarity to the users of the regulations.

**Section 7315 — Eligible Project Costs**

This section provides the users of the regulations information as to the specific costs that are eligible for Capital Funding under this Grant Program. Additional stipulations on the use of the Grant funds are also provided, such as eligible costs include only those costs incurred during the Grant Period, Grant funds shall only be used for costs directly related to and essential for the completion of the Project, etc.

**Section 7316 — Grant Application**

This section provides those entities that will be applying for Grant funds important information regarding availability of the Application form, number of copies of Application to be submitted, etc.

**Section 7317 — Funding Rounds and Application Deadlines**

This section informs users of the regulations where information on the funding rounds is available, including the deadline dates for the first funding round and subsequent funding rounds (if needed).

**Section 7318 — Maximum Grant Amounts**

This section provides the amounts of Grant funds that are available for Capital Funding, based on County Population and the amount of Personnel Funding available, based on the Region in which the eligible entity is located. Provisions are made for Grant funds remaining after awarding of Final Allocations in the first Funding Round.

**Section 7319 — Evaluation Criteria for Crisis Stabilization, Crisis Residential Treatment and Mobile Crisis Support Teams**

This section provides the users of the regulations with the specific criteria that will be evaluated and scored for entities requesting Grant funds for the programs cited in the section title, specifically, crisis stabilization, crisis residential treatment, and mobile crisis support teams.

**Section 7319.1 — Evaluation Criteria for Family Respite Care Program**

This section provides the users of the regulations with the specific criteria that will be evaluated and scored for entities requesting Grant funds for a Family Respite Care Program.

**Section 7320 — Initial Allocation**

Initial Allocation is a term defined in Section 7313. The use of the term Initial Allocation is unique to the Grant process as used by the California Health Facilities Financing Authority. The Initial Allocation is the recommendation by the Authority Staff, to the Authority, for a specific Application submitted for Grant funds. It is necessary for users of the regulations to understand that the Initial Allocation is a “recommendation” and does not guarantee that Grant funds will be awarded or that the amount of the Grant funds will be what was requested on the Application or listed on the Initial Allocation letter. The Authority makes the final determinations based on staff recommendations. The process for arriving at the Initial Allocation is outlined in this section.

**Section 7321 — Appeals**

This section provides an appeal process for those entities that submitted an Application for which the Authority staff determined not to recommend a Grant, or an appeal of the amount of the Initial Allocation recommended by the Authority staff. This section provides information on the timeline for appeals and information on the review process and decision of such appeals.

**Section 7322 — Final Allocation**

This section provides information that Final Allocations will be determined by the Authority at a public meeting, and Applicants approved for Final Allocations will be sent Grant Award Letters that provides specific information to the Grantees.

**Section 7323 — Use of the Grant**

This section informs users of the regulations of limitations on the use of Grant funds and that any change in the use of the Grant funds requires the approval of the Authority that the use of Grant funds is limited to that as described in the Grant Agreement and that the funds may supplement but not supplant existing resources or financial commitments. (See Section 7324)

**Section 7324 — Grant Agreement**

This section provides, in regulation, the terms and conditions of the Grant that will be specified in the Grant Agreement. Grant funds cannot be disbursed until the Grant Agreement is executed by the Authority and the Grantee.

**Section 7325 — Release of Grant Funds**

This section informs Grantees of the requirements and documentation that shall be completed before the Grant funds may be released. The documentation required varies depending on what the Grant funds will be/were used for. For example, the documentation required for a construction or renovation project is different than the documentation required for the acquisition of real property.

**Section 7325.1 — Grant Funds to a Designated Private Nonprofit Corporation or Public Agency for Real Property Acquisition, Construction or Renovation**

This section informs Grantees that a private nonprofit corporation or public agency may receive Grant funds directly if a county, or Counties Applying Jointly support this designation. This section contains the requirements/conditions that the nonprofit corporation or public agency shall agree to in order for the Grant funds to be released to the private nonprofit corporation or public agency.

**Section 7326 — Requirements for Construction Projects on Leased Property**

This section informs Grantees that Grant funds may be used for construction or renovation of property on leased property. This section is necessary as the Grant funds will be used for payment of the construction and/or improvement of the leased property. It is the responsibility of the Authority, as a governmental agency, to protect the use of Grant funds for their intended purpose. Specific requirements must be satisfied in order for Grant funds to be used on property leased to the Grantee.

**Section 7327 — Recovery of Funds for Non-Performance and Unused Grant Funds; Remedies**

This section specifies circumstances under which the Authority may require remedies that include the forfeiture and return of the Grant funds. Provision is also

made for the return to the Authority of any unused funds and any unused interest earnings.

**Section 7328 — Reporting Requirements**

This section informs Grantees of specific reports that shall be submitted to the Authority during the Grant period and the timeline for submission of these reports.

**Section 7329 — Records Retention, Inspections and Audits**

This section informs Grantees of the timeframe for records retention and also notifies Grantees that the Authority may perform site visits during the Grant Period and for three years after the certification of Project completions have been submitted.

AN EVALUATION OF WHETHER OR  
NOT THE PROPOSED REGULATIONS ARE  
INCONSISTENT OR INCOMPATIBLE WITH  
EXISTING STATE REGULATIONS

The Authority evaluated whether or not there were any other regulations concerning the awarding of grants to a county or Counties Applying Jointly to provide community-based resources for the purpose of providing mental health services to children and youth 21 years of age and under. The only other grant program that exists for the purpose of providing funds to counties or Counties Applying Jointly for the provision of crisis mental health services is the Investment in Mental Health Wellness Grant Program that provides Grant funds for programs and services to meet the mental health needs of eligible individuals. This grant program is also under the auspice of the California Health Facilities Financing Authority. The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DESCRIPTION OF THE BENEFITS OF THE  
PROPOSED ACTION, WHICH INCLUDES  
NONMONETARY BENEFITS SUCH AS  
PROTECTION OF THE PUBLIC HEALTH AND  
SAFETY, WORKER SAFETY, THE  
ENVIRONMENT, ETC.

In 2013, Senate Bill 82, the Investment in Mental Health Wellness Act of 2013, established a competitive grant program to disburse funds to California counties or to their nonprofit or public agency designees for the purpose of developing mental health crisis support programs. Specifically, funds will increase capacity for client assistance and services in crisis stabilization, crisis residential treatment, rehabilitative mental health services, and mobile crisis support teams.

In 2016, Senate Bill 833 expanded the Investment in Mental Health Wellness Act to specifically address a

continuum of crisis services for children and youth, 21 years of age and under regardless of where they live in the state and allocated approximately \$27 million. These regulations provide the mechanism whereby grants from the California Health Facilities Financing Authority may be disbursed to California counties or to their nonprofit or public agency designees to support capital improvement, expansion and limited start-up costs to fund four mental health programs — crisis residential treatment, crisis stabilization, mobile crisis support teams and family respite care specific to children and youth, 21 years of age and under, and their families.

**COST ESTIMATE**

1. Cost or Savings to State Agencies: No impact.
2. Cost to Local Agencies or School District Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No impact.
4. Federal Funding to State Agencies: No impact.

**LOCAL MANDATE STATEMENT**

These regulations do not impose a mandate upon local agencies or school districts. There are no “state-mandated local costs” in these regulations which require reimbursement under Section 17500 et seq. of the Government Code.

**FISCAL IMPACT**

These regulations do not impose any costs to any local agency or school district requiring reimbursement pursuant to section 17500 et seq. of the Government Code, nor do these regulations identify any costs or savings to any state agency, other nondiscretionary costs or savings to be imposed upon local agencies, or costs or savings in federal funding to the state.

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

The California Health Facilities Financing Authority has not identified any significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The adoption of these regulations does not have an impact on the creation or elimination of jobs within the state. As a result of the adoption of these regulations, new businesses will not be created and current businesses will not be eliminated within the state. The adoption of these regulations will not provide for the expansion of businesses currently doing business within the state. Additionally, neither benefits nor detriments are expected to worker safety or the state’s environment due to the adoption of these regulations.

These regulations will directly impact the health and welfare of California residents, specifically those children and youth 21 years of age and under, through the following:

- Development of a continuum of mental health crisis services for these individuals and their families.
- Provision of early intervention and treatment services to improve client experience, achieve recovery and wellness, and reduce costs.
- Expansion of the continuum of community-based services to address, crisis intervention, crisis stabilization, and crisis residential treatment needs that are wellness-, resiliency-, and recovery-oriented.
- Addition of at least 200 mobile crisis support teams.
- Addition of at least 120 crisis stabilization services and beds and crisis residential treatment beds to increase capacity at the local level and address unmet mental health care needs
- Expansion of family respite care to help families and sustain caregiver health and well-being.
- Reduction of unnecessary hospitalizations and inpatient days.
- Reduction of recidivism and mitigate unnecessary expenditures of local law enforcement.

**COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

The only entities that may apply for Grant funds under the Mental Health Wellness Act of 2013 for Children and Youth, are counties, Counties Applying Jointly, or a private nonprofit corporation or public agency designated as a co-Applicant by either a county or Counties Applying Jointly. Therefore, the California Health Facilities Financing Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**BUSINESS REPORT**

The regulations do not require any report to be made by any business or other entity.

**SMALL BUSINESS**

The regulations will not affect small businesses as these regulations are specific to counties, Counties Applying Jointly, and private nonprofit corporations or public agencies if designated by a county or Counties Applying Jointly to be a co-Applicant with a county or Counties Applying Jointly.

**CONSIDERATION OF ALTERNATIVES**

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

In developing the regulatory action, the Authority itself did not consider any alternatives because no reasonable alternatives have been presented to it. The Authority invites interested persons to submit comments and alternatives with respect to the proposed regulations during the public comment period.

**CHFFA REPRESENTATIVE REGARDING THE  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATIONS**

Contact Person:

Sondra Jacobs (916) 653-2799

Backup:

Carolyn Aboubechara (916) 653-2799

**TITLE 4. CALIFORNIA HORSE  
RACING BOARD**

TITLE 4, DIVISION 4,  
CALIFORNIA CODE OF REGULATIONS  
RULE 1481, OCCUPATIONAL  
LICENSES AND FEES  
RULE 2071, LICENSE TO CONDUCT  
ADVANCE DEPOSIT WAGERING BY A  
CALIFORNIA APPLICANT  
RULE 2072, APPROVAL TO CONDUCT  
ADVANCE DEPOSIT WAGERING BY AN  
OUT-OF-STATE APPLICANT

The California Horse Racing Board (Board/CHRB) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

**PROPOSED REGULATORY ACTION**

The Board proposes to amend Rule 1481, Occupational Licenses and Fees; Rule 2071, License to Conduct Advance Deposit Wagering by a California Applicant; and Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant. The proposed amendment to Rule 1481 will modify subsection 1481(b)(2) to add officers, directors, partners and any individuals who hold five percent or more of the outstanding shares of advance deposit wagering (ADW) providers, mini-satellite or exchange wagering providers as persons who must obtain a license issued by the Board. In addition, the proposed amendment will change subsection 1481(b)(6) to require ADW, mini-satellite wagering and exchange wagering managerial personnel who exercise control over other licensees to obtain an occupational license. The proposed amendment to Rule 2071 will modify subsection 2071(b) to state that the term of license shall be up to two years. The proposed amendment will change the form Application for License to Conduct Advance Deposit Wagering, CHRB-132 (Rev. 02/19) (CHRB-132). Rule 2071 incorporates by reference the form CHRB-132. The CHRB-132 will be amended to collect specific information regarding the individuals required to be licensed under the amended Rule 1481. Additional changes to the CHRB-132 deal with the submission of financial information and profit and loss statements by applicant. The proposed amendment to Rule 2072 will modify subsection 2072(b) to state the term of license shall be up to two years. The proposed amendment will change the form Application for Approval to Conduct Advance Deposit Wagering, CHRB-133 (Rev. 02/19)



(CHRB-133). The form CHRB-133 is incorporated by reference into Rule 2072. The CHRB-133 will be amended to collect specific information regarding the individuals required to be licensed under the amended Rule 1481. Additional changes to the CHRB-133 deal with the submission of financial information and profit and loss statements by applicant. All other changes to the regulation texts and the forms CHRB-132 and CHRB-133 are for the purposes of consistency and clarity.

### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, April 18, 2019**, or as soon after that as business before the Board will permit, at the **Santa Anita Park Race Track, 285 Huntington Drive, Arcadia, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on April 15, 2019**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst  
 California Horse Racing Board  
 1010 Hurley Way, Suite 300  
 Sacramento, CA 95825  
 Telephone: (916) 263-6026  
 Fax: (916) 263-6022  
 E-mail: [HaroldC@chrb.ca.gov](mailto:HaroldC@chrb.ca.gov)

### AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19510, 19520, 19590, 19604 and 19704. Business and Professions Code. Reference: Sections 19460, 19604, 19510, 19520 and 19704. Business and Professions Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing pari-mutuel wagering. Business and Professions Code 19510 provides every steward and racing official not required to be licensed under Article 4 (commencing with section 19480) shall be licensed by the Board pursuant to this article. Business and Professions Code 19520 provides that every person not required to be licensed under Article 4 (commencing with Section 19480) who participates in the racing of horses and every employee of a pari-mutuel department shall be licensed by the Board pursuant to rules and regulations that the board may adopt, and upon the payment of a license fee fixed and determined by the Board. Business and Professions Code 19590 states the Board shall adopt rules governing, permitting and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering. Parimutuel wagering shall be conducted only by a person or persons licensed under this chapter to conduct a horse racing meeting or authorized by the Board to conduct advance deposit wagering. Business and Professions Code section 19460 provides that all licenses are subject to all rules, regulations, and conditions prescribed by the Board. Business and Professions Code section 19604 states the Board may authorize any racing association, racing fair, betting system, or multi-jurisdictional wagering hub to conduct advance deposit wagering (ADW) in accordance with this section. Business and Professions Code section 19704 provides the Board shall issue a license for owners, trainers, jockeys and other participants in mule racing.

The Board proposes to amend subsection 1481(b)(2) to provide clarity with regards to the licensing of officers, directors, partners, or individuals who hold five percent or more of the outstanding shares of pari-mutuel entities licensed by the Board. The proposed amendment adds ADW, mini-satellite wagering and exchange wagering providers to subsection 1481(b)(2) so there will be no question that such persons must be licensed. Rule 1481 lists the various classes of occupational licenses issued by the Board. Requiring licensure of officers, directors, partners and persons with significant ownership in ADW, mini-satellite wagering and exchange wagering providers is necessary to enhance the Board's ability to determine who actually owns or operates the businesses. An applicant for an occupational license must provide the Board with two or more complete sets of fingerprints which are used to conduct

a criminal background check. Licensing persons with significant ownership, and executive management personnel, will help ensure that no person who is found to be unfit to hold a license has an ownership interest in, or operates an entity that provides pari-mutuel wagering opportunities in California.

Board Rules 2071 and 2072 provide that every applicant that intends to conduct ADW must file a completed application with the Board at least 90 days prior to the provider's scheduled start date of operation. The application CHRB-132 is incorporated by reference in Rule 2071, and the CHRB-133 is incorporated by reference in Rule 2072; therefore, any revisions to the applications would necessitate an amendment to the rules. The proposed amendment of the CHRB-132 will modify section 1.C. of the form to require the applicant to enter the license number of identified management personnel. The change is meant to clarify the existing practice that requires management personnel of a California ADW hub to be licensed by the CHRB. The amendment to section 1.C. is consistent with the proposed amendment of Rule 1481, which will add ADW managers to subsection 1481(b)(6). The changes to section 1.C. of the CHRB-132 and subsection 1481(b)(6) will ensure that ADW managers identified by the applicant hold valid CHRB-issued licenses. The proposed amendment of the CHRB-133 will modify section 1.B. of the form to require applicants to identify management personnel responsible for California operations. The section currently asks in which jurisdiction the managers are licensed, as an out-of-state hub may be subject to other states' licensing requirements. However, the practice has been to require that managers responsible for California ADW operations also hold a California issued license. The proposed amendment provides clarity regarding the licensing requirement and is consistent with the proposed amendment to Rule 1481. ADW providers offer advance deposit pari-mutuel wagering opportunities. Under the proposed amendment to Rule 1481(b)(6), ADW managers who exercise control over pari-mutuel wagering must hold a CHRB issued occupational license. The proposed modifications to the forms CHRB-132 and CHRB-133 are necessary to provide the Board with the ability to determine the fitness for licensing of persons who manage the ADW provider's California operations. Such knowledge allows the Board to more thoroughly vet the ADW application prior to granting a license or approval to conduct ADW in this state.

In addition to licensing requirements for management personnel, the proposed modifications of the forms CHRB-132 and CHRB-133 will change subsection 3.B.4. of each form to require that applicants enter the CHRB license number of all officers and directors of the ADW provider. The proposed amendment to sub-

section 3.B.4. will clarify the requirement that officers and directors of an ADW provider be licensed. The change is consistent with the proposed amendment of Board Rule 1481, subsection (b)(2), which has been modified to require CHRB licensing of officers, directors and partners of ADW providers. The change is consistent with current practice regarding the officers, directors and partners listed on the ADW provider's application for license or approval.

Subsection 3.B.5. of the CHRB-132 and CHRB-133 has been amended to require the ADW applicant to provide the CHRB license number of all persons who hold five percent or more of the outstanding shares in the ADW provider. The proposed change will provide clarity regarding the Board's licensing requirements for ADW providers. It is also consistent with the proposed amendment of Board Rule 1481, subsection (b)(2), which has been modified to require CHRB licensing of persons who hold five percent or more of the outstanding shares. The change is consistent with current practice regarding such persons listed on the ADW provider's application. Licensing persons with significant ownership will help to ensure that no person who is found to be unfit to hold a license has an ownership interest in an entity that provides pari-mutuel wagering opportunities in California.

The CHRB-132 and CHRB-133 currently require applicant ADW providers to submit their most recent annual financial statement, including balance sheets and profit and loss statements, and all reports made in the preceding 12 months to shareholders, the Securities and Exchange Commission and the California Corporations Commission. The Board proposes to amend the forms to change subsections 3.B.10. and 3.C.8., and add a new subsection 3.D.3. The proposed amendment will require that ADW applicants attach the prior year's annual financial statement, and a copy of all reports issued during the preceding 12 months to shareholders, the Securities and Exchange Commission and the California Corporations Commission. The Board has found that the applicants "most recent" annual financial statement may not have been generated in the preceding year. The Board has determined it is necessary to amend subsections 3.B.10. and 3.C.8., and add a new subsection 3.D.3. to ensure the financial statement submitted by an ADW applicant does, in fact, address the prior year. An overview of the ADW applicant's financial statements and reports informs the Board about the entity's financial health; whether the applicant is able to meet its financial obligations and has the assets to maintain its business. The Board believes the proposed amendment is necessary, as it has an obligation to assess the applicant's financial viability prior to approving the provider to conduct ADW.

The CHRB-132 and CHRB-133 currently do not require an applicant for renewal of an ADW license/approval to differentiate between its in-state and out-of-state ADW operations when submitting profit and loss statements. This means the Board may not have an accurate understanding of the applicant's California operations. The proposed amendment will add sections 3.B.11., 3.C.9. and 3.D.4. to the CHRB-132 and the CHRB-133 to require an applicant for renewal of license/approval to submit the prior year's profit and loss statement for the applicant's California operations only. The applicant must also include the methodology used to determine the cost allocation for the profit and loss statement. The requirement would not apply to applicants that have not previously been licensed or approved to conduct ADW in California. The proposed amendment is necessary to collect each applicant's financial information specific to California ADW, which will help the Board assess the applicant's financial sustainability in California. Requiring the prior year's annual profit and loss statement for California ADW is necessary to give the Board a means to determine if an applicant is maintaining its California business. The Board receives a direct view of how an applicant's ADW business is performing in California. Cost allocation is the process of identifying and assigning costs to different cost objects, which in this case would be California ADW. If costs are not accurately calculated, a business might not know if a specific service is profitable, or if resources are being wasted on an unprofitable service. There are numerous cost allocation methods that may be followed by an entity to produce financial information such as the profit and loss statement. The entity must determine the methodology that most accurately reflects its business operations. Requiring the ADW applicant to describe the methodology it used to determine the cost allocation is necessary for auditing purposes. An auditor must know how the entity allocated costs in order to make certain the entity followed generally accepted accounting principles and the costs are attributable to the service.

The proposed changes to forms CHRB-132 and CHRB-133 are as follows:

Proposed changes to form CHRB-132 include:

Section 1. C: The section has been modified to capture information regarding management personnel directly involved in the management of ADW operations. The applicant must provide the name, title and license number of management personnel. The section will help staff ensure California ADW managers have current occupational licenses.

(Note: The following Section 3.B. references apply to ADW applicants with a corporate business structure.)

Section 3.B.4: The section has been modified to collect the CHRB occupational license number of the ADW provider's officers and directors.

Section 3.B.5: The section has been modified to require that the ADW provider include the CHRB occupational license number of any persons holding five percent or more of outstanding shares of the entity.

Section 3. B. 10: The section has been modified to require the applicant to provide the prior year's annual financial statement. The amendment will give the Board an insight into the applicant's operations to help assess its financial viability.

Section 3. B. 11: The new subsection requires an applicant that has previously been licensed by the Board to conduct ADW to attach the prior year's annual profit and loss statement for the applicant's California ADW operations only. The addition will help the Board determine the applicant's financial sustainability in California. Requiring an annual profit and loss statement for California ADW is necessary to give the Board a means to determine if an applicant is maintaining its California business. The addition will require applicants to include the methodology used to determine the cost allocation for the profit and loss statement, which is necessary for auditing purposes.

(Note: The following Section 3.C. references apply to ADW applicants with an LLC business structure.)

Section 3.C.4: The section has been modified to collect the CHRB occupational license number of the ADW provider's officers and directors.

Section 3.C.5: The section has been modified to require that the ADW provider include the CHRB occupational license number of any persons holding five percent or more of outstanding shares of the entity.

Section 3.C.8: The section has been modified to require the applicant to provide the prior year's annual financial statement. The amendment will give the Board a fiscal view of the applicant's operations to help assess its financial viability.

Section 3.C.9: The new subsection requires an applicant that has previously been licensed by the Board to conduct ADW to attach the prior year's annual profit and loss statement for the applicant's California ADW operations only. The addition will help the Board determine the applicant's financial sustainability in California. Requiring an annual profit and loss statement for California ADW is necessary to give the Board a means to help assess if an applicant is maintaining its California business. The addition will require applicants to include the methodology used to determine the cost allocation for the profit and loss statement, which is necessary for auditing purposes.



(Note: The following Section 3.D. references apply to ADW applicants with a business structure other than a corporation or an LLC.)

Section 3. D. 3: This new subsection requires an applicant with any business structure other than a corporation or LLC to attach the prior year's annual financial statement. This addition will give the Board a fiscal view of the entity to determine its financial viability. The new subsection will provide consistency by ensuring that all ADW applicants will be required to submit the same financial information.

Section 3. D. 4: The new subsection requires an applicant with a business structure other than a corporation or LLC that has previously been licensed by the Board to conduct ADW, to attach the prior year's annual profit and loss statement for the entity's California ADW operations only. The addition will aid the Board in understanding the applicant's financial sustainability in California. Requiring an annual profit and loss statement for California ADW is necessary to determine if an applicant is maintaining its California business. The amendment will require applicants to include the methodology used to establish the cost allocation for the profit and loss statement, which is necessary for auditing purposes.

Proposed changes to form CHRB-133 include:

Section 1. B: The section has been amended to require that the applicant identify which of its management personnel are responsible for California operations. The applicant must indicate the jurisdiction in which its management personnel are licensed, and whether the managers are responsible for California operations. The amendment will ensure the ADW provider's management staff responsible for California operations have current CHRB-issued occupational licenses.

(Note: The following Section 3.B. references apply to ADW applicants with a corporate business structure.)

Section 3.B.4: The section has been modified to collect the CHRB occupational license number of the ADW provider's officers and directors.

Section 3.B.5: The section has been modified to require that the ADW provider include the CHRB occupational license number of any persons holding five percent or more of outstanding shares of the entity.

Section 3. B. 10: The section has been modified to require the applicant to provide the prior year's annual financial statement. The amendment will give the Board a fiscal view of the applicant's operations to determine its financial viability.

Section 3. B. 11: The new subsection requires an applicant that has previously been licensed by the Board to conduct ADW to attach the prior year's annual profit and loss statement for the applicant's California ADW

operations only. The addition will help the Board make a judgement regarding the applicant's financial sustainability in California. Requiring an annual profit and loss statement for California ADW is necessary to give the Board a means to determine if an applicant is maintaining its California business. The addition will require applicants to include the methodology used to determine the cost allocation for the profit and loss statement, which is necessary for auditing purposes.

(Note: The following Section 3.C. references apply to ADW applicants with an LLC business structure.)

Section 3.C.4: The section has been modified to collect the CHRB occupational license number of the ADW provider's officers and directors.

Section 3.C.5: The section has been modified to require that the ADW provider include the CHRB occupational license number of any persons holding five percent or more of outstanding shares of the entity.

Section 3. C. 8: The section has been modified to capture the prior year's annual financial statement information from an applicant with a LLC business structure. This amendment will give the Board a broader fiscal view of the entity to determine its financial viability prior to approving the provider to conduct ADW.

Section 3. C. 9: The new subsection requires an applicant with a LLC business structure that has previously been licensed by the Board to conduct ADW to attach the prior year's annual profit and loss statement for the entity's California ADW operations only. This addition will help the Board make a judgement regarding the applicant's financial sustainability in California. Requiring an annual profit and loss statement for California ADW is necessary to give the Board a means of determining if an applicant is maintaining its California business. The applicant must include the methodology used to determine the profit and loss statement cost allocation, which is necessary for auditing purposes.

(Note: The following Section 3.D. references apply to ADW applicants with a business structure other than a corporation or an LLC.)

Section 3. D. 3: The new subsection requires an applicant with any business structure other than a corporation or LLC to attach the prior year's annual financial statement. The addition will give the Board a fiscal view of an entity to determine its viability prior to approving the ADW application. The new subsection will provide consistency by ensuring that all ADW applicants will be required to submit the same financial information.

Section 3. D. 4: The new subsection requires an applicant with a business structure other than a corporation or LLC that has previously been licensed by the Board to conduct ADW, to attach the prior year's annual profit and loss statement for the entity's California ADW op-



erations only. The addition will help the Board make a judgement regarding the applicant's financial sustainability in California. Requiring an annual profit and loss statement for California ADW is necessary to give the Board a means to determine if an applicant is maintaining its California business. The new section will require applicants to include the methodology used to determine the cost allocation for the profit and loss statement, which is necessary for auditing purposes.

All other changes to the CHRB-132 and CHRB-133 forms are for the purposes of consistency and renumbering.

#### POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment will revise Rule 1481 to state licensing requirements for pari-mutuel wagering entities' managerial personnel and for persons who are officers, directors, and partners of such entities. The proposed amendment to Rule 1481 will create consistency with regards to the occupational licensing requirements for entities offering pari-mutuel wagering opportunities. Persons who manage the entities' California operations, and persons who are officers, directors, and partners of such entities will hold CHRB occupational licenses. The requirements are beneficial to California's horse racing industry, and will protect the public's interest in the integrity of horse racing, as they will help to ensure that persons who are unfit to hold a license are not involved in the operation of an entity offering pari-mutuel wagering opportunities. The proposed amendment to Rule 2071 will modify the form CHRB-132. The proposed amendment to Rule 2072 will modify the form CHRB-133. The CHRB-132 and CHRB-133 will be amended to collect specific information regarding the individuals required to be licensed under the amended Rule 1481. Additional changes to the forms CHRB-132 and CHRB-133 deal with the submission of financial information and profit and loss statements by applicants. The proposed amendments to the CHRB-132 and the CHRB-133 will have the benefit of ensuring ADW managers, officers, directors and partners procure the proper occupational license, and undergo a background check. The licensing requirement will provide a safeguard to make certain that no person who is unqualified to hold a CHRB occupational license manages, or holds an ownership interest in a pari-mutuel wagering provider. The proposed amendment also modified the CHRB-132 and CHRB-133 to require the applicant submit the prior year's annual financial statement, including a profit and loss statement for the entity's California operations only. A compre-

hensive overview of the ADW applicant's financial statements and reports gives the Board a broader view of the entity's financial health; whether the applicant is able to meet its financial obligations and has the assets to maintain its business. The Board believes the proposed amendment is necessary, as it has an obligation to determine the applicant's financial viability prior to approving the provider to conduct ADW. Ensuring managers of California ADW operations, and officers, directors and partners procure the proper occupational license, helps to ensure transparency in the operation of California ADW providers. The applicant must name such persons on the ADW application. The ADW applications are public documents available for viewing on the Board's website. The proposed amendment to Rule 1481, Rule 2071 and 2072 is a benefit to the health and safety of California residents as it will protect the public's interest in the integrity of horse racing and will help to ensure that persons who are unfit to hold a license are not involved in the operation of an entity offering pari-mutuel wagering opportunities. The proposed amendment will not protect worker safety or the environment, the prevention of discrimination or the promotion of social equity.

#### CONSISTENCY EVALUATION

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

#### FORMS INCORPORATED BY REFERENCE

- A. Rule 2071:  
Application for License to Conduct Advance Deposit Wagering, CHRB-132 (Rev. 02/19)
- B. Rule 2072:  
Application for Approval to Conduct Advance Deposit Wagering, CHRB-133 (Rev. 02/19)

The CHRB-132 and CHRB-133 are incorporated by reference into Rule 2071 and 2072, respectively, as it would be cumbersome, unduly expensive or otherwise impractical to publish the documents in the California Code of Regulations.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.  
Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the State: none.

The Board has made an initial determination that the proposed amendment to Rule 1481, Rule 2071 and Rule 2072 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: none.

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

Significant effect on housing costs: none.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment of Rule 1481, Rule 2071 and Rule 2072 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed amendment to Rule 1481, Rule 2071 and 2072 is a benefit to the health and welfare of California residents because it will protect the public's interest in the integrity of horse racing, and will help to ensure that persons who are unfit to hold a license are not involved in the operation of an entity offering pari-mutuel wagering opportunities. The proposed amendment to Rule 1481, Rule 2071 and Rule 2072 will require management staff, officers, directors, partners, or persons with five percent or more of outstanding shares of an entity licensed by the Board to obtain an occupational license. It will also require applicants to conduct advance deposit wagering to identify managerial staff directly involved with California ADW operations, attach the two most recent financial statement including balance sheets and profit and loss statements, and a copy of all reports issued during the preceding 24 months to shareholders in the company, the Securities and Exchange Commission, or the corresponding state where the ADW provider is registered to the CHRB-132 or CHRB-133, regardless of business structure. The applicant must also provide two prior year's profit and loss statements specific to California ADW operations with the methodology used to determine the cost allocation for the profit and loss state-

ments. The adoption of the proposed amendment of Rule 1481, Rule 2071 and Rule 2072 will not benefit worker safety or the environment.

Effect on small businesses: none. The proposal to amendment of Rule 2071 and Rule 2072 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on 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 Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 274-6026  
Fax: (916) 263-6022  
E-mail: [HaroldC@chrb.ca.gov](mailto:HaroldC@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Andrea Ogden, Manager, Policy and Regulations  
Telephone: (916) 263-6033  
E-mail: [AndreaO@chrb.ca.gov](mailto:AndreaO@chrb.ca.gov)

#### AVAILABILITY OF FINAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of

the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons and all available information of which this proposal is based on. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

## TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

### Construction Safety Orders

Sections 1504 and 1526

### General Industry Safety Orders

Sections 3361, 3364, 3437, 3457 and 5192

### Single-User Toilet Facilities

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

#### PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **April 18, 2019** in the **Auditorium** of the **State Resources Building, 1416 9th Street, Sacramento, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

#### WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **March 1, 2019** and closes at 5:00 p.m. on **April 18, 2019**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e-mail sent to [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

#### AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards.

#### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

On September 29, 2016, California Assembly Bill 1732, Chapter 818 was signed by the governor, and be-



came effective on March 1, 2017, amending Health and Safety Code (HSC) Section 118600 to require that single-user toilet facilities be identified as all-gender facilities with signage compliant with Title 24 of the California Code of Regulations.

On July 25, 2017, the Division of Occupational Safety and Health submitted a Form 9 Request for New or Change in Existing Safety Orders to the Occupational Safety and Health Standards Board to request changing Title 8 to remove potential conflicts with HSC Section 118600 concerning all-gender designation of single-user toilet facilities.

The proposal also serves the purpose of allowing more employers to meet Title 8 toilet facility requirements by means of single-user toilet facilities also compliant with HSC Section 118600 gender-neutral designation requirements.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

**Anticipated Benefits**

An anticipated benefit of the proposed revisions to the regulated public is to allow for all-gender usage designation by employers having single-user toilet facilities in conformity with HSC Section 118600 and California public policy pursuant to Assembly Bill 1732, Chapter 818 of 2016. The proposed regulation ultimately protects the health and safety of California workers and indirectly prevents discrimination and promotes fairness and social equity. It will not provide a direct benefit to the state's environment.

**The specific changes are as follows:**

Existing Title 8 regulations require, with limited exception, that toilet facilities, including single-user facilities, be separately designated for use by either men or women. An existing provision does provide an exception for employers having fewer than five employees from the requirement to provide separate men's and women's toilet facilities.

This proposal adds to Title 8, Construction Safety Orders, and General Industry Safety Orders, a definition of "single-user toilet facility," and as to such single-user facilities, expands the allowance of all-gender designation to employers having any number of employ-

ees, so long as the total quantity of provided toilet facilities is not fewer than otherwise required. Gender-specific multi-user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

The effect of the proposed revisions on the regulated public is to remove potential conflict between existing Title 8 toilet facility requirements and those found in HSC Section 118600. Doing so eliminates the possibility of an employer compliant with the gender neutrality requirements of HSC Section 118600 being noncompliant with Title 8 toilet facility requirements when providing single-user facilities.

The proposed amendments to Title 8 are as follows:

**Section 1504(a).** A definition is added for the term "Single-User Toilet Facility," to conform to the term as defined per HSC Section 118600.

**Section 1526(a).** The existing exception provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is made clearer in allowing employers to designate single-user toilets as all-gender without changing the number of toilets required.

A second exception is added to allow employers having any number of employees to designate single-user toilet facilities for all-gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender-specific multi-user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

**Section 3361.** A definition is added for the term "Single-User Toilet Facility," to conform to the term as defined per HSC Section 118600.

**Section 3364(a).** The existing exception provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is made clearer in allowing employers to designate single-user toilets as all-gender without changing the number of toilets required.

A second exception is added to allow employers having any number of employees to designate single-user toilet facilities for all-gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender-specific multi-user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

Existing exception (a)(2) is re-numbered to (a)(3).

**Section 3437.** A definition is added for the term "Single-User Toilet Facility," to conform to the term as defined per HSC Section 118600.



**Section 3457(b).** A definition is added for the term “Single–User Toilet Facility,” to conform to the term as defined per HSC Section 118600.

**Section 3457(c)(2)(A).** The allowance provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is deleted and added as exception (1) to be consistent with other toilet requirement sections in Title 8.

A second exception is added to allow employers having any number of employees to designate single–user toilet facilities for all–gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender–specific multi–user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

The existing exception is re–numbered to (3).

**Section 5192(a)(3).** A definition is added for the term “Single–User Toilet Facility,” to conform to the term as defined per HSC Section 118600.

**Section 5192(n)(3)(A).** The existing exception provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is made clearer in allowing employers to designate single–user toilets as all–gender without changing the number of toilets required.

A second exception is added to allow employers having any number of employees to designate single–user toilet facilities for all–gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender–specific multi–user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

**Mandate on Local Agencies or School Districts:** None.

**Cost or Savings to State Agencies:** None.

**Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:** None.

**Other Nondiscretionary Cost or Savings Imposed on Local Agencies:** None.

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

**Cost Impacts on a Representative Private Person or Business:**

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

**Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The proposed changes to Title 8 remove potential conflict between it and the Health and Safety Code. No cost is associated with the changes, which comprise conditional allowances, rather than mandates.

**Significant Affect on Housing Costs:** None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments will not affect small businesses as the revisions basically do away with a potential conflict between Title 8 and the Health and Safety Code. The revisions place no added requirement to employers, but instead make allowance for gender–neutral designation of toilets and compliance with Title 8 toilet facility requirements.

RESULTS OF THE ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses. The revisions place no added requirement to employers, but instead make allowance for gender–neutral designation of toilets and compliance with Title 8 toilet facility requirements. The proposed regulation ultimately protects the health and safety of California workers but does not offer a direct benefit to the state’s environment.

BENEFITS OF THE PROPOSED ACTION

A key benefit to the regulated public results from addressing a potential conflict between existing Title 8 regulations and the HSC Section 118600 requirements concerning single–user toilet facilities. It will benefit the regulated public by making allowance for gender–

neutral compliance with pre-existing Title 8 toilet facilities requirements, consistent with the public policy promulgated pursuant to HSC Section 118600, as amended by Assembly Bill 1732, Chapter 818, effective March 1, 2017. The proposed regulation ultimately protects the health and safety of California workers and indirectly prevents discrimination and promotes fairness and social equity. It will not provide a direct benefit to the state's environment.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 than the proposal described in this Notice.

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

#### CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the back-up contact person, Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above.

#### AVAILABILITY OF 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 at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 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 Ms. Shupe or Mr. Manieri at the address or telephone number listed above or via the internet.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

### **TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

#### **General Industry Safety Orders Sections 3441 and 3449**

#### **Outdoor Agricultural Operations During Hours of Darkness**

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

#### PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **April 18, 2019** in the **Auditorium** of the **State**

**Resources Building, 1416 9th Street, Sacramento, California.** At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **March 1, 2019** and closes at 5:00 p.m. on **April 18, 2019**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

On December 2, 2013 the Division of Occupational Safety and Health submitted a request to amend Section 3441, Operation of Agricultural Equipment. The requested amendments pertained to illumination near agricultural equipment and personal protective equipment to increase the visibility of workers. On February 13, 2014, a letter was submitted by Anne Katten, MPH, and Mark Schacht of the California Rural Legal Assistance Foundation regarding agricultural field operations to supplement requirements for work area lighting near agricultural equipment operations. As a result, the Occupational Safety and Health Standards Board convened advisory committee meetings to discuss hazards associated with outdoor agricultural work during hours of darkness.

This rulemaking is intended to address hazards related to performing outdoor agricultural work during hours of darkness (sunset to sunrise), when illumination or visibility is limited. The decreased natural lighting

during hours of darkness affects the employees' ability to perceive and move about their environment. In addition, employees are less visible to others. Adequate lighting will enable employees to avoid visible and recognizable hazards. The increased visibility of employees will help operators of mobile agriculture equipment keep a safe distance away from employees.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

**Anticipated Benefits.**

Working during hours of darkness provides benefits to agricultural industries. It saves the employer the energy cost for cooling down the crop to hold optimum temperature. It allows the employer to harvest at a time that assures them the best quality of crops possible (i.e., minimized bruising, optimum sugar and/or moisture content). In addition, working during hours of darkness usually equates to cooler temperatures and increases employee comfort, which improves the productivity of workers and greatly diminishes the risk of heat illness during the summer months. The proposal helps to provide a safe environment for employees to work during hours of darkness by addressing the hazard presented by limited ambient lighting.

The Board estimates benefits would be about \$36.7 million per year due to prevented accidents. The estimated benefits are based on 2,080 injury cases multiplied by \$17,622, the average workers' compensation medical and indemnity cost of agricultural injury claims.

This estimate is conservative because there are unquantifiable additional costs imposed by the health consequences arising from these injuries for workers, employers, and society. Therefore, the benefits may be much greater than estimated due to the additional implications of related injuries.

The specific changes are as follows:

**Section 3441. Operation of Agricultural Equipment.**

This Section contains requirements for agricultural equipment. The proposed amendments to subsection (g) are:

- Adds trucks as one of the types of vehicles that are required to utilize and maintain functioning headlight(s). Trucks are commonly driven on farm roads.
- Requires headlights of agricultural equipment be utilized from sunset to sunrise instead of one hour after sunset and one hour before sunrise, in order to be consistent with proposed new Section 3449(a) regarding illumination requirements for outdoor work areas, which include areas where employees are working near agricultural equipment.
- Adds a Note to refer the reader to proposed new Section 3449 for illumination requirements for working near agricultural equipment during hours of darkness.

**Section 3449. Agricultural Operations During Hours of Darkness (Between Sunset and Sunrise).**

The proposal adds a new Section 3449 with the title “Agricultural Operations During Hours of Darkness (Between Sunset and Sunrise)” replacing “Ladders (Repealed)”. The following provisions are proposed to be added:

- Subsection (a) requires that the employer provide lighting to illuminate the outdoor work environment. The employer is responsible for determining the combination of lighting: type of lamps, the number of light fixtures, type of fixtures (portable, portable personal hand-free and/or fixed lighting) and the setup needed in order to meet the illumination levels detailed in Table 1. The illumination level is to be measured at the task/working surface, in the plane in which the task/work surface is present. The table provides measurable criteria to determine adequate illumination.

The information used to populate the table was based on the principles of lighting detailed in the documents relied upon and light surveys conducted by Board staff and advisory committee members, which are reflected in the minutes of the advisory committee meetings.

- Subsection (a)(1) was added to clarify that portable personal hands-free lighting shall be provided and used when other sources of lighting cannot meet the required illumination level listed on Table 1.
- Note 1 to subsection (a) was added to inform employers to be mindful of the manner they set up or install lighting to avoid glare. Glare can be blinding and may lead to accidents. The reason text is proposed as a Note and not regulatory

language is due to the difficulty of measuring glare in a dynamic environment, making such a requirement unenforceable.

Note 2 to subsection (a) directs the reader to the non-mandatory appendix for additional information regarding selecting light sources.

- An exception to subsection (a) for vehicles traveling on farm roads was added. This is to inform employers that the supplementary lighting installed on mechanical equipment or vehicles to meet the illumination levels of Table 1 does not need to be activated when traveling on farm roads. The additional lighting may direct unwanted light to other vehicles on the road and may cause an accident.
- Subsection (b) requires supervisors to conduct a safety meeting at the beginning of the shift to inform employees of the location of the restrooms, drinking water, designated break area, nearby bodies of water, and high traffic areas. This proposal is to inform employees about the details of their work environment because outdoor agricultural work is not a fixed site and work conditions change.
- A Note to subsection (b) was added to inform the employer of their responsibility to communicate hazards under Section 3203, Injury and Illness Prevention Program.
- Subsection (c) requires employees to wear employer provided Class 2 high visibility garments meeting the requirements of Section 3380(e) in order for them to be more visible at night. The increased visibility of employees will prevent accidents involving motor vehicles and other moving agricultural equipment. Employees often work alongside agricultural fields alongside mobile agricultural equipment. The fields may be located near busy farm roads.
- Note to subsection (c) was added to inform the employer of other provisions related to subsection (c). Section 3380 is about personal protective devices and Section 3383 is about body protection.

These proposed amendments will ensure a safe work environment for employees during hours of darkness by addressing the hazards presented by limited ambient lighting.

**Non-Mandatory Appendix to Section 3449.**

The Appendix serves as a guide to employers in selecting light sources or lamps. The Appendix provides some factors to consider such as: wattage, quantity of light or brightness, beam angle, radium, and target,



scotopic/photopic ratios, color rendering index, and life expectancy of the light source.

**DOCUMENT INCORPORATED BY REFERENCE**

- American National Standard for High-Visibility Safety Apparel and Accessories, (ANSI/ISEA) 107-2015.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

**Mandate on Local Agencies or School Districts:** None.

**Cost or Savings to State Agencies:** None.

**Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:** None.

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

**Other Nondiscretionary Cost or Savings Imposed on Local Agencies:** None.

**Cost Impacts on a Representative Private Person Or Business:**

The estimated additional cost to small agricultural business is approximately \$7,651 with an on-going cost of \$6,000. The estimated additional cost to non-small businesses is \$11,716 with an on-going cost of \$6,000.

**Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses To Compete:**

The Board has made an initial determination that this proposal should not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The estimated cost of \$31.6 million for addressing the hazards associated agricultural operation performed during hours of darkness is offset by estimated benefits of \$36.7 million per year due to prevented accidents.

**Significant Affect on Housing Costs:** None.

**SMALL BUSINESS DETERMINATION**

California Government Code section 11346.3 defines small businesses as businesses that are independently owned and operated, not dominant in their field of operation, and have fewer than 100 employees. The California Employment Development Department (EDD) reports that 94.4% of the businesses in California’s Agriculture, Forestry, Fishing and Hunting Industry (NAICS 11) had fewer than 100 employees in the third quarter of 2016. Calculations assume that a similar percentage of small businesses in the agricultural sectors covered by this proposal will be impacted, resulting in an estimated 3,784 small businesses and 224 typical businesses (non-small businesses) used for this analysis.

To comply with the safety requirements of the proposal, employers must use appropriate lighting and personal protective equipment (PPE) to aid visibility of workers at night. The costs associated with meeting these requirements are listed below.

**Costs associated with items required for proposal compliance**

Item	Cost	Reference
Rechargeable battery headlamp	\$24.50	<a href="https://www.walmart.com/search/?query=rechargeable%20battery%20headlamp&amp;cat_id=0">https://www.walmart.com/search/?query=rechargeable%20battery%20headlamp&amp;cat_id=0</a>
AA rechargeable batteries	\$1.50	<a href="https://www.walmart.com/search/?query=rechargeable%20aa%20batteries&amp;cat_id=0">https://www.walmart.com/search/?query=rechargeable%20aa%20batteries&amp;cat_id=0</a>
High-visibility vest	\$10.00	<a href="https://www.walmart.com/ip/2XL-Surveyor-Orange-Two-Tones-Safety-Vest-ANSI-ISEA-107-2015/122387872">https://www.walmart.com/ip/2XL-Surveyor-Orange-Two-Tones-Safety-Vest-ANSI-ISEA-107-2015/122387872</a>
Rechargeable portable generator	\$200.00	<a href="https://www.alibaba.com/showroom/rechargeable-generator-portable.html">https://www.alibaba.com/showroom/rechargeable-generator-portable.html</a>
Bulldog Power Tower portable lighting	\$1,300.00	<a href="http://catalog.lightingspecialties.com/viewitems/bulldog/bulldog-power-tower">http://catalog.lightingspecialties.com/viewitems/bulldog/bulldog-power-tower</a>
Power for generator	\$6,000.00	Assumption based on seasonal harvest, \$1000/month for 6 months of the year [NOTE: Ongoing cost of compliance]

The initial costs for a small business is \$7,651, with an annual ongoing cost of \$6,000.

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

Total statewide dollar costs that business and individuals may incur to comply with this regulation over its lifetime are estimated to be \$31.6 million in the first year and ongoing annual costs of \$24 million.

According to the National Institute for Occupational Safety and Health website, almost 15 million workers in the U.S. work full time on evening shift, night shift, rotating shifts, or other employer arranged irregular schedules. DIR applied this ratio of workers (10%) to 2016 EDD Market Data to estimate the percentage of California’s agricultural workforce that works at night. There is no data available on the number of establishments that work at night covered by the proposal. But if we assume 25% of the 16,031 establishments covered by the proposal will have employees working at night at some point during the year, the total estimated industry cost for compliance with the proposal’s requirements is [ $\$36$  (cost per employee) \* 42,110 (total number of employees affected)] + [4,008 (number of businesses affected) \*  $\$7,500$  (fixed cost per establishment)] = \$31.6 million.

<b>Description</b>	<b>Total</b>
Cost per worker	\$36
# CA night time agricultural workers	42,110
Estimated Total Cost Per Worker ( $\$36 \times 42,110$ )	\$1,515,960
Estimated Cost Per Establishment (in addition to cost per worker)	\$7,500
Establishments with employees who work at night (25% of 16,031 assumed)	4,008
Estimated Total Cost Per Establishment ( $4,008 \times \$7,500$ )	\$30,060,000
Estimated Total Cost (cost per worker and cost per employer) ( $\$1,515,960 + \$30,060,000$ )	<b>\$31,575,960</b>

The proposed regulation will not have any effect on the creation or elimination of California jobs, the creation of new businesses, the elimination of existing California businesses, or affect the expansion of existing California businesses. The proposed regulation protects the health and safety of California workers through accident/injury prevention. It does not provide a direct benefit to the state’s environment.

**BENEFITS OF THE PROPOSED ACTION**

The Board estimates benefits would be about \$36.7 million per year due to prevented accidents. The estimated benefits are based on 2,080 injury cases multiplied by \$17,622, the average workers’ compensation medical and indemnity cost of agricultural injury claims in 2013 and 2014.

This estimate is conservative because there are unquantifiable additional costs imposed by the health consequences arising from these injuries for workers, employers, and society. Therefore, the benefits may be much greater than estimated due to the additional implications of related injuries. The proposed regulation will not provide a benefit to the state’s environment.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

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

**CONTACT PERSONS**

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the back-up contact person, Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained

by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF 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 at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 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 Ms. Shupe or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF  
DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

**TITLE 10. CALIFORNIA SECURE  
CHOICE RETIREMENT SAVINGS  
INVESTMENT BOARD**

AMENDMENT TO CALIFORNIA CODE OF  
REGULATIONS, TITLE 10, CHAPTER 15,  
REGARDING THE CALSAVERS RETIREMENT  
SAVINGS PROGRAM

The California Secure Choice Retirement Savings Investment Board ("Board") proposes to adopt the proposed regulations described below after considering all

comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board will hold a public hearing beginning at 1:00 p.m. on April 15, 2019, at 915 Capitol Mall, Room 587, Sacramento, CA.

The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may be submitted by email at [CalSavers@sto.ca.gov](mailto:CalSavers@sto.ca.gov), or by either mailing or delivery address listed below:

Regular Mail

California Secure Choice Retirement Savings  
Investment Board  
Re: Rulemaking for the CalSavers Retirement  
Savings Program  
P.O. Box 942809  
Sacramento, CA 95815

Courier Delivery

California Secure Choice Retirement Savings  
Investment Board  
Re: Rulemaking for the CalSavers Retirement  
Savings Program  
915 Capitol Mall, Suite 105  
Sacramento, CA 95814

The written comment period will close at **5:00 p.m.** on April 15, 2019. The Board will only consider comments received by that time. All written comments received by the Board are subject to disclosure under the Public Records Act.

AVAILABILITY OF 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 original proposed text, it will make the modified text (with the changes clearly indicated) available to the public at <https://www.treasurer>.

[ca.gov/scib/regulations/index.asp](http://ca.gov/scib/regulations/index.asp) for at least 15 days before the Board adopts the regulations as revised. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AUTHORITY AND REFERENCE

Authority: Section 100048 of California Government Code provides the California Secure Choice Retirement Savings Investment Board the authority to adopt regulations to implement Title 21 of the California Government Code.

Reference: Sections 100000, 100002, 100004, 100008, 100010, 100012, 100014, 100032, 100034, 100043, 100046 and 100048, California Government Code.

#### INFORMATIVE DIGEST

In 2012, the California Legislature enacted and the Governor signed Senate Bills (SB) 1234 and (Chapter 734, Statutes of 2012) and 923 (Chapter 737, Statutes of 2012) which established the California Secure Choice Retirement Savings Investment Board and required it to conduct a market analysis to determine whether the necessary conditions for implementing the California Secure Choice Retirement Savings Program (subsequently changed to the “CalSavers Retirement Savings Program” through Assembly Bill 1817 in 2018) could be met. The legislation prohibited implementation of the Program without subsequent authorizing legislation.

In 2016, the California Legislature enacted and the Governor signed SB 1234 (Chapter 804, Statutes of 2016) which, among other things, granted the Board the authority to take the steps necessary to implement the Program, including the adoption of regulations.

The laws relating to the Program include Title 21 of the California Government Code, Section 1088.9 of the Unemployment Insurance Code. Almost all state laws relating to the Program are included in Title 21 of the California Government Code. Section 1088.9 of the Unemployment Insurance Code establishes some of the duties of the Employment Development Department relating to enforcement of employer compliance with the requirements of Title 21 of the California Government Code.

This rulemaking action implements, interprets, and makes specific the policies, procedures, and operating structure of the CalSavers Retirement Savings Program (“CalSavers” or “the Program”) as established by Title 21 of the California Government Code. Specifically, these regulations would accomplish the following:

- a. Define terms and definitions used in the regulations and further clarify the meaning of definitions in statute;
- b. Define employer eligibility for the program and establish the means by which the Program shall determine such eligibility;
- c. Establish the deadlines and processes by which eligible employers shall register for the Program;
- d. Define the duties for participating employers and the processes by which participating employers shall comply with the requirements of the Program;
- e. Establish processes for enrollment of eligible employees into the Program;
- f. Define the default account settings for participants that do not make an alternative election;
- g. Define the alternative elections available to participants;
- h. Establish policies for participation of individuals in the Program outside of an employment relationship with an Eligible Employer; and
- i. Define processes and policies for contributions, distributions, and transfer of savings.

The adoption of these regulations is necessary for the operation of the CalSavers Retirement Savings Program. Many of the regulations directly address questions of eligibility, processes, and duties received from members of the regulated community. The regulations will further define and make specific sections of statute that either explicitly require regulatory definition or address sections of statute that could benefit from further clarification. The regulations would make permanent the emergency regulations that took effect November 19, 2019.

#### Pre-Rulemaking Activity:

The process for developing the proposed regulations began in the summer of 2017 with a series of meetings with informal working groups composed of representatives from employer and business organizations in the state, organizations representing employees, non-profit organizations focused on financial empowerment and economic inclusion, and others. Staff conducted several program design feedback meetings with these informal working groups through the fall of 2017.

Staff began providing regular updates on the development of regulations at public Board meetings beginning with the August 28, 2017 Board meeting, focusing the initial presentations on the input of the informal working groups. Staff provided a second update on the input of the informal working groups at the September 25, 2017 Board meeting, summarizing the input of working group members on design elements of the Program, including development of regulations. Staff provided an in-depth presentation on options and recom-



mendations for regulations at the October 23, 2017 Board meeting. To prepare the materials for the meeting, staff consulted with stakeholder organizations, program consultants, policymakers at the state and federal level, non-profit organizations, and peer-reviewed research. Each of these meetings were open to the public and informal public comment periods were established. Copies of each comment letter were shared with the Board during the meeting.

At the November 27, 2017 Board meeting, staff presented the Board with a preliminary draft of the regulations. Following that meeting, staff solicited comments from the public on the draft regulations in writing and invited members of the public to participate in two workshops on the draft regulations held December 5 and December 7, 2017. Members of the public could participate in the December 5, 2017 meeting in-person or by phone. The December 7, 2017 workshop had been scheduled to be held in a public setting in Los Angeles and by phone, but the in-person workshop was cancelled due to wildfires spreading in the area. Instead, staff conducted that workshop entirely by phone. Written comments were posted publicly on the Program website.

At the December 18, 2017 Board meeting, staff presented a summary of comments received, as well as copies of all written comment letters. Following that meeting, staff incorporated direction given by the Board to develop a set of proposed regulations, presented to the Board at the February 26, 2018 Board meeting. At the meeting, the Board approved the content of the regulations and authorized the Executive Director of the Program to initiate the emergency rulemaking process. The Board ultimately decided to wait to initiate rulemaking until it had hired a third-party administrator to operate the Program. The hiring of a third-party administrator in August 2018 allowed the Board to refine regulations to add specific details regarding the processes and timeframes under which employers and participants can comply with the regulations. During August and September, staff consulted with stakeholders about certain changes to the draft regulations that were proposed as a result of operational discussions with the newly hired third-party administrator. Stakeholder feedback was considered.

On September 24, 2018, the California Secure Choice Retirement Savings Investment Board (“Board”) approved the proposed regulations and authorized Program staff to initiate the rulemaking process. The Board filed regulations October 12, 2018 and withdrew the proposed regulations October 26, 2018 to make edits to the regulations.

The Board posted a Notice of Emergency Rulemaking October 30, 2018. At the November 6, 2018 meet-

ing, the Board approved a revised set of proposed regulations and authorized the Executive Director of the Program to initiate the emergency rulemaking process. Those regulations were approved by the Office of Administrative Law (OAL) and took effect November 19, 2019.

On January 18, 2019, the Board posted these proposed regulations and their agenda item on its website and distributed notice to members of the public who subscribed to the Program’s Listserv. The Program also shared the proposed regulations with stakeholders who indicated an interest in being updated about the regulations and notified them about the pending Board action. At the January 28, 2019 meeting, the Board adopted these proposed regulations and granted staff the authority to conduct the formal rulemaking process.

*Anticipated Benefits of the Proposed Regulations:*

About half of working Californians are on track to live at or near poverty upon reaching retirement age. Without the ease and simplicity of regular payroll contributions through a workplace retirement savings arrangement, many simply do not save for retirement. While the problem of retirement insecurity has many causes, including low wages and rising costs of living, research shows access to a retirement savings vehicle makes individuals fifteen times more likely to save for retirement. CalSavers will ensure a majority of California workers have access to a workplace retirement savings vehicle by mandating that employers either sponsor their own plan or register for CalSavers.

Implementation of these regulations will benefit participating individuals by providing them access to a workplace retirement savings program, increasing the likelihood they will accrue meaningful retirement savings and improve their financial security. The impact will depend on a number of factors, including whether and when an individual decides to participate in the Program, their decisions regarding how much they contribute and how they choose to invest their contributions, and investment performance.

The operation of the Program will result in some indirect benefits for participating employers and employees. For participating employers, the Program will provide employers with a retirement savings option that is simple and requires no direct costs or annual reporting, with no fiduciary liability. By having an easy way to provide access to a retirement savings vehicle to their employees, the Program should help some smaller employers improve their value in the labor market.

The benefits of the proposed regulations also include consistent application and interpretation of the laws, rules, and procedures for the CalSavers Retirement Savings Program.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Board evaluated whether or not there are any other regulations that may be adversely impacted by adoption of these proposed regulations. Because these regulations are solely for the purpose of operating the CalSavers Retirement Savings Program, and no other regulations exist in the California Code of Regulations pertaining to the operation of the CalSavers Retirement Savings Program, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

*The Board has made the following initial determinations:*

The proposed regulations do not require a report to be made.

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: Statute indicates a role for the Employment Development Department (EDD) to enforce employer compliance, market the Program to employers, and distribute materials to employers. If EDD assumes these duties, or some portion of these duties, they may require up to \$13,769,676 in one-time costs and \$6,337,063 in ongoing costs. Any costs incurred by EDD would be reimbursed through an interagency agreement between EDD and the Board.

Other nondiscretionary cost or savings imposed on local agencies: none.

Costs or savings in federal funding to the state: none.

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

Cost impacts on a representative person or business: For participating employers, the Program will require no direct costs or fees to participate. Although their role in facilitating the Program requires minimal activities, employers will be required to perform some duties upon initial registration and ongoing maintenance to facilitate payroll deductions and assist with enrollment of new employees. For those duties, the Board estimates approximately \$157 in opportunity costs for the staff time necessary to register and annual ongoing opportunity costs of \$135. Additional information on how the Board determined these estimates is included in the Standardized Regulatory Impact Assessment (SRIA).

Participation in the Program is completely voluntary for eligible employees. Participating employees will pay an administrative fee out of their contributions and investment interest. At Program launch and for the first two years at least, those fees will range between 0.82

and 0.95 percent depending on the investment option selected by the participant. All fees will decline as the Program's assets rise and reach breakpoints defined in the contract with the program administrator. The lowest fees range would be 0.22 to 0.35 if Program assets exceed \$35 billion within the term of the contract. The fees may be offset by investment interest earned depending on investment performance.

Small Business Determination: The Board has determined the proposed regulations affect small business. These impacts are estimated to be the same as the cost impacts on a representative business detailed above.

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

Significant effects on housing costs: none.

Statement of the Results of the Standardized Regulatory Impact Assessment

In accordance with California Code of Regulations, Title 1, Section 2002(a)(1), the Board submitted the SRIA to the Department of Finance August 31, 2018. The Department of Finance (DOF) provided comments on the SRIA October 8, 2018 requesting the Board to incorporate additional data elements for early withdrawals of retirement savings into the analysis. The Board responded to DOF's comments November 7, 2018. The Board estimated the impact of a variety of assumptions to model impacts of early withdrawals of retirement savings on both an individual's savings and its aggregate impact on the Program's ability to reduce its administrative fees.

The SRIA estimated economic and fiscal impacts due to the operation of the CalSavers Retirement Savings Program. The SRIA used estimates of the number of participating employers, employees, annual contributions from participants, total savings accrued by participants, withdrawals, and fiscal and economic impacts related to the new savings by participating employees and the impacts of new investment on the state economy.

The SRIA relied on a series of assumptions and estimates that may differ significantly from experience. The SRIA represents the best estimates of potential impact of the Program. These estimates are based on commonly accepted methodologies in the state's regulatory review framework, the experiences of similar programs, peer-reviewed research, and publicly available data. Throughout the SRIA, the authors attempt to show the rationale for the assumptions used and describe the causes and scope of the impacts considered

The SRIA estimated the program could result in significant new savings resulting from participation in the program. This new saving will have the short-term impact of reducing consumption, leading to some indirect

economic impact and some related impacts on sales and use tax revenue. Long-term, the savings accrued by participants could have a beneficial economic impact due to increased consumption and have the related impact of increasing sales and use tax revenue. Additionally, the Program could provide other fiscal benefits related to a decreased reliance on social benefits due to the accrual of retirement savings by Participants.

The adoption of these regulations could have an indirect impact on the creation or elimination of jobs within the state through changes to consumption and new investment resulting from new savings by CalSavers participants.

As a direct result of the adoption of these regulations, new businesses will not be created and current businesses will not be eliminated within the state. In the short term, new investment by participating individuals will result in new investment in some California businesses. In the long term, the the operation of the Program should result in increased consumption for participants than a baseline scenario due to accumulation of retirement savings and investment interest. Additionally, neither benefits nor detriments are expected to worker safety or the state's environment due to adoption of these regulations.

The Program may result in added incentives for innovation in retirement savings vehicles for small businesses. The Program may also result in incentives for innovation in the industries of payroll platforms and third-party human resources providers.

Adoption of these regulations should not create any significant competitive advantage or disadvantage for California businesses. There may be some benefit to eligible employers in the labor market, particularly smaller employers, as the Program may provide some benefits to employee recruitment and retention. There may also be some impact for covered employers due to compliance, but this should not be significant enough to negatively impact competitiveness. The authors estimate both impacts should be marginal.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has been otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, 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 Board 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:

Eric Lawyer, Policy Manager  
 California Secure Choice Retirement Savings  
 Investment Board  
 915 Capitol Mall, Suite 105  
 Sacramento, CA 95814  
 Telephone: (916) 653-1748  
 Email: [Eric.Lawyer@sto.ca.gov](mailto:Eric.Lawyer@sto.ca.gov)

Please direct any inquiries regarding the regulatory process to Mr. Lawyer at the above address. The designated backup contact person is Katie Selenski, who can be reached at [Katie.Selenski@sto.ca.gov](mailto:Katie.Selenski@sto.ca.gov) or by phone at (916) 653-1744.

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

The Board will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address and online at <https://www.treasurer.ca.gov/scib/regulations/index.asp>. Materials published on the Board's website may also be accessed at:

915 Capitol Mall, Suite 105  
 Sacramento, CA 95814

As of the date of this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and a copy of the SRIA. Copies may be obtained by contacting Eric Lawyer at the email address, physical address, or by calling the phone number listed above.

To obtain a copy of the Final Statement of Reasons after it has been completed, please make a request in writing to the contact person identified above.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

After it is completed, you may obtain a copy of the Final Statement of Reasons by submitting a written request to the contact person identified above.



**TITLE 11. DEPARTMENT OF JUSTICE**

TITLE 11. LAW  
DIVISION 1. ATTORNEY GENERAL

Notice is hereby given that the Department of Justice (DOJ), pursuant to the authority vested in it by Government Code (GC) Section 27393, proposes to amend the California Code of Regulations, Title 11, Division 1, Chapter 18, Articles 2, 4, 5, 6, 7 and 9, Sections 999.108, 999.122, 999.128, 999.129, 999.131, 999.132, 999.133, 999.134, 999.136, 999.137, 999.138, 999.139, 999.140, 999.141, 999.142, 999.143, 999.144, 999.145, 999.146, 999.147, 999.148, 999.149, 999.150, 999.154, 999.165, 999.166, 999.167, 999.168, 999.176, 999.178, 999.190, 999.195, 999.196, 999.197, 999.217, 999.218, 999.219, 999.220, 999.221 and 999.223, and to repeal Article 4, Sections 999.130, 999.135 and 999.153, in order to administer the requirements of the Electronic Recording Delivery Act set forth in GC Section 27390, et seq.

**PUBLIC HEARING**

The DOJ has not scheduled a public hearing on this proposed action. However, the DOJ will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her duly authorized representative, no later than 15 days before the close of the written comment period. The request must be in writing and must comply with the requirements of GC Section 11346.8(a). If a public hearing is requested, a notice of the time, date, and place of the hearing will be provided by separate notice.

**WRITTEN COMMENTS PERIOD**

The public comment period for this regulatory action will begin on March 1, 2019. Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action. Written comments on this regulatory proposal must be received no later than April 15, 2019 at 5:00 p.m., and addressed to the following:

Mike VanWinkle, Department of Justice  
Administrator I  
California Department of Justice  
Bureau of Criminal Identification and Investigative Services  
PO Box 160526  
Sacramento, CA 95816  
Electronic Mail: erds@doj.ca.gov  
FAX: (916) 227-0595

Or

John Navarette, Field Representative  
California Department of Justice  
Bureau of Criminal Identification and Investigative Services  
PO Box 160526  
Sacramento, CA 95816  
Electronic Mail: erds@doj.ca.gov  
FAX: (916) 227-0595

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

**AUTHORITY AND REFERENCE**

Authority: Sections 27392, 27393, 27394, 27395, 27397.5, Government Code  
Reference: Sections 811.2, 12510, 15000, 27390, 27391, 27392, 27393, 27394, 27395, 27396, 27397, 27397.5, Government Code

**INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW**

**Background and Effect of the Proposed Rulemaking:**

A county recorder may, in lieu of a written paper, accept for recording a digitized or digital image of certain recordable instruments. The Electronic Recording Delivery Act of 2004 (the "Act") permits electronic delivery, recording and return of certain types of instruments through an electronic recording delivery system (ERDS) upon approval by the county board of supervisors and certification by the Attorney General. (Gov. Code, § 27390 et seq.) GC Section 27393 directs the DOJ to develop regulations for the review, approval, and oversight of electronic recording delivery systems (ERDS).

In 2016, the Legislature passed Assembly Bill (AB) 2143 (Chapter 380, Statutes of 2016) expanding the



types of instruments that may be recorded electronically and the types of entities that may submit instruments electronically. AB 2143 deleted provisions of the Act limiting electronic recording to title insurers, underwritten title companies, institutional lenders, or governmental entities. The Act now permits all entities to record electronically under certain conditions. AB 2143 deleted provisions requiring certain instruments to be in digitized rather than digital form. The Act now permits all instruments to be recorded electronically in digital form.

AB 2143 authorizes a county recorder to enter into a contract with an authorized submitter for the delivery for recording, and return to the party requesting recording, of a digital or digitized electronic record that is an instrument to be recorded consistent with specified provisions. (Gov. Code, § 27391, subd. (c)(1)). AB 2143 further requires general liability coverage, in an amount to be set by the Attorney General through rule or regulation in consultation with interested parties. (Gov. Code, § 27391, subd. (c)(2).)

The regulations proposed in this rulemaking action would make specific the amount of general liability coverage required of an authorized submitter and/or agent pursuant to GC Section 27391(c)(2), set in the amount of one million (\$1,000,000) dollars, align references to standards and guidelines with the latest publication dates, clarify the requirements for a county recorder entering into a contract with an authorized submitter, and upgrade ERDS standards-based technologies.

**Objectives and Benefits of the Proposed Regulation**

The objective of the proposed rulemaking action is to ensure that secure information transmissions are utilized and ERDS are maintained, thus furthering the intent of the authorizing statute to protect sensitive transmissions and protecting the privacy of the citizens of California.

**Comparable Federal Regulations**

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

**Determination of Inconsistency and Incompatibility with Existing State Regulations**

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

DOCUMENTS  
INCORPORATED BY REFERENCE

The following documents will be incorporated in the regulation by reference as specified by section:

1. Federal Information Processing Standard (FIPS) 180-4, Secure Hash Standard, August 2015, Section 999.129, and Section 999.136.
2. National Institute of Standards and Technology (NIST) Special Publication 800-88 Revision 1, Guidelines for Media Sanitization, December 2014, Section 999.129 and Section 999.139.
3. NIST Special Publication 800-63-3, Digital Identity Guidelines, June 2017, Section 999.129 and Section 999.141.
4. NIST Special Publication 800-70 Revision 3, National Checklist Program for IT Products-Guidelines for Checklist Users and Developers, February 2018, Section 999.129, Section 999.138, and Section 999.143.
5. NIST Special Publication 800-52 Revision 1, Guidelines for the Selection, Configuration, and Use of Transport Layer Security (TLS) Implementations, April 2014, Section 999.129 and Section 999.144.
6. FIPS 202, SHA-3 Standard: Permutation-Based Hash and Extendable-Output Functions, August 2015, Section 999.129 and Section 999.136.
7. FIPS 140-2, Security Requirements for Cryptographic Modules, May 2001 (change notice dated, December 2002), Section 999.129 and Section 999.137.
8. Application for Withdrawal, Form # ERDS 0010, May 2011, Section 999.196.
9. Request for Replacement of Certificate and/or Documents, Form # ERDS 0006, May 2011, Section 999.197.

MANDATED BY FEDERAL  
LAW OR REGULATIONS

The proposed regulations are not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS

None.

DISCLOSURES REGARDING THE  
PROPOSED REGULATION

The DOJ has made the following initial determinations:

**Local Mandate/Fiscal Impact**

The DOJ has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandates to any local agency or school district, whether or not reimbursable by the State pursuant to GC, Title 2, Division 4, Part 7 (commencing with Section 17500), or other nondiscretionary costs or savings to State or local agencies.

**Housing Costs**

The DOJ has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete**

The DOJ has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

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

**Effect on Jobs/Businesses**

The DOJ has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, or the creation of new business or elimination of existing businesses, or the expansion of businesses currently doing business within the State of California. This determination is based on the fact that this proposed action will not impose any significant cost or other adverse economic impact on entities who voluntarily use ERDS. Furthermore, this proposed action would have no impact on any other businesses or jobs.

**Benefits of the Proposed Regulation**

By clarifying and making specific aspects of the ERDS requirements and standards, these proposed regulations further the objectives of ensuring the security of the ERDS, which includes protecting the public from fraud, thus protecting the safety, welfare, and privacy of the citizens of California.

COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES

The DOJ is not aware of any cost impacts that a representative private person or business would necessarily

incur in reasonable compliance with the proposed action.

BUSINESS REPORT

The proposed regulations will not require the submission of reports from a business.

SMALL BUSINESS

The proposed regulations will have no significant economic impact on small businesses and private persons. The proposed regulations affect only those individuals who voluntarily elect to use an ERDS. The DOJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ALTERNATIVES INFORMATION

Before taking final action on the amendments, the DOJ 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, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected persons and equally effective in implementing the statutory policy or other provision of law.

The DOJ invites interested persons to present statements or arguments, with respect to alternatives, to the proposed regulations during the 45-day written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the designated agency contact persons: Mike VanWinkle, Department of Justice Administrator I, Bureau of Criminal Identification and Investigative Services, at (916) 210-3157. The back-up contact for these inquiries is John Navarrete, Field Representative, Bureau of Criminal Identification and Investigative Services, at (916) 210-4237.

AVAILABILITY OF DOCUMENTS

The DOJ has prepared an Initial Statement of Reasons (ISOR) for the proposed rulemaking action and a listing of the exact regulations proposed.

Copies of the ISOR and the full text of the proposed regulatory language, or other information upon which

the rulemaking is based may be obtained from the DOJ contact persons in this notice, or may be accessed through the Attorney General's website below.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

This regulatory proceeding will be conducted in accordance with the California Administrative Procedure Act, GC, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340).

After the DOJ analyzes all timely and relevant comments received during the 45-day public comment period, the DOJ will either adopt the regulations as described in this notice, or make modifications based on the comments. If the DOJ makes modifications which are sufficiently related to the original text of the proposed regulations, the amended text, with the changes clearly indicated, will be made available for an additional 15-day public comment period, before the DOJ adopts the regulations. The DOJ will accept written comments on the modifications to the regulations during the 15-day public comment period.

AVAILABILITY OF FINAL  
STATEMENT OF REASONS

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

AVAILABILITY OF  
DOCUMENTS ON THE INTERNET

This notice, the ISOR, and all subsequent regulatory documents for this rulemaking are available on the Attorney General's website at <http://oag.ca.gov/meetings/public-participation>.

**TITLE 14. SAN FRANCISCO  
BAY CONSERVATION AND  
DEVELOPMENT COMMISSION**

California Code of Regulations  
Title 14, Division 5, Appendix M

Amend Permit Application Fees

PUBLIC HEARING

The San Francisco Bay Conservation and Development Commission (Commission) will hold a public hearing on April 18, 2019 at its regularly scheduled meeting, which begins at 1:00 p.m., at Bay Area Metro Center, 375 Beale Street, San Francisco, California. The Commission's hearing will concern proposed changes to the Commission's permit application fees that are codified at Title 14 of the California Code of Regulations, Division 5, Appendix M. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest (below).

Following the public hearing, the Commission may adopt the proposal substantially as described below or may modify the proposal. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for at least 15 days prior to its adoption from the person designated in this Notice as contact person. Any proposed modifications will be mailed to those persons who submit written comments, provide oral testimony, or have requested notification of any changes to the proposal. Please notify the Commission to receive a meeting notice and any notices of change to the hearing date (see Contact Person, below).

WRITTEN COMMENT PERIOD

Any person or organization may submit written comments on the proposed regulatory action. The written comment period closes at 5 p.m. on April 19, 2019. The Commission will only consider comments received by that time. Please submit written comments to:

Marc Zeppetello, Chief Counsel  
San Francisco Bay Conservation and Development  
Commission  
455 Golden Gate Avenue, Suite 10600  
San Francisco, California 94102  
Telephone: (415) 352-3655  
Email: [marc.zeppetello@bcdca.gov](mailto:marc.zeppetello@bcdca.gov)

AUTHORITY AND REFERENCE

Authority: California Government Code Section 66632(f) and California Public Resources Code Section 29201(e).

Reference: California Government Code Section 66632(c) and California Public Resources Code Section 29520(b).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, Appendix M to the Commission’s regulations contains a schedule of permit application fees that are categorized by the type of permit application. The fees were established with the goal of recovering from permit applicants 20% of the total costs of the Commission’s regulatory program. Appendix M establishes procedures for recalculating the fees every five years to continue to recover 20% of the Commission’s total regulatory program costs. The Commission proposes to amend Appendix M: (1) to double all existing permit application fees; and (2) to increase the percentage of the Commission’s total regulatory program costs recovered from permit application fees from 20% to 40%. Under the proposal, the permit application fees would be recalculated every five years. The fees could increase or decrease, depending on whether the fees collected annually during the prior five years were less than or greater than an amount equal to 40% of the average total cost of the Commission’s regulatory program. More details are contained in the accompanying Initial Statement of Reasons.

Anticipated Benefits of the Proposed Regulation

The broad objective of the proposed action is that doubling the Commission’s permit application fees would increase the permit fee revenue deposited into the State General Fund to provide reimbursement for disbursements from the General Fund that are used to support the Commission’s regulatory program. The specific benefits of the Commission’s regulatory program, which would be supported by the proposed action, include preventing unnecessary fill in San Francisco Bay, providing public access to the Bay shoreline, promoting the implementation of appropriate measures to adapt to sea level rise, and assuring compliance with state law and permit conditions governing development and other activities in and adjacent to the Bay.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Commission has evaluated whether or not the proposed amended regulations would be inconsistent or incompatible with existing state regulations and has found that Appendix M to the Commission’s regula-

tions are the only state regulations concerning permit application fees under the McAteer–Petris Act or the Suisun Marsh Preservation Act. Therefore, the proposed amended regulations are neither inconsistent nor incompatible with existing state regulations.

INITIAL DETERMINATIONS REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

Cost or savings to any state agency: The cost to state agencies to apply for a Commission permit would increase, but the increased cost would not be significant compared to the agency’s total project costs. An analysis of economic and fiscal impacts is contained in the Economic and Fiscal Impact Statement (Form 399), particularly the supplement thereto.

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

Other nondiscretionary cost or savings imposed on local agencies: None.

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

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

Cost impacts on a representative private person or business: The cost to private persons or businesses to apply for a Commission permit would increase, but the increased cost would not be significant compared to the applicant’s total project costs. An analysis of economic and fiscal impacts is contained in the Economic and Fiscal Impact Statement (Form 399), including the supplement thereto.

Significant effect on housing costs: None.

Results of the Economic Impact Assessment: This proposed action would not create or eliminate jobs within California, create new businesses or eliminate existing businesses within California, or affect the expansion of businesses currently doing business within California. The benefit of the proposed action to the health and welfare of California residents and the state’s environment is that increased permit fee revenue would be deposited into the State General Fund to provide reimbursement for disbursements from the General Fund that are used to support the Commission’s regulatory program. The benefits of the Commission’s regulatory program, which would be supported by the proposed action, include preventing unnecessary Bay fill, providing public access to the Bay shoreline, promoting the implementation of appropriate measures to adapt to sea level rise, and assuring compliance with state law and



permit conditions governing development and other activities in and adjacent to the Bay.

Business reporting requirements: None.

Small Business Determination: The Commission has determined that the proposed regulatory changes will affect small businesses by increasing the permit application fees for all projects. The increased cost would not be significant compared to the applicant's total project costs.

### CONSIDERATION OF ALTERNATIVES

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

A number of alternatives to the proposed regulatory action are described in the accompanying Initial Statement of Reasons. The Commission invites interested persons to present comments on the proposed action and alternatives at the scheduled hearing or during the written comment period.

### CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

Marc Zeppetello, Chief Counsel  
 San Francisco Bay Conservation and Development  
 Commission  
 455 Golden Gate Avenue, Suite 10600  
 San Francisco, CA 94102  
 Telephone: (415) 352-3655  
 Email: [marc.zeppetello@bcdca.gov](mailto:marc.zeppetello@bcdca.gov)

The backup contact person for these inquiries is:

Jaidev Kalra, Legal Secretary  
 San Francisco Bay Conservation and Development  
 Commission  
 455 Golden Gate Avenue, Suite 10600  
 San Francisco, CA 94102  
 Telephone: (415) 352-3675  
 Email: [jaidev.kalra@bcdca.gov](mailto:jaidev.kalra@bcdca.gov)

### AVAILABILITY OF TEXT OF THE REGULATIONS AND THE INITIAL STATEMENT OF REASONS AND PLAIN ENGLISH DETERMINATION

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date that this notice is published in the Notice Register, the rulemaking file consists of:

- (1) this Notice;
- (2) the proposed text of the amended regulations;
- (3) the Initial Statement of Reasons;
- (4) the Economic and Fiscal Impact Statement (Form 399) and supplement thereto;
- (5) Staff Report and Recommendation to Commence Rulemaking to Revise Permit Application Fees and Other Amendments to Title 14, Division 5, Appendix M (January 26, 2018);
- (6) Approved Minutes of February 1, 2018 Commission Meeting (March 9, 2018), at 5-12;
- (7) California Coastal Commission, Initial Statement of Reasons for Proposed Amendments of the Coastal Commission's Filing Fee Regulations (prepared for comment period commencing September 14, 2007 and ending October 29, 2007);
- (8) California Coastal Commission, Schedule of Filing Fees for Processing Permit Applications and Other Filings. 14 C.C.R. section 13055 (2019);
- (9) City and County of San Francisco, San Francisco Planning Fee Schedule, Effective August 31, 2018;
- (10) City of Berkeley, Planning and Building Department, Permit Fee Chart, Effective July 1, 2017;
- (11) Contra Costa County, Land Development Fee Schedule, Effective August 22, 2016, Building Permit Fees (Table 1-A); and
- (12) City of Fremont, Building and Safety Division, Plans and Permits Division, Building Permit Fee Schedule, Effective July 1, 2015.

Copies of these documents may be obtained from the Commission's website at [www.bcdca.gov](http://www.bcdca.gov) under the link to regulatory actions. Copies may also be obtained by contacting Marc Zeppetello at the address, telephone number, or email address listed above.

The proposed regulations were prepared pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are non-

technical and written to be easily understood by the affected parties.

**AVAILABILITY OF CHANGES OR  
MODIFIED TEXT**

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

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon the Commission's adoption of the regulations, copies of the Final Statement of Reasons may be obtained by contacting Marc Zeppetello at the above address.

**AVAILABILITY OF THE  
DOCUMENTS ON THE INTERNET**

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the proposed changes to the amended regulations (in strikeout and underlined format), as well as the Final Statement of Reasons once it is completed, can be obtained from the Commission website at [www.bcdc.ca.gov](http://www.bcdc.ca.gov).

**TITLE 17. AIR RESOURCES BOARD**

**NOTICE OF PUBLIC HEARING TO  
CONSIDER PROPOSED AMENDMENTS TO  
THE CALIFORNIA AIR RESOURCES  
BOARD'S CERTIFIED REGULATORY  
PROGRAM IN THE CALIFORNIA CODE OF  
REGULATIONS, TITLE 17,  
SECTIONS 60000-60007**

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed amendments to CARB's Certified Regulatory Program as outlined in the Administrative Proce-

dures for Board Meetings and Hearings, California Code of Regulations, title 17, sections 60000-60007.

DATE: May 23, 2019

TIME: 9:00 a.m.

LOCATION: California Environmental Protection  
Agency  
California Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., May 23, 2019, and may continue at 8:30 a.m., on May 24, 2019. Please consult the agenda for the hearing, which will be available at least ten days before May 23, 2019, to determine the day on which this item will be considered.

**WRITTEN COMMENT PERIOD AND  
SUBMITTAL OF COMMENTS**

Interested members of the public may present comments orally or in writing at the hearing and may provide written comments by postal mail or by electronic submittal as set forth below.

The public comment period for this regulatory action will begin on March 1, 2019. Written comments not submitted in person at the hearing must be submitted on or after March 1, 2019, to the electronic docket (see link below), and must be received **no later than 5:00 p.m. on April 15, 2019**. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff as soon as possible any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

Clerk of the Board, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal (Docket):

<http://www.arb.ca.gov/lispub/comm/bclist.php>

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

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal (i.e., "Proposed Amendments to CARB's Certified Regulatory Program") in their comments to facilitate review.

## AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39600 and 39601. This action is proposed to implement, interpret, and make specific section 21080.5, Public Resources Code.

INFORMATIVE DIGEST OF PROPOSED  
ACTION AND POLICY STATEMENT OVERVIEW  
(GOV. CODE, § 11346.5, subd. (a)(3))

**Sections Affected:** Proposed amendment to California Code of Regulations, title 17, sections 60000, 60002, 60003, 60004, 60005, 60006, and 60007; and proposed adoption of sections 60004.1, 60004.2, 60004.3, and 60004.4.

**Background and Effect of the Proposed Regulatory Action:**

These proposed regulatory amendments further describe and update the procedures set forth in California Code of Regulations, title 17, sections 60000 through 60007 that, in part, constitute CARB's "certified regulatory program" under Public Resources Code section 21080.5 (hereafter section 21080.5). CARB's certified regulatory program is considered to be a California Environmental Quality Act (CEQA) equivalent process, which will be updated through this proposal to further describe CARB procedures for the preparation and adoption of environmental analyses regarding projects that may significantly affect the environment.

CEQA requires public agencies to analyze and disclose the potentially significant environmental impacts that may result from their discretionary approval decisions. CEQA also requires such agencies to avoid or mitigate those impacts, if feasible. (Pub. Resources Code § 21100). State agencies may develop their own CEQA-equivalent regulatory programs, and may seek certification of those programs by the Natural Resources Agency. (Pub. Resources Code § 21080.5). This certification exempts agencies from Chapters 3 and 4 of CEQA (Division 13 of the Public Resources Code), because the environmental analysis involved in the regulatory program is deemed to be the functional equivalent of traditional CEQA documentation. (Public Resources Code § 21080.5(c); 14 California Code of Regulations (CCR) §§ 15250–53).

In 1978, CARB received certification of its regulatory program by the Secretary of Natural Resources. The certification documents from the Secretary of Resources issued in August 1978 certified the portion of CARB's regulatory program involving the adoption or approval of standards, rules, regulations or plans to be used in the regulatory program for the protection and

enhancement of the ambient air quality of California as meeting the requirements for certification under Public Resources Code section 21080.5.

After receiving its certification, CARB amended its CEQA regulations twice. The first amendments, in 1980, were in response to legislative changes to the Administrative Procedure Act that imposed some requirements that needed to be incorporated into the regulations. The next amendments were approved in September 1981 in response to Assembly Bill 1111<sup>1</sup>, which required all agencies to review all regulations on the basis of five statutory criteria (necessity, clarity, consistency, authority, and reference). In response, CARB shortened the then-existing regulations to "eliminate unnecessary repetition of statutory provisions and other excess verbiage, add references to appropriate statutes, and simplify or clarify language in those regulations proposed for retention."

The 1981 amendments significantly shortened the provisions in section 60000–60007, particularly those portions related to environmental analysis requirements. Since 1981, CARB has not amended the procedures for its certified regulatory program; however, the CEQA statute and guidelines have been amended numerous times, and CEQA case law has evolved considerably. The proposed regulatory amendments are intended to address these developments.

CARB is proposing to update its certified regulatory program to more fully set forth its CEQA review procedures. Proposed changes include to further specify notice and comment requirements, exemptions, definitions, and the different procedures that will apply to different types of CARB environmental review. Such changes will bring greater efficiency, transparency, and certainty to CARB's planning and rulemaking processes by creating a more uniform and clear environmental review process. It will also improve alignment with current CEQA principles.

**Objectives and Benefits of the Proposed Regulatory Action:**

The objectives of the proposed amendments are to more fully set forth the procedures CARB follows, to harmonize CARB's procedures with established CEQA principles where appropriate, harmonize the regulation to the statutory requirements, to eliminate regulatory ambiguity, to add greater specificity to CARB's environmental review process, and to update reference citations. Such changes will bring greater efficiency to rulemakings by creating a more consistent, uniform, and clear environmental review process. The amendments align with Public Resource Code section 21080.5, which sets forth the certified regulatory program requirements. Additionally, certain reference citations

<sup>1</sup> 1981 rulemaking record for Board Resolution No. 81–61.



would also be updated to delete inapplicable and outdated citations. There are no expected benefits to worker safety, and public health and safety as a result of this rulemaking.

**Comparable Federal Regulations:**

CARB is not aware of any federal regulations that are directly comparable to CEQA and CARB’s certified regulatory program.

**An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):**

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing State regulations.

DISCLOSURE REGARDING THE PROPOSED REGULATION

**Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subs. (a)(5)&(6)):**

The determinations of the Board’s Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

**Fiscal Impact/ Local Mandate:**

Pursuant to Government Code sections 11346.5(a)(5) and (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandates to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, Title 2, Division 4, Part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

**Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):**

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant effect on housing costs, because it has no economic impact.

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):**

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of Califor-

nia businesses to compete with businesses in other states, or on representative private persons.

**Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):**

**Effect on Jobs/Businesses in the State:**

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. The Staff Report: Initial Statement of Reasons for Public Hearing to Consider Proposed Amendments to the California Air Resources Board’s Certified Regulatory Program in the California Code of Regulations, Title 17, Sections 60000–60007 (ISOR) provides the finding of no economic impact in Section VII.

**Benefits of the Proposed Amendments to the Regulation:**

The objectives of the proposed amendments to the regulation are to more fully set forth the procedures CARB follows, to harmonize CARB’s procedures with established CEQA principles where appropriate, to eliminate regulatory ambiguity, and to update reference citations. A summary of these benefits is provided under “Objectives and Benefits,” in the Informative Digest of Proposed Action and Policy Statement Overview pursuant to Government Code, section 11346.5(a)(3) discussion in this Notice.

**Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):**

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. CARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subs. (a) and (b)):**

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the regulation involves administrative changes to further describe existing practices and to update outdated references; therefore it has no potential for economic impact on small businesses.

**Consideration of Alternatives (Gov. Code, § 11346.5, subd. (a)(13)):**

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the pur-



pose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. CARB has preliminarily made this determination.

#### ENVIRONMENTAL ANALYSIS

CARB, as the lead agency under CEQA, has reviewed the proposed regulatory action and concluded that it is exempt pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15061(b)(3), because it can be seen with certainty that there is no possibility that the proposed action may result in significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Section V of the ISOR.

#### SPECIAL ACCOMMODATION REQUEST

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

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

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

#### AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Rebecca Fancher, Staff Air Pollution Specialist, Legal Office at (916) 324-1550, or (designated back-up contact) Nicholas Rabinowitsh, Senior Counsel, Legal Office at (916) 322-3762.

#### AVAILABILITY OF DOCUMENTS

CARB staff has prepared an ISOR for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Staff Report: Initial Statement of Reasons for Public Hearing to Consider Proposed Amendments to the California Air Resources Board's Certified Regulatory Program in the California Code of Regulations, Title 17, Sections 60000-60007. Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on February 26, 2019.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Brad Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

During this process, CARB may propose additional modifications to the proposed regulatory text, which would be made available to the public, for written comment, at least 15-days before final adoption. Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the

modifications clearly indicated, will be made available to the public, for written comment, at least 15–days before final adoption.

**FINAL STATEMENT OF  
REASONS AVAILABILITY**

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this Notice, or may be accessed on CARB’s website listed below.

**INTERNET ACCESS**

This Notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB’s website for this rulemaking at: <https://ww2.arb.ca.gov/rulemaking/rulemaking/2019/amendmentstocrp>.

**TITLE 24. BUILDING STANDARDS  
COMMISSION**

**NOTICE OF PROPOSED ACTION TO  
BUILDING STANDARDS OF THE OFFICE OF  
STATEWIDE HEALTH PLANNING AND  
DEVELOPMENT (OSHPD) REGARDING  
AMENDMENTS TO THE 2016 CALIFORNIA  
ADMINISTRATIVE CODE CALIFORNIA  
CODE OF REGULATIONS, TITLE 24, PART 1**

**(OSHPD EF 01/18)**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Office of Statewide Health Planning and Development (OSHPD) to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1, OSHPD is proposing building standards related to the 2016 California Administrative Code.

**PUBLIC COMMENT PERIOD**

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted for **45–days from March 1, 2019, until 5:00 p.m. on April 15, 2019.**

Please address your comments to:

**California Building Standards Commission**  
Attention: Mia Marvelli, Executive Director  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833

Written comments may also be emailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST–HEARING MODIFICATIONS TO THE  
TEXT OF THE REGULATIONS**

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15–day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

**AUTHORITY AND REFERENCE**

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Section 130062 and 130066.

OSHPD is proposing this regulatory action based on Health and Safety Code Sections 1226, 1275, 18928, 18929, 129790 and 129850 and Government Code Section 11152.5.

**INFORMATIVE DIGEST**

Reference: Government Code Section 11346.5(a)(3).

**Summary of Existing Laws**

Health and Safety Code, Section 129850 authorizes the Office to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. The office is also authorized to submit to the California Building Standards Commission for approval and adoption of building standards related to the seismic safety of hospital buildings.

Health and Safety Code, Section 18929 allows the California Building Standards Commission, in conjunction with OSHPD, to adopt building standards pursuant to Health and Safety Code Section 18930 and the Government Code (commencing with Section 11346).

**Summary of Existing Regulations**

OSHPD currently enforces the California Code of Regulations, Title 24, Part 1, 2016 California Administrative Code (CAC). OSHPD enforces requirements related to the construction of hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Volumes 1 & 2 of the 2016 CBC.

**Summary of Effect**

The purpose of this proposed action is to implement Assembly Bill 2190, Chaptered as 673, adding Sections 130062 and 130066 to the California Health and Safety Code. By imposing requirements under the Hospital Facilities Seismic Safety Act for owners of hospitals with regard to extension applications, the statute expands the scope of a crime, thereby imposing a state-mandated local program. The emergency regulations implement the related standards into the California Building Standards Code.

**Comparable Federal Statute or Regulations**

There are no comparable federal statute or regulations related to this proposed action.

**Policy Statement Overview**

The intent of this proposal is to amend the administrative regulations, as necessary, for health facility construction, pursuant to Health and Safety Code Section 18928. OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers.

**Evaluation of Consistency**

The proposed regulation is consistent and compatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY  
STATUTE APPLICABLE TO THE AGENCY OR  
TO ANY SPECIFIC REGULATION OR  
CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).  
There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).  
OSHPD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).  
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **NO**.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**.
- E. Cost or savings in federal funding to the state: **NO**.  
Estimate: None.

INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).  
OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).  
OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its ini-

tial determination of no statewide adverse economic impact. The scope of the proposed action is to make technical amendments to the administrative regulations of the 2016 California Administrative Code.

FINDING OF NECESSITY FOR THE PUBLIC’S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

A report pursuant to Government Code §11346.3(d) is not required by these proposed regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9). OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

OSHPD has assessed whether or not, and to what extent, this proposal will affect the following:

- A. **The creation or elimination of jobs within the State of California.**  
There will be no adverse impact.
- B. **The creation of new businesses or the elimination of existing businesses within the State of California.**  
There will be no significant adverse impact.
- C. **The expansion of businesses currently doing business within the State of California.**  
There will be no adverse impact.
- D. **The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.**  
There will be no significant adverse impact.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

Proposal does not impact housing cost, since regulations does not cover housing. Housing is outside OSHPD jurisdiction.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

OSHPD has determined that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to the attention of OSHPD 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 provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: [www.dgs.ca.gov/bsc](http://www.dgs.ca.gov/bsc).

Reference: Government Code Section 11346.5(a)(19).

Interested parties 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 at the CBSC website: [www.dgs.ca.gov/bsc](http://www.dgs.ca.gov/bsc).

Reference: Government Code Section 11346.5(a)(21).

OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.



CBSC CONTACT PERSON FOR PROCEDURAL  
AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section  
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Gary L. Fabian, AIA  
Associate Architect  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT  
PERSON FOR SUBSTANTIVE AND/OR  
TECHNICAL QUESTIONS ON THE PROPOSED  
CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Diana Scaturro, Supervisor, Building Standards  
Unit  
Office of Statewide Health Planning and  
Development  
Facilities Development Division  
(916) 440-8300  
FAX (916) 324-9187  
[regsunit@oshpd.ca.gov](mailto:regsunit@oshpd.ca.gov)

Eric Jacobsen, Senior Architect  
Office of Statewide Health Planning and  
Development  
Facilities Development Division  
(916) 440-8300  
FAX (916) 324-9187  
[regsunit@oshpd.ca.gov](mailto:regsunit@oshpd.ca.gov)

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF  
FISH AND WILDLIFE**

**CALIFORNIA ENDANGERED SPECIES ACT  
CONSISTENCY DETERMINATION  
NO. 2080-2019-001-05**

**Project:** Cielo Vista Residential Development Project

**Location:** County of Orange

**Applicant:** North County BRS Project LLC

**Notifier:** VCS Environmental, as represented by Wade Caffrey

**Background**

North County BRS Project LLC (Applicant) proposes to develop 80 single family homes and associated infrastructure on 34.36 acres of an 84.78-acre property, in unincorporated Orange County, within the City of Yorba Linda Sphere of Influence. The Cielo Vista Residential Project (Project) includes upland and riparian vegetation clearing, grading, and 0.15 acres of stream infill within the 34.36-acre development footprint, and the creation and ongoing maintenance of an 8.04-acre fuel modification zone and water quality basin. Total construction is anticipated to last three years: grading and site preparation will occur over a period of approximately 12 months, and phased construction will occur over the following 24 months. An open space area of 33.59 acres, of which 3.06 acres are subject to a utility easement, will be restored, preserved, and managed north of the residential development (referenced as the "Preserve"). (See Figures 1-3 of the BO.)

The Project activities described above are expected to incidentally take<sup>1</sup> one pair (two individuals) of least Bell's vireo (*Vireo bellii pusillus*) where those activities take place within 0.86 acres of riparian vegetation that will be cleared. Least Bell's vireo could be incidentally taken as a result of the activities associated with vegetation clearing, such as nest abandonment due to noise disturbance, injury or death associated with felled vegetation, crushing of nests from heavy equipment, et cetera. Least Bell's vireo is designated as an endangered species pursuant to the federal Endangered Species Act

<sup>1</sup> 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").

(ESA) (16 U.S.C. § 1531 et seq.) and an endangered species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (a)(5)(l).)

Least Bell's vireo are documented at the Project site and occupied least Bell's vireo habitat occurs within and adjacent to the Project site. Based on the proximity of documented least Bell's vireo, dispersal patterns of least Bell's vireo, and the presence of suitable least Bell's vireo habitat within the Project site, the United States Fish & Wildlife Service (Service) determined that least Bell's vireo is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of least Bell's vireo.

According to the Service, construction of the Project will result in the permanent loss of 0.86 acre of occupied least Bell's vireo habitat.

Because the Project is expected to result in take of a species designated as endangered under the federal ESA, the United States Army Corps of Engineers (USACOE) consulted with the Service as required by the ESA. On December 21, 2018, the Service issued a biological opinion (Service file No. FWS-OR-12B0346-18F0405) (BO) to the USACOE. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

The BO also requires the Applicant to implement and adhere to measures contained within the Project Environmental Impact Report (EIR; SCH# 2012071013) and Streambed Alteration Agreement (SAA; 1600-2017-0170-R5; see Fish and Game Code §1600 et seq.).

On January 17, 2018, the Director of the Department of Fish and Wildlife (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 least Bell's vireo. (Cal. Reg. Notice Register 2019, No. 5-Z, p. 199.)

**Determination**

CDFW has determined that the BO, including the ITS, is consistent with CESA as to the Project and least Bell's vireo because the mitigation measures contained in the BO, ITS, and EIR 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 least Bell's vireo will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO, ITS, and EIR, will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimiza-

tion and mitigation measures and to monitor compliance with, and effectiveness of, those measures; and (4) the Project will not jeopardize the continued existence of least Bell's vireo. The mitigation measures in the BO, ITS, and EIR include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- By December 21, 2019, or prior to the termination of an extension, if such an extension is requested by the Applicant and granted by the Service and CDFW, Applicant will place a conservation easement (CE) over the 33.59-acre open-space Preserve.

The draft of the CE will be made available to the Service and CDFW by May 21, 2019. Any entity designated as Grantee must be approved by the Service and CDFW and be on the list of entities that are qualified by the State of California to hold and manage mitigation lands.

- Applicant will provide mitigation for permanent impacts to 0.86 acre of occupied vireo habitat through the enhancement of 7.5 acres of existing southern willow scrub and elderberry woodlands within the Preserve. Maintenance of this area will continue until the CE is recorded and the site is observed to have less than 5 percent cover of invasive woody species.
- Applicant will provide a long-term management plan (LTMP) for the Preserve, which will be reviewed for approval by the Service and CDFW. This document will describe in detail the CE, endowment funding, responsibilities, ongoing programs, and other features as outlined in the BO.
- As part of the LTMP, Applicant will contract a Service- and CDFW-approved entity for a long-term cowbird trapping program within the Preserve. Trapping will occur between March 15 and September 15, during least Bell's vireo nesting season.
- Applicant will submit to the Service in writing the names, recovery permit numbers, and resumes of all proposed biologists for approval, and proposed activities will not begin until biologist(s) have been approved by the Service. Although not a condition of the BO, CDFW requests to review and approve biologists. The approved biologists will have the authority to stop work or activities that do not comply with the BO.
- Applicant will only clear and remove vegetation between September 1 and February 14, outside the least Bell's vireo nesting season.

- If vegetation clearing is to occur within 500 feet of least Bell's vireo habitat from February 15 through August 31 (vireo nesting season), approved biologists will conduct weekly surveys to determine if impacts to least Bell's vireo will occur. Approved biologists will establish appropriate buffers if any active nests are detected, until the nest is no longer active.
- Applicant will conduct a contractor education program for all personnel prior to the beginning of project activities that will include a description of least Bell's vireo, construction limits, and avoidance and minimization measures that will be implemented.
- Approved biologists will delineate the limits of areas to be graded such that they are clearly visible to personnel. This includes the limits of the fuel modification zones, which will undergo vegetation thinning.
- Applicant will follow general construction best management practices, as outlined in the BO, which include: the use of erosion control equipment, limiting the staging and maintenance of equipment to within fenced grading limits, the presence of fire suppression equipment during all construction activities, limiting smoking to designated smoking areas with sand boxes, and the proper storage and removal of trash and debris.
- Applicant will minimize the ongoing impact of residences proximate to the Preserve by directing light away from conserved areas, avoiding the use of invasive species in landscaping, educating home buyers regarding the Preserve, and documenting Preserve and fuel-modification zone best management practices into HOA CC&Rs, as outlined in the BO.

Monitoring and Reporting Measures

- Applicant will provide monthly summary reports to the Service of project activities throughout construction. Although not a condition of the BO, CDFW also requests a copy of the summary reports.
- Applicant will provide a final report within 60 days of completed construction, which shall include: as-built construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were to be avoided before and after construction, and a summary which documents that impacts were not exceeded and that compliance with the BO was achieved.
- Approved biologists will conduct twice-weekly inspections of areas which have been cleared of

vegetation to monitor for any unauthorized impacts to least Bell's vireo; any such impacts will be reported to the Service immediately. Although not a condition of the BO, CDFW also requests to be notified of these impacts.

Financial Assurances

- Applicant will transfer a non-wasting endowment for the purposes of implementing the LTMP to the San Diego Foundation in the amount of \$382,040, prior to the commencement construction activities. Applicant will be responsible for maintaining the Preserve in accordance with the LTMP in the interim until management of the Preserve is transferred to a Service- and CDFW-approved land manager.
- Applicant will secure funding for the implementation of the LTMP, including interim management and long-term management, through a Letter of Credit (LOC) for a total of \$450,700. This LOC will be secured prior to initiation of vegetation clearing and will be released when the CE is recorded, the non-wasting endowment is funded, and management responsibilities are transferred to the approved land manager.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of least Bell's vireo, 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 EIR. If there are any substantive changes to the Project, including changes to the EIR, or if the Service amends or replaces the BO or ITS, 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, §§ 2080.1, 2081, subs. (b) and (c)).

CDFW acknowledges that the BO addresses coastal California gnatcatcher (*Poliptila californica californica*), a species designated as threatened under the ESA, and not listed under CESA. This species is known to occur within the Project site. The Service determined in the BO and ITS that, for purposes of the ESA, mortality or injury to individual coastal California gnatcatcher could occur. The Service authorized such take under the ESA, requiring the Applicant to implement various avoidance and minimization measures for the species. The Applicant is aware that, for the purposes of CESA, take of coastal California gnatcatcher as defined by state law is not prohibited, except as defined by the Fish and Game Code (see Fish and Game Code §§ 3503, 3503.5, 3511 and 3513). CDFW's determination that



the Service BO and ITS are consistent with CESA is limited to least Bell's vireo.

By:   /s/  

Chad Dibble, Deputy Director  
Ecosystem Conservation Division  
California Department of Fish and Wildlife

Date: 2/14/19

**DEPARTMENT OF  
FISH AND WILDLIFE**

**HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION NO.  
1653-2019-031-001-R1**

**Project:** Little Lost Man Creek Project

**Location:** Humboldt County

**Applicant:** California Department of Transportation

**Background**

California Department of Transportation requests permission conduct a fish passage project at the Little Lost Man Creek crossing located on U.S. Highway 101 at post mile 124.49 in Humboldt County. The project proposes to replace a culvert with a single span bridge to facilitate juvenile and adult salmonids and other native fishes passage into and out 6600 feet of habitat upstream. The bridge will span the channel and is intended to restore natural hydrologic function. The project was initiated to provide unimpeded access for fish, and is not based on a transportation need.

**Project Location:** The Little Lost Man Creek Project (Project) is located on Little Lost Man Creek, a tributary of Prairie Creek in the Redwood Creek Hydrologic Unit 107.10. The site is located 2.5-miles north of Orick on U.S. Highway 101 (US 101) at latitude 41.328210°N, and longitude 124.030233°W. Little Lost Man Creek supports amphibian populations of northern red-legged frog (*Rana aurora*), coastal tailed frog (*Ascaphus truei*), and southern torrent salamander (*Rhyacotriton variegatus*). Fish species include Pacific lamprey (*Entosphenus tridentatus*), western brook lamprey (*Lampetra richardsoni*), coastal cutthroat trout (*Oncorhynchus clarkii clarkii*), coho salmon (*Oncorhynchus kisutch*), and Chinook salmon (*Oncorhynchus tshawytscha*).

**Project Description:** The California Department of Transportation (Applicant), in conjunction with the

Federal Highway Administration (FHWA), proposes to replace an existing double-reinforced concrete box culvert with a single-span bridge. This project was initiated based on its merits towards facilitating fish passage. The Project includes: (1) construction of a new bridge abutment and demolition of the existing culvert, (2) creation of a roughened channel to simulate the adjacent stream channel underneath the proposed bridge, and (3) bank and floodplain restoration and stabilization downstream of the proposed bridge.

**Project Size:** The total area of ground disturbance associated with the Project is approximately 0.236 acres and 300 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

**Project Associated Discharge:** The Project, as designed, plans to discharge soil, rock rip-rap, native vegetation, and large woody material into Waters of the State, as defined by Water Code section 13050 subdivision (e). Discharge from Little Lost Man Creek would be contained within an approximately 300 foot clear water diversion. A temporary increase in turbidity may occur during the installation and removal of the clear water diversion.

**Project Timeframes:**

Start date: Pre Construction: 23 July, 2020

Completion date: 3 December 2020

Work window: June 2020-December 2020

**Water Quality Certification Background:** Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 6600 feet of spawning and rearing habitat, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B180166WNHU, Electronic Content Management Identification (ECM PIN) No ECM PIN No. CW-853960) for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts affected species.

Receiving Water: Little Lost Man Creek, tributary to Prairie Creek, thence Redwood Creek.



Filled or Excavated Area:

- Permanent Area Impacted: None
- Temporary Area Impacted: 0.1 acres of stream channel
- Temporary Area Impacted: 0.056 acres of riparian area

Total Linear Impacts:

- Permanently Impacted: None
- Temporarily Impacted: 300 ft. stream
- Temporary Impacted: 100 ft. riparian

Project Location:

- Latitude: 41.328210 degrees N
- Longitude: 124.030233 degrees W

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On January 14, 2019, the Director of CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project. Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on January 15, 2019 for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2019-0115-06) on January 25, 2019. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

**Determination**

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board’s Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

**Avoidance and Minimization Measures**

The avoidance and minimization measures for Project, as required by Fish and Game Code section

1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction-period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post-construction and Sediment Control and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI.

**Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in the attachment “Biological Survey Report and Avoidance and Minimization Measures” to the NOI.

**Notice of Completion**

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID No. 1B180166WNHU, ECM PIN No. CW-853960;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant’s NOI. Applicant shall include the project name, WDID No. 1B180166WNHU, ECM PIN No. CW-853960 with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: [seth.ricker@wildlife.ca.gov](mailto:seth.ricker@wildlife.ca.gov).

**Project Authorization**

Pursuant to Fish and Game Code section 1654, CDFW’s approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Addi-

tionally, Applicant must adhere to all measures contained in the approved NOA, and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & G. Code, § 1654, subd. (c).)

By:   /s/  

Chad Dibble, Deputy Director  
Ecosystem Conservation Division  
California Department of Fish and Wildlife

Date: 2/12/19

**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# 2019-0107-02  
BOARD OF EDUCATION  
California High School Exit Examination

This change without regulatory effect filing by the Board of Education repeals twenty five sections in title 5 of the California Code of Regulations regarding the California High School Exit Examination (CAHSEE). These regulations were authorized pursuant to Education Code section 60850, which was repealed in Assembly Bill 830 (Stats. 2017, ch. 641, sec. 16). This repeal removed the requirement for the CAHSEE as a condition of graduation.

Title 5  
REPEAL: 1200, 1202, 1203, 1204, 1204.5, 1205, 1206, 1207, 1207.1, 1207.5, 1208, 1209, 1210, 1211, 1211.5, 1215, 1215.5, 1216, 1216.1, 1217, 1218, 1218.6, 1219, 1220, 1225  
Filed 02/19/2019  
Agency Contact: Hillary Wirick (916) 319-0860

File# 2019-0205-01  
BOARD OF FORESTRY AND FIRE PROTECTION  
Emergency Rulemaking to Implement Legislative Changes to the WFMP

The Board of Forestry and Fire Protection is amending the Working Forest Management Plan pursuant to Senate Bill 901 (Stats. 2018, c. 626; SB 901) relating to the Forest Practice Act. This emergency action allows multiple landowners to join together to submit a single Working Forest Management Plan, reduces the maximum number of acres within a single WFMP to 10,000, requires the harvest area to be within a single hydrologic area and revises the requirement for the WFMP to include provisions requiring an Erosion Control Implementation Plan (ECIP). The requirement for the WFMP to include an ECIP is replaced with a requirement to comply with applicable forest practice road rules.

Title 14  
AMEND: 1094, 1094.2, 1094.6, 1094.8, 1094.17, 1094.23  
Filed 02/15/2019  
Effective 02/15/2019  
Agency Contact: Eric Hedge (916) 653-9633

File# 2019-0206-01  
BOARD OF FORESTRY AND FIRE PROTECTION  
Emergency Post-Wildfire Recovery Regulations for Butte Co.

In this emergency rulemaking, the Board of Forestry and Fire Protection is providing an exemption from the plan preparation and submission requirements and from the completion report and stocking report requirements of the Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code section 4511, et seq.) to persons engaging in specified forest management activities, including the cutting or removal of dead or dying trees when within 300 feet of an Approved and Legally Permitted Structure that was damaged or destroyed by wildfire during the 2018 northern California wildfires in Butte County.

Title 14  
ADOPT: 1038.6  
Filed 02/19/2019  
Effective 02/19/2019  
Agency Contact: Eric Hedge (916) 653-9633

File# 2019-0207-02  
BOARD OF FORESTRY AND FIRE PROTECTION  
Exemption Emergency Regulations, 2019

This emergency action by the Board of Forestry and Fire Protection adopts and amends exemptions from the plan, completion report, and stocking report requirements of the Forest Practice Act pursuant to Statutes 2018, chapter 626 (SB 901). Pursuant to the uncodified

section 46 of SB 901, this action is deemed an emergency and shall remain in effect until revised by the board.

Title 14  
 ADOPT: 1038.1, 1038.2, 1038.3, 1038.4, 1038.5  
 AMEND: 1038, 1038.3 [renumbered to 1038.9]  
 REPEAL: 1038.1, 1038.2  
 Filed 02/19/2019  
 Effective 02/19/2019  
 Agency Contact: Eric Hedge (916) 653-9633

File# 2019-0215-02  
 BOARD OF GOVERNORS, CALIFORNIA  
 COMMUNITY COLLEGES  
 Distance Education

The Board of Governors of the California Community Colleges submitted to OAL this action dealing with distance education as a print only file. Pursuant to Education Code section 70901.5, this action was filed with the Secretary of State by the Board on February 15, 2019, is exempt from the Administrative Procedure Act and OAL review, and was submitted to OAL only for the purpose of publishing the regulation in the California Code of Regulations.

Title 5  
 AMEND: 55200, 55202, 55204, 55206, 55208  
 Filed 02/15/2019  
 Effective 03/17/2019  
 Agency Contact: Tanya Bosch 49164451997

File# 2019-0215-03  
 BOARD OF GOVERNORS, CALIFORNIA  
 COMMUNITY COLLEGES  
 Annual Report to the Chancellor (Library)

The Board of Governors of the California Community Colleges submitted to OAL this action dealing with the annual report to the Chancellor (library) as a print only file. Pursuant to Education Code section 70901.5, this action was filed with the Secretary of State by the Board on February 15, 2019, is exempt from the Administrative Procedure Act and OAL review, and was submitted to OAL only for the purpose of publishing the regulation in the California Code of Regulations.

Title 5  
 AMEND: 55800  
 Filed 02/15/2019  
 Effective 03/17/2019  
 Agency Contact: Tanya Bosch 49164451997

File# 2019-0107-01  
 BUREAU OF REAL ESTATE APPRAISERS  
 AMC Update

This regular rulemaking amends four sections to update definitions and standards related to Appraisal

Management Companies pursuant to amendments to Business and Professions Code sections 11302, 11345.2, and 11345.3 (Senate Bill 547, Stats. 2017, ch. 429).

Title 10  
 AMEND: 3500, 3576, 3577, 3721  
 Filed 02/20/2019  
 Effective 04/01/2019  
 Agency Contact: Kyle Muteff (916) 341-6126

File# 2019-0109-01  
 CALIFORNIA HORSE RACING BOARD  
 Classification of Drug Substances

This action without regulatory effect amends the document incorporated by reference titled, "California Horse Racing Board Classification of Foreign Substances, Alphabetical Substances List" to correct a typographical error on page 12.

Title 4  
 AMEND: 1843.2  
 Filed 02/20/2019  
 Agency Contact: Harold Coburn (916) 263-6026

File# 2019-0110-02  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Oriental Fruit Fly Eradication Area

The Department of Food and Agriculture (Department) submitted this timely certificate of compliance to make permanent the amendments made in OAL File No. 2018-0730-01E. The emergency rulemaking amended the Oriental Fruit Fly Eradication Area to include El Dorado and Shasta counties. Additionally, the Department revised the host list to comply with the requirements of the United States Department of Agriculture.

Title 3  
 AMEND: 3591.2  
 Filed 02/20/2019  
 Effective 02/20/2019  
 Agency Contact: Rachel Avila (916) 403-6813

File# 2019-0208-04  
 DEPARTMENT OF SOCIAL SERVICES  
 Home Care Services Consumer Protection Act

The emergency regulations being readopted in this action (first adopted in action no. 2017-1215-01EFP; readopted in action no. 2018-0613-02EE) implement the Home Care Services Consumer Protection Act (AB 1217, Stats 2013, Ch. 790). These regulations ensure that the home care services industry has a clear understanding of the responsibilities of applying for Home Care Organization (HCO) licensure, operating requirements, and requirement for biennial visits. Additionally, these regulations provide guidelines and standards

for Home Care Aides (HCAs) who are either affiliated with HCOs or choose to apply for licensure independently.

Title 22

ADOPT: 130000, 130001, 130003, 130004, 130006, 130007, 130008, 130009, 130020, 130021, 130022, 130023, 130024, 130025, 130026, 130027, 130028, 130030, 130040, 130041, 130042, 130043, 130044, 130045, 130048, 130050, 130051, 130052, 130053, 130054, 130055, 130056, 130057, 130058, 130062, 130063, 130064, 130065, 130066, 130067, 130068, 130070, 130071, 130080, 130081, 130082, 130083, 130084, 130090, 130091, 130092, 130093, 130094, 130095, 130100, 130110, 130200, 130201, 130202, 130203, 130210, 130211

Filed 02/14/2019

Effective 02/14/2019

Agency Contact: Kenneth Jennings (916) 657-2586

File# 2019-0125-01

**DIVISION OF WORKERS' COMPENSATION**

Workers' Compensation-Official Medical Fee Schedule — Outpatient and Ambulatory Surgical Centers (ASC)

The Division of Workers' Compensation, within the Department of Industrial Relations, submitted this action to update the Workers' Compensation Official Medical Fee Schedule: Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule. These changes were submitted to OAL for filing and printing only, exempt from the APA pursuant to Labor Code section 5307.1(g)(2). The changes are effective February 15, 2019, pursuant to Labor Code section 5307.1(g)(2).

Title 8

AMEND: 9789.39

Filed 02/14/2019

Effective 02/15/2019

Agency Contact: Jarvia Shu (510) 286-0646

File# 2019-0122-04

**FAIR POLITICAL PRACTICES COMMISSION**

Materiality Standard: Financial Interest in Real Property

This action by the Fair Political Practices Commission makes revisions to provisions relating to conflicts of interests, specifically the materiality standard for financial interests in real property.

Title 2

AMEND: 18702.2

Filed 02/20/2019

Effective 03/22/2019

Agency Contact: Ginny Lambing (916) 324-3854

File# 2019-0104-03

**OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

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: 54700

Filed 02/13/2019

Effective 03/15/2019

Agency Contact: Monet Vela (916) 323-2517

File# 2019-0107-03

**STATE WATER RESOURCES CONTROL BOARD**

Control of Pyrethroid Pesticide Discharges in the Central Valley

The State Water Resources Control Board (State Water Board) submitted this action for review under Government Code section 11353 to adopt section 3949.15 in Title 23 of the California Code of Regulation regarding amendments to the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan). The amendments establish a control program for pyrethroid pesticide discharges to water bodies in the Sacramento and San Joaquin River Basin. The modifications also include a total maximum daily load (TMDL) for pyrethroid pesticides in nine urban water body segments. The Central Valley Water Quality Control Board adopted the Basin Plan on June 8, 2017 in Resolution No. R5-2017-0057. The State Water Board approved the Basin Plan on July 10, 2018 in Resolution No. 2018-0031.

Title 23

ADOPT: 3949.15

Filed 02/19/2019

Effective 02/19/2019

Agency Contact: Daniel McClure (916) 464-4751

**CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN September 19, 2018 TO February 20, 2019**

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



**Title 2**

02/20/19 AMEND: 18702.2  
 02/13/19 AMEND: 54700  
 01/31/19 ADOPT: 59840  
 01/24/19 AMEND: 1859.194, 1859.196  
 01/22/19 AMEND: 1859.51(e)  
 01/14/19 AMEND: 18756  
 01/07/19 AMEND: 60802, 60803, 60807, 60808, 60824, 60825, 60827, 60831, 60832, 60833, 60835, 60840, 60842, 60843, 60844, 60845, 60846, 60847, 60848, 60849, 60850, 60851, 60852, 60853, 60854, 60855, 60856, 60858, 60860, 60861, 60863, 61120  
 12/18/18 AMEND: 1859.76  
 12/14/18 ADOPT: 1860, 1860.1, 1860.2, 1860.3, 1860.4, 1860.5, 1860.6, 1860.7, 1860.8, 1860.9, 1860.10, 1860.10.1, 1860.10.2, 1860.10.3, 1860.11, 1860.12, 1860.13, 1860.14, 1860.15, 1860.16, 1860.17, 1860.18, 1860.19, 1860.20, 1860.21  
 12/12/18 AMEND: 2970  
 12/12/18 AMEND: 18545, 18700, 18730, 18940.2  
 12/05/18 REPEAL: 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445  
 12/04/18 AMEND: 1897  
 11/29/18 ADOPT: 1896.83, 1896.85 AMEND: 1896.60, 1896.61, 1896.62, 1896.70, 1896.71, 1896.72, 1896.73, 1896.74, 1896.75, 1896.76, 1896.77, 1896.78, 1896.81, 1896.82, 1896.84, 1896.88, 1896.90, 1896.91, 1896.92, 1896.95, 1896.96, 1896.97  
 11/27/18 AMEND: 1897  
 11/08/18 ADOPT: 1896.13 AMEND: 1896.4, 1896.12, 1896.17  
 10/29/18 AMEND: 1896.99.100, 1896.99.120  
 10/22/18 ADOPT: 18215.4  
 10/11/18 AMEND: 1859.51(e)  
 09/27/18 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009  
 09/26/18 AMEND: 1859.2, 1859.51(j), 1859.70, 1859.82, 1859.93.1  
 09/26/18 AMEND: 59760  
 09/24/18 AMEND: 18700.2  
 09/20/18 AMEND: 559.885  
 09/20/18 ADOPT: 211.2 AMEND: 211

**Title 3**

02/20/19 AMEND: 3591.2  
 02/04/19 AMEND: 1180.3.1  
 01/30/19 AMEND: 6860

01/17/19 REPEAL: 1305.00, 1305.01, 1305.02, 1305.03, 1305.04, 1305.06, 1305.07, 1305.08, 1305.09, 1305.10, 1305.11, 1305.12  
 01/16/19 ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608, 8609  
 01/07/19 AMEND: 3439  
 12/18/18 ADOPT: 4921  
 11/29/18 AMEND: 3899  
 11/06/18 AMEND: 3435(b)  
 10/08/18 AMEND: 3591.12  
 10/02/18 AMEND: 3591.12

**Title 4**

02/20/19 AMEND: 1843.2  
 02/07/19 AMEND: 10315, 10317, 10322, 10325, 10326, 10327, 10328, 10335, 10337  
 01/22/19 AMEND: 1374, 1374.3  
 01/16/19 ADOPT: 7213, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229  
 01/16/19 AMEND: 5000, 5033, 5060, 5100, 5170, 5260, 5350, 5450, 5500, 5540, 5600 REPEAL: 5361, 5362, 5363, 5380, 5560, 5570, 5571, 5572, 5573, 5580, 5590  
 01/02/19 AMEND: 12200, 12201, 12220, 12221  
 12/17/18 ADOPT: 10092.1, 10092.2, 10092.3, 10092.4, 10092.5, 10092.6, 10092.7, 10092.8, 10092.9, 10092.10, 10092.11, 10092.12, 10092.13, 10092.14  
 12/12/18 ADOPT: 10200, 10200.1, 10200.2, 10200.3, 10200.4, 10200.5, 10200.6, 10200.7  
 11/26/18 ADOPT: 7313, 7314, 7315, 7316, 7317, 7318, 7319, 7319.1, 7320, 7321, 7322, 7323, 7324, 7325, 7325.1, 7326, 7327, 7328, 7329  
 11/26/18 ADOPT: 7413, 7414, 7415, 7416, 7417, 7418, 7419, 7420, 7421, 7422, 7423, 7424, 7425, 7426, 7427, 7428, 7429  
 11/20/18 AMEND: 1632  
 11/20/18 AMEND: 1843.3  
 11/20/18 AMEND: 8078.3, 8078.15

**CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NO. 9-Z**

11/19/18 ADOPT: 7213, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7222, 7223, 7224, 7225, 7227, 7228, 7229  
 11/02/18 AMEND: 8078.8, 8078.10  
 10/31/18 AMEND: 7051, 7054, 7055, 7056, 7063, 7071  
 10/18/18 AMEND: 1843.2  
 10/18/18 AMEND: 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.8, 10170.9, 10170.10, 10170.14  
 09/26/18 AMEND: 12205.1  
 09/21/18 ADOPT: 5700, 5710, 5711, 5720, 5721, 5722, 5730, 5731 AMEND: 5000, 5020, 5033, 5035, 5037, 5054, 5060, 5100, 5101, 5102, 5120, 5144, 5170, 5191, 5212, 5230, 5240, 5250, 5540 REPEAL: 5259

**Title 5**

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

**Title 8**

02/14/19 AMEND: 9789.39  
 02/06/19 AMEND: 3389  
 01/07/19 AMEND: 11140  
 01/03/19 AMEND: 336  
 12/26/18 AMEND: 9789.19  
 11/26/18 AMEND: 9789.25  
 11/15/18 AMEND: 344, 344.1, 344.2  
 11/06/18 ADOPT: 9789.19.1 AMEND: 9789.12.1, 9789.12.2, 9789.12.6, 9789.12.8, 9789.12.12, 9789.12.13, 9789.13.2, 9789.16.1, 9789.16.7, 9789.18.1,

9789.18.2, 9789.18.3, 9789.18.11, 9789.19  
 11/01/18 AMEND: 14300.35, 14300.41  
 10/30/18 ADOPT: 9792.24.5 AMEND: 9792.22  
 10/10/18 AMEND: 344.18  
 10/08/18 ADOPT: 13850, 13851, 13853, 13855, 13856, 13857, 13858, 13859, 13860, 13861, 13862, 13863, 13864, 13865, 13866, 13867, 13868, 13870, 13871, 13872, 13873, 13874

**Title 9**

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

**Title 10**

02/20/19 AMEND: 3500, 3576, 3577, 3721  
 01/14/19 AMEND: 2318.6, 2353.1, 2354  
 01/14/19 AMEND: 2318.6  
 12/31/18 AMEND: 2632.5, 2632.11  
 12/26/18 ADOPT: 2238.10, 2238.11, 2238.12  
 11/29/18 ADOPT: 2509.80, 2509.81, 2509.82  
 11/27/18 AMEND: 3704  
 11/20/18 AMEND: 8000, 8030  
 11/19/18 ADOPT: 10000, 10001, 10002, 10003, 10004, 10005, 10006, 10007  
 09/25/18 AMEND: 2498.4.9  
 09/25/18 AMEND: 2498.5  
 09/25/18 AMEND: 2498.6  
 09/24/18 ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506, 6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620, 6622

**Title 11**

02/06/19 AMEND: 1008  
 02/04/19 AMEND: 1009  
 01/25/19 AMEND: 999.12 REPEAL: 999.13  
 01/08/19 ADOPT: 5460  
 12/31/18 AMEND: 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2107  
 12/28/18 AMEND: 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517  
 10/24/18 AMEND: 1953, 1955  
 09/26/18 AMEND: 44.2

**Title 12**

01/08/19 ADOPT: 182.02, 182.03 AMEND: 182.01, 182.02 (renumbered to 182.04)  
 01/03/19 AMEND: 553.70  
 11/07/18 AMEND: 505.2  
 09/27/18 AMEND: 500 (renumbered to 501), 501 (renumbered to 505), 501.1 (renumbered

**CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NO. 9-Z**

	to 501.3), 501.2 (renumbered to 505.2), 501.3 (renumbered to 505.1), 501.4 (renumbered to 505.11), 502 (renumbered to 505.3), 502.1 (renumbered to 505.6), 502.2 (renumbered to 505.12), 502.3 (renumbered to 505.4), 503 (renumbered to 501.2), 503.1 (renumbered to 505.7), 504 (renumbered to 505.8), 504.1 (renumbered to 505.9), 505 (renumbered to 510.1), 506 (renumbered to 500), 507 (renumbered to 510.9), 508 (renumbered to 510.10), 509 (renumbered to 520.2)	02/19/19	ADOPT: 1038.1, 1038.2, 1038.3, 1038.4, 1038.5 AMEND: 1038, 1038.3 [renumbered to 1038.9] REPEAL: 1038.1, 1038.2
09/25/18	AMEND: 600	02/15/19	AMEND: 1094, 1094.2, 1094.6, 1094.8, 1094.17, 1094.23
<b>Title 13</b>		02/07/19	ADOPT: 13008 AMEND: 13012, 13015, 13018, 13019, 13040, 13050, 13071, 13104, 13105, 13113, 13116, 13136, 13137, 13138, 13144, 13158, 13173, 13204, 13205, 13214.7, 13216, 13217, 13218, 13219, 13221, 13222, 13223, 13224, 13231, 13234, 13238.1, 13241, 13242, 13243, 13244, 13245, 13247, 13300, 13302, 13315, 13328.1, 13328.8, 13328.9, 13331, 13336, 13342, 13343, 13356, 13358, 13371, 13500, 13518, 13530, 13536, 13545, 13546, 13548, 13554, 13576, 13577, 13600, 13610, 13625, 13626, 13635, 13645, 13647, 13648, REPEAL: 13214, 13214.1, 13214.2, 13214.3, 13214.4, 13214.5, 13214.8.
01/28/19	AMEND: 20.05	02/06/19	ADOPT: 1720.1, 1724.5, 1724.7.1, 1724.7.2, 1724.8, 1724.10.1, 1724.10.2, 1724.10.3, 1724.10.4, 1724.11, 1724.12, 1724.13 AMEND: 1724.6, 1724.7, 1724.10, 1748, REPEAL: 1724.8, 1748.2, 1748.3
01/16/19	AMEND: 550, 551.8, 551.12, 590	01/02/19	AMEND: 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10, 150.16
01/08/19	ADOPT: 182.02, 182.03 AMEND: 182.01, 182.02 (renumbered to 182.04)	12/28/18	ADOPT: 15064.3, 15234 AMEND: 15004, 15051, 15061, 15062, 15063, 15064, 15064.4, 15064.7, 15072, 15075, 15082, 15086, 15087, 15088, 15094, 15107, 15124, 15125, 15126.2, 15126.4, 15152, 15155, 15168, 15182, 15222, 15269, 15301, 15357, 15370, Appendix G, Appendix M, Appendix N
01/03/19	AMEND: 553.70	12/17/18	ADOPT: 798 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797
12/26/18	AMEND: 2025	12/17/18	AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07
12/26/18	AMEND: 1152.7, 1152.7.1	12/17/18	ADOPT: 820.02
12/20/18	ADOPT: 1217.2, 1263.2	12/17/18	ADOPT: 817.04 AMEND: 790
12/12/18	AMEND: 1961.2, 1961.3	12/14/18	ADOPT: 4970.17.1 AMEND: 4970.00, 4970.01, 4970.04, 4970.05, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07.2, 4970.08, 4970.09, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13, 4970.19.2, 4970.20, 4970.21, 4970.22, 4970.23, 4970.23.1, 4970.23.2, 4970.24.1, 4970.24.2, 4970.25.1, 4970.25.2
12/04/18	ADOPT: 425.01		
11/29/18	AMEND: 17.00		
11/27/18	AMEND: 1157.21		
10/22/18	AMEND: 551.14, 551.24, 555.1, 584		
10/18/18	AMEND: 551.12		
10/10/18	AMEND: Appendix (Article 2.0)		
09/24/18	AMEND: 2222		
09/24/18	ADOPT: 2461.1 AMEND: 2450, 2451, 2452, 2453, 2455, 2456, 2458, 2459, 2460, 2461, 2462, 2464, 93116.1, 93116.2, 93116.3, 93116.4		
<b>Title 13, 17</b>			
02/07/19	AMEND: Title 13: 1956.8, 1961.2, 1965, 2036, 2037, 2065, 2112, 2141, Title 17: 95300, 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95311, 95662, 95663		
01/04/19	ADOPT: title 17: 95483.2, 95483.3, 95486.1, 95486.2, 95488, 95488.1, 95488.2, 95488.3, 95488.4, 95488.5, 95488.6, 95488.7, 95488.8, 95488.9, 95488.10, 95490, 95491.1, 95500, 95501, 95502, 95503 AMEND: title 13: 2293.6; title 17: 95481, 95482, 95483, 95483.1, 95484, 95485, 95486, 95487, 95489, 95491, 95492, 95493, 95494, 95495 REPEAL: title 17: 95483.2, 95488, 95496		
<b>Title 14</b>			
02/19/19	ADOPT: 1038.6		

**CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NO. 9-Z**

12/13/18 AMEND: 2975  
 12/10/18 ADOPT: 126.1 AMEND: 125.1, 126  
 [renumbered to 126.1]  
 11/28/18 ADOPT: 716 AMEND: 300  
 11/28/18 ADOPT: 42 AMEND: 43, 651, 703  
 11/20/18 AMEND: 699.5  
 11/15/18 AMEND: 632  
 11/15/18 AMEND: 632  
 11/15/18 AMEND: Subsection 120.7(m)  
 REPEAL: Appendix A Form DFG-120.7  
 (10/87)  
 11/13/18 AMEND: 1038, 1038.1, 1038.2  
 11/06/18 AMEND: 3010, 3011, 3012, 3013, 3015  
 11/05/18 ADOPT: 29.11  
 10/30/18 ADOPT: 132.6 AMEND: 132.1, 132.2,  
 132.3  
 10/30/18 AMEND: 11600  
 10/29/18 AMEND: 17041, 17042, 17043, 17044,  
 17045, 17046  
 10/29/18 AMEND: 1038  
 10/16/18 AMEND: 890  
 10/16/18 AMEND: 1038  
 10/15/18 AMEND: 895, 895.1, 912.9, 932.9, 952.9

**Title 15**

01/28/19 AMEND: 8004.1  
 01/23/19 AMEND: 3043.3  
 01/15/19 AMEND: 3177, 3315  
 01/09/19 AMEND: 3043, 3043.3, 3043.4, 3043.5  
 01/07/19 AMEND: 3999.98, 3999.200  
 01/07/19 AMEND: 8000  
 12/26/18 ADOPT: 2249.30, 2449.31, 2449.32,  
 2449.33, 2449.34, 3495, 3496, 3497  
 AMEND: 2449.1, 3490, 3491  
 11/14/18 ADOPT: 1350.5, 1352.5, 1354.5, 1358.5,  
 1408.5, 1418, 1437.5 AMEND: 1302,  
 1303, 1304, 1321, 1322, 1324, 1325,  
 1327, 1328, 1329, 1341, 1343, 1350,  
 1351, 1352, 1353, 1354, 1355, 1356,  
 1357, 1358, 1359, 1360, 1361, 1362,  
 1370, 1371, 1372, 1373, 1374, 1376,  
 1377, 1390, 1391, 1400, 1401, 1402,  
 1403, 1404, 1406, 1407, 1408, 1412,  
 1413, 1415, 1416, 1417, 1430, 1431,  
 1432, 1433, 1434, 1436, 1437, 1438,  
 1439, 1452, 1453, 1454, 1460, 1461,  
 1462, 1464, 1465, 1467, 1480, 1482,  
 1483, 1484, 1485, 1487, 1500, 1510,  
 1511 REPEAL 1378  
 11/13/18 ADOPT: 8200, 8201, 8202, 8203, 8204,  
 8205, 8206, 8207, 8208, 8209, 8210,  
 8211, 8212, 8213, 8214, 8215 AMEND:  
 8000, 8004.3, 8106, 8106.1 amended and  
 renumbered as 8207, 8106.2 amended  
 and renumbered as 8106, 8198 amended

and renumbered as 8298, 8199 amended  
 and renumbered as 8299  
 11/01/18 ADOPT: 3999.25  
 10/30/18 ADOPT: 3329.5  
 10/29/18 REPEAL: 3999.20  
 10/22/18 ADOPT: 2150, 2151, 2152, 2153, 2154,  
 2155, 2156, 2157  
 10/17/18 ADOPT: 3371.1 AMEND: 3043.7, 3044  
 REPEAL: 3371.1  
 10/08/18 AMEND: 3352.2, 3352.3, 3354, 3355.1  
 10/03/18 ADOPT: 3378.9, 3378.10 AMEND:  
 3000, 3023, 3043.8, 3044, 3084.9, 3269,  
 3335, 3337, 3341, 3341.2, 3341.3,  
 3341.5, 3341.6, 3341.8, 3341.9, 3375,  
 3375.1, 3375.2, 3376, 3376.1, 3378,  
 3378.1, 3378.2, 3378.3, 3378.4, 3378.5,  
 3378.6, 3378.7, 3378.8 REPEAL: 3334  
 10/03/18 ADOPT: 3378.9, 3378.10 AMEND:  
 3000, 3023, 3043.8, 3044, 3084.9, 3269,  
 3335, 3337, 3341, 3341.2, 3341.3,  
 3341.5, 3341.6, 3341.8, 3341.9, 3375,  
 3375.1, 3375.2, 3376, 3376.1, 3378,  
 3378.1, 3378.2, 3378.3, 3378.4, 3378.5,  
 3378.6, 3378.7, 3378.8 REPEAL: 3334

**Title 16**

02/05/19 REPEAL: 1023.15, 1023.16, 1023.17,  
 1023.18, 1023.19  
 01/31/19 REPEAL: 2624, 2624.1  
 01/30/19 AMEND: 1735.1, 1735.2, 1735.6,  
 1751.1, 1751.4  
 01/29/19 ADOPT: 6020  
 01/16/19 ADOPT: 5000, 5001, 5002, 5003, 5004,  
 5005, 5006, 5007, 5007.1, 5007.2, 5008,  
 5009, 5010, 5010.1, 5010.2, 5010.3,  
 5011, 5012, 5013, 5014, 5015 5016,  
 5017, 5018, 5019, 5020, 5021, 5022,  
 5023, 5024, 5024.1, 5025, 5026, 5027,  
 5028, 5030, 5031, 5032, 5033, 5034,  
 5035, 5036, 5037, 5038, 5039, 5040,  
 5040.1, 5041, 5041.1, 5042, 5043, 5044,  
 5045, 5046, 5047, 5048, 5049, 5050,  
 5051, 5052, 5052.1, 5053, 5054, 5300,  
 5301, 5302, 5303, 5303.1, 5304, 5305,  
 5305.1, 5306, 5307, 5307.1, 5307.2,  
 5308, 5309, 5310, 5311, 5312, 5313,  
 5314, 5315, 5400, 5402, 5403, 5403.1,  
 5404, 5405, 5406, 5407, 5408, 5409,  
 5410, 5411, 5412, 5413, 5414, 5415,  
 5415.1, 5416, 5417, 5418, 5419, 5420,  
 5421, 5422, 5423, 5424, 5426, 5427,  
 5500, 5501, 5502, 5503, 5504, 5505,  
 5506, 5506.1, 5507, 5600, 5601, 5602,  
 5603, 5604, 5700, 5701, 5702, 5703,  
 5704, 5705, 5706, 5707, 5708, 5709,



**CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NO. 9-Z**

5710, 5711, 5712, 5713, 5714, 5715,  
 5717, 5718, 5719, 5720, 5721, 5722,  
 5723, 5724, 5725, 5726, 5727, 5728,  
 5729, 5730, 5731, 5732, 5733, 5734,  
 5735, 5736, 5737, 5738, 5739, 5800,  
 5801, 5802, 5803, 5804, 5805, 5806,  
 5807, 5808, 5809, 5810, 5811, 5812,  
 5813, 5814, 5815, 5900, 5901, 5902,  
 5903, 5904, 5905

01/15/19 ADOPT: 1483.1, 1483.2, 1486 AMEND:  
 1480, 1481, 1482, 1483, 1484

12/21/18 ADOPT: 1399.515

12/05/18 AMEND: 1380.3, 1380.6, 1381, 1381.1,  
 1381.4, 1381.5, 1381.7, 1382, 1382.3,  
 1382.4, 1382.5, 1382.6, 1386, 1387.3,  
 1387.4, 1387.5, 1387.7, 1388, 1389.1,  
 1390.1, 1390.3, 1391.3, 1391.4, 1391.5,  
 1391.6, 1391.7, 1391.11, 1393, 1394,  
 1395, 1395.1, 1396.5, 1397, 1397.35,  
 1397.50, 1397.51, 1397.53, 1397.54,  
 1397.55, 1397.60, 1397.61, 1397.62,  
 1397.67, 1397.69, 1397.70 REPEAL:  
 1381.6, 1397.63, 1397.64, 1397.65,  
 1397.66, 1397.68, 1397.71

12/03/18 AMEND: 18

11/28/18 AMEND: 1399.514

11/20/18 AMEND: 2450

10/25/18 AMEND: 1300.1, 1300.2, 1300.4, 1355,  
 1355.1, 1355.3 REPEAL: 1333, 1333.1,  
 1333.2, 1333.3, 1362, 1362.1

10/16/18 AMEND: 2070, 2071

10/15/18 AMEND: 1417

10/08/18 ADOPT: 1423.1, 1423.2 AMEND: 1418,  
 1424, 1426, 1430

**Title 17**

01/16/19 ADOPT: 40100, 40101, 40102, 40105,  
 40115, 40116, 40118, 40120, 40126,  
 40128, 40129, 40130, 40131, 40132,  
 40133, 40135, 40137, 40150, 40152,  
 40155, 40156, 40159, 40162, 40165,  
 40167, 40175, 40177, 40178, 40179,  
 40180, 40182, 40184, 40190, 40191,  
 40192, 40194, 40196, 40200, 40205,  
 40207, 40220, 40222, 40223, 40225,  
 40230, 40235, 40240, 40243, 40246,  
 40248, 40250, 40253, 40255, 40258,  
 40270, 40272, 40275, 40277, 40280,  
 40282, 40290, 40292, 40295, 40297,  
 40300, 40305, 40306, 40308, 40315,  
 40330, 40400, 40401, 40403, 40404,  
 40405, 40406, 40408, 40409, 40410,  
 40411, 40412, 40415, 40417, 40500,  
 40505, 40510, 40512, 40513, 40515,  
 40517, 40525, 40550, 40551, and 40570

01/10/19 AMEND: 3030

12/31/18 AMEND: 94506, 94509, 94513, 94515

12/27/18 ADOPT: 95371, 95372, 95373, 95374,  
 95375, 95376, 95377

10/10/18 AMEND: 35095

10/09/18 ADOPT: 40127, 40132, 40190, 40191,  
 40192, 40194, 40196

09/24/18 ADOPT: 2461.1 AMEND: 2450, 2451,  
 2452, 2453, 2455, 2456, 2458, 2459,  
 2460, 2461, 2462, 2464, 93116.1,  
 93116.2, 93116.3, 93116.4

09/24/18 AMEND: 60201, 60205, 60210

**Title 18**

01/03/19 AMEND: 1533.2, 1598

01/02/19 ADOPT: 30000, 30101, 30102, 30103,  
 30104, 30105, 30106, 30201, 30202,  
 30203, 30204, 30205, 30206, 30207,  
 30208, 30209, 30210, 30211, 30200.5,  
 30212, 30213, 30213.5, 30214, 30214.5,  
 30215, 30216, 30217, 30218, 30219,  
 30220, 30221, 30222, 30223, 30224,  
 30301, 30302, 30303, 30304, 30310,  
 30311, 30312, 30313, 30314, 30315,  
 30316, 30401, 30402, 30403, 30404,  
 30405, 30410, 30411, 30412, 30420,  
 30421, 30430, 30431, 30432, 30433,  
 30501, 30502, 30503, 30504, 30505,  
 30601, 30602, 30603, 30604, 30605,  
 30606, 30607, 30701, 30702, 30703,  
 30704, 30705, 30706, 30707

12/27/18 ADOPT: 3702

12/17/18 ADOPT: 35001, 35002, 35003, 35004,  
 35005, 35006, 35007, 35008, 35009,  
 35010, 35011, 35012, 35013, 35014,  
 35015, 35016, 35017, 35018, 35019,  
 35020, 35021, 35022, 35023, 35024,  
 35025, 35026, 35027, 35028, 35029,  
 35030, 35031, 35032, 35033, 35034,  
 35035, 35036, 35037, 35038, 35039,  
 35040, 35041, 35042, 35043, 35044,  
 35045, 35046, 35047, 35048, 35049,  
 35050, 35051, 35052, 35053, 35054,  
 35055, 35056, 35057, 35058, 35060,  
 35061, 35062, 35063, 35064, 35065,  
 35066, 35067, 35101 AMEND: 1032,  
 1124.1, 1249, 1336, 1422.1, 1705.1,  
 2251, 2303.1, 2433, 3022, 3302.1,  
 3502.1, 4106, 4703, 4903, 5200, 5202,  
 5210, 5211, 5212, 5212.5, 5213, 5214,  
 5216, 5217, 5218, 5219, 5220, 5220.4,  
 5220.6, 5221, 5222, 5222.4, 5222.6,  
 5223, 5224, 5225, 5226, 5227, 5228,  
 5229, 5230, 5231, 5231.5, 5232, 5233,  
 5234, 5234.5, 5235, 5236, 5237, 5238,

**CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NO. 9-Z**

	5240, 5241, 5242, 5244, 5245, 5246, 5247, 5248, 5249, 5249.4, 5249.6, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5267, 5268, 5700 REPEAL: 1807, 1828, 4508, 4609, 4700, 4701, 4702, 5201, 5210.5, 5215, 5215.4, 5215.6, 5232.4, 5232.8, 5239, 5243, 5250, 5255, 5256	10/31/18	ADOPT: 66264.121, 66265.121, 66270.28 AMEND: 66264.90, 66264.110, 66265.90, 66265.110, 66270.1, 66270.14
11/20/18	AMEND: 25137-1, 17951-4	10/31/18	AMEND: 97215, 97216, 97217, 97221, 97222, 97223, 97224, 97225, 97226, 97227, 97228, 97229, 97232, 97248
10/23/18	ADOPT: 35201	10/24/18	ADOPT: 66270.14, 66271.50, 66271.51, 66271.52, 66271.53, 66271.54, 66271.55, 66271.56, 66271.57 AMEND: 66260.10, 66264.16, 66264.101, 66264.143, 66264.144, 66264.145, 66264.146, 66264.147, 66264.151, 66265.16, 66265.143, 66265.144, 66265.145, 66265.146, 66265.147
<b>Title 19</b>		10/22/18	ADOPT: 66273.80, 66273.81, 66273.82, 66273.83, 66273.84 AMEND: 66261.4, 66273.6, 66273.7, 66273.9, 66273.70, 66273.72, 66273.73, 66273.74, 66273.75 REPEAL: 66273.90, 66273.91, 66273.100, 66273.101
11/30/18	ADOPT: 4010	<b>Title 22, MPP</b>	
<b>Title 20</b>		01/15/19	ADOPT: 35064 AMEND: 31-002, 35000, 35001, 35129, 35129.1, 35152.1, 35152.2, 35177, 35179, 35181, 35183, 35211, 35215, 35315
12/05/18	ADOPT: 1751, 1769.1, 1937, 1941, 1942, 2300 AMEND: 1201, 1209, 1211.5, 1211.7, 1212, 1231, 1232, 1232.5, 1233.1, 1233.2, 1233.3, 1233.4, 1234, 1240, 1704, 1706, 1708, 1709, 1710, 1714, 1714.3, 1714.5, 1720.2, 1745.5, 1748, 1768 (renumbered to 1749), 1769, 1936, 1940, 1943, 1944, 1945, 1946, 2308 (renumbered to 2300.1) REPEAL: 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2309	01/08/19	AMEND: 87224, 87412
09/26/18	AMEND: 1601, 1602, 1602.1, 1603, 1604, 1605, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608, 1609	01/02/19	ADOPT: 85175, 85318, 85320, 85340, 85342, 85364, 85368.1, 85368.4, 85370, 85387, 85390, 85102, 85161, 85168, 85168.3, 85169 AMEND: 85000, 85068.2, 85375, 85100, 85101, 85118, 85120, 85122, 85140, 85142, 85164, 85165, 85168.1, 85168.2, 85168.4, 85170, 85187, 85190, 85300, 85301, 85302, 85322, 85361, 85365, 85368, 85368.2, 85368.3, 85369
<b>Title 22</b>		11/15/18	AMEND: 35000, 35011, 31-005, 31-405, 31-420, 31-425
02/14/19	ADOPT: 130000, 130001, 130003, 130004, 130006, 130007, 130008, 130009, 130020, 130021, 130022, 130023, 130024, 130025, 130026, 130027, 130028, 130030, 130040, 130041, 130042, 130043, 130044, 130045, 130048, 130050, 130051, 130052, 130053, 130054, 130055, 130056, 130057, 130058, 130062, 130063, 130064, 130065, 130066, 130067, 130068, 130070, 130071, 130080, 130081, 130082, 130083, 130084, 130090, 130091, 130092, 130093, 130094, 130095, 130100, 130110, 130200, 130201, 130202, 130203, 130210, 130211	<b>Title 23</b>	
12/31/18	AMEND: 66272.62	02/19/19	ADOPT: 3949.15
12/19/18	AMEND: 66262.41	01/15/19	AMEND: 597
12/19/18	AMEND: 72329.2	12/19/18	AMEND: 315, 316
12/13/18	ADOPT: 51002.5 AMEND: 51003.1	12/13/18	ADOPT: 3939.56
12/04/18	ADOPT: 69511.3 AMEND: 69511	12/13/18	ADOPT: 3939.55
12/04/18	AMEND: 20100.5	11/29/18	ADOPT: 335, 335.2, 335.4, 335.6 [renumbered to 335.16], 335.8 [renumbered from 335.12(a)], 335.10 [renumbered to 335.12], 335.12 [335.12(a) renumbered to 335.8; 335.12(b)-(c) renumbered to 335.6], 335.14 [renumbered to 335.10], 335.16
11/29/18	ADOPT: 96060, 96061, 96062, 96065, 96070, 96071, 96075, 96076, 96077, 96078, 96080, 96081, 96082, 96083, 96084, 96085, 96086, 96087		

**CALIFORNIA REGULATORY NOTICE REGISTER 2019, VOLUME NO. 9-Z**

---

	[renumbered to 335.14], 335.18, 335.20	12/27/18	AMEND: 27001
	AMEND: 310	11/27/18	AMEND: 25603
11/29/18	ADOPT: 3919.18	<b>Title MPP</b>	
11/14/18	AMEND: 3006	02/06/19	AMEND: 41-440, 42-711, 42-716, 42-717, 44-207
11/05/18	AMEND: 2200, 2200.4, 2200.6	01/09/19	AMEND: 42-207, 42-213, 42-215, 42-221, 80-310
11/01/18	AMEND: 1062, 1063, 1064, 1066, 1068	12/20/18	AMEND: 40-105, 40-171, 80-301
09/24/18	ADOPT: 3979.10		REPEAL: 40-026
09/20/18	AMEND: 315, 316	09/26/18	AMEND: 31-206, 31-525
<b>Title 27</b>			
02/05/19	AMEND: 25705		

