



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. STATE COUNCIL ON DEVELOPMENTAL DISABILITIES**

NOTICE IS HEREBY GIVEN that the State Council on Developmental Disabilities pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on January 24, 2020 and closing on March 9, 2020. All inquiries should be directed to the contact listed below.

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

Changes to the conflict-of-interest code include:

The Chief Deputy Director position was removed as it no longer exists, and a designated position for Staff Services Manager — Supervisory/Specialist was added.

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

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than January 24, 2020 or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than March 9, 2020.

The State Council on Developmental Disabilities has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.

5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Adam Lewis  
 Legal Counsel  
 (916) 263-8122  
[Adam.Lewis@scdd.ca.gov](mailto:Adam.Lewis@scdd.ca.gov)

**TITLE 4. CALIFORNIA HORSE RACING BOARD**

**RULE 1845. AUTHORIZED BLEEDER MEDICATION**

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 Board Rule 1845, Authorized Bleeder Medication, to provide that the maximum allowable dose of race day furosemide for horses born before 2018 is reduced from 500 milligrams to 250 milligrams. The proposed amendment also provides that all administration of race day furosemide is prohibited to foals born in or after 2018.

**PUBLIC HEARING**

The Board will hold a public hearing starting at **9:30 a.m., Thursday, March 19, 2020**, or as soon after that as business before the Board will permit, at the **Clubhouse at the California Exposition and State Fair Grandstand, 1600 Exposition Boulevard, Sacramento, 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 com-

ment period closes on **March 9, 2020**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Zachary Voss, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6036  
Fax: (916) 263-6022  
E-mail: zavoss@chrb.ca.gov

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19562, Business and Professions Code (BPC).

Reference: Sections 19580, 19581 and 19582, BPC.

BPC sections 19440 and 19562 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19580, 19581 and 19582 of the BPC.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19440 provides that the Board shall have all powers necessary to adopt rules and regulations for the protection of the public and the control of horse racing. BPC section 19562 provides that the Board may prescribe rules, regulations and conditions under which all horse races with wagering on their results shall be conducted in the state of California. BPC section 19580 provides that the Board shall adopt regulations to establish policies, guidelines and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state. BPC section 19581 provides that no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. BPC section 19582 provides that violations of BPC section 19581 are punishable as set forth in regulations adopted by the Board, and the Board has the power to determine if a violation has occurred.

Exercise-Induced Pulmonary Hemorrhage (EIPH) is a common affliction in race horses and other equestrian athletes. EIPH refers to a condition wherein pulmonary bleeding occurs when capillaries<sup>1</sup> in horses' lungs burst as a result of the exertion from intense exercise or rac-

ing. Most horses experience some level of EIPH, but for many horses, repeated bleeding in the lungs can lead to inflammation, tissue damage and decreased lung capacity. Furosemide, or Lasix, is a medication used for treating EIPH. Under the current Board Rule 1845, furosemide may be administered to a horse in a dosage of not less than 150 milligrams and not more than 500 milligrams on the grounds of the racetrack not later than four hours prior to the post time of the race that the horse is entered to run. This effectively sets the maximum dosage for race day furosemide at 500 milligrams.

Furosemide is the only authorized bleeder medication currently permitted by the Board to treat EIPH. According to a review conducted by the American College of Veterinary Internal Medicine (ACVIM) of the veterinary literature regarding EIPH, there is high quality evidence that furosemide administered before strenuous exercise decreases the severity and incidence of EIPH. However, furosemide is a diuretic and causes horses to whom it is administered to urinate approximately 10 to 15 liters of urine. The loss of bodily fluid before a race, if the horse is not allowed to rehydrate, results in the horse weighing 10 to 20 pounds lighter by the start of the race, leading some in the racing industry to assert that furosemide gives horses an unfair advantage by allowing them to race with less weight than they otherwise would naturally.

In March 2019, The Stronach Group (TSG), which owns Golden Gate Fields (GGF) and Santa Anita Park Race Track (SA), declared its intent to progress toward a zero-tolerance policy for race day medication at its racetracks and entered into an agreement with the Thoroughbred Owners of California (TOC) to reduce the maximum allowable level of furosemide administration from 500 milligrams to 250 milligrams. The agreement will also phase out race day medication, including furosemide, in horses born in or after 2018. Board Rule 1581, Racing Secretary to Establish Conditions, provides that if participating horsemen's organizations agree in advance to conditions that restrict the use of a drug substance or medication, the Board can approve an agreement to allow the racing secretary to condition races based on the exclusion of those prohibited substances or medications. The Board approved the agreement between TSG and TOC at its March 2019 Regular Board Meeting, effectively allowing TSG to reduce the maximum dose of race day furosemide allowable in horses born before 2018 and prohibit any amount of furosemide to be administered to horses born in or after 2018 at its California racetracks. Shortly after this agreement went into effect, all other racing associations and fairs in California approached the Board proposing similar agreements. The Board approved these agreements under Board Rule 1581 and effectively condi-

<sup>1</sup> A capillary is any of the fine branching blood vessels of hair-like thickness that form a network to carry blood between the arterioles and venules.

tioned all races in California to run following the same terms per the March 2019 agreement.

The 2019 agreement between TSG and TOC represents a larger horse racing industry trend. The United States (U.S.) is one of the few major racing jurisdictions worldwide that still allows horses to receive medication on the day of the race. Countries like South Africa, Australia, Malaysia, Brazil, Ireland, Germany and Switzerland all prohibit race day administration of furosemide in their jurisdictions. Many industry leaders in the U.S. are moving to align their policies with stricter international standards. The 2019 agreement between TSG and TOC comes on the heels of a similar agreement between organizations representing a group of racetracks that account for 90 percent of the total handle<sup>2</sup> on U.S. races, including all three hosts of the Triple Crown<sup>3</sup>. The group also includes organizations representing a diverse set of U.S. racetracks including Aqueduct, Del Mar, Fair Grounds, Gulfstream, Keeneland, Oaklawn, Pimlico, and Saratoga. The group's initiative has received the endorsement of the Breeder's Cup, the Thoroughbred Owners and Breeders Association, and the American Graded Stakes Committee. The Board has accommodated TSG and TOC in this effort through its powers under Board Rule 1581 and has done the same for the subsequent agreements with other California racing associations and fairs. In order to bring its authorized bleeder medication rules in line with the terms of the approved agreements, the Board has determined to amend Board Rule 1845 to align California's race day furosemide rules with the industry's initiative.

The proposed amendment to Board Rule 1845 will modify subsection 1845(a) by reducing the maximum allowable dose of race day furosemide from 500 milligrams to 250 milligrams, and this dose may only be administered to horses born before 2018. This is a return to the maximum dosage levels from before 2005 when the maximum was raised to 500 milligrams. The reduction to 250 milligrams allows for horses that currently run on furosemide to continue doing so, but at reduced levels. Furosemide administration is common in the U.S., and the complete and abrupt prohibition of furosemide could carry health risks for horses currently receiving furosemide treatment. In a worst case, a horse on a furosemide regimen that was taken off prematurely could bleed into its lungs to the point of becoming inca-

pacitated during a race. The proposed amendment allows for a gradual reduction in furosemide levels to ease the process of phasing out furosemide administration in California horse racing while protecting the horses currently receiving furosemide.

The proposed amendment will also add subsection 1845(a)(1) to provide that the administration of furosemide is prohibited to horses born in or after 2018. Horses born in 2018 will not race until 2020 when they reach two years of age. All two-year olds, starting in 2020 and continuing thereafter, will race medication free. Eventually, as horses who were born before 2018 age and ultimately retire, the limited number of horses allowed to race on furosemide will leave the horse racing population and only those born in or after 2018, who race medication free, will remain. This completes the phase out of race day furosemide administration.

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

The proposed amendment to Board Rule 1845 has the benefit of providing consistency and clarity regarding California's anti-bleeding medication rules. The proposed amendment is consistent with the 2019 Board-approved agreement between TSG and TOC to reduce the maximum allowable dosage of race day furosemide to 250 milligrams and prohibit all race day administration of furosemide to race horses born in or after 2018. The amendment aligns the Board's rules for furosemide administration with a wider industry initiative to race medication-free. The amendment also has the benefit of facilitating the transition away from the use of medication on race day gradually to safeguard the health of horses currently racing on furosemide who may suffer health risks if the Board were to abruptly ban the drug's use.

Additionally, providing for the banning of a substance that many view as performance enhancing will encourage the public to view the California racing industry as fair and honest. This has the further benefit of promoting a positive view of the horse racing industry in the eyes of the wagering public. A favorable view of horse racing could result in an increase in wagering activity and a positive economic impact for the industry.

#### CONSISTENCY EVALUATION

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

<sup>2</sup> The handle is the total amount of money bet on a race, or during the entire day or season.

<sup>3</sup> The Triple Crown is a series of three thoroughbred horse races consisting of the Kentucky Derby, Preakness Stakes and Belmont Stakes. The Triple Crown is the U.S. horse racing industry's most valuable asset and it generates millions of dollars for the horse racing industry.

**DISCLOSURE REGARDING THE  
PROPOSED ACTION/RESULTS OF THE  
ECONOMIC IMPACT ANALYSIS**

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 (GC) 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 Board Rule 1845 will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

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

Cost impact on representative private persons or businesses: none.

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

Significant effect on housing costs: none.

**RESULT OF ECONOMIC IMPACT ANALYSIS**

The adoption of the proposed amendment to Board Rule 1845 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) expand businesses currently doing business in California. The proposed amendment to Board Rule 1845 promotes the safety and welfare of all horses participating in recognized race meetings. The proposed amendment will reduce the maximum allowable dose of race day furosemide from 500 milligrams to 250 milligrams and will ban all administration of race day furosemide to foals born in or after 2018. The amendment aims to phase out the race day administration of furosemide but will do so gradually so as to allow horses currently racing on furosemide to continue doing so to avoid any potential health risks. Therefore, the amendment safeguards the health and safety of race horses. Safeguarding the health of race horses also benefits jockeys and drivers by subsequently promoting their safety while working those horses. As such, the proposed amendment to Board Rule 1845 will benefit worker safety.

The proposed amendment to Board Rule 1845 will not benefit the state's environment and will not affect small businesses. Effects on small businesses: none. The proposal to amend Board Rule 1845 does not affect

small businesses because horse racing is not a small business under GC section 11342.610.

**CONSIDERATION OF ALTERNATIVES**

In accordance with GC 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 that 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:

Zachary Voss, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6036  
Fax: (916) 263-6022  
E-mail: zavoss@chrb.ca.gov

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

Amanda Drummond  
Policy and Regulations Manager  
California Horse Racing Board  
Telephone: (916) 263-6033  
E-mail: amdrummond@chrb.ca.gov

**AVAILABILITY OF INITIAL  
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 rea-

sons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Zachary Voss, 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 regulation should be sent to the attention of Zachary Voss 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 Zachary Voss 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 website. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's website address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

### TITLE 4. CALIFORNIA HORSE RACING BOARD

#### RULE 1842. VETERINARIAN REPORT

The California Horse Racing Board (Board) 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 Board Rule 1842, Veterinarian Report, to require every veterinarian who treats a horse within the inclosure to use an electronic, on-line form prescribed by the Board to report such treatment to the official veterinarian.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, March 19, 2020**, or as soon after that as business before the Board will permit, at the **Clubhouse at the California Exposition and State Fair Grandstand, 1600 Exposition Boulevard, Sacramento, 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 representatives, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **March 9, 2020**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Zachary Voss, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6036  
Fax: (916) 263-6022  
E-mail: [zavoss@chrb.ca.gov](mailto:zavoss@chrb.ca.gov)

#### AUTHORITY AND REFERENCE

Authority: Sections 19440, 19580, and 19583, Business and Professions Code (BPC). Reference: Sections 19440, 19580, and 19583, BPC.

BPC sections 19440, 19580, and 19583 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19440, 19481, and 19562 of the BPC.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19440 states the Board shall have all powers necessary and proper to enable it to carry out

fully and effectually the purposes of Chapter 4 of the BPC. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. BPC section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in the state. BPC section 19583 provides that every veterinarian who treats a horse within the inclosure shall, in writing, on a form prescribed by the Board, report to the official veterinarian in a manner prescribed by him or her, the name of the horse treated, the name of the trainer of the horse, the time of treatment, any medication administered to the horse, and any other information requested by the official veterinarian. BPC section 19481 states that in performing its responsibilities, the Board shall establish safety standards governing the uniformity and content of, among other things, veterinary services and designate a safety steward at all horse racing meetings to be responsible for enforcing compliance with safety standards in order to improve the safety of horses, riders, and workers at the racetrack. BPC section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of Chapter 4 of the BPC, under which all horse races with wagering on their results shall be conducted in this state.

Board Rule 1842 requires veterinarians to complete a confidential veterinarian report when treating a horse within the inclosure. The report asks for information regarding the name of the horse treated, the name of the trainer of the horse, the time and date of the treatment, and any other information requested by the official veterinarian. The report is confidential, and its contents may not be disclosed except in a proceeding before the stewards or in an exercise of the Board's jurisdiction. The required form is the Veterinarian Report Confidential CHR-24 (Rev. 01/18) (CHR-24). Under this paper-based veterinary reporting procedure, official veterinarians can easily become inundated with a high volume of CHR-24s<sup>1</sup>. The reports are hand-written, which does not guarantee legibility. In addition, there is no uniformity in the abbreviations used for different treatments. As an example, Lasix, a common bleeder medication authorized by the Board, may appear as

LXA, LXAM, LXW, or any number of acronyms. The hand-written CHR-24 presents a problem with regards to drug violations or other issues, as it is cumbersome and time consuming to sort through them to find a specific report. While the official veterinarians usually understand the various abbreviations used and can read the handwriting, Board investigators may have more difficulty. In addition, the lack of a database prevents a thorough analysis of the relationship between veterinary procedures and horses' health and safety. Because of the disadvantages of the current paper CHR-24, the Board has proposed that Board Rule 1842 be amended to require that veterinarians who treat horses within the inclosure shall report such treatments to the official veterinarian in an electronic, on-line form prescribed by the Board.

Subsection 1842(a) of the proposed amendment to Board Rule 1842 provides that every veterinarian who treats a horse within the inclosure shall report the treatment to the official veterinarian using an electronic, on-line form prescribed by the Board. Electronic reporting will improve efficiency for the veterinarian and the horse racing jurisdiction, while improving accuracy and precision of data entry. The software will offer a wide range of functionality that cannot be achieved with the current paper version of CHR-24. The improved functionality of an electronic, on-line version of form CHR-24 will include centralized electronic storage of all treatment records, which will enhance inter-jurisdictional collaboration to assist investigations and analytical efforts, improve efficiency in filing reports, provide resources that can be readily retrieved and analyzed, and facilitate the monitoring of horses of interest in pre-race examination and post-race testing.

All other changes to the text of Board Rule 1842 are for the purposes of clarity and consistency.

#### CONSISTENCY EVALUATION

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

#### DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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 (GC) sections 17500 through 17630: none.

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

<sup>1</sup> The Del Mar July through September 2019 meeting will provide stalls for 2,500 horses. The Golden Gate Fields August through September 2019 meeting will provide stalls for 1,500 horses. Veterinarians are required to report all treatments. With the high numbers of horses on the grounds, the official veterinarian may literally receive hundreds of CHR-24s. At the April 2019 Regular Board meeting the Equine Medical Director reported that the official veterinarian at Santa Anita Park Race Track received 233 CHR-24 veterinarian reports the week of April 8, 2019.



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

The Board has made an initial determination that the proposed amendment to Board Rule 1842 will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

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

Cost impact on representative private persons or businesses: none.

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.

### RESULT OF ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendment to Board Rule 1842 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) expand businesses currently doing business in California. The proposed amendment of Board Rule 1842 promotes the safety and welfare of all horses participating in recognized race meetings. The proposed amendment will require that veterinarians report treatments performed within the inclosure using an electronic on-line form prescribed by the Board. The electronic reporting of veterinary procedures will provide reporting consistent with the current paper form CHRB-24. Electronic reporting of veterinary procedures will have the advantage of being easier to manage, legibility, and will provide a data base that is easier to search for purposes of enforcement and analysis.

The proposed amendment to Board Rule 1842 will provide a data base that will allow a thorough analysis of the relationship between veterinary procedures and horses' health and safety. A better understanding of veterinary practices and horses' health and safety will benefit worker safety. The proposed amendment to Board Rule 1842 will not benefit the state's environment.

Effects on small businesses: none. The proposal to amend Board Rule 1842 does not affect small businesses because horse racing is not a small business under GC section 11342.610.

### CONSIDERATION OF ALTERNATIVES

In accordance with GC 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:

Zachary Voss, Regulation Analyst  
 California Horse Racing Board  
 1010 Hurley Way, Suite 300  
 Sacramento, CA 95825  
 Telephone: (916) 263-6036  
 Fax: (916) 263-6022  
 E-mail: zavoss@chr.ca.gov

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

Amanda Drummond  
 Policy and Regulations Manager  
 Telephone: (916) 263-6033  
 E-mail: amdummond@chr.ca.gov

### AVAILABILITY OF INITIAL 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. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Zachary Voss, 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 regulation should be sent to the attention of Zachary Voss 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 Zachary Voss 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 website. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

**TITLE 5. DEPARTMENT OF  
EDUCATION**

NOTICE IS HEREBY GIVEN that the California Department of Education, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on January 25, 2020, and closing on March 9, 2020. All inquiries should be directed to the contact listed below.

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

Explanation of the changes to the conflict-of-interest code is provided on the attached document.

Information on the code amendment is available on the agency's intranet site.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than March 9, 2020, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than February 24, 2020.

Written comments may be submitted via U.S. mail, fax, or email to:

Patricia Alverson  
California Department of Education  
1430 N Street, Suite 5319  
Sacramento, CA 95814  
Fax: 916-319-0155  
Email: [REGCOMMENTS@cde.ca.gov](mailto:REGCOMMENTS@cde.ca.gov)

The California Department of Education has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment, including a request for a public hearing, and any communication required by this notice should be directed to: Patricia Alverson, Regulations Coordinator, telephone 916-319-0860, email [REGCOMMENTS@cde.ca.gov](mailto:REGCOMMENTS@cde.ca.gov).

**TITLE 5. SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

**AMENDMENT TO CALIFORNIA  
CODE OF REGULATIONS, TITLE 5,  
REGARDING STAFFING RATIOS**

**NOTICE IS HEREBY GIVEN** that the State Superintendent of Public Instruction (SSPI) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

The SSPI 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.

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SSPI, will hold a public hearing at 8:30 a.m. on March 9, 2020, at 1430 N Street, Room 1801, Sacramento, California. 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 SSPI requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations may request assistance by contacting Danielle Sisneros, Early Learning and Care Division, 1430 N Street, Suite 3410, Sacramento, CA, 95814; telephone, 916-322-4883. It is recommended that assistance be requested at least two weeks prior to the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or that person's authorized representative, may submit written comments relevant to the proposed regulatory action to:

Patricia Alverson, Regulations Coordinator  
 Administrative Support and Regulations  
 Adoption Unit  
 California Department of Education  
 1430 N Street, Room 5319  
 Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by email to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov).

Comments must be received by the Regulations Coordinator prior to or on March 9, 2020. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SSPI may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of all modified regulations will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to the regulations, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulations.

AUTHORITY AND REFERENCE

Authority: Section 8261, Education Code.  
 References: Sections 8264.7 and 8264.8, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Child Care and Development Services Act (the "Act"), starting at Education Code (EC) section 8200 et. seq., requires the SSPI to adopt rules and regulations for facilities operating state subsidized Early Learning and Care (ELC) funded programs. Most child care centers and family child care homes must be licensed by Community Care Licensing (CCL) and meet health and safety requirements pursuant to Health and Safety Code sections 1596.72 and 1597.30 and title 22 California Code of Regulations (22 CCR). If these facilities are state-subsidized ELC programs, they are mandated to follow family eligibility requirements, as well as program quality requirements, set forth in title 5 of the California Code of Regulations (5 CCR). If the 22 CCR and 5 CCR requirements are in conflict, state-subsidized ELC programs are required to follow the more rigorous of the two requirements.

One area where the requirements of 22 CCR and 5 CCR are in conflict is staffing ratios. Currently, 5 CCR requirements prescribe teacher-child and adult-child ratios as follows; however, there is no variance to these ratios for nap periods:

- Infants (birth-18 months) — 1:3 adult-child ratio, 1:18 teacher-child ratio
- Toddlers (18-36 months) — 1:4 adult-child ratio, 1:16 teacher-child ratio
- Preschool, (36 months-enrollment in kindergarten) — 1:8 adult-child ratio, 1:24 teacher-child ratio

- Children enrolled in kindergarten through 14 years old — 1:14 adult–child ratio, 1:28 teacher–child ratio

The current ratios set forth in 22 CCR, which includes a variance for nap periods, are as follows:

- Infants, birth–24 months — 1:4 teacher–child ratio, 1:12 teacher–child ratio with 1 teacher and 2 aides; Naptime — 1:12 teacher–child ratio
- Toddlers, with a Toddler Component license, 18–36 months — 1:6 teacher–child ratio, 1:12 teacher–child ratio with 1 teacher and 1 aide
- Preschool, 24 months–enrollment in kindergarten — 1:12 teacher–child ratio, 1:15 teacher–child ratio with 1 teacher and 1 aide; Naptime — 1:24 teacher–child ratio
- Children enrolled in kindergarten through 14 years old — 1:14, 1:28 teacher–child ratio with 1 Teacher and 1 Aide

Over the last several years, the CDE has engaged stakeholders to provide recommendations for regulatory and statutory improvement for the CDE’s consideration. The CDE received numerous recommendations that CDE’s regulations provide for exceptions to staffing ratios during nap periods, similar to title 22, particularly for full–day California State Preschool Program (CSPP), where children have scheduled nap periods. With no exceptions in 5 CCR allowing for a less stringent staffing ratio during scheduled nap periods, the CDE’s ELC Division (ELCD) contractors must employ substitute staff for short periods of time to ensure staff take breaks as required by law. This is a cost driver for contractors. Alignment with 22 CCR staffing requirements will provide administrative relief for contractors that must fully staff classroom ratios during these scheduled nap periods. Providing an exception to this “napping ratio” for when children get up and requiring that staff remain on the premises will ensure that the proposed regulations will not impact the health and safety of children in the program.

Other proposed regulatory changes are for purposes of alignment. Section 18290(c) amends the age for preschool staffing ratio purposes from 36 months to three years old for alignment with EC section 8208(ai), which defines a three–year–old child for purposes of CSPP as being three years old on or before December 1 in the fiscal year served in the CSPP. Section 18290(d) is amended to align the upper age limit with state and federal requirements, which allow for subsidized care only to age 13. Finally, clarifying changes in language have been made to ensure consistent and clear administration of ELCD programs.

***Anticipated Benefits of the Proposed Regulations***

The benefit of enacting the proposed regulations is to align 5 CCR regulations with 22 CCR and to incorporate key recommendations made by various stakeholder groups, which were to align the regulations to other statutory and regulatory requirements, and to make these regulations clearer to the stakeholders. When regulations do not align, the contracting agencies charged with implementing these programs have a difficult time consistently and effectively applying regulations in practice. When regulations are out–of–date and do not meet the current needs of stakeholders, including families and children receiving the services, they make the provision of quality services in an effective and efficient manner close to impossible. The early learning community will benefit by having up–to–date regulations that meet the needs of those who participate in the process.

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

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Code section 11346.5(a)(3)(D). As detailed above in the Informative Digest/Policy Statement Overview, the proposed regulations will harmonize the existing conflict between the staffing ratio provisions of 5 CCR and 22 CCR. Specifically, along with the other specified alignment purposes stated in the above Informative Digest/Policy Statement Overview, the proposed regulation will adjust the staff–child ratio during nap times similar to those provided in 22 CCR, i.e., during nap times the number of required staff will be lowered.

**DISCLOSURES REGARDING THE PROPOSED ACTION/FISCAL IMPACT**

The SSPI has made the following initial determinations:

*Other statutory requirements:* There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

*Mandate on local agencies and school districts:* None.

*Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code:* None.

*Cost or savings to any state agency:* None.

*Other non–discretionary costs or savings imposed on local agencies, including local educational agencies:* There might be minor savings to local agencies, includ-

ing local educational agencies, that operate CSPP contracts.

*Costs or savings in federal funding to the state:* None.

*Effect on housing costs:* None.

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

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

*Report required:* The proposed regulations do not require a report to be made.

*Effect on small businesses:* The proposed regulations would not have an effect on any small business because they are only relevant to the contractors of subsidized programs contracted through the CDE.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The SSPI concludes that it is unlikely that these proposed regulations will: 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. Although this proposed regulation might eliminate the need for CSPPs to pay for substitute staff during napping periods due to changes in the ratio, the impact is not likely to eliminate jobs within California.

*Benefits of the Proposed Action:* The proposed regulations will benefit ELC programs throughout the state, particularly those programs that administer CSPP. For additional benefit analysis, please see “Anticipated Benefits of the Proposed Regulation” found under the Informative Digest/Policy Statement Overview.

#### CONSIDERATION OF ALTERNATIVES

The SSPI must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SSPI, 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.

#### CONTACT PERSONS

Inquiries concerning the content of these proposed regulations should be directed to:

Danielle Sisneros, Analyst  
Early Learning and Care Division  
California Department of Education  
1430 N Street, Suite 3410  
Sacramento, CA 95814  
Telephone: 916-322-4883  
Email: DSisneros@cde.ca.gov

Inquiries concerning the regulatory process may be directed to Patricia Alverson, Regulations Coordinator or the backup contact person, Hillary Wirick, Regulations Analyst, at 916-319-0860.

#### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS, AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INFORMATION

The SSPI has prepared an Initial Statement of Reasons for the proposed regulations. This document and the text of the proposed regulations may also be viewed and downloaded from the CDE’s website at <http://www.cde.ca.gov/re/lr/rf/>. All of the information upon which the proposed action is based may be obtained upon request from the Regulations Coordinator.

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

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

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

#### TITLE 10. BUREAU OF REAL ESTATE APPRAISERS

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers (“Bureau” or “BREA”) is proposing to take the action described in the informative digest below.

#### PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hear-

ing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

### COMMENT PERIOD

Written comments including those sent by mail or email to the address listed under “Contact Person” in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on March 10, 2020.

### AVAILABILITY OF MODIFICATIONS

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

### AUTHORITY AND REFERENCE

Authority vested by Sections 11313 and 11314 of the Business and Professions Code and to implement, interpret and make specific sections 11345.3, 11345.4, 11345.45, 11345.6, and 11345.8, Business and Professions Code; Appraisal Subcommittee Policy Statement 8; 12 C.F.R. sections 1102.402 and 1102.403; and section 1090.5, Civil Code, the Bureau is considering revising section 3577 and 3582 of Title 10 of the California Code of Regulations as described in this Notice.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Federal statutes, regulations, and Appraisal Subcommittee (ASC)<sup>1</sup> policy statements prohibit an Appraisal Management Company (AMC) from being registered if

the AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause. Further, federal statutes, regulations, and ASC policy statements require AMCs to submit a national registry fee each year. Currently, the Bureau does not prohibit an AMC from registering if in whole or in part, directly or indirectly, it is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause. The Bureau also does not have a process for AMCs to submit the national registry fee. This regulation would resolve the inconsistency with federal law by prohibiting AMCs from registering if ineligible individuals own the AMC and by establishing a national registry fee form titled Appraisal Management Company National Registry Fee form REA 5030 (Rev. 1/1/19). The Bureau will also add a \$110 fee to process the form to compensate the Bureau for its processing costs. Federal compliance will ensure AMCs can continue to operate in California.

### INCORPORATION BY REFERENCE

The Bureau seeks to incorporate by reference Appraisal Management Company National Registry Fee form REA 5030 (Rev. 1/1/19).

### ANTICIPATED BENEFITS

It will align California regulations with federal requirements to ensure AMCs can continue to operate in California and be on the national registry.

- **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:** The proposed regulations will continue lender, appraiser, and consumer access to AMCs who facilitate appraisals for home purchases. This will ensure the home purchases can continue uninterrupted.

### CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

<sup>1</sup> The ASC was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI). Pursuant to Title XI, one of the ASC’s core functions is to monitor the requirements established by the States for licensing appraisers and registering AMCs to ensure compliance with Title XI.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: It is estimated that the proposed fee will result in an increase in the Bureau’s revenue by \$26,400 beginning in 2020–21 and ongoing.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to, or mandate imposed on, any Local Agency or School District for Which Government Code Section 17500–17630 Require Reimbursement: None.

Business Impact: The Bureau has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The national registry fee was established by the ASC and the fee is collected by the Bureau as a pass through to the ASC. The national registry fee is \$25 per panel member. All AMCs must have at least 15 panel members to qualify as an AMC. Thus, the minimum national registry fee will be 15 x \$25 = \$375. Currently, the Bureau does not know how many panel members AMCs maintain. Thus, the Bureau is unable to determine the costs to AMCs beyond the minimum cost of \$375.

The Bureau is also imposing a \$110 state processing fee to reimburse the Bureau for its costs associated with processing the new form. The \$110 fee is the cost the Bureau anticipates incurring to process the fee, which includes maintaining the database. The Bureau recognizes this will impact AMC businesses, but does not believe it will be significant as it is a relatively low yearly cost. This is based on feedback received from AMCs.

The Bureau is not changing the processing fee for appraisers which is set at \$25. The Bureau is merely specifying the fee will remain the same for appraisers and will set a \$110 fee for AMCs.

Cost Impact on Representative Private Person or Business: The proposed regulations will impact AMC businesses with the payment of the registry fee and Bureau processing fee. However, the Bureau does not anticipate the impact to be significant.

Effect on Housing Costs: None.

Effect on Small Businesses: The proposed regulations will impact AMC businesses with the payment of the registry fee and Bureau processing fee. However, the Bureau does not anticipate the impact to be significant.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Impact on Jobs/Businesses: The Bureau has determined this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of business in the State of California. This is because the new fees are likely not substantial enough to impact the number of AMCs or the number of appraisers hired by AMCs.

Benefits of Regulation: The Bureau has determined this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state’s environment. It will align California regulations with ASC requirements to ensure AMCs can continue to operate in California and be on the national registry. It will also continue lender, appraiser, and consumer access to AMCs who can facilitate appraisals for home purchases.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative considered by the Bureau or that has otherwise been identified and brought to the attention of the Bureau 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.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons which contains the purpose, rationale, and necessity for the proposed action.

The proposed text, this notice, the statement of reasons, and any other relevant documents are on the Bureau’s website at [www.brea.ca.gov](http://www.brea.ca.gov). Click the “Laws and Enforcement” tab at the top of the page. Under the heading “Rulemaking Notifications” find the documents associated with this rulemaking subject: “Federal Compliance.”

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. 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. Copies may be obtained by contacting the person named below or by accessing the website as provided above.

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the person named below.

**CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Kyle Muteff, Legal Counsel  
3075 Prospect Park Drive, Suite 190  
Rancho Cordova, CA 95670  
Phone: 916-341-6126  
kyle.muteff@brea.ca.gov

The backup person is:

Mary Ann Lopez  
3075 Prospect Park Drive, Suite 190  
Rancho Cordova, CA 95670  
Phone: 916-440-7876  
Maryann.lopez@brea.ca.gov

**TITLE 14. FISH AND  
GAME COMMISSION**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 203, 205, 265, 331, 332, 355, 710, 710.5, 710.7, 713, 1050, 1055, 1055.1, 1530, 1570, 1571, 1572, 1573, 1583, 1587, 1745, 1764, 1765, 3003.1, 3004.5, 3031, 3039, 3950, 3951, 4001, 4004, 4150, 4302, 4330, 4331, 4332, 4333, 4336, 4340, 4341, 4652, 4653, 4655, 4657, 4750, 4751, 4752, 4753, 4754, 4755, 4902, 10500, 10502 and 10504, Fish and Game Code and to implement, interpret or make specific Sections 550, 550.5, 551, 552, 630 and 702; Title 14, California Code of Regulations, relating to public use of Department of Fish and Wildlife lands.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

The Department proposes to designate recently acquired lands; one as a wildlife area pursuant to Fish and Game Code sections 1525 and 1526; and seven (7) as ecological reserves pursuant to Fish and Game Code Section 1580. Four properties which the Department no longer possesses or manages will be removed from the regulations.

The purposes of wildlife areas are to conserve wildlife and their associated habitats, while allowing for compatible recreation. The main uses of wildlife areas include hunting, fishing, wildlife viewing, photography, environmental education and research. The purposes of ecological reserves are to conserve threatened or endangered plants and/or animals, and/or specialized habitat types, provide opportunities for the public to observe native plants and wildlife, and provide opportunities for environmental research. Recreation on ecological reserves must be compatible with the conservation of the property's biological resources.

The general public's use of Department lands is governed by regulations:

- Section 550 contains regulations that pertain to all Department lands.
- Section 550.5 contains more detailed regulations about reservations, passes, and permits used on Department lands.
- Section 551 pertains to wildlife areas only.



- Section 552 pertains to nine (9) National Wildlife Refuges where the Department manages hunting programs.
- Section 630 pertains to the Department’s ecological reserves.
- Section 702 pertains to fees and forms.

If approved, these proposed regulation changes would:

Designate seven ecological reserves in subsection 630(b) and one wildlife area in subsection 551(b).

Remove one ecological reserve and three wildlife areas from, respectively, subsections 630(b) and 551(b).

Make site-specific regulation changes for certain properties to improve public safety, increase compatible recreational opportunities on certain properties, prohibit general public access on certain properties, provide natural resource protection and manage staff resources for the conservation and recreational purposes of these properties.

Improve consistency between federal regulations and the state regulations in Section 552 for nine Federal refuges on which the Department manages hunting programs and remove text that is duplicative or otherwise unnecessary in this section. These refuges are also listed as state wildlife areas in subsection 551(c).

Update information in the “Permit Application For Special Use of Department Lands” (DFW 730 (New 01/14)) which is incorporated by reference in subsection 702(d)(1) and associated subsections of 702 to improve their clarity and consistency.

Editorial changes are also proposed to improve the clarity and consistency of the regulations and to streamline the regulations by removing unnecessary text.

#### Goals and Benefits of the Regulation

The increase in compatible recreational opportunities will benefit businesses that provide recreational equipment, and supplies, and local businesses that sell food or other goods to people who recreate on Department lands.

#### Non-Monetary Benefits to the Public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

#### Consistency with State Regulations

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit.

The Legislature has delegated to the Commission the power to regulate the uses of Department lands (Sections 1526 and 1580, Fish and Game Code). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the California Code of Regulations and finds no other State agency regulations pertaining to the designation and compatible uses of Department lands.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Friday, February 21, 2020, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Thursday, April 16, 2020, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before noon April 10, 2020 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). All comments (both oral and written) must be received no later than April 16, 2020, at the hearing in Sacramento, California. If you would like copies of any modifications to this proposal, please include your name and mailing address. **Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090.**

#### AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, P.O. Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Sheri Tiemann at the preceding address or phone number. **Julie Horenstein, Lands Program, has been designated to respond to questions on the substance of the proposed regulations. She can be reached at**

(916) 324-3772 or via email at Julie.Horenstein@wildlife.ca.gov.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION/RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have significant statewide adverse economic impacts directly affecting business, including the ability of California businesses to compete with businesses in other states because the regulatory actions affect undeveloped land and are not anticipated to have any net impact on recreational uses.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of

California Residents, Worker Safety, and the State's Environment:

The proposed action will not impact the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California because the regulatory actions affect undeveloped land and are not anticipated to have any net impact on recreational uses. No benefits to worker safety are anticipated because this regulatory action will not impact working conditions. The proposed site-specific regulation changes for certain properties are expected to benefit the health and welfare of California residents by increasing public safety and recreational opportunities and benefit the environment by improving resource protection and the management of staff resources.

- (c) Cost Impacts on a Representative Private Person or Business:

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The California Department of Fish and Wildlife (Department) may experience a small increase in draw application fees for additional special hunts that have been proposed, as well as a small decrease in one-day or two-day hunting passes because some pheasant hunts are proposed to be no longer permitted in certain Type A wildlife area lands. The net revenue change is estimated to be **\$149.52** per budget year.

The proposed changes are to designate seven ecological reserves and one wildlife area. Through designating these properties, four will offer at least occasional public use opportunities, such as special hunts and educational activities. Three will generally be open to authorized public uses.

The proposed regulation changes would increase special hunt opportunities offered to a limited number of participants via a random drawing. These hunts are often offered to a category of hunters that would particularly benefit from the more controlled circumstances of a special hunt, such as youth or disabled hunters.

Most of the proposed special hunt opportunities would be for upland game. One would be for tule elk. The anticipated number of applicants for each new special hunt and potential new revenue is shown in Table 1. The draw application fee for an upland game special hunt is \$2.42, and the

application fee for tule elk is \$8.13. The estimated new revenue for the proposed upland game bird and tule elk special hunts is estimated to be as much as **\$653.40**.

Some proposed changes would decrease public use opportunities such as the elimination of early season pheasant hunting days on seven Central Valley Type A wildlife areas. Regular shoot days for the Type A wildlife areas during the waterfowl hunting season (basically September through January) are Saturday, Sunday, and Wednesday. No hunting occurs outside of those days for waterfowl or any other species, except for the possibility that pheasant could be permitted. In the current regulations (subsections within 551(s)) there are exceptions to the regular shoot days on seven Type A wildlife areas. Depending on the property, five to twelve consecutive days of pheasant hunting are allowed at the beginning of the six-week pheasant season which begins in early November.

However, starting approximately nine years ago, because of the steep decline in the wild pheasant population, the Department has annually issued a press release that excluded nearly all those extra pheasant hunt days. The Department had to exercise its authority to restrict or close a public use for conservation purposes. Only one extra day was retained on two properties via the press releases: the first Monday of pheasant season on Gray Lodge and Upper Butte Basin. In practice, this one day on two areas have been the only extra opportunity available, regardless of the current language in Section 551(s). So functionally, the proposed regulatory change would be a very small change from the current practices over the last nine years.

In order to hunt on a Type A wildlife area, people must purchase a hunting pass. One-day, two-day, and season-long hunting passes are sold through the Department's online license sales program. The current fee for a one-day Type A hunting pass is \$21.42. The current fee for a two-day hunting pass is \$36.21.

The hunter participation on "pheasant Mondays" in recent years at Gray Lodge and Upper Butte Basin has been very low compared to regular weekend shoot days. The Department estimates that five one-day passes are sold for each property for the first Monday, and four two-day passes are sold for each property for hunting on Sunday and Monday. If this day is no longer available for upland game hunting on those two properties, this

could result in a total loss of **\$503.88** in hunting pass sales.

The Department estimates that removing this one-day pass from two properties will not affect the sale of season-long hunting passes, hunting licenses or upland game stamps.

In sum, the proposed rulemaking could result in \$653.40 in new revenue to the Department along with a reduction in revenue estimated to be about \$503.88, resulting in a \$149.52 net revenue change for the Department that is absorbable within existing budgets and resources.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, 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.

### TITLE 16. BOARD OF OPTOMETRY

#### Department of Consumer Affairs

#### Notice of Regulatory Action Concerning the Implementation of AB 2138

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

## PUBLIC HEARING

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

## COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than March 9, 2020**, or must be received by the Board at the hearing. Oral comments should be made at the hearing, if any.

## AVAILABILITY OF MODIFICATIONS

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

## AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 3021 and 3025 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 141, 475, 480, 481, 482, 488, 490, 492, and 493 of said code, the Board is considering amending sections 1399.270, 1399.271, 1399.272, 1516, and 1517 of Title 16 of the California Code of Regulations (CCR).

## INFORMATIVE DIGEST

BPC sections 3021 and 3025 authorize the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Optometry Practice Act (Act) and provisions relating to the practice of opticians. Additionally, as required under Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018), the

primary purpose of this proposal is to implement, interpret, and make specific the provisions of BPC sections 141, 475, 480, 481, 482, 488, 490, 492, and 493 relative to substantial relationship and rehabilitation criteria.

Therefore, the Board is proposing the following changes:

Amend Section 1399.270 of Article 7 of Division 13.5 of Title 16 of the CCR (Substantial Relationship Criteria):

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

Amend Section 1399.271 of Article 7 of Division 13.5 of Title 16 of the CCR (Criteria for Denial and Reinstatement of Registration):

The proposal specifies the following criteria for the Board to consider when making the determination that the applicant who has successfully completed the criminal sentence has made a showing of rehabilitation: (1) the circumstances, nature, and gravity of the crime(s); (2) the length(s) of time that has elapsed since the criminal conduct and the completion of probation; (3) whether the applicant is a repeat offender of the same or similar crime(s) and the total criminal record; and (4) the terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation and the fitness to practice the profession. Additionally, the proposal uses the existing rehabilitation criteria with the addition of the criteria specified in CCR section 1399.271(a) and makes other minor revisions. Each of these criteria are designed to focus the Board's evaluation on facts and circumstances relevant to an applicant's rehabilitation, so that the Board knows the relevant criteria it must review to make the determination as to the applicant's rehabilitation.

Amend Section 1399.272 of Article 7 of Division 13.5 of Title 16 of the CCR (Rehabilitation Criteria for Suspensions and Revocations):

This proposal specifies the following criteria for the Board to consider when making the determination that the registrant who has successfully completed the criminal sentence has made a showing of rehabilitation: (1) the circumstances, nature, and gravity of the crime(s); (2) the length(s) of time that has elapsed since the crimi-

nal conduct and the completion of probation; (3) whether the registrant is a repeat offender of the same or similar crime(s) and the total criminal record; and (4) the terms or conditions of parole or probation and the extent to which they bear on the registrant’s rehabilitation and the fitness to practice the profession. Further, the proposal uses the existing rehabilitation criteria with the addition of the criteria specified in CCR section 1399.272(a) and makes other minor revisions. Each of these criteria are designed to focus the Board’s evaluation on facts and circumstances relevant to a registrant’s rehabilitation, so that the Board knows the relevant criteria it must review to make the determination as to the registrant’s rehabilitation.

Amend Section 1516 of Article 3 of Division 15 of Title 16 of the CCR (Application Review and Criteria for Rehabilitation):

This proposal would specify the following criteria for the Board to consider when making the determination that the optometrist applicant who has successfully completed the criminal sentence has made a showing of rehabilitation: (1) the circumstances, nature, and gravity of the crime(s); (2) the length(s) of time that has elapsed since the criminal conduct and the completion of probation; (3) whether the applicant is a repeat offender of the same or similar crime(s) and the total criminal record; and (4) the terms or conditions of parole or probation and the extent to which they bear on the applicant’s rehabilitation and the fitness to practice the profession. Additionally, this proposal uses the existing rehabilitation criteria and makes other minor revisions. Each of these criteria are designed to focus the Board’s evaluation on facts and circumstances relevant to an applicant’s rehabilitation, so that the Board knows the relevant criteria it must review to make the determination as to the applicant’s rehabilitation.

Amend Section 1517 of Article 3 of Division 15 of Title 16 of the CCR (Substantial Relationship Criteria):

This proposal seeks to implement, interpret, and make specific BPC sections 141 and 480 by adding their relative provisions to the Board’s substantial relationship criteria regulation. Accordingly, the proposal is necessary to provide the appropriate notice to license applicants and licensees that discipline in an out-of-state jurisdiction and professional misconduct are grounds for license denial, suspension, or revocation, and implement the requirements of BPC sections 141 and 480. Additionally, the proposed regulation lists each of these criteria for the Board to consider when making the substantial relationship determination and would specify that substantially related crimes, professional misconduct, and acts include violations of other state or federal laws governing the practice of optometry.

POLICY STATEMENT  
OVERVIEW/ANTICIPATED  
BENEFITS OF PROPOSAL

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

**Consistency and Compatibility with Existing State Regulations**

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

FISCAL IMPACT ESTIMATES

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

The Board anticipates that there may be an increased cost of the state as a result of amending and adopting the sections identified in the regulatory proposal. By further defining the substantial relationship and rehabilitation criteria for criminal convictions, Board staff may see an increased but absorbable workload to research convictions and to substantiate that rehabilitation has been achieved.

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

**Nondiscretionary Costs/Savings to Local Agencies:** None.

**Local Mandate:** None.

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

**Business Impact:**

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

**Cost Impact on Representative Private Person or Business:**

The Board estimates that there will be no increased costs for businesses or individuals to comply with the proposed regulations, as there would be fewer restrictions for individuals with criminal convictions to obtain licensure. As a result, 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.

**Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

The proposed regulations may affect small businesses by potentially increasing the available pool of licensed professionals in which to hire. This proposal seeks to reduce barriers to licensure for individuals with prior criminal convictions and thus increase opportunities for employment.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses:**

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

**Benefits of Regulation:**

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

CONSIDERATION OF ALTERNATIVES

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

implementing the statutory policy or other provision of law.

The following alternatives were considered:

- **Option 1:** Do nothing, meaning the Board would not adopt the regulations. The Board opted not to pursue this option because per AB 2138, the Board is mandated to adopt proposed regulations by July 1, 2020.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2450 Del Paso Road, Suite 105, Sacramento, CA 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2450 Del Paso Road, Suite 105, Sacramento, CA 95834.

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

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

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

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:

Marc Johnson

Address:

California State Board of Optometry  
2450 Del Paso Road, Suite 105  
Sacramento, CA 95834

Telephone Number:

916-575-7182

Fax Number:  
916-575-7292

E-Mail Address:  
marc.johnson@dca.ca.gov  
The backup contact person is:

Name:  
Shara Murphy, Executive Officer

Address:  
California State Board of Optometry  
2450 Del Paso Road, Suite 105  
Sacramento, CA 95834

Telephone Number:  
916-575-7170

Fax Number:  
916-575-7292

E-Mail Address:  
shara.murphy@dca.ca.gov

**Website Access:** Materials regarding this proposal can be found here: <https://www.optometry.ca.gov/lawsregs/propregs.shtml>

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF  
FISH AND WILDLIFE**

**CALIFORNIA STATE SAFE HARBOR  
AGREEMENT PROGRAM ACT  
CONSISTENCY DETERMINATION  
NUMBER 2089-2019-003-01**

**Project:** RPH Comptche Safe Harbor Agreement

**Location:** RPH Comptche Ranch, Mendocino County

**Applicant:** RPH Comptche Properties, LLC

**Notifier:** Craig Blencowe, Registered Professional Forester

**Background**

RPH Comptche Properties, LLC (Permittee) is voluntarily undertaking a federal Safe Harbor Agreement (SHA) for the northern spotted owl (*Strix occidentalis caurina*) for the purpose of managing timber on a 120-acre property associated with a nonindustrial timber management plan (NTMP; 1-03NTMP-003MEN, "RPH Comptche", formerly known as the Herr Ranch NTMP) in western Mendocino County. The United States Fish and Wildlife Service (USFWS) issued a federal SHA and a federal 10(a)(1)(A) enhancement of survival permit (Permit No. TE21176D-0) on August 28,

2019, in effect for 40 years. The permit authorizes take of northern spotted owl that is likely to occur incidental to managing timber on the property under uneven-aged, sustained yield timber management, including single-tree and group selection. The development and enhancement of functional nesting/roosting and foraging habitat is intended to provide a net conservation benefit to northern spotted owls.

The RPH Comptche Ranch (Enrolled Lands) is located approximately 1.7 miles east of the town of Comptche in Sections 5 and 8, Township 16 North, Range 15 West, M.D.B. and M., in Mendocino County, California. The Enrolled Lands are in the Albion River and South Fork Big River watersheds.

The Enrolled Lands currently contain clumps of 70-year old coast redwood (*Sequoia sempervirens*) in the overstory, along with tanoak (*Notholithocarpus densiflorus*) in the middle and understory. Merchantable Douglas-fir (*Pseudotsuga menziesii*) is sparse at 2 percent, with some saplings. Approximately 12 acres of the Enrolled Lands consist of ridgetop grassland. Total basal area in 2009 equated to 254 square feet, of which 186 square feet was conifer. Average conifer volume across the Enrolled Lands is approximately 29,428 board feet per acre per year, equating to an annual growth rate of 2.4 percent.

**RPH Comptche NTMP**

The northern spotted owl SHA will be appended to the RPH Comptche NTMP subsequent to the signing of this Consistency Determination. The RPH Comptche NTMP will be publicly reviewed in accordance with the California Forest Practice Rules (Cal. Code Regs., tit. 14, Chapters 4, 4.5, and 10).

The RPH Comptche NTMP provides management goals that are consistent with improving the functionality of northern spotted owl habitat over time and include the following:

- 1) Increase the average quadratic mean diameter at breast height (dbh) of conifer trees after each harvest entry;
- 2) Retain a greater average post-harvest basal area in square feet per acre for trees greater than 12-inches dbh as compared to trees of the same dimensions from the previous harvest;
- 3) Increase the average number of wildlife trees across the property, including trees with basal hollows, cavities, and other defects, with a target of one tree per acre;
- 4) Limit all openings created by timber harvest to 0.99 acre; and
- 5) Retain all downed logs, culls, and snags.

A Conservation Easement (CE) established on the property in 2002 provides the following additional pro-

visions that are compatible with the SHA as well as the RPH Comptche NTMP:

- 1) Increase inventory by harvesting less than the periodic growth until sustained yield is achieved;
- 2) Employ tree selection and individual tree marking to remove low-quality trees and retain high-quality vigorous trees;
- 3) Maintain a range of age and size classes, from seedlings to 100+ year-old trees with minimum target sizes of 24-inches dbh or greater for Douglas-fir and 30-inches dbh or greater for coast redwood;
- 4) Maintain a minimum 15 percent of timber volume with trees that are 100 years old or greater;
- 5) Permanently retain heritage trees, including coast redwood trees that are 150 years old and greater than 48-inches dbh and Douglas-fir trees that are 150 years old and greater than 36-inches dbh;
- 6) Accept less than optimum production where necessary to preserve related forest values;
- 7) Promote forest diversity and favor the retention of redwood, but not to the exclusion of other species, and maintain a natural ecological balance.
- 8) Maintain a mix of dominant tree species that include tanoak (*Notholithocarpus densiflorus*), Pacific madrone (*Arbutus menziesii*), and California nutmeg (*Torreya californica*);
- 9) Maintain a multi-story canopy of variable densities with no less than 65 percent canopy closure, allowing for gaps due to natural disturbances, mortality, and timber harvesting; and
- 10) Prohibit herbicide use.

The CE is intended to enhance and maintain over time the complex native coastal redwood ecosystem, provide a healthy, diverse, and vigorous forest, and protect wildlife, fish, and soils while also providing for long-term sustained yield production of timber products.

#### Habitat Improvements

The Enrolled Lands currently provide approximately 106 acres of northern spotted owl nesting/roosting habitat. The RPH Comptche NTMP will improve the quality and functionality of northern spotted owl habitat through the retention of an older tree component and create a multi-storied, complex canopy forest that is associated with higher quality habitat. Structural diversity will provide multiple perch sites for northern spotted owls at varying canopy heights, facilitate the species' thermoregulation, and afford an additional measure of protection from predators. A larger, older tree component can provide cavities for nest sites, cover for broken tops of younger trees (also potential nest sites), and habitat for prey species. Through uneven-aged man-

agement techniques that mimic natural disturbance events, creation of late successional forest characteristics (e.g., multi-layered canopy, mixed tree species composition, retention of snags, deformities, and downed woody debris) will be accelerated on the Enrolled Lands, improving the functionality of northern spotted owl nesting/roosting and foraging habitat.

#### Northern Spotted Owl Activity Centers

Northern spotted owl territory MEN0170 includes two Activity Centers (MEN0170-AC#1 and MEN0170-AC#2) within 0.7-mile of the RPH Comptche NTMP. MEN0170-AC#1 is located approximately 0.5-mile southeast of the southern boundary of the RPH Comptche NTMP. MEN0170-AC#2 is a 2004-2005 nest site located on the Enrolled Lands (geographic coordinates are 39 degrees 16'04.35" N and 123 degrees 33'29.59" W).

#### Access

Subject to reasonable prior notice to the Permittees of ten days or more, Permittees shall provide the USFWS and the California Department of Fish and Wildlife (CDFW) access to enter the Enrolled Lands to ascertain compliance with the SHA. Access will be permitted for purposes of carrying out monitoring and management activities and to engage in research or other activities related to the recovery of northern spotted owls. In the event of an emergency, the USFWS and/or CDFW may enter the premises to care for and protect listed species at any time.

#### Consistency Determination Request

The SHA is expected to result in a net conservation benefit to the northern spotted owl over the 40-year term by enhancing northern spotted owl nesting/roosting and foraging habitat while giving assurances to the Permittee that no additional future regulatory restrictions will be imposed as a result of conservation actions.

On December 13, 2019, the Director of CDFW received a letter from Craig Blencowe, Registered Professional Forester (RPF), License No. 2003, requesting a determination pursuant to California Fish and Game Code Section 2089.22 that the federal SHA and its related federal 10(a)(1)(A) enhancement of survival permit are consistent with the California State Safe Harbor Agreement Program Act (Fish and G. Code, section 2089.2 et seq.).

#### **Determination**

CDFW has determined that the federal SHA, including Permit No. TE21176D-0, with proposed incidental take of the Northern Spotted Owl, is consistent with the California State Safe Harbor Agreement Program Act because the conservation, avoidance, and minimization measures contained in the federal SHA and its related federal 10(a)(1)(A) enhancement of survival permit



meet the conditions set forth in California Fish and Game Code section 2089.6 for authorizing incidental take of CESA listed species. Specifically, CDFW finds that: (1) take of the northern spotted owl will be incidental to an otherwise lawful activity; (2) implementation of the federal SHA is reasonably expected to provide a net conservation benefit to the northern spotted owl; (3) the Project will not jeopardize the continued existence of the northern spotted owl; (4) RPH Comptche Properties, LLC has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized by the SHA, including returning to baseline conditions; (5) the SHA has established an approved monitoring program; (6) CDFW has determined that sufficient funding is ensured to complete surveys on the property and there is sufficient funding to carry out management actions and monitoring for the duration of the SHA; and (7) implementation of the SHA is not in conflict with a CDFW-approved conservation or recovery program for the northern spotted owl.

Avoidance and Minimization Measures

The avoidance and minimization measures in the SHA include, but are not limited to, the following:

- 1) Northern spotted owl surveys will adhere to current USFWS Survey Protocol and all survey data will be submitted to the CDFW Biogeographic Information System (BIOS) Spotted Owl Database as well as the USFWS at the end of each survey season.
- 2) A *Nest Protection Area* will be established around MEN0170-AC#2, or other occupied Activity Centers, and include all forested area within 500 feet and contiguous to the Activity Center. This area consists of 18 acres of high-quality nesting/roosting habitat. No timber harvesting or yarding is permitted within the *Nest Protection Area*.
- 3) A *Roost Protection Area* will be established around MEN0170-AC#2, or other occupied Activity Centers, and include all forested areas on the Enrolled Lands between 501 feet and 1,000 feet from the Activity Center (approximately 54 acres). Operations permitted within the *Roost Protection Area* include single-tree selection that do not reduce the pre-harvest canopy closure below 60 percent with conifer trees that are minimum 12-inch dbh in size. Trees slated for harvest will be felled in a direction away from the Core Area to the extent practicable.
- 4) A *Support Habitat Area* will include all forested areas on the Enrolled Lands greater than 1,000 feet from the Activity Center. Allowable timber harvest activities within the *Support Habitat Area*

include single-tree selection and/or group selection.

- 5) Areas for each zone may be adjusted slightly, through coordination with the USFWS, to account for topographical habitat features.
- 6) During the permit term, if northern spotted owls are determined to be nesting within the Enrolled Lands at a location greater than 500 feet from the geographic location of MEN0170-AC#2, northern spotted owl habitat will be protected through the establishment of a Nest Protection Area, Roost Protection Area, and Support Habitat Area, as described above.
- 7) No harvest operations will occur, except for the use of existing haul roads, within 1,000 feet of any occupied northern spotted owl Activity Center during the breeding season unless reviewed and approved by the wildlife agencies in advance.
- 8) Operations proposed within 0.25-mile of a known active nest site that do not alter habitat will be conducted between July 10 and February 1, unless northern spotted owl non-nesting status is confirmed for MEN0170-AC#2.
- 9) In the event more than one nest site occurs on the Enrolled Lands, the RPF will coordinate with the wildlife agencies to determine protections and the USFWS will provide technical assistance regarding the distribution of no-harvest protection areas.
- 10) If, through prior coordination with the USFWS, the status of an Activity Center is determined unoccupied or inactive, the Activity Center(s) will be protected with a minimum 100-foot radius buffer (one acre) in which no operations will occur.
- 11) The existing 106 forested acres on the Enrolled Lands shall be maintained in a condition that meets the California Wildlife Habitat Relationship type 4D, at a minimum.
- 12) The Permittees will cooperate with the wildlife agencies on the management of barred owls (*Strix varia*) on the Enrolled Lands, if deemed necessary, to the extent activities are consistent with this Agreement, do not create a significant financial or operational burden on the Permittees, and adhere to State and federal laws. The Permittee may coordinate with the RPF and the wildlife agencies to implement or enable research of northern spotted owls and/or barred owls on the Enrolled Lands.

Monitoring and Reporting Measures

The Permittees will be responsible for the following monitoring and reporting measures related to imple-

mentation of the Safe Harbor Agreement and fulfillment of its provisions:

- 1) Submittal of Northern Spotted Owl survey information to the USFWS and CDFW BIOS database at the end of each survey season;
- 2) Implementation of agreed-upon conservation measures;
- 3) Verification of baseline maintenance; and
- 4) A summary of any Covered Species incidentally taken by the Permittees in carrying out the activities authorized by the SHA.
- 5) In addition, each planned harvest under the SHA will be preceded by the submission of the following:
  - a. An NTMP Notice of Timber Operations (NTO) to the USFWS and CDFW, no less than 15 days in advance of proposed harvest operations.
  - b. In addition to the NTO, the landowner or representative will include a summary of the status determinations of Northern Spotted Owl Activity Centers based on protocol level surveys.
  - c. The summary will explain how the proposed operations comply with the SHA.
  - d. The summary, in conjunction with the survey and monitoring field data forms, will allow the wildlife agencies the opportunity to monitor compliance with the Agreement (i.e., retention of baseline habitat conditions and the application of buffers).
  - e. The landowner or representative will include any reasonable modifications to the NTO that the USFWS and CDFW determine are necessary to minimize potential adverse impacts to the Northern Spotted Owl, including noise disturbance.
- 6) The landowner or representative will conduct timber stand inventories in accordance with the RPH Comptche NTMP. The 2009 timber stand inventory data will be provided to the wildlife agencies, and thereafter every 10 years, for the

purpose of documenting the development and/or maintenance of the characteristics of high quality northern spotted owl habitat, including the anticipated accretion in average basal area per acre and the anticipated accretion in average tree diameter.

During the Permit term of the SHA, the Permittees, RPF, USFWS, and CDFW will coordinate and use survey and monitoring information, information on habitat conditions, and other information, to evaluate the seasonal nesting/reproductive status determinations and location(s) of northern spotted owl Activity Centers on the Enrolled Lands.

The Permittee will coordinate with the USFWS and CDFW at regular intervals, agreed upon by all Parties, to evaluate and implement potential adaptive management procedures if necessary.

#### Financial Assurances

Funding of this Agreement will be provided by the Landowners through proceeds from timber operations and reinvested profits as needed, supplemented if possible with any grant funding obtained to assist in defraying the cost of the development and implementation of this SHA.

#### Incidental Take Authorization

Pursuant to Fish and Game Code section 2089.22, if a federal SHA is approved pursuant to applicable provisions of federal law and the SHA includes species that are both federal and State listed, no further approval under the State SHA Program Act (Fish and G. Code, section 2089.2 et seq.) is required for incidental take of those species provided the Permittee implements the Project and future land use and management practices as described in the approved federal SHA; the Permittee and CDFW follow specified procedures; and CDFW determines the federal SHA is consistent with applicable criteria. Additionally, the Permittee must adhere to all measures contained in the approved federal SHA and comply with other conditions described in the federal 10(a)(1)(A) enhancement of survival permit.

If there are any substantive changes to the federal SHA or if USFWS amends or replaces the federal 10(a)(1)(A) enhancement of survival permit, the Per-

mittee shall be required to obtain a new consistency determination from CDFW (see generally Fish and Game Code, sections 2081.1, 2081, subs. (b) and (c)).

By:

/s/

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

Date: 1/13/2020

**DEPARTMENT OF  
FISH AND WILDLIFE**

FISH AND GAME CODE SECTION 1653  
CONSISTENCY DETERMINATION  
REQUEST FOR

North Fork Battle Creek Barrier Modification and  
Fish Passage Improvement Project —  
Upper Barrier Site  
(Tracking Number: 1653-2019-051-001-R1)  
Shasta and Tehama Counties

California Department of Fish and Wildlife (CDFW) received a Request to Approve on December 31, 2019, that the U.S. Fish and Wildlife Service (USFWS) proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the removal of boulders blocking fish passage, regrading of the channel, and placement of five channel spanning, hydraulic, rock structures to improve fish passage. The proposed project will be carried out on North Fork Battle Creek, Digger Creek and an unnamed ephemeral stream, located at 40.425264 degrees, -121.917147 degrees, 15 river miles upstream from the Sacramento River, in Manton, Shasta and Tehama Counties, California.

On November 13, 2019, the Central Valley Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the North Fork Battle Creek Barrier Modification and Fish Passage Improvement Project — Upper Barrier Site. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No.

5A52CR00197) for coverage under the General 401 Order on December 13, 2019.

The USFWS is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the District will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

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

**FISH AND GAME COMMISSION**

**NOTICE OF RECEIPT OF PETITION**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2077 of the Fish and Game Code, the California Fish and Game Commission (Commission), on November 18, 2019, received from the California Department of Fish and Wildlife (Department) a five-year status review concerning Clara Hunt's milkvetch (*Astragalus claranus* Jeps.) recommending up-listing the species from threatened to endangered status. This five-year status review is considered the equivalent of a petition with a Department recommendation to accept and consider the petition (Fish and Game Code sections 2072.7 and 2077).

The species is generally found in oak woodlands, in sparsely vegetated openings without significant shrub or tree overstory, and appears to be adapted to poor quality, acidic soils that may limit competition from other plants.

The Commission formally received the five-year status review at its December 11-12, 2019 meeting in Sacramento, California.

The Commission will consider the five-year status review at its February 20-21, 2020, meeting in the Natural Resources Building Auditorium, First Floor, 1416 Ninth Street, Sacramento, California.

Interested parties may contact Richard Macedo, Habitat Conservation Planning Branch Chief, California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA 94244-2090, telephone (916) 653-3861, or email [Richard.Macedo@wildlife.ca.gov](mailto:Richard.Macedo@wildlife.ca.gov) for information on the petition or to submit information to the Department relating to the petitioned species.

**DISAPPROVAL DECISION**

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

**DECISION OF DISAPPROVAL OF REGULATORY ACTION**

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

**State of California  
Office of Administrative Law**

**In re:  
Department of Alcoholic Beverage Control**

**Regulatory Action:  
Title 04, California Code of Regulations  
Adopt sections: 160, 161, 162, 163, 164, 165, 166, 167, 168, 168.1, 168.2, 168.3, 169, 170, 171, 172, 173**

**DECISION OF DISAPPROVAL OF REGULATORY ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2019-1119-02  
OAL Matter Type: Regular (S)**

**SUMMARY OF REGULATORY ACTION**

On November 19, 2019, the Department of Alcoholic Beverage Control (Department) submitted its regulatory action to the Office of Administrative Law (OAL) by which it proposed to adopt regulations implementing the Responsible Beverage Service Training Program Act of 2017 (Bus. and Prof. Code, sections 25680 *et seq.*).

On January 6, 2020, OAL notified the Department that OAL disapproved the proposed regulations. This Decision of Disapproval of Regulatory Action explains OAL’s reasons for disapproval pursuant to the Administrative Procedure Act (APA).

**DECISION**

OAL disapproved the regulatory action because the proposed regulations failed to comply with the following standards of the APA: (1) clarity; (2) necessity; and (3) procedural standards. The Department must resolve all APA issues before OAL approves any resubmission.

**CONCLUSION**

For the reasons discussed above, the Department has not complied with the substantive and procedural standards of the APA. Thus, OAL disapproved this regulatory action. On January 13, 2020, OAL emailed a copy of this decision to the Department.

The Department must resolve these issues through modified regulatory text and an addendum to the ISOR, making the modified text and addendum available to the public for comment for at least 15 calendar days before resubmitting this regulatory action to OAL for review. (Gov. Code, sections 11346.8, subd. (c), 11347.1; Cal. Code Regs., tit. 1, section 44.)

Date:  
January 13, 2020

Mark Storm  
Senior Attorney

For:  
Kenneth J. Pogue  
Director

Original:  
Jacob Appelsmith, Director

Copy:  
Robert de Ruyter  
Department of Finance

**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# 2019-1126-01  
 BOARD OF FORESTRY AND FIRE PROTECTION  
 Categorical Exemption Amendments, 2019

In this rulemaking action, the Board amends its regulation to update the list of classes of activities that are categorically exempt from CEQA environmental documentation requirements.

Title 14  
 AMEND: 1153  
 Filed 01/13/2020  
 Effective 04/01/2020  
 Agency Contact: Eric Hedge (916) 653-9633

File# 2020-0102-03  
 CALIFORNIA HEALTH FACILITIES FINANCING  
 AUTHORITY  
 Children's Hospital Program of 2018

On November 6, 2018, California voters passed Proposition 4, which enabled the State of California to issue \$1.5 billion in general obligation bonds to fund the Children's Hospital Program of 2018 (the "Program"). Pursuant to Health and Safety Code section 1179.84, "The purpose of the . . . Program is to improve the health and welfare of California's critically ill children by providing a stable and ready source of funds for capital improvement projects for children's hospitals." In this readopt of OAL Matter No. 2019-0925-01EE, the California Health Facilities Financing Authority is creating the mechanism whereby these funds may be disbursed to eligible entities.

Title 4  
 ADOPT: 7000, 7001, 7002, 7003, 7003.1, 7004, 7004.1, 7005, 7006, 7006.1, 7007, 7007.1, 7008, 7008.1, 7009, 7010, 7011, 7012, 7013, 7013.1, 7013.2, 7014, 7015, 7016, 7017  
 Filed 01/08/2020  
 Effective 01/09/2020  
 Agency Contact: Yuanyuan Wei (916) 653-3839

File# 2019-1205-02  
 CALIFORNIA HIGHWAY PATROL  
 Inhalation Hazards Routes — Map 5

This action amends the designated routes for the transportation of inhalation hazards by commercial vehicles on highways in the Mojave and Barstow-Hinkley areas of California.

Title 13  
 AMEND: 1157.14  
 Filed 01/15/2020  
 Effective 04/01/2020  
 Agency Contact: Tian-Ting Shih (916) 843-3400

File# 2019-1202-01  
 COMMISSION ON PEACE OFFICER STANDARDS  
 AND TRAINING  
 Regulation 1052(b)(6) Budget

The Commission on Peace Officer Standards and Training is establishing when a budget is required for a certified course. A budget is not required unless the total course tuition per student is more than \$125 per day of instruction.

Title 11  
 AMEND: 1052  
 Filed 01/15/2020  
 Effective 04/01/2020  
 Agency Contact: David Cheng (916) 227-4855

File# 2019-1223-01  
 DEPARTMENT OF HEALTH CARE SERVICES  
 Conflict-of-Interest Code

This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing only.

Title 22  
 AMEND: 20100  
 Filed 01/14/2020  
 Effective 02/13/2020  
 Agency Contact: Jami Terrell (916) 440-7700

File# 2020-0110-01  
 DEPARTMENT OF INSURANCE  
 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 10  
 AMEND: 2690, 2690.1  
 Filed 01/15/2020  
 Effective 02/14/2020  
 Agency Contact:  
 Lisbeth Landsman-smith (916) 492-3561

File# 2019-1204-02  
 DEPARTMENT OF SOCIAL SERVICES  
 CalWORKs Maximum Aid Payment (MAP) Increase

This rulemaking action makes permanent emergency amendments to sections of the Manual of Policies and Procedures (MPP) which removed a table of Minimum Basic Standards of Adequate Care (MBSAC) and Maximum Aid Payment (MAP) CalWORKS benefits as well as references elsewhere in the MPP to that table. In place of the table and references to the table, the Department adopted language which refers readers to the most

recent All County Letter available on the Department's website for updated MBSAC and MAP amounts.

Title MPP  
AMEND: 44-207, 44-315, 89-110  
Filed 01/08/2020  
Effective 01/08/2020  
Agency Contact: Kenneth Jennings (916) 657-2586

File# 2019-1127-01  
DEPARTMENT OF STATE HOSPITALS  
Guidelines on Court Appointment of Forensic Evaluators

This action establishes education and training guidelines for psychiatrists and psychologists who wish to be considered by a court to evaluate a defendant's mental competence.

Title 9  
ADOPT: 4750, 4751  
Filed 01/14/2020  
Effective 04/01/2020  
Agency Contact: Trini Balcazar (916) 562-2824

File# 2019-1224-02  
FAIR POLITICAL PRACTICES COMMISSION  
18702.5 Materiality Standard

This action by the Fair Political Practices Commission repeals existing section 18702.5 and adopts new section 18702.5 relating to the materiality standard for financial interests in an official's personal finances.

Title 2  
ADOPT: 18702.5  
REPEAL: 18702.5  
Filed 01/15/2020  
Effective 02/14/2020  
Agency Contact: Amanda Apostol (916) 324-3854

File# 2019-1125-04  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
Fall Protection in Telecommunications

The Occupational Safety and Health Standards Board (OSHSB) in this action is adding a requirement that qualified telecommunications workers climbing or changing location on poles, towers, or similar structures shall use fall protection unless using such protection is infeasible or would create a greater hazard. OSHSB is also removing an exception for the use of fall protection during point-to-point travel.

Title 8  
AMEND: 8615(g)  
Filed 01/09/2020  
Effective 04/01/2020  
Agency Contact: Christina Shupe (916) 274-5721

File# 2019-1219-01  
OFFICE OF THE STATE FIRE MARSHAL  
Firefighter Training and Certification — Fee List

The Office of the State Fire Marshal (Office) proposed this action to amend regulations pertaining to the California Fire Service Training and Education System. The proposed amendments modify the appeals process available when a firefighting agency submits an alternative application to methods and procedures that has been denied by the Chief of State Fire Training. The proposed amendments also add certification exam classifications and related fees, revise fees for existing certification exam classifications, remove obsolete or retired certification exam classifications and related fees, and add or revise fees for course registration and handling.

Title 19, 13  
AMEND: 1980.05, 1980.06, 1980.07, 1990.09, 1990.12  
Filed 01/09/2020  
Effective 01/09/2020  
Agency Contact: Diane Arend (916) 568-2917

File# 2019-1203-03  
STATE WATER RESOURCES CONTROL BOARD  
Central Valley Salt and Nitrate Control Program Basin Plan Amendments

On May 31, 2018, the Central Valley Regional Water Quality Control Board adopted Resolution No. R5-2018-0034 amending the Water Quality Control Plans for the Central Valley Region to incorporate a Central Valley-wide Salt and Nitrate Control Program. On October 16, 2019, the State Water Resources Control Board approved this amendment under Resolution No. 2019-0057. This action is submitted to the Office of Administrative Law for review pursuant to Government Code section 11353.

Title 23  
ADOPT: 3949.16  
Filed 01/15/2020  
Effective 01/15/2020  
Agency Contact: Anne Walters (916) 464-4840

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

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