



# 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**

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

**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY:

Shasta Trinity Schools Insurance Group Joint Power Authority

A written comment period has been established commencing on February 21, 2020 and closing on April 6, 2020. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than April 6, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

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

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

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

**Cannabis Appellations Program**

**NOTICE IS HEREBY GIVEN** that the California Department of Food and Agriculture (Department) proposes to adopt regulations to implement Chapter 2, Cannabis Appellations Program, within Title 3 of the California Code of Regulations. The Department also proposes to amend Chapter 1, Cannabis Cultivation Program, within Title 3, Sections 8000, 8106, 8212, 8212.1, 8400, 8403, 8601 and 8602. With this rulemaking, the Department will propose permanent regulations after the consideration of all comments, objections, and recommendations regarding the proposed action.

The Department is issuing this notice to meet requirements set forth in Government Code section 11346.5.

**PUBLIC HEARING**

The Department will hold a public hearing on April 14<sup>th</sup>, 2020 at 1220 N Street, Sacramento, California. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest/Policy Statement. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

**Tuesday April 14<sup>th</sup>, 2020 1 p.m. to 3 p.m.**  
California Department of Food and Agriculture  
Auditorium  
1220 N Street, Sacramento, CA 95814

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes on April 6<sup>th</sup>, 2020. The

Department will only consider comments received at the Department offices by that time.

Submit comments to:

Kristi Armstrong  
California Department of Food and Agriculture  
CalCannabis Cultivation Licensing Division  
P.O. Box 942871  
Sacramento, CA 94271  
CDFA.CalCannabis\_Appellations@cdfa.ca.gov  
Phone: (916) 263-0801

**The written comment period closes on April 6<sup>th</sup>, 2020.** The Department will only consider comments received by that time and via the delivery methods designated above.

**AUTHORITY AND REFERENCE**

The Department is proposing to amend sections 8000, 8106, 8212, 8400, 8403, 8601, and 8602 of Title 3, Division 8, Chapter 1 of the California Code of Regulations. The Department is also proposing to adopt section 8212.1 of Title 3, Division 8, Chapter 1 of the California Code of Regulations. Sections 26012, 26013, 26031, and 26063 of the California Business and Professions Code authorize the Department to adopt, implement, and enforce these regulations. The proposed regulations will implement, interpret, make specific, or reference sections 5200 et seq, 12601 et seq, 17500 et seq, 26001, 26013, 26031, 26051.5, 26060, 26060.1, 26063, 26055, 26067, 26069, 26120, 26121, 26150, 26151, 26152, 26153, 26154, 26155, 26156, 26160, and 26161 of the California Business and Professions Code and section 12754.5 of the California Food and Agricultural Code.

The Department is proposing to adopt Title 3, Division 8, Chapter 2 of the California Code of Regulations, including sections 9000, 9100-9107, 9200-9203, and 9300-9302, as the Cannabis Appellations Program (CAP). Sections 26012, 26013, 26063, and 26181 of the California Business and Professions Code authorize the Department to adopt, implement, and enforce these regulations. The proposed regulations will implement, interpret, make specific, or reference sections 26012, 26013, 26050, 26051, 26061, 26063, 26180, and 26181 of the California Business and Professions Code.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

Existing Law:

**Senate Bill 94** (Committee on Budget and Fiscal Review, Chapter 94, Statutes of 2017), also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) requires the Department to

establish standards by which a licensed cultivator may designate a county of origin for cannabis and mandates that no later than January 1, 2021, the Department (rather than the Bureau) shall establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California.

**Senate Bill 185** (McGuire, Chapter 841, Statutes of 2019) expanded appellation of origin protections by specifically prohibiting cannabis from being advertised, marketed, labeled, or sold using an appellation of origin, or any similar name that is likely to mislead consumers as to the kind of cannabis, unless the cannabis meets the appellation of origin requirements for, and was produced in, the geographical area; and prohibiting an appellation of origin, or any similar name that is likely to mislead consumers as to the kind of cannabis contained in the product, from being used in the advertising, labeling, marketing, or packaging of a cannabis product unless 100 percent of the cannabis contained in the product meets the appellation of origin requirements and was produced in the geographical area. Senate Bill 185 also restored the term “appellation of origin” to statute and replaced the words “varietal” and “grown” with the more industry-appropriate terms of “cultivar” and “produced.”

Objectives and Anticipated Benefits from this Regulatory Action:

Existing law obligates the Department to establish standards for the use of origin designations such as county of origin and appellation of origin on cannabis. Existing law also obligates the Department to establish a process by which licensed cannabis cultivators may establish appellations of origin.

The regulations proposed in this rulemaking action would establish a process for licensed cultivators to petition the Department to create or amend appellations of origin, establish procedures and criteria for the review and approval of petitions, and allow the formation of an independent Petition Review Panel to make recommendations to the Department. The regulations proposed in this rulemaking action also clarify the requirements for advertising, marketing, labeling, and packaging of cannabis and nonmanufactured cannabis products, including the use of county of origin and appellation of origin, and procedures for verifying compliance with appellation of origin requirements. Some of the expected impacts of the proposed regulations and CAP are:

- (1) A government-implemented, clearly defined and straight-forward process for establishing or amending an appellation of origin;

- (2) More reliable information available to consumers regarding the geographical origin of cannabis goods;
- (3) Product differentiation through promotion of appellation-specific standard, practice, and cultivar requirements.
- (4) Net economic benefit to producers due to increased market value of products from prestigious appellations of origin; and
- (5) Growth in related industries that may profit from a cannabis appellation’s prestige, such as tourism, marketing, and legal services.

Inconsistency with Federal Regulations or Statutes:

The United States Drug Enforcement Administration, under the Controlled Substances Act, lists cannabis as a Schedule I drug. Schedule I drugs are defined as having a high potential for abuse, having no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use of the drug under medical supervision (21 U.S.C. section 812).

Controlled Substances Act, Title 21 — Food and Drugs, Chapter 13 — Drug Abuse and Prevention Control, Subchapter 1 — Control and Enforcement, Part B — Authority to Control; Standards and Schedules: <https://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>.

Consistency with Existing State Regulations:

As required by Government Code section 11346.5(a)(3)(D), the Department has conducted an evaluation of these regulations and has determined that they are not inconsistent or incompatible with existing state regulations.

PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written to be easily understood by the persons that will use them.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Cost or savings to state agencies: There will be a cost to the state to administer the appellations program. The Department has estimated that the fees for petitioning to participate in the program will cover those administrative costs. There are no additional costs or savings to state agencies associated with the proposed regulations.

Non-discretionary cost or savings imposed upon local agencies: None.

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

Cost impacts on a representative private person or business: Participation in the cannabis appellations program will be voluntary. Thus, there are no mandated costs on cannabis businesses. There would be a cost to cannabis businesses choosing to participate in the appellations program. Consumers may choose cannabis produced in an appellation that might be more expensive, but they will also have the choice to purchase cannabis produced outside of the appellations program.

Effect on small business: There may be an effect on small business.

Effect on housing costs: None.

Significant, statewide adverse impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has made an initial determination that there will not be a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

## RESULTS OF THE ECONOMIC IMPACT ANALYSIS

California Government Code section 11346.3 requires state agencies to assess the potential economic impacts on California businesses and individuals when proposing to adopt or amend any administrative regulation.

The following is a summary of results from the economic impact analysis:

- The proposed CAP would provide a net benefit of \$4.36 million annually to businesses and individuals in the state.
- The proposed CAP would result in a net increase of 18 FTE jobs in California. The estimated impact on jobs is small relative to the costs and benefits of the CAP because most costs and benefits are changes in proprietor income that result in modest job impacts.
- The proposed CAP would not require the creation of new businesses or elimination of existing businesses within California. The indirect impact of the CAP on businesses is likely to be positive,

encouraging development of new businesses and industries in the state.

- The proposed CAP would not impact the expansion of businesses currently operating within the state.
- The proposed CAP would provide benefits to small businesses, estimated to equal \$0.86 million annually.
- The proposed CAP may result in benefits to the health and welfare of California residents, worker safety, and the state's environment. These benefits are not possible to quantify because there is no way to predict what production requirements will be included in an appellation petition.

## CONSIDERATION OF ALTERNATIVES

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

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

To gain stakeholder input regarding the appellations program, the Department held outreach events throughout the state allowing for broad input and subsequently more focused workshops with representatives of cultivator groups. Comments received during both were considered during the development of the regulations. Comments not considered were either in conflict with existing statute or unreasonable to adopt.

The two programs most commonly referenced by stakeholders as examples for the future cannabis appellations program are the appellation of origin systems for French agricultural products including wine (i.e., appellation d'origine contrôlée [AOC]) and American wine (i.e., American Viticultural Area [AVA]). Both were explored by the Department and found lacking as models for the future cannabis appellations program. The AOC model was considered to be overly bureaucratic and having the potential to inhibit innovation in the nascent industry. The AVA model was insufficient in that it does not address standards, practices and cultivars as is required by the statute for cannabis appellations. The Department also considered various options at multiple decision points within the chosen program

format. For example, the Department considered alternative certification structures and prohibitions on overlapping and nesting of areas. Resulting decisions were based on the Department's authority and the most effective means in pursuing the goals of the program. However, no reasonable alternative considered or otherwise identified and brought to the attention of the Department would be as or more effective in carrying out the purpose for which the action is proposed, or less burdensome. Pursuant to Government Code Section 11346.9(a)(5), if anyone proposes an alternative that would lessen the adverse economic impact on small businesses, the final statement of reasons must include an explanation setting forth the Department's reasons for accepting or rejecting the proposed alternatives.

#### CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Kristi Armstrong  
California Department of Food and Agriculture  
CalCannabis Cultivation Licensing Division  
P.O. Box 942871  
Sacramento, CA 94271  
CDFA.CalCannabis\_Appellations@cdfa.ca.gov  
Phone: (916) 263-0801

The backup contact person for these inquiries is:

Keir Furey  
California Department of Food and Agriculture  
CalCannabis Cultivation Licensing Division  
P.O. Box 942871  
Sacramento, CA 94271  
CDFA.CalCannabis\_Appellations@cdfa.ca.gov  
Phone: (916) 576-4154

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an Initial Statement of Reasons for the proposed regulations, including all the information upon which the proposed regulations are based, and the express terms of the proposed regulations. A copy of the Initial Statement of Reasons and the proposed regulations in underline may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. Requests should be directed to Kristi Armstrong at the mailing or email address specified above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the revised regulations. Any person interested may obtain a copy of any modified regulations prior to the date of adoption by contacting Kristi Armstrong at the mailing or email address specified above.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Kristi Armstrong at the mailing or email address specified above.

#### AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action and other information related to this regulatory action can be accessed through our website at [cannabis.cdfa.ca.gov](http://cannabis.cdfa.ca.gov).

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture proposes to repeal Sections 3262 and 3400 of Title 3 of the California Code of Regulations (CCR) pertaining to Peach Mosaic Disease Exterior Quarantine and Peach Mosaic Disease Interior Quarantine.

#### PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on April 6, 2020. The Depart-

ment will consider only comments received at the Department offices by that time or postmarked no later than April 6, 2020. Submit comments to:

Dean Kelch, Environmental Program Manager  
California Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
2800 Gateway Oaks Drive, Suite #200  
Sacramento, CA 95833  
Dean.Kelch@cdfa.ca.gov  
916.403.6650  
916.651.2900 (FAX)

Unless there are substantial changes to the proposed regulations prior to adoption, the Department of Food and Agriculture may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing if one is requested or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (Food and Agricultural Code (FAC) Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as she deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322).

#### Anticipated Benefits from This Regulatory Action

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution, but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. The Peach Mosaic Disease quarantines were promulgated in the 1930's after an outbreak of the disease occurred in Southern California and several other states. State, county and University of California scientists have no records of the disease in California within the last several decades. It is likely that the disease was eradicated from California in the 20th century.

The exterior quarantine prohibits the movement of "all species including the flowering forms of almond,

apricot, nectarine, peach, plum and prune trees" from portions of Colorado, Oklahoma, Texas and all of Arizona and New Mexico. The interior quarantine prohibits the movement of "all species including the flowering forms of almond, apricot, nectarine, peach, plum and prune trees" from San Diego County and portions of Los Angeles, Riverside and San Bernardino counties. The regulations allow for movement of prohibited material through the use of a permit. To date, no permits have been issued to comply with the regulations' requirements.

There has been no incidence of the disease in the regulated states. Due to the lack of enforcement and apparent eradication of the disease, the Department is repealing these regulations. Furthermore, the Principles of Plant Quarantine, adopted by the National Plant Board, advises that a quarantine be repealed once it has reached its objective (<http://nationalplantboard.org/history-and-principles/>).

This proposed repeal of the Peach Mosaic Disease Exterior Quarantine benefits interstate shippers of host commodities and regulated articles which would otherwise face unfair interstate commerce restrictions. The proposed repeal of the Peach Mosaic Disease Interior Quarantine benefits counties that are currently quarantined by eliminating the requirement to perform inspections and certifications for the regular movement of regulated nursery stock. The repeal of both will benefit nurseries shipping regulated material from within the quarantine by not having to hold their material for proper certification. Additionally, counties currently receiving regulated material will benefit by not being required to enforce the quarantine. The proposed repeal of these regulations ensures the orderly marketing of nursery stock and improves access to safe, healthy food for the general public.

There is no existing, comparable federal regulation or statute regulating the interstate movement.

The Department considered other possible related regulations in this area, and found that these are the only regulations dealing in this subject area, and the only State agency that can implement plant quarantines is the Department. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of these regulations and has determined that it is not inconsistent or incompatible with existing state regulations.

#### REPEALED TEXT

This proposed repeal of the regulations would remove the exterior quarantine and interior quarantine currently in place for the Peach Mosaic Disease.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

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

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

*Small Business Determination*

The Department has determined that the proposed regulations should not affect small businesses because the repeal of these regulations removes all regulatory requirements and there are no costs associated with compliance.

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California

The Department is not aware of any specific benefits the amendment of these regulations will have on worker safety. The proposed repeal of these regulations ensures the orderly marketing of nursery stock and improves access to safe, healthy food for the general public.

ALTERNATIVES CONSIDERED

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

Alternative approaches would not be in line with the National Plant Board's Principles of Plant Quarantine. It is the Department's responsibility to remove a quarantine that has reached its objective.

AUTHORITY

The Department proposes to repeal CCR Sections 3262 and 3400 pursuant to the authority vested by Sections 407, 5301, and 5302 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301 and 5302 of the Food and Agricultural Code.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is:

Dean Kelch, Environmental Program Manager  
California Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
2800 Gateway Oaks Drive, Suite #200  
Sacramento, CA 95833  
Dean.Kelch@cdfa.ca.gov  
916.403.6650  
916.651.2900 (FAX)

In his absence, you may contact Rachel Avila at (916) 403-6813. Questions regarding the substance of the proposed regulations should be directed to Rachel Avila.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its website ([www.cdfa.ca.gov/plant/Regulations.html](http://www.cdfa.ca.gov/plant/Regulations.html)).

AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The loca-

tion of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department 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. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

#### **TITLE 4. BUREAU OF HOUSEHOLD GOODS AND SERVICES**

##### **Substantial Relationship Criteria, section 1380 Criteria for Rehabilitation, section 1381 California Code of Regulations, Title 4, Division 3**

**NOTICE IS HEREBY GIVEN** that the Bureau of Household Goods and Services (Bureau) is proposing to take the action described in the Informative Digest.

#### **PUBLIC HEARING**

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau 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 Bureau at its office no later than Monday, April 6, 2020, or must be received by the Bureau at any scheduled hearing. Oral comments should be made at the hearing, if any.

#### **AVAILABILITY OF MODIFICATIONS**

The Bureau, 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 481, 482, 493, and 19034 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 141, 475, 480, 481, 482, 485, 488, 490, 492, 493, 19063, 19064, 19209, and 19210 of said code, the Bureau is considering amending sections 1380 and 1381 of Article 15 of Division 3 of Title 4 of the California Code of Regulations (CCR).

#### **INFORMATIVE DIGEST**

Business and Professions Code section 19034 authorizes the Bureau 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 Home Furnishings and Thermal Insulation Act (Act). Business and Professions Code section 141 defines the manner in which record of a disciplinary action taken against a licensee by another state, an agency of the federal government, or another country may be used in a disciplinary action by the Bureau. 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, 485, 488, 490, 492, 493, 19063, 19064, 19209, and 19210, relative to substantial relationship and rehabilitation criteria in the use of criminal history, disciplinary history, professional misconduct, or prior acts evidence in initial licensing approvals or denials. The Bureau is also implementing, interpreting, and making specific the provisions of BPC sections 141, 9841, and 9848, which apply to decisions to suspend, revoke, or discipline licensees, to apply a consistent procedure to those decisions. The Bureau is proposing the following changes:

Amend CCR section 1380 of Article 15 of Division 3 of Title 4 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 Bureau to consider substantially related criteria and require the Bureau, 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. This proposal would also add that substantially related crimes, professional misconduct, or acts would include violating other state or federal laws relating to the practice of a licensee under the Act.

Amend CCR section 1381 of Article 15 of Division 3 of Title 4 of the CCR (Criteria for Rehabilitation):

The proposed regulation would clarify that when considering a license denial or discipline on the ground that the applicant or licensee was convicted of a crime, the Bureau would have to determine whether the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant or licensee completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Bureau to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant's or licensee's rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants and licensees who did not complete the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial or discipline was based on something other than a conviction.

POLICY STATEMENT  
OVERVIEW/ANTICIPATED  
BENEFITS OF PROPOSAL

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

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Bureau 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 Bureau anticipates 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, Bureau staff may see an increased workload to research convictions and to substantiate that rehabilitation has been achieved, which is anticipated to be absorbable within existing resources.

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 Bureau 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 Bureau has determined this regulatory proposal may have a positive impact on the creation of jobs and new businesses by reducing licensing and employment barriers for people who are rehabilitated, will not result in the elimination of jobs or existing businesses, and have no impact on expansion of businesses in the State of California.

Cost impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The proposed regulations may affect small businesses that would otherwise not qualify for a license, however, the Bureau is unaware of the number of potential

small businesses that would be impacted by this regulatory proposal.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses:**

The Bureau has determined that this regulatory proposal may have a positive impact on the creation of jobs and new businesses by reducing licensing and employment barriers for people who are rehabilitated, will not result in the elimination of jobs or existing businesses, and have no impact on the expansion of businesses in the State of California.

**Benefits of Regulation:**

The Bureau 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, which may benefit the health and welfare of California's consumers. Home Furnishings and Thermal Insulation 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 Bureau 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:** To pursue a regulatory change that requires the Bureau to find rehabilitation if the applicant or licensee completed their terms of their criminal probation or parole. Courts give little weight to the fact that an applicant or licensee did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole since they are under the direct supervision of correctional authorities and are required to behave in an exemplary fashion. As such, the Bureau believes reviewing each individual on the basis of multiple criteria is the

better indicator whether individuals are rehabilitated and not a danger to the public's health, safety, and welfare. For these reasons, the Bureau rejected this option.

- **Option 2:** Do nothing, meaning the Bureau would not adopt the regulations. The Bureau opted not to pursue this option because per AB 2138, the Bureau is mandated to adopt proposed regulations by July 1, 2020.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 4244 South Market Court, Suite D, Sacramento, California 95834.

INITIAL STATEMENT OF  
REASONS AND INFORMATION

The Bureau 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 Bureau at 4244 South Market Court, Suite D, Sacramento, California 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 may be addressed to:

Name:

Yeaphana La Marr, Policy Manager

Address:

Bureau of Household Goods and Services  
4244 South Market Court, Suite D  
Sacramento, CA 95834

Telephone Number:  
(916) 999-2090

Fax Number:  
(916) 999-7279

E-Mail Address:  
Yeaphana.LaMarr@dca.ca.gov

The backup contact person is:

Name:  
Diana Godines, Policy Manager

Address:  
Bureau of Household Goods and Services  
4244 South Market Court, Suite D  
Sacramento, CA 95834

Telephone Number:  
(916) 999-2068

Fax Number:  
(916) 999-7279

E-Mail Address:  
Diana.Godines@dca.ca.gov

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

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### DIVISION 4. CALIFORNIA CODE OF REGULATIONS NOTICE OF PROPOSAL TO ADD RULE 1846.1 VETERINARY RECORDS FOR HORSE SHIPPING INTO AN INCLOSURE TO RACE

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

#### PROPOSED REGULATORY ACTION

The Board proposes to add Board Rule 1846.1, Veterinary Records for Horses Shipping into an Inclosure to Race, to require that the trainer of a horse that has not been stabled at a facility under the jurisdiction of the Board for 30 days prior to a race, or for 30 days prior to working off the Veterinarian's List, as defined in Rule 1866, Veterinarian's List, submit to the official veterinarian the previous 30-day veterinary treatment record. The proposed regulation lists what the treatment record shall include and provides that if the trainer fails to submit accurate and complete veterinary treatment records, he or she shall face disciplinary action.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Wednesday, April 22, 2020**, or as soon after that as business before the Board will permit, at the **Department of Consumer Affairs, 1625 N Market Blvd, 1st Floor hearing Room, 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 comment period closes on **April 6, 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@chrh.ca.gov](mailto:zavoss@chrh.ca.gov)

#### AUTHORITY AND REFERENCE

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

Reference: Sections 19440 and 19562, BPC.

BPC section 19440 authorizes the Board to adopt the proposed regulation, which would implement, interpret or make specific section 19562 of the BPC.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19440 provides that 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 regarding horse racing. 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 19562 states the Board may prescribe rules, regulations and conditions under which all horse races with wagering on their results shall be conducted in California.

The proposed addition of Board Rule 1846.1, Veterinary Records for Horses Shipping into an Inclosure to

Race, will require that the trainer submit to the official veterinarian the previous 30-day veterinary treatment record of a horse if the horse has not been stabled at a facility under the jurisdiction of the Board for 30 days prior to a race, or for 30 days prior to working off the Veterinarian's List. The veterinary record shall include the name of the horse, any medication, drug, substance or procedure administered or prescribed during the previous 30 days and the name of the prescribing veterinarian. The veterinary record shall be considered confidential and cannot be disclosed except in a proceeding before the stewards or the Board. Failure to provide accurate and complete veterinary records shall result in disciplinary action.

Subsection 1846.1(a) provides for submittal of a 30-day previous veterinary treatment record by the trainer to the official veterinarian if a horse has either not been stabled at a facility under the jurisdiction of the Board for 30 days prior to a race or has not been stabled at a facility under the jurisdiction of the Board for 30 days prior to working off the Veterinarian's List. The Board has determined that a 30-day veterinary record is necessary to ensure that a sufficiently long veterinary history is available to the official veterinarian to make informed decisions on racing soundness. Access to the veterinary record can be particularly important in instances where a horse has been trained off the grounds of a Board-licensed facility under the care or direction of the owner, and then shipped in a day or two before a race and placed with a trainer who had little or no involvement in the prior care of the horse. The trainer who receives the horse may have little or no knowledge of the horse's veterinary care prior to it being shipped onto the grounds of the race track. Access to the 30-day veterinary treatment record provides a greater picture of overall horse health. The Board has determined that access to the 30-day veterinary treatment record will enhance the official veterinarian's ability to make critical decisions about a horse's racing soundness, thereby safeguarding the health and welfare of race horses and jockeys/drivers.

Subsections (a)(1) through (a)(3) of the proposed Board Rule 1846.1 provide for the inclusion within the treatment record of the following: the name of the horse treated so that the official veterinarian can verify the horse under examination matches the records, any medication, drug, substance, or procedure administered or prescribed by a veterinarian during the previous 30 days so that the official veterinarian has access to a complete veterinary treatment history from the previous 30 days, and the name of the prescribing veterinarian in order to allow for dialogue, if necessary, between the prescribing veterinarian and the official veterinarian.

Subsection 1846.1(b) of the proposed Board Rule 1846.1 states that any such treatment record is confidential. The veterinary medical records of horses shipping into an inclosure are the property of the horse owner. Though this information is confidential, the Board is permitted access when complying with state law or regulation during proceedings before the stewards or the Board, or in exercise of the Board's jurisdiction.

Subsection 1846.1(c) of the proposed Board Rule 1846.1 provides for disciplinary action if a trainer fails to provide accurate and complete veterinary treatment records. Accurate and complete veterinary treatment records are critical when veterinarians and trainers are making decisions about medical treatments or assessing potential injuries to a horse, especially when they are not familiar with a horse, as is often the case when horses have not been stabled at a facility under the jurisdiction of the Board and are shipped in to race.

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

The proposed addition of Board Rule 1846.1 will have the benefit of helping to ensure the health and welfare of the race horse, and by extension the health and safety of those who exercise, train or ride the horse in a race. Ensuring that official veterinarians have access to veterinary records of horses shipping into the inclosure means that such veterinarians are better equipped to determine the soundness of the horses for racing or training. The proposed regulation will also facilitate dialogue between the private practice veterinarian and the official veterinarian. In cases where a horse has been trained off the grounds of a Board-licensed facility and then shipped in a day or two before a race and placed with trainers who have had little or no involvement in the prior care of the horse, access to the veterinary records will have the benefit of providing a greater picture of the overall horse health.

#### CONSISTENCY EVALUATION

During the process of developing the proposed addition of Board Rule 1846.1, 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.

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

The Board has made an initial determination that the proposed addition of Board Rule 1846.1 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: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with proposed action.

Significant effect on housing costs: none.

#### RESULT OF ECONOMIC IMPACT ANALYSIS

The results of the Board's Economic Impact Assessment as required by GC section 11346.3(b) are as follows:

The adoption of the proposed addition of Board Rule 1846.1 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 businesses in California. The proposed addition of Board Rule 1846.1 promotes the safety and welfare of all horses participating in recognized race meetings. The proposed addition will ensure that the official veterinarian has the information to effectively determine if a horse is sound for racing, thereby promoting the safety of both the horse and rider. The proposed addition of Board Rule 1846.1 provides access to veterinary treatment records by the official veterinarian, enabling dialogue between the private practice veterinarian and the regulatory veterinarian and providing a greater picture of overall horse health.

The proposed addition of Board Rule 1846.1 will benefit worker safety in that it will allow access to additional medical and treatment information regarding the health of a horse with which official veterinarians are better able to evaluate horses for racing and training soundness. This will, in turn, better protect the jockeys and other workers at the race track by ensuring that the horses are medically sound prior to running in a race.

The proposed addition of Board Rule 1846.1 will not benefit the state's environment. Effects on small business: none. The proposal to add Board Rule 1846.1 does

not affect small business 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  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6033  
Fax: (916) 263-6022  
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 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 web site. 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 11. DEPARTMENT OF JUSTICE

The Department of Justice (Department) proposes to amend sections 4261 and 4263 of Title 11, Division 5, Chapter 10, of the California Code of Regulations concerning the licensure of ammunition vendors after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the De-

partment will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on April 7, 2020. Only comments received by that time will be considered. Written comments must be submitted to:

Kamran Ali  
Bureau of Firearms  
Division of Law Enforcement  
Department of Justice  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Phone: 916-227-5419  
Email: [bofregulations@doj.ca.gov](mailto:bofregulations@doj.ca.gov)

#### AUTHORITY AND REFERENCE

Authority: Sections 30385, 30390 and 30395, Penal Code.

Reference: Sections 30342, 30385, 30390 and 30395, Penal Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposition 63, "The Safety for All Act of 2016," was passed by California voters in 2016. The act added sections 30342 and 30385 to the Penal Code, requiring the Department to issue an ammunition vendor license (AVL) to ammunition vendors who sell more than 500 rounds of ammunition in any 30-day period beginning January 1, 2018. Existing regulations establish the process for obtaining an AVL.

This rulemaking action clarifies the requirements for an ammunition vendor to maintain a valid AVL with the Department. To obtain an AVL, Penal Code section 30395 requires ammunition vendors to provide to the Department, among other things, a copy of "any regulatory or business license required by local government" and a "federal firearms license if the person is federally licensed." Section 4260 of the Department's existing regulations restate the requirements of obtaining an AVL in Penal Code section 30395. (Cal. Code Regs., tit. 11, section 4260.) Section 4261 implements Penal Code section 30395 by requiring ammunition vendors, as a condition of maintaining a valid AVL, to provide a copy of a renewed local regulatory or business license, or a

renewed federal firearms license “within 30 days of” the expiration of the current local or federal license.

After discussions with stakeholders, it was made apparent to the Department that there was confusion among ammunition vendors as to when the required copy of renewal documentation must be submitted to the Department. Vendors were under the impression that they must submit the copies of renewals 30 days before their current permit and licenses expired. However, many local licensing agencies will only renew licenses after they expire. This led some vendors to believe they were unable to comply with section 4261 because they were not able to submit the appropriate renewed licenses before they expire.

While the current regulations allow vendors to submit the required copies of licenses 30 days before and after they expire, the regulations proposed in this rule-making action seek to clarify the requirements for an ammunition vendor to maintain a valid AVL. This includes requiring copies of renewals, as specified in section 4260, to be submitted to the Department “no later than 30 days” after the expiration of each permit and license, and to clarify that ammunition vendors must maintain an active Certificate of Eligibility, pursuant to Penal Code section 30395, in order to maintain an AVL.

Anticipated Benefits of the Proposed Regulations

Regulating the sale and transfer of ammunition protects public health and safety by keeping ammunition out of the hands of persons who are prohibited under state and federal law from possessing firearms or ammunition. The proposed regulations will enable California ammunition vendors to comply with statutorily mandated licensing requirements for the sale of ammunition by clarifying the timeframe to submit licenses and permit renewals to the Department. This will prevent confusion among vendors that are unsure as to when to submit their renewal documentation to the Department. This will also result in vendors being able to renew their AVLs in a timely manner and prevent them from expiring.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

Pursuant to Government Code section 11346.5, subdivision (a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to firearms within CCR Title 11, Division 5 and determined these proposed regulations are not inconsistent or incompatible. This determination is based on the fact that the proposed regulations

amend existing regulations to clarify the requirements to maintain a valid AVL.

Comparable Federal Regulations

The proposed action does not differ substantially from an existing comparable federal regulation or statute.

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

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

Business report requirement: None.

Significant effect on housing costs: None.

Other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations: None.

Results of the Economic Impact Assessment

The Department concludes it is unlikely the proposed regulations will affect (1) the creation or elimination of jobs within the state, (2) the creation of new businesses or the elimination of existing businesses within the state, or (3) the expansion of businesses currently doing business within the state.

These regulations will benefit ammunition vendors because they will have better understanding as to when to submit copies of renewals to the Department, allowing them to maintain a valid AVL and to sell ammunition to California residents.

Cost Impacts on Representative Person or Business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Small Business Determination: The Department has determined the proposed regulations will not affect small business. This determination is based on the fact

that these regulations clarify the requirements for a small business to maintain a valid AVL.

#### CONSIDERATION OF ALTERNATIVES

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

Any person interested in presenting statements or arguments with respect to alternatives to the proposed regulations may do so at the hearing, if one is scheduled, or during the written comment period.

#### CONTACT PERSONS

Kamran Ali  
Department of Justice  
Bureau of Firearms  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Email: [bofregulations@doj.ca.gov](mailto:bofregulations@doj.ca.gov)  
Telephone: (916) 227-5419

The back-up contact person for these inquiries is:

Kelan Lowney  
Department of Justice  
Bureau of Firearms  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Email: [bofregulations@doj.ca.gov](mailto:bofregulations@doj.ca.gov)  
Telephone: (916) 227-7615

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulations (the “express terms”), the Initial Statement of Reasons, and the information upon which the proposed rulemaking is based are available on the DOJ website at <https://oag.ca.gov/firearms/regs>. Copies may also be obtained by contacting Kamran Ali.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, DOJ may adopt the proposed regulations substantially as described in this notice. If DOJ makes modifications which are sufficiently related to the originally proposed text, DOJ will make the modified text (with the changes clearly indicated) available to the public for at least 15 days and accept written comments before DOJ adopts the regulations. Copies of any modified text will be available on the DOJ website at <https://oag.ca.gov/firearms/regs>. A written copy of any modified text may be obtained by contacting Kamran Ali.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the Final Statement of Reasons will be available on the DOJ website at <https://oag.ca.gov/firearms/regs>. You may also obtain a written copy of the Final Statement of Reasons by contacting Kamran Ali.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format, as well as the Final Statement of Reasons once completed, can be accessed through the DOJ website at <https://oag.ca.gov/firearms/regs>.

### TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to amend Sections 3287 into Title 15, Division 3, Chapter 1, regarding Cell, Property and Body Inspections.

#### PUBLIC HEARING

Date and Time:

**April 8, 2020 — 9:00 a.m.**

Place:

Department of Corrections and Rehabilitation  
Conference Room 100N  
1515 S Street — North Building  
Sacramento, CA 95811

Purpose:

To receive comments about this action.

**PUBLIC COMMENT PERIOD**

The public comment period begins **February 21, 2020** and closes on **April 8, 2020 at 5:00 p.m.** Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to [rpmb@cdcr.ca.gov](mailto:rpmb@cdcr.ca.gov), before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

**CONTACT PERSONS**

Primary Contact

R. Ruiz  
 Telephone: (916) 445-2269  
 Regulation and Policy  
 Management Branch  
 P.O. Box 942883  
 Sacramento, CA 94283-0001

Back-Up

Y. Sun  
 Telephone: (916) 445-2269  
 Regulation and Policy  
 Management Branch  
 P.O. Box 942883  
 Sacramento, CA 94283-0001

Program Contact

Bryan Donahoo  
 Division of Adult Institutions  
 (916) 324-1653

**AUTHORITY AND REFERENCE**

**Government Code Section 12838.5** provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

**Penal Code (PC) Section 5000** provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

**PC Section 5054** provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, cus-

tody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of a regulation on an emergency basis.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Current regulations provide for various means of inspections for illegal drugs and other contraband, including visual inspections, hand-held detectors, and canine units. This action amends Section 3287 of the CCR, Title 15, Division 3 concerning Searches and Inspections to incorporate ION scanners and low-dose, full-body x-ray scanning of inmates.

**This action will:**

- Establish regulatory authority for the Department to utilize ION scanners and low-dose, full-body x-ray scanners as inmate search options.
- Increase the Department’s ability to discover illegal drugs and contraband that are being introduced into and throughout the institutions.
- Enhance the overall safety of the institutions by discovering illegal drugs and contraband before they can be utilized.

**DOCUMENTS INCORPORATED BY REFERENCE**

The American National Standard Institute’s Radiation Safety for Personnel Screening Systems Using X-Ray or Gamma Radiation (ANSI/HPS N43.17-2009).

**SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS**

These regulations may benefit the welfare of California residents by helping to make CDCR institutions safer for inmates, staff, and visitors. Additionally, safer institutions may provide an environment more conducive to rehabilitation, thereby reducing recidivism.

The Department anticipates that these regulations will ultimately reduce the amount of contraband and il-

legal drugs introduced into and throughout the institutions, creating a safer environment for inmates, staff, visitors, contractors and their employees, and volunteers. The regulations will reduce the strife that is created when inmates are trying to profit from illegal activities and better allow inmates to focus on rehabilitation, which will result in more productive citizens being released into the community and make the community safer as a whole.

#### EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review, the Department has concluded that these are the only regulations that concern cell, body, and property inspections in Department facilities.

#### LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

#### FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*.
- Cost to any local agency or school district that is required to be reimbursed: *None*.
- Other nondiscretionary cost or savings imposed on local agencies: *None*.
- Cost or savings in federal funding to the state: *None*.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would nec-

essarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

#### EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by helping to make CDCR institutions safer for inmates, staff, and visitors. Additionally, safer institutions may provide an environment more conducive to rehabilitation, thereby reducing recidivism.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

#### AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons

(ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department’s contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department’s website: [www.cdcr.ca.gov](http://www.cdcr.ca.gov).

**AVAILABILITY OF THE  
FINAL STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department’s contact person.

**AVAILABILITY OF CHANGES TO  
PROPOSED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

**TITLE 16. BUREAU OF  
AUTOMOTIVE REPAIR**

**NOTICE OF PROPOSED REGULATORY  
ACTION AND PUBLIC HEARING  
CONCERNING**

**REHABILITATION AND SUBSTANTIAL  
RELATIONSHIP CRITERIA**

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs, Bureau of Automotive Repair (hereinafter “Bureau” or “BAR”) is proposing to take the actions described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

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

**WRITTEN COMMENT PERIOD**

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, to be considered by the Bureau, must be received by the Bureau at its office no later than 11:59 p.m. on Monday, April 6, 2020, or must be received by the Bureau at the above referenced hearing, if one is held.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 481, 482, 493, 9882, and 9884.19 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 141, 475–491, 493, and 9884.19 of said code, the Bureau is considering amending sections 3395 and 3395.2 of article 12 of division 33 of title 16 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

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, 491, and 493, relative to substantial relationship and rehabilitation criteria. The Bureau is proposing the following changes:

Amend section 3395, Article 12, Chapter 1, Division 33 of Title 16 of the CCR (Criteria for Rehabilitation):

The proposed regulation would clarify that the Bureau, when considering a license denial or suspension or revocation on the ground that the applicant, licensee, or registrant was convicted of a crime, would have to find that the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant, licensee, or registrant completed the criminal sentence without a violation of parole or probation. The proposal would require a set of rehabilitation criteria to be considered for applicants, licensees, and registrants who had not completed the criminal sentence without a

violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial or discipline was based on something other than a conviction.

Amend section 3395.2, Article 12, Chapter 1, Division 33 of Title 16 of the CCR (Substantial Relationship Criteria):

The proposed regulation, for purposes of denial, suspension, or revocation of a license or registration, would add professional misconduct and out-of-state discipline as grounds requiring the Bureau to consider the substantially related criteria, and require the Bureau, 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 or registration. 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 automotive repair.

**ANTICIPATED BENEFITS OF THE PROPOSED REGULATION**

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, licensees, and registrants in the Bureau’s use of their criminal histories. Further, by reducing barriers to licensure, the Bureau 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, BAR has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither duplicative, nor inconsistent, nor incompatible with existing state regulations.

**DOCUMENTS INCORPORATED BY REFERENCE**

None.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

MANDATED BY FEDERAL LAW OR REGULATIONS:

No.

LOCAL MANDATE:

None.

**FISCAL IMPACT ESTIMATES**

COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500–17630 REQUIRE REIMBURSEMENT:

None.

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES AND COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

The Bureau anticipates that the proposed regulatory action will be cost-neutral and that implementation, administration, and enforcement of the proposed changes to the licensing forms and will be fully absorbed by existing BAR personnel working within existing resources.

This proposal will result in no costs or savings in federal funding to the state.

NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:

None.

EFFECT ON HOUSING COSTS:

None.

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

None.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The Bureau has determined that this regulatory proposal will have a minimal impact, if any, on the creation of jobs or new businesses or the elimination of jobs or existing businesses in the State of California.

In addition, the proposed action is not expected to expand or reduce existing business.

For more on benefits of the regulatory proposal, see above in this notice.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

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

**BUSINESS REPORTING REQUIREMENTS**

None.

EFFECT ON SMALL BUSINESS

BAR has determined that the proposed regulatory action will not have a significant effect on small businesses. The regulatory changes do not impose additional requirements that impact the conduct of an automotive repair-related business. The regulation will impact small businesses to the extent that individual applicants or licensees are able to be licensed or retain licensure.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Bureau must determine that no reasonable alternative that it considered 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 it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation 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 orally or in writing relevant to the above determinations at the above-mentioned hearing.

CONTACT PERSON

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

Holly O'Connor  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8627  
E-mail: [Holly.OConnor@dca.ca.gov](mailto:Holly.OConnor@dca.ca.gov)

**The backup contact person is:**

Lusine Sarkisyan  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8560  
E-mail: [Lusine.Sarkisyan@dca.ca.gov](mailto:Lusine.Sarkisyan@dca.ca.gov)

INITIAL STATEMENT OF  
REASONS AND INFORMATION

BAR has prepared an Initial Statement of Reasons of the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

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

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

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 above.

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 above, or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR's website at [https://www.bar.ca.gov/About/BAR/Regulatory\\_Actions.aspx](https://www.bar.ca.gov/About/BAR/Regulatory_Actions.aspx).

**TITLE 16. BUREAU OF HOUSEHOLD  
GOODS AND SERVICES**

**Substantial Relationship Criteria, section 2767  
Criteria for Rehabilitation, section 2768  
California Code of Regulations,  
Title 16, Division 27**

**NOTICE IS HEREBY GIVEN** that the Bureau of Household Goods and Services (Bureau) is proposing to take the action described in the Informative Digest.

**PUBLIC HEARING**

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau 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 Bureau at its office no later than Monday, April 6, 2020, or must be received by the Bureau at any scheduled hearing. Oral comments should be made at the hearing, if any.

**AVAILABILITY OF MODIFICATIONS**

The Bureau, 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 481, 482, 493, 9814 and 9814.5 of the Business and Professions Code (BPC), and to implement, interpret, or make spe-

cific BPC sections 141, 475, 480, 481, 482, 485, 488, 490, 492, 493, 9841, and 9848 of said code, the Bureau is considering amending sections 2767 and 2768 of Article 7 of Division 27 of Title 16 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST**

Business and Professions Code sections 9814 and 9814.5 authorize the Bureau 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 Electronic and Appliance Repair Dealer Registration Law (Law). Business and Professions Code section 141 defines the manner in which record of a disciplinary action taken against a licensee by another state, an agency of the federal government, or another country may be used in a disciplinary action by the Bureau. 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 475, 480, 481, 482, 485, 488, 490, 492, 493, relative to substantial relationship and rehabilitation criteria in the use of criminal history, disciplinary history, professional misconduct, or prior acts evidence in initial licensing approvals or denials. The Bureau is also implementing, interpreting, and making specific the provisions of BPC sections 141, 9841, and 9848, which apply to decisions to suspend, revoke, or discipline licensees, to apply a consistent procedure to those decisions. The Bureau is proposing the following changes:

Amend CCR section 2767 of Article 7 of Division 27 of Title 16 of the CCR (Substantial Relationship Criteria):

The proposed regulation, for purposes of denial, suspension, or revocation of a service dealer or service contractor registration, would add professional misconduct and out-of-state discipline as grounds requiring the Bureau to consider substantially related criteria and require the Bureau, 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 registrant. This proposal would also add that substantially related crimes, professional misconduct, or acts would include violating other state or federal laws relating to the practice of a registrant under the Law.

Amend CCR section 2768 of Article 7 of Division 27 of Title 16 of the CCR (Criteria for Rehabilitation):

The proposed regulation would clarify that, when considering a registration denial or discipline on the ground that the applicant or registrant was convicted of a crime, the Bureau would have to determine whether the applicant or registrant made a showing of rehabilita-

tion and is presently eligible for a registration if the applicant or registrant completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Bureau to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant's or registrant's rehabilitation, and the extent to which the terms or conditions of parole were modified and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants and registrants who did not complete the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial or discipline was based on something other than a conviction.

POLICY STATEMENT  
OVERVIEW/ANTICIPATED  
BENEFITS OF PROPOSAL

As specified in the legislative analyses of AB 2138, this proposal seeks to reduce barriers to licensure for individuals with prior criminal convictions, which may reduce recidivism and provide economic opportunity to California's residents. In addition to meeting the requirements of AB 2138, this proposal seeks to improve clarity, transparency, and consistency for applicants and registrants regarding the Bureau's use of their criminal histories. Further, by reducing barriers to licensure, the Bureau anticipates benefits to consumers who may have increased access to service dealers and service contractors. Finally, this proposal would allow the Bureau to apply its substantial relationship and rehabilitation criteria to service contractors.

**Consistency and Compatibility with Existing State Regulations**

During the process of developing these regulations and amendments, the Bureau 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 Bureau anticipates there may be an increased cost of the state as a result of amending and adopting the sections identified in the regulatory proposal. By fur-

ther defining the substantial relationship and rehabilitation criteria for criminal convictions, Bureau staff may see an increased workload to research convictions and to substantiate that rehabilitation has been achieved, which is anticipated to be absorbable within existing resources.

**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 Bureau 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 Bureau has determined that this regulatory proposal may have a positive impact on the creation of jobs and new businesses by reducing licensing and employment barriers for people who are rehabilitated, will not result in the elimination of jobs or existing businesses, and have no impact on the expansion of businesses in the State of California.

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

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

The Bureau 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 registrations.

**Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

The proposed regulations may affect small businesses, who would otherwise not qualify for a permit. Some permit applicants may be small business owners who would have previously been denied registration due to prior crimes or acts under the law as it stood prior to the passage of AB 2138 and the formulation of these proposed regulations. Consequently, an unknown number of small businesses may be positively affected by the less restrictive standards established through this proposal. However, the Bureau is unaware of the number of potential small businesses that would be impacted by this regulatory proposal.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses:**

The Bureau has determined that this regulatory proposal may have a positive impact on the creation of jobs and new businesses by reducing licensing and employment barriers for people who are rehabilitated, will not result in the elimination of jobs or existing businesses, and have no impact on the expansion of businesses in the State of California.

**Benefits of Regulation:**

The Bureau 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, which may benefit the health and welfare of California's consumers. Electronics and Appliance Repair 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 Bureau 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:** To pursue a regulatory change that requires the Bureau to find rehabilitation if the applicant or registrant completed their terms of their criminal probation or parole. Courts give little weight to the fact that an applicant or registrant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole since they are under the direct supervision of correctional authorities and are required to behave in an exemplary fashion. As such, the Bureau believes reviewing each individual on the basis of multiple criteria is the better indicator whether individuals are rehabilitated and not a danger to the public's

health, safety, and welfare. For these reasons, the Bureau rejected this option.

- **Option 2:** Do nothing, meaning the Bureau would not adopt the regulations. The Bureau opted not to pursue this option because per AB 2138, the Bureau is mandated to adopt proposed regulations by July 1, 2020.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 4244 South Market Court, Suite D, Sacramento, California 95834.

INITIAL STATEMENT OF  
REASONS AND INFORMATION

The Bureau 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 Bureau at 4244 South Market Court, Suite D, Sacramento, California 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 may be addressed to:

Name:

Yeaphana La Marr, Policy Manager

Address:

Bureau of Household Goods and Services  
4244 South Market Court, Suite D  
Sacramento, CA 95834

Telephone Number:

(916) 999-2090

Fax Number:  
(916) 999-7279

E-Mail Address:  
Yeaphana.LaMarr@dca.ca.gov  
The backup contact person is:

Name:  
Diana Godines, Policy Manager

Address:  
Bureau of Household Goods and Services  
4244 South Market Court, Suite D  
Sacramento, CA 95834

Telephone Number:  
(916) 999-2068

Fax Number:  
(916) 999-7279

E-Mail Address:  
Diana.Godines@dca.ca.gov

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

## TITLE 16. CEMETERY AND FUNERAL BUREAU

### DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (hereinafter “Bureau”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Cemetery and Funeral Bureau  
1625 North Market Boulevard  
1<sup>st</sup> Floor Hearing Room  
Sacramento, CA 95834  
Date: Wednesday, April 8, 2020  
Time: 10:00 a.m.–11:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail 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 Tuesday, April 7, 2020, or must be received by the Bureau at the hearing.

The Bureau, upon its own motion or at the request 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 per-

son and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### Authority and Reference:

Pursuant to the authority vested by sections 481, 482, 493 and 7606 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 141, 475, 480, 481, 482, 488, 490, 492, 493 and 7606 of said Code, the Bureau is considering changes to Division 23 of Title 16 of the California Code of Regulations (CCR) as described in this Notice.

### INFORMATIVE DIGEST

#### Background:

The death care industry transacts business with consumers at a time when they are emotionally vulnerable, which is why the Bureau makes consumer protection its highest priority. The Bureau achieves its goal of consumer protection through the following primary methods: issuing and renewing licenses; overseeing funeral and cemetery trust funds; investigating consumer complaints; conducting inspections; and disciplining licensees for violations of its laws and regulations under the Cemetery and Funeral Act (Chapter 12 (commencing with section 7600) of Division 3 of the Business and Professions Code) (Act), Division 12 (commencing with section 1202) of Title 16 of the CCR, regulating funeral- and embalming-related businesses and professions (the Funeral Regulations), and Division 12 (commencing with section 1202) of Title 16 of the CCR, regulating cemetery-related businesses or professions, cremation- or hydrolysis-related businesses and professions, and remains disposal (the Cemetery Regulations).

In addition, the Bureau licenses, regulates, and investigates consumer complaints against, 13 different license categories in California, totaling approximately 13,500 licensees. These licensing categories include funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery broker branch, cemetery broker additional, cemetery salespersons, cremated remains disposers, crematories, crematory managers, hydrolysis facilities, cemetery managers, and private, nonreligious cemeteries.

BPC section 7606 authorizes the Bureau 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 Act. 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.

The Bureau is proposing the following changes:

**Amend Substantial Relationship and Rehabilitation Criteria to Apply to All Licensees under the Cemetery Regulations:**

The proposed regulation would amend 16 CCR sections 2330 and 2331 to apply to all holders of a license, as defined in BPC section 23.7, under the Cemetery Regulations, instead of only “cemetery broker[s] or salesperson[s].”

**Amend 16 CCR Section 2330 (Substantial Relationship Criteria):**

16 CCR section 2330 establishes the criteria for determining whether a crime or act is substantially related to the qualifications, functions, or duties of a cemetery broker or salesperson and therefore grounds for denial, suspension, or revocation of a cemetery broker or salesperson license pursuant to BPC section 480 or 490. The proposed regulation, for purposes of denial, suspension, or revocation of a license, would expand the application of this section, as stated above, to include all licensees, as defined in BPC section 23.7, under the Cemetery Regulations; clarify that the criteria in this section also apply to a determination of whether professional misconduct or disciplinary action taken by another state, by any agency of the federal government, or by another country, as described in BPC section 141, are grounds for denial, suspension, and revocation of a license; and require the Bureau, 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 specify that substantially related crimes, professional misconduct, or acts would include violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the Act, conviction of crimes or acts involving dishonesty, misrepresentation, fraud, or deceit, and related crimes, as specified, and conviction of any crime or act involving fiscal dishonesty.

**Add Section 2330.1 to Article 3 of Division 23 of Title 16 of the CCR (Criteria to Aid in Determining if Felony Financial Crimes are Directly and Adversely Related to Fiduciary Qualifications, Functions, and Duties of a Cemetery Manager):**

As required by AB 2138, the proposed regulation sets forth the criteria to aid the Bureau in determining if felony financial crimes are directly and adversely related to the fiduciary qualifications, functions, and duties of a cemetery manager under the Act, and therefore excluded from the statute of limitations, effective July 1,

2020, that, with certain exceptions, prevents the Bureau from denying a license based on a criminal conviction if the applicant was convicted or, if incarcerated, released from incarceration, more than seven years before the application date. (BPC, section 480, subd. (a)(1)(B)(v), as added by AB 2138, section 4.) In addition, the proposal would enumerate specific felony financial crimes that the Bureau has determined are directly and adversely related to the fiduciary qualifications, functions, or duties of a cemetery manager, including felony financial crimes involving acts of dishonesty, misrepresentation, deceit, fraud, or theft, as specified.

**Amend 16 CCR 2331 (Rehabilitation Criteria for Denial of License):**

The proposed regulation would clarify that the Bureau, when considering a license denial on the ground that the applicant was convicted of a crime, would have to determine whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Bureau to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened, and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant’s or licensee’s rehabilitation, and the extent to which the terms or conditions of parole were modified and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial was based on something other than a crime.

**Add Section 2331.1 to Article 3 of Division 23 of Title 16 of the CCR (Rehabilitation Criteria for Suspension, Revocation, or Reinstatement of License):**

The proposed regulation would clarify that the Bureau, when considering the suspension or revocation of a license on the ground that the licensee was convicted of a crime, would have to determine whether the licensee made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Bureau to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the licensee’s reha-

bilitation, and the extent to which the terms or conditions of parole were modified and why. The proposal would require a broader set of rehabilitation criteria to be considered for licensees who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the suspension or revocation was based on something other than a crime.

This proposal would also move the criteria for a Petition for Reinstatement from existing 16 CCR section 2330, into the newly proposed 16 CCR 2331.1. The Bureau would then evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

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 Bureau’s use of their criminal histories. Further, by reducing barriers to licensure, the Bureau 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 Bureau 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 Bureau anticipates that there may be an increased cost to the state as a result of amending and adopting the sections identified in the regulatory proposal. By further defining the substantial relationship and rehabilitation criteria for criminal convictions, Bureau staff may see an increased 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 Bureau 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 Bureau 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 Bureau 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.

**Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

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

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses:**

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

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 1625 North Market Blvd., Suite S-208, Sacramento, California 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau 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 Bureau at 1625 North

Market Blvd., Suite S-208, Sacramento, California 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 PERSONS

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

Name:

Carolina Sammons

Address:

1625 North Market Boulevard, Suite S-208  
Sacramento, CA 95834

Telephone Number:

(916) 574-7876

Fax Number

(916) 928-7988

Email Address:

[carolina.sammons@dca.ca.gov](mailto:carolina.sammons@dca.ca.gov)

The backup contact person is:

Name:

Cheryl Jenkins

Address:

1625 North Market Boulevard, Suite S-208  
Sacramento, CA 95834

Telephone Number:

(916) 574-8203

Fax Number

(916) 928-7988

Email Address:

[cheryl.jenkins@dca.ca.gov](mailto:cheryl.jenkins@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Carolina Sammons at (916) 574-7876.

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

**TITLE 16. CEMETERY AND FUNERAL BUREAU**

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (hereinafter “Bureau”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Cemetery and Funeral Bureau  
 1625 North Market Boulevard  
 1<sup>st</sup> Floor Hearing Room  
 Sacramento, CA 95834  
 Date: Wednesday, April 8, 2020  
 Time: 11:00 a.m.–12:00 p.m.

Written comments, including those sent by mail, facsimile, or e-mail 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 Tuesday, April 7, 2020, or must be received by the Bureau at the hearing.

The Bureau, upon its own motion or at the request 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 or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference:

Pursuant to the authority vested by sections 481, 482, 493 and 7606 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 141, 475, 480, 481, 482, 488, 490, 492, 493 and 7606 of said Code, the Bureau is considering changes to Division 12 of Title 16 of the California Code of Regulations (CCR) as described in this Notice.

INFORMATIVE DIGEST

**Background:**

The death care industry transacts business with consumers at a time when they are emotionally vulnerable, which is why the Bureau makes consumer protection its highest priority. The Bureau achieves its goal of consumer protection through the following primary methods: issuing and renewing licenses; overseeing funeral and cemetery trust funds; investigating consumer complaints; conducting inspections; and disciplining licensees for violations of its laws and regulations under

the Cemetery and Funeral Act (Chapter 12 (commencing with section 7600) of Division 3 of the Business and Professions Code) (Act), Division 12 (commencing with section 1202) of Title 16 of the CCR, regulating funeral- and embalming-related businesses and professions (the Funeral Regulations), and Division 12 (commencing with section 1202) of Title 16 of the CCR, regulating cemetery-related businesses or professions, cremation- or hydrolysis-related businesses and professions, and remains disposal (the Cemetery Regulations).

In addition, the Bureau licenses, regulates, and investigates consumer complaints against, 13 different license categories in California, totaling approximately 13,500 licensees. These licensing categories include funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery broker branch, cemetery broker additional, cemetery salespersons, cremated remains disposers, crematories, crematory managers, hydrolysis facilities, cemetery managers, and private, nonreligious cemeteries.

BPC section 7606 authorizes the Bureau 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 Act. 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.

The Bureau is proposing the following changes:

**Amend Substantial Relationship and Rehabilitation Criteria to Apply to All Licensees under the Funeral Regulations:**

The proposed regulation would amend 16 CCR sections 1252 and 1253.5 to apply to all holders of a license, as defined in BPC section 23.7, under the Funeral Regulations, instead of only “licensed funeral establishment[s], licensed funeral director[s], or licensed embalmer[s],” and amend 16 CCR section 1253 to apply to denial of an application for “a license, as defined in Section 23.7 of the Business and Professions Code,” under the Funeral Regulations, instead of only “a license,” to clarify that the term “license” includes all license categories the Bureau regulates, including registrations.

**Amend 16 CCR Section 1252 (Substantial Relationship Criteria):**

16 CCR section 1252 establishes the criteria for determining whether a crime or act is substantially related to the qualifications, functions, or duties of a licensed funeral establishment, licensed funeral director, or licensed embalmer and therefore grounds for denial, sus-

pension, or revocation of a funeral establishment, funeral director's, or embalmer's license pursuant to BPC section 480 or 490. The proposed regulation, for purposes of denial, suspension, or revocation of a license, would expand the application of this section, as stated above, to include all licensees under the Funeral Regulations; clarify that the criteria in this section also apply to a determination of whether professional misconduct or disciplinary action taken by another state, by any agency of the federal government, or by another country, as described in BPC section 141, are grounds for denial, suspension, and revocation of a license; and require the Bureau, 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 specify that substantially related crimes, professional misconduct, or acts would include violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the Act, conviction of crimes or acts involving dishonesty, misrepresentation, fraud, or deceit, and related crimes, as specified, and conviction of any crime or act involving fiscal dishonesty.

**Add Section 1252.1 to Division 12 of Title 16 of the CCR (Criteria to Aid in Determining if Felony Financial Crimes are Directly and Adversely Related to Fiduciary Qualifications, Functions, and Duties of a Funeral Director):**

As required by AB 2138, the proposed regulation sets forth the criteria to aid the Bureau in determining if felony financial crimes are directly and adversely related to the fiduciary qualifications, functions, and duties of a funeral director under the Act, and therefore excluded from the statute of limitations, effective July 1, 2020, that, with certain exceptions, prevents the Bureau from denying a license based on a criminal conviction if the applicant was convicted or, if incarcerated, released from incarceration, more than seven years before the application date. (BPC, section 480, subd. (a)(1)(B)(v), as added by AB 2138, section 4.) In addition, the proposal would enumerate specific felony financial crimes that the Bureau has determined are directly and adversely related to the fiduciary qualifications, functions, or duties of a funeral director, including felony financial crimes involving acts of dishonesty, misrepresentation, deceit, fraud, or theft, as specified.

**Amend 16 CCR Section 1253 (Rehabilitation Criteria for Denial of License):**

The proposed regulation would clarify that the Bureau, when considering a license denial on the ground that the applicant was convicted of a crime, would have to determine whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Bureau to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened, and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant's or licensee's rehabilitation, and the extent to which the terms or conditions of parole were modified and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial was based on something other than a crime.

**Amend 16 CCR Section 1253.5 (Rehabilitation Criteria for Suspension, Revocation, or Reinstatement of License):**

The proposed regulation would clarify that the Bureau, when considering the suspension or revocation of a license on the ground that the licensee was convicted of a crime, would have to determine whether the licensee made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Bureau to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation, and the extent to which the terms or conditions of parole were modified and why. The proposal would require a broader set of rehabilitation criteria to be considered for licensees who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the sus-

pension or revocation was based on something other than a crime.

The proposal would also move the criteria for a Petition for Reinstatement from existing subdivision (b) to subdivision (c) of amended 16 CCR section 1253.5. The Bureau would then evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

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 Bureau’s use of their criminal histories. Further, by reducing barriers to licensure, the Bureau 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 Bureau 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 Bureau anticipates that there may be an increased cost to the state as a result of amending and adopting the sections identified in the regulatory proposal. By further defining the substantial relationship and rehabilitation criteria for criminal convictions, Bureau staff may see an increased 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 Bureau 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 Bureau 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 Bureau 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.

**Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

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

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses:**

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

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 1625 North Market Blvd., Suite S-208, Sacramento, California 95834.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau 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 Bureau at 1625 North Market Blvd., Suite S-208, Sacramento, California 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 PERSONS

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

Name:

Carolina Sammons

Address:

1625 North Market Boulevard, Suite S-208  
Sacramento, CA 95834

Telephone Number:

(916) 574-7876

Fax Number

(916) 928-7988

Email Address:

[carolina.sammons@dca.ca.gov](mailto:carolina.sammons@dca.ca.gov)

The backup contact person is:

Name:

Cheryl Jenkins

Address:

1625 North Market Boulevard, Suite S-208  
Sacramento, CA 95834

Telephone Number:

(916) 574-8203

Fax No.

(916) 928-7988

Email Address:

[cheryl.jenkins@dca.ca.gov](mailto:cheryl.jenkins@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Carolina Sammons at (916) 574-7876.

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

#### TITLE 16. COURT REPORTERS BOARD

#### Substantial Relationship Criteria, section 2470 Criteria for Rehabilitation, section 2471 California Code of Regulations

NOTICE IS HEREBY GIVEN that the Court Reporters Board (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

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

COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be received by the Board at its office no later than Monday, April 6, 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 481, 482, and 8007 of the Business and Professions Code (BPC), and to implement, interpret or make specific BPC section 141, 480, 481, 482, 490, 493, 8008, 8025, and 8026, the Board is considering amendments to sections 2470 and 2471 of Division 24 of Title 16 of the California Code of Regulations.

INFORMATIVE DIGEST

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 480, 481, 482, and 493 relative to substantial relationship and rehabilitation criteria. The Board is proposing the following changes:

Amend CCR section 2470 of Article 8 of Division 24 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 court reporting.

Amend CCR section 2471 of Article 8 of Division 24 of Title 16 of the CCR (Criteria for Rehabilitation):

The proposed regulation would clarify that the Board, when considering a license denial or discipline on the ground that the applicant or licensee was convicted of a crime, would have to determine whether the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant or licensee completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the Board to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened, and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant’s or licensee’s rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants and licensees who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial or discipline was based on something other than a conviction.

POLICY STATEMENT  
OVERVIEW/ANTICIPATED  
BENEFITS OF PROPOSAL

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

**Consistency and Compatibility with Existing State Regulations**

During the process of developing these regulations and amendments, the Board has conducted a search of 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 to the state as a result of amending and adopting the sections identified in the regulatory proposal. By further defining the substantial relationship and rehabilitation criteria for criminal convictions, Board staff may see an increased workload to research convictions and to substantiate that rehabilitation has been achieved.

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

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.

**Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

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

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, which may benefit the health and welfare of California's consumers. Court reporting 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:** To pursue a regulatory change that requires the Board to find rehabilitation if the applicant completed their terms of their criminal probation or parole. Courts give little weight to the fact that an applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole since they are under the direct supervision of correctional authorities and are required to behave in an exemplary fashion. As such, the Board believes that reviewing each individual on the basis of multiple criteria is the better indicator whether individuals are rehabilitated and not a danger to

the public’s health, safety, and welfare. For these reasons, the Board rejected this option.

- **Option 2:** Do nothing, meaning the Board would not adopt the regulations. The Board opted not to pursue this option because per AB 2138, the Board is mandated to adopt proposed regulations by July 1, 2020.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2535 Capitol Oaks Drive, Suite 230, Sacramento, California 95833.

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 2535 Capitol Oaks Drive Suite 230, Sacramento, California 95833.

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 PERSONS

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

Name:

Paula Bruning

Address:

2535 Capitol Oaks Drive, Suite 230  
Sacramento, CA 95833

Telephone Number:

(916) 263-3660

Fax Number:

(916) 263-3664

E-Mail Address:

Paula.bruning@dca.ca.gov

The backup contact person is:

Name:

Yvonne Fenner

Address:

2535 Capitol Oaks Drive, Suite 230  
Sacramento, CA 95833

Telephone Number:

(916) 263-3660

Fax Number:

(916) 263-3664

E-Mail Address:

Yvonne.fenner@dca.ca.gov

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

TITLE 16. PROFESSIONAL FIDUCIARIES BUREAU

NOTICE IS HEREBY GIVEN that the Professional Fiduciaries Bureau (Bureau) of the Department of Consumer Affairs (Department) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, 1625 North Market Blvd., 2nd Floor, El Dorado Room — N-220, Sacramento, California, 95834, at 9:00 a.m., on Wednesday, April 8, 2020. 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 Bureau at its office not later than 5:00 p.m. on Tuesday, April 7, 2020, or must be received by the Bureau at the hearing. 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 comments related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 481, 482, and 6517 of the Business and Professions Code (BPC), and to implement, interpret or make specific Sections 141, 475, 480, 481, 482, 488, 490, 492, 493, 6536, and 6537 of said Code, the

Bureau is considering changes to Division 41 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

The Bureau is under the authority of the Department. The Bureau currently regulates a total of 1,090 licensed professional fiduciaries. The Bureau was created by legislation enacted in 2007 (SB 1550, Figueroa, Chapter 491, Statutes of 2006) to license and regulate non-family member professional fiduciaries. Professional Fiduciaries required to be licensed are conservators, guardians, personal representatives of decedent estates, trustees, and agents under durable power of attorney as defined by the Professional Fiduciaries Act (BPC section 6500 et seq.). Professional fiduciaries provide critical services to seniors, persons with disabilities, and children. They manage matters for clients including daily care, housing and medical needs, and offer financial management services ranging from basic bill paying to estate and investment management.

BPC section 6517 authorizes the Bureau to adopt, amend, or repeal such rules and regulations as may be necessary to enable the Bureau to carry into effect the provisions of law relating to the Fiduciary Act. The primary purpose of the proposal is to implement, interpret, and make specific BPC section 141, 475, 480, 481, 482, 488, 490, 492 and 493 relative to the substantial relationship criteria and rehabilitation criteria.

The Bureau is proposing the following changes:

- Amend section 4520 of Division 41, Title 16 of the California Code of Regulations. (Substantial Relationship Criteria)

The proposed regulation, for purposes of denial of a license, would add professional misconduct and out-of-state discipline as grounds requiring the Bureau to consider the substantially related criteria, and require the Bureau, 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 convictions for specified crimes.

- Adopt section 4521 of Division 41 of Title 16 of the California Code of Regulations. (Criteria to aid

in determining if financial crimes are directly and adversely related to the fiduciary qualifications, functions, or duties of a Professional Fiduciary)

The proposed regulation, for purposes of denial of a license, would add criteria to aid the Bureau in determining whether a financial crime is directly and adversely related to the fiduciary qualifications, functions, or duties of a Professional Fiduciary. The criteria includes: (1) whether the crime resulted in direct financial benefit to the applicant or another person, estate, or trust; or (2) direct financial harm to another person, estate, or trust. Also, the criteria would consider financial crimes to be directly and adversely related if they involve any of the following: (1) false, altered, forged, counterfeit, or fraudulent statements or documents; (2) stolen property, embezzlement, money laundering, fraud, theft, grand theft, larceny, burglary, identity theft, or obtaining money, labor, or property under false pretenses; and (3) attempt or conspire to commit those financial crimes.

- Amend section 4522 of Division 41, Title 16 of the California Code of Regulations. (Criteria for Rehabilitation)

Existing law, BPC sections 480, 481, and 482 respectively, require the Bureau to adopt regulations developing criteria to aid the Bureau when considering the denial of a license to determine whether a crime or act is substantially related to the qualifications, functions, or duties of a professional fiduciary. Additionally, the Bureau is required to develop criteria to evaluate the rehabilitation of an applicant or licensee when considering denial of a license. The proposed amendments will establish the rehabilitation criteria and require the Bureau to consider the nature and gravity of the crime, the length of the applicable parole or probation periods, the extent which the applicable parole or probation period was shortened or lengthened, and the extent to which the terms of probation were modified and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial was based on something other than a conviction.

- Amend section 4620 of Division 41, Title 16 of the California Code of Regulations. (Substantial Relationship Criteria)

The proposed regulation, for purposes of suspension or revocation of a license, would add out-of-state discipline as grounds requiring the Bureau to consider the substantially related criteria, and require the Bureau, 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 or acts would include convictions for specified crimes.

- Amend section 4622 of Division 41, Title 16 of the California Code of Regulations. (Criteria for Rehabilitation)

Existing law, BPC sections 481 and 482, respectively, require the Bureau to adopt regulations developing criteria to aid the Bureau when considering the suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of a professional fiduciary. Additionally, the Bureau is required to develop criteria to evaluate the rehabilitation of an applicant or licensee when considering the suspension or revocation of a license. The proposed amendments will establish the rehabilitation criteria and require the Bureau to consider the nature and gravity of the crime, the length of the applicable parole or probation periods, the extent which the applicable parole or probation period was shortened or lengthened, and the extent to which the terms of probation were modified and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the discipline was based on something other than a conviction.

- B. 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 Bureau's use of their criminal histories. Further, by reducing

barriers to licensure, the Bureau anticipates benefits to consumers who may have greater access to licensed professionals.

- C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, 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.

#### INCORPORATION BY REFERENCE

N/A

#### FISCAL IMPACT ESTIMATES

##### Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Bureau does not anticipate an increased cost to the state as a result of amending and adopting the sections identified in the regulatory proposal.

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 Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal would only affect the criteria used by the Bureau to determine if a license should be denied, suspended, or revoked.

The Bureau 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.

#### HOUSING COSTS

None.

#### BUSINESS REPORTING REQUIREMENT

None.

### EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would not affect small businesses. This proposal would only affect the criteria used by the Bureau to determine if a license should be denied, suspended, or revoked.

### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

#### Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This proposal would only affect the criteria used by the Bureau to determine if a license should be denied, suspended, or revoked.

#### Benefits of Regulation:

The Bureau 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, which may benefit the health and welfare of California's elderly population. Professional Fiduciary 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.

### COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

### CONSIDERATION OF ALTERNATIVES

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

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 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, any document incorporated by reference, the initial statement of reasons, and all the information upon which the proposal is based, may be obtained upon request from the Professional Fiduciaries Bureau at 1625 N. Market Blvd., Suite 209, Sacramento, CA 95834, or by accessing the Bureau's website at [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov).

### 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 PERSONS**

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

Name:

Angela Cuadra, Program Analyst

Address:

1625 N. Market Blvd., Suite 209  
Sacramento, CA 95834

Telephone Number:

(916) 574-7341

Fax Number:

(916) 574-8645

E-Mail Address:

angela.cuadra@dca.ca.gov

The backup contact person is:

Name:

Rebecca May, Bureau Chief

Address:

1625 N. Market Blvd., Suite 209  
Sacramento, CA 95834

Telephone Number:

(916) 574-7340

Fax Number:

(916) 574-8645

E-Mail Address:

fiduciary@dca.ca.gov

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

**TITLE 16. STRUCTURAL PEST CONTROL BOARD**

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board (SPCB) is proposing to take action as described in the Informative Digest.

**PUBLIC HEARING**

The SPCB has not scheduled a public hearing for this action; however, the SPCB 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 and 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 SPCB at its office no later than Monday, April 6, 2020, or must be received by the SPCB at the hearing, should one be held. Both oral and written comments may also be made at the hearing, if one is held.

**AVAILABILITY OF MODIFICATIONS**

The SPCB, 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 granted by Business and Professions Code (BPC) sections 481, 482, 493, and 8525 and to implement, interpret and make specific BPC sections 114.5, 115.5, 141, 475, 480, 481, 482, 488, 490, 492, 493, 8560-8566, 8610, 8568, 8620, 8646, and 8674 and Health and Safety Code sections 11361.5 and 11361.7, the Structural Pest Control Board (SPCB) is proposing to amend California Code of Regulations (CCR), Title 16, sections 1936, 1936.1, 1936.2, 1937.1. and 1937.2.

**INFORMATIVE DIGEST**

BPC section 8525 authorizes 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 Structural Pest Control Act (Act). 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. The SPCB is proposing the following changes:

**Amend CCR, Title 16, Section 1937.1 (Substantial Relationship Criteria):**

The proposed regulation, for purposes of denial, suspension, or revocation of a license, would add profes-

sional misconduct as grounds requiring the SPCB 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 veterinary medicine.

**Amend CCR, Title 16, Section 1937.2 (Criteria for Rehabilitation):**

The proposed regulation would clarify that the SPCB, when considering a license denial or discipline on the ground that the applicant or licensee was convicted of a crime, would have to determine whether the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant or licensee completed the criminal sentence without a violation of parole or probation. In making that determination, the proposal would require the SPCB to consider the nature and gravity of the crime, the length of the parole or probation period, the extent to which the parole or probation period was shortened or lengthened, and the reasons therefor, the terms or conditions of parole or probation and the extent to which they bear on the applicant's or licensee's rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The proposal would require a broader set of rehabilitation criteria to be considered for applicants and licensees who had not completed the criminal sentence without a violation of parole or probation, did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the denial or discipline was based on something other than a conviction.

**Amend CCR, Title 16, Section 1936, 1936.1, 1936.2 (Licensing Applications):**

Currently, SPCB's Company Registration, Operator, Field Representative, and Applicator license applications inquire as to the applicant's criminal history and the status of any pending criminal action the applicant may be facing.

This regulatory proposal will amend CCR section 1936 and Forms 43L-1 (Rev. 7/20) (Operator License Application) and 43L-14 (Rev. 7/20) (Field Representative License Application) which are incorporated by reference, 1936.1 and Form 43L-26 (Rev. 7/20) (Company Registration Application) which is incorporated by reference, and 1936.2 and Form 43L-21 (Rev. 7/20) (Applicator Application) which is incorporated by reference, to eliminate the questions inquiring about an applicant's criminal history or the status of any pending criminal action the applicant may be facing.

POLICY STATEMENT  
OVERVIEW/ANTICIPATED BENEFITS

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 SPCB's use of their criminal histories. Further, by reducing barriers to licensure, the SPCB 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 SPCB 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 SPCB 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, SPCB staff may see an increased 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 SPCB 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 SPCB 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 SPCB 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.

**Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

The proposed regulations may affect small businesses, who would have a greater pool of licensed professionals from which to hire. The SPCB registers approximately 3,149 companies but does not have data identifying what percentage of those are small businesses.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

**Impact on Jobs/Businesses:** The SPCB 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 the Proposed Regulation**

The SPCB 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, which may benefit the health and welfare of California's residents. Structural pest control 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 SPCB 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: To pursue a regulatory change that requires the SPCB to find rehabilitation if the applicant completed their terms of their criminal probation or parole. Courts give little weight to the fact that an applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole since they are under the direct supervision of correctional authorities and are required to behave in an exemplary fashion. As such, the SPCB believes that reviewing each individual on the basis of multiple criteria is the better indicator whether individuals are rehabilitated and not a danger to the public's health, safety, and welfare. For these reasons, the SPCB rejected this option.

Option 2: Do nothing, meaning the SPCB would not adopt the regulations. The SPCB opted not to pursue this option because per AB 2138, the SPCB is mandated to adopt proposed regulations by July 1, 2020.

Any interested person may submit comments to the SPCB in writing relevant to the above determinations at 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815.

INITIAL STATEMENT OF REASONS AND INFORMATION

The SPCB 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 SPCB at 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815.

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

Name:  
David Skelton, Regulatory Analyst

Address:  
Structural Pest Control Board  
2005 Evergreen Street, Suite 1500  
Sacramento, CA 95815

Telephone Number:  
(916) 561-8722

Fax Number:  
(916) 263-2469

Email Address:  
[david.skelton@dca.ca.gov](mailto:david.skelton@dca.ca.gov)

#### BACKUP CONTACT PERSON

Name:  
Ronni O’Flaherty, Administrative Analyst

Address:  
Structural Pest Control Board  
2005 Evergreen Street, Suite 1500  
Sacramento, CA 95815

Telephone Number:  
(916) 561-8700

Fax Number:  
(916) 263-2469

Email Address:  
[ronni.oflaherty@dca.ca.gov](mailto:ronni.oflaherty@dca.ca.gov)

#### WEBSITE ACCESS

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

### **TITLE 17. DEPARTMENT PUBLIC HEALTH**

#### **2003 Clinical Lab Improvement Amendment (CLIA) Crosswalk Part 2 Publication Date: February 21, 2020**

NOTICE IS HEREBY GIVEN that the California Department of Public Health (Department) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC PROCEEDINGS

The Department is conducting a 45-day written public proceeding during which time any interested person or such person’s duly authorized representative may present statements, arguments or contentions (referred

to as comments) relevant to the action described in the Informative Digest/Policy Statement Overview section of this notice.

#### PUBLIC HEARING

A hearing is not scheduled. Pursuant to Government Code section 11346.8, a written request for a hearing may be submitted no later than 15 days prior to the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Written comments pertaining to this proposal, regardless of the method of transmittal, must be received by Office of Regulations **on April 6, 2020**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written comments may be submitted as follows:

1. By email to: [Regulations@cdph.ca.gov](mailto:Regulations@cdph.ca.gov). It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier “DPH-16-002, 2003 CLIA Crosswalk Part 2” in the subject line identification and review of the comment;
2. By fax transmission to 1(916) 636-6220;
3. By completing the online comment form on the rulemaking’s Web page at [DPH-16-002, 2003 CLIA Crosswalk Part 2](http://www.cdph.ca.gov/Programs/OPA/Pages/DPH-16-002_2003CLIA_Crosswalk_Part_2.aspx);
4. By postal service or hand delivered to California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, MS 0507, Sacramento, CA 95814.

#### ASSISTIVE SERVICES

The Department can provide assistive services such as the conversion of written materials into Braille, large print, audiocassette, and computer disk. For public hearings, assistive services can include sign-language interpretation, real-time captioning, note taking, reading, or writing assistance. To request these services, please call (916) 558-1710 or California Relay at 711, 1-800-735-2929 (at no cost) or 1-800-735-2922, if you do not have a TDD. Note: The range of assistive services available may be limited if requests are made less than 10 business days prior to a public hearing.

#### AUTHORITY AND REFERENCE

The Department proposes to adopt the proposed action under the authority granted by the California Business and Professions Code sections 1208 and 1224, and

Health and Safety Code section 131200. The proposed regulations implement, interpret, and make specific sections 1220, 1225 and 1265 of the Business and Professions Code, and sections 131050, 131051, and 131052 of the Health and Safety Code.

COMPARABLE FEDERAL  
REGULATIONS OR STATUTES

The Department has conducted a review of federal regulations and statutes and determined there are no comparable federal regulations or statutes.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Business and Professions Code section 1208, subdivision (b), (hereafter section 1208, subd. (b)) requires the Department, in consultation with the California Laboratory Technology Advisory Committee (CLTAC) to review any Clinical Laboratory Improvement Amendments (CLIA) regulation adopted by the Health Care Finance Administration<sup>1</sup> (HCFA) as a final rule after January 1, 1994, and make a stringency determination for each subpart of the regulation. Section 1208, subd. (b) provides the means to adopt via operation of law those subparts found to be equivalent to or more stringent than California law. The subparts of 2003 CLIA determined to be equivalent to or more stringent than California law became effective by operation of law 60 days after the October 7, 2016, publication date in the California Regulatory Notice Register. (California Regulatory Notice Register 2016, No. 41-Z, pages 1825-1826; see Bus. and Prof. Code, section 1208, subd. (b).)

Section 1208, subd. (b) requires the Department to notice any federal regulation found to be less stringent than California law “as a comparable state regulation for a rulemaking proceeding in accordance with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall result in the adoption, amendment, or rejection of that noticed state regulation.” (Bus. and Prof. Code, section 1208, subd. (b).)

State law requires clinical laboratories to retain the records listed in Business and Professions Code section 1265, subdivision (j)(2), for three years. The records listed include test requisition and authorization records, test procedure records, quality control and patient test records, test system performance specifications, quality systems assessment records, and test reports. (Bus. and

Prof. Code, section 1265, subd. (j)(2).) The federal requirement under the CLIA of 1988 (42 C.F.R. section 493 et seq.), effective January 24, 2003, is to retain these types of records for two years. (42 C.F.R. section 493.1105(a)(1), (2), (3), (3)(i), (5), and (6).) The effect of the proposed rulemaking action is to reject the six subparts of federal regulations pertaining to clinical laboratory record retention requirements that are less stringent than California law.

**Anticipated Benefits of the Proposed Regulation:**

Once the proposed action becomes effective, California law will uniformly incorporate updates to CLIA after the adoption of the CLIA regulations in 1994 and make clear which provisions of 2003 CLIA are less stringent than California law.

*The broad objectives of this proposed regulatory action are to:*

- Comply with the statutory mandate to adopt or reject the 2003 updates to CLIA.
- Adhere to federal laboratory guidelines while preserving California authority when state law is more stringent than federal law.

*The specific benefits of the proposed action are:*

- Protection of public health and safety by rejecting federal laboratory standards that are less stringent than current California law.
- Elimination of confusion among the regulated public by completing the statutorily mandated process of adopting CLIA updates.
- Creation of uniformity in the California regulatory scheme by consistent reference to 2003 CLIA rather than 1994 CLIA.
- Clarification in regulation of the adoption of 2003 CLIA, via operation of law, when the Department published its decision in the California Regulatory Notice Register in 2016.

**Adopt California Code of Regulations, Title 17, section 1053 as follows:**

**Adopt subdivision (a):** The Department proposes to adopt subdivision (a) in order to make clear in regulation the adoption of 2003 CLIA, via operation of law, when the Department published its decision in the California Regulatory Notice Register in 2016. The reference to the 2003 CLIA Crosswalk package (published in the California Regulatory Notice Register 2016, Number 41-Z, pp. 1825-26) is necessary to notify the regulated public of the change in the law and to provide clarity on how subdivision (b) fits into the regulatory scheme after 2003 CLIA Crosswalk became effective via operation of law.

**Adopt subdivision (b):** The Department proposes to adopt subdivision (b) in order to interpret and make specific the mandate in section 1208(b) to identify the subparts of 2003 CLIA that are less stringent than Califor-

<sup>1</sup> The HCFA is now known as the Centers for Medicare and Medicaid Services (CMS).

nia law. This regulation identifies and rejects the six subparts that are less stringent. The Department made the stringency determinations for each subpart listed in subdivision (b) in consultation with the Department’s multidisciplinary committee, CLTAC. (Document Relied Upon No. 2, pp. 19–27.) The Department published the stringency determinations in the 2003 CLIA Crosswalk Report, and the subparts are discussed on the following pages of the report:

- 42 C.F.R. section 493.1105(a)(1) on pages 19–20
- 42 C.F.R. section 493.1105(a)(2) on pages 20–21
- 42 C.F.R. section 493.1105(a)(3) on pages 21–22
- 42 C.F.R. section 493.1105(a)(3)(i) on pages 22–23
- 42 C.F.R. section 493.1105(a)(5) on pages 24–25
- 42 C.F.R. section 493.1105(a)(6) on pages 25–26

This regulation is necessary to clarify for the regulated public which subparts of 2003 CLIA should not be followed and that they should instead follow the more stringent provisions in California law. This regulation is also necessary because there are currently no regulations in the California Code of Regulations concerning record retention requirements for clinical laboratories. Current record retention standards are found in Business and Professions Code section 1265, subdivision (j), and in section 1220, subdivision (d)(2), which is a reference to two subparts of 2003 CLIA. Section 1053 subdivision (b) of Title 17 provides a convenient cross-reference for laboratories to locate the federal and state standards for record retention in one regulation. The reference to applicable state law ensures that this regulation is consistent with current state statutes requiring retention of records by clinical laboratories. (See Bus. and Prof. Code, sections 1220, subd. (d)(2), 1265, subd. (j).)

The requirement in subdivision (b) to comply with applicable state law is a necessary duplication of an existing state statute in Business and Professions Code section 1265, subdivision (j) (hereinafter section 1265(j)), because it notifies the regulated public of the correct standard to follow for record retention. The rejection of the federal standards in 2003 CLIA that are listed in subdivision (b) necessitates a reference to the correct standard in section 1265(j) for clarity.

**Adopt subdivision (b), Table 1:** The Department proposes to adopt Table 1 in subdivision (b) in order to show the parts of California law that have changed and those that have not changed. The table is necessary to present in an organized fashion the history of adoption of 2003 CLIA in California and the current state of the law upon adoption of this regulation. Because this regulation rejects updated federal standards in favor of existing state standards, the regulated public will have to look to multiple sources of law to determine the correct

standard to follow for each type of record listed in the table. Table 1 consolidates all applicable law into one location and provides a clear directive to clinical laboratories for which standard to follow.

The notation of the state statute section that clinical laboratories should comply with in the table is a necessary duplication of an existing state statute in section 1265(j) because it notifies the regulated public of the correct standard to follow for record retention. The rejection of the federal standards in 2003 CLIA that are listed in subdivision (b) and in the table necessitates a reference to the correct standard in section 1265(j) for clarity.

**Evaluation of Inconsistency/Incompatibility with Existing State Regulations:**

The Department has decided that these regulations are neither inconsistent nor incompatible with other state regulations. These regulations require that all clinical laboratories licensed or registered by the Department comply with applicable state law regarding retention of records.

**INCORPORATION BY REFERENCE**

There are no documents or forms incorporated by reference in the proposed regulation.

**COMPARABLE FEDERAL REGULATIONS OR STATUTES**

The requirements of proposed section 1053 in subdivision (b), including paragraphs (1) through (6), differ from comparable federal regulations containing record retention requirements for clinical laboratories. The federal requirement for the types of records specified in 42 Code of Federal Regulations part 493.1105(a), subparts (1), (2), (3), (3)(i), (5), and (6), is to retain records for two years. The state law requirement for the same types of records, located in Business and Professions Code section 1265, subdivision (j)(2), is to retain records for three years. The Department has opted to reject the standard in federal regulations because it is less stringent than state law, under its authority pursuant to section 1208, subd. (b).

**MANDATED BY FEDERAL LAW OR REGULATIONS**

Federal regulations at 42 CFR section 493.1105(a)(1), (2), (3), (3)(i), (5), and (6) require clinical laboratories to retain records for two years. The proposed regulations require clinical laboratories to follow the more stringent requirements of California law at Business and Professions Code section 1220, subdivi-

sion (d)(2), and section 1265, subsection (j), which require laboratories to retain records for three years. This preserves California authority where state law is more stringent than federal law.

OTHER STATUTORY REQUIREMENTS

There are no other requirements identified in the Notice that are specific to the agency or to any specific regulation or class of regulation.

LOCAL MANDATE

The proposed regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATE

**Cost to any local agency or school district requiring reimbursement pursuant to Government Code sections 17500 through 17630:**

The proposed regulations do not impose any cost to any local agencies or school district requiring reimbursement pursuant to Government Code sections 17500 et seq.

**Cost or saving to any state agency:**

The proposed regulations do not impose any cost or result in any saving to any state agency.

**Other non-discretionary cost or saving imposed on local agencies:**

The proposed regulations do not impose any non-discretionary cost or result in any nondiscretionary saving upon local agencies.

**Cost or saving in federal funding to the state:**

The proposed regulations do not impose any cost or result in any saving in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY TO COMPETE WITH BUSINESSES IN OTHER STATES

The proposed regulations will not have any statewide adverse economic impact directly affecting business or the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has made an initial determination and conclude that the proposed regulation will not significantly affect:

- (A) **The creation or elimination of jobs within the state.**
- (B) **The creation of new businesses or the elimination of existing businesses within the state.**
- (C) **The expansion of businesses currently doing business with the state.**
- (D) **The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment** are maintained by the State’s rejection of the federal laboratory standards for record retention that are less stringent than the requirements of current California clinical laboratory laws. The proposed regulations will also eliminate confusion among the regulated public by completing the statutorily mandated process of adopting federal CLIA updates in California law.

BUSINESS REPORTING REQUIREMENT

The proposed regulations do not require businesses to make any reports.

HOUSING COSTS

The proposed regulations will not have a significant effect on housing costs.

EFFECT ON SMALL BUSINESS

The proposed regulations will not affect small businesses because they do not require any businesses to make changes to current practices. They clarify that businesses, including small businesses, must continue to follow the record retention requirements in current California law.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

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

### ALTERNATIVES CONSIDERED

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

The Department did not identify any alternatives to the regulation. Current state law requires a record retention period that is more stringent than the record retention period for the six subparts of 2003 CLIA listed in this regulation. Therefore, the Department has no discretion to create a regulation that conflicts with the statutory retention requirement and must reject the six subparts of 2003 CLIA. Performance standards were not considered as an alternative because this regulation is not prescriptive.

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

### CONTACT PERSONS

Inquiries regarding the subject proposed regulations should be directed to Mary Wogec, from the Department's Laboratory Field Services branch at (510) 620-3793. Other questions concerning the notice may be directed to the Office of Regulations at (916) 440-7673, or to Michael Boutros, Chief of Regulations at (916) 440-7822.

### AVAILABILITY STATEMENTS

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

To request a copy of the public notice, regulation text, and the initial statement of reasons or an alternate format, please call (916) 558-1710 (or California Relay at 711/1-800-735-2929), or email [regulations@cdph.ca.gov](mailto:regulations@cdph.ca.gov).

[ca.gov](http://www.cdph.ca.gov), or write to the Office of Regulations at the address noted above (**Enter DPH-16-002 in the subject line**). Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

### FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by checking the website at the link provided below.

Materials regarding the action described in this notice (the regulation text and the initial statement of reasons) may be accessed via the Internet at [www.cdph.ca.gov](http://www.cdph.ca.gov). From CDPH.ca.gov, Click "Programs," "Office of Regulations", then the link "[Proposed Regulations](#)."

## TITLE 20. CALIFORNIA ENERGY COMMISSION

Public Utilities and Energy  
Division 2. State Energy Resources  
Conservation and Development Commission  
Chapter 4. Energy Conservation  
Article 4. Appliance Efficiency Regulations  
Sections 1601-1609

Dedicated-Purpose Pool Pumps and Replacement  
Dedicated-Purpose Pool Pump Motors  
Docket No. 19-AAER-02

### INTRODUCTION

The California Energy Commission (CEC) proposes to adopt regulations related to replacement dedicated-purpose pool pump motors (RDPPPM) and dedicated-purpose pool pumps (DPPP) after considering all comments, objections, and recommendations, regarding the proposed action.

PUBLIC HEARING

The CEC staff will hold a public hearing for the proposed regulations on the following date and time. Interested persons, or his or her authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulations at the hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment. A person may provide comment in person, online, or by phone via Webex.*

**Tuesday, April 7, 2020**

Warren-Alquist State Energy Building  
1516 9<sup>th</sup> Street  
Sacramento, CA 95814  
First Floor, Rosenfeld Hearing Room

10:00 a.m. (Pacific Time)  
(Wheelchair accessible)

Audio for the hearing will be broadcast over the internet. Details regarding the CEC’s [webcast](https://energy.webex.com/ec) can be found at <https://energy.webex.com/ec>.

If you have a disability and require assistance to participate in the hearing, please contact [Yolanda Rushin](mailto:Yolanda.Rushin@energy.ca.gov) at [Yolanda.Rushin@energy.ca.gov](mailto:Yolanda.Rushin@energy.ca.gov), or (916) 654-4310, at least five days in advance.

WRITTEN COMMENT PERIOD

You may submit written comments to the CEC for consideration on or prior to April 6, 2020. The CEC appreciates receiving written comments at the earliest possible date.

Please submit comments using the CEC’s e-commenting feature by going to the [CEC’s Replacement Pool Pump Motor webpage](https://www.energy.ca.gov/appliances/2019-AAER-02/) found at <https://www.energy.ca.gov/appliances/2019-AAER-02/>, Docket Number 19-AAER-02, then select the “Submit e-comment” link. A full name, e-mail address, comment title, and either a comment or an attached document (.doc, .docx, or .pdf format) is mandatory. After a challenge-response test used by the system to ensure that responses are generated by a human user, click on “Agree and Submit Your Comment” to submit the comment to the CEC’s Docket Unit.

Please note that written comments, attachments, and associated contact information included within the written comments and attachments (e.g., your address, phone, email, etc.) become part of the viewable public record.

You are encouraged to use the electronic filing system, described above, to submit comments. All written comments submitted prior to the hearing must be submitted to the docket. If you are unable to submit elec-

tronically, a paper copy of your comments may be sent to:

Docket Unit  
California Energy Commission  
Docket No. 19-AAER-02  
1516 9<sup>th</sup> Street, MS-4  
Sacramento, CA 95814  
Telephone: (916) 654-5076

Or by [email](mailto:doCKET@energy.ca.gov) to [doCKET@energy.ca.gov](mailto:doCKET@energy.ca.gov).  
Or fax them to Dockets at (916) 654-4354.

PUBLIC ADVISOR

The Public Advisor is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Advisor’s Office, please call (916) 654-4489 or toll-free in California at (800) 822-6228, or [advisor@energy.ca.gov](mailto:advisor@energy.ca.gov).

NEWS MEDIA INQUIRIES

Direct news media inquiries to the Media and Public Communications Office at (916) 654-4989, or by [email](mailto:mediaoffice@energy.ca.gov) at [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25213, 25218(e), and 25402(a)-(c) authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, and make specific Public Resources Code Sections 25402(a)-(c) and (f) and 25216.5(d).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Warren-Alquist Act establishes the CEC as California’s primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(a)-(c) and (f) of the Public Resources Code mandate and/or authorize the CEC to adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water by prescribing efficiency standards, facilitating the deployment of flexible demand technologies, and implementing other cost-effective measures for appliances whose use requires a significant amount of energy or water statewide.

One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations (California Code of Regulations, Title 20, Sections 1601-1609), which contain definitions, test procedures, efficiency standards, and marking and reporting

requirements for state and federally regulated appliances. Further, the regulations require that manufacturers of covered appliances certify to the CEC that their products meet all applicable state and federal appliance efficiency regulations before their products can be included in the CEC's database of appliances approved to be sold or offered for sale within California.

In 2004, the CEC adopted standards for residential pool pumps and motors, which included a prohibition on inefficient split-phase or capacitor-start induction-run electric motors and a requirement that all pumps and motors that have a total of one horsepower or greater provide at least two-speed operation and controllers. The 2004 standards prohibited split-phase or capacitor-start induction motors effective in January 2006, and the two-speed requirements for pool pump motors with a total horsepower of one or greater took effect in January 2008.

In 2008, the CEC revised the 2004 standards to include a requirement that motors with a total horsepower of one or greater, manufactured after January 2010, shall be capable of at least two speeds. The scope of the regulation was expanded to include replacement residential pool pump motors.

In January 2017, the U.S. Department of Energy (DOE) released a Direct Final Rule establishing energy efficiency standards for DPPP published on May 26, 2017. These new DPPP standards will apply to self-priming pool pumps, non-self-priming pool pumps, pressure cleaner booster pumps, and integral pool pumps, and will take effect nationally on July 19, 2021.

On August 7, 2017, the DOE issued a Final Rule for the test procedure for DPPP. The effective date for this federal test procedure is September 6, 2017, and representations made on or after February 5, 2018, regarding the energy consumption of dedicated purpose pool pumps must be based upon results generated under this test procedure.

The federal standards, however, do not apply to RDPPPM for DPPP. There are no mandatory federal standards or test procedures for RDPPPM.

Therefore, the CEC proposes to incorporate changes to the appliance regulations to align with the DOE's new DPPP standards and test procedures published in the Federal Register and effective nationally.

In addition, the CEC is proposing standards for replacement pool pump motors sold separately from the pumps as replacements. The standards for these RDPPPM would take effect on July 19, 2021 to coincide with the DOE rule for DPPP standards. The proposed regulations provide definitions, test procedures, reporting requirements, and efficiency standards for RDPPPM five total horsepower or less that are not waterfall pump motors, rigid spa pump motors, or three-phase motors sold without an inverter.

**Difference from existing comparable federal regulation or statute**

In January 2017, the DOE released a Direct Final Rule establishing energy efficiency standards for DPPP, published on May 26, 2017. These new DPPP standards will take effect nationally on July 19, 2021. The CEC is proposing to incorporate changes to the appliance regulations to align with the new DOE standards and test procedures for DPPP.

On August 7, 2017, the DOE issued a Final Rule for the test procedure for DPPP. The effective date for this federal test procedure is September 6, 2017, and representations made on or after February 5, 2018, regarding the energy consumption of dedicated purpose pool pumps must be based upon results generated under this test procedure.

**Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments**

The broad objective of the regulations is to increase energy efficiency savings in the state by carrying out our statutory mandate to save energy by memorializing the federal standards for DPPP and providing statewide standards for RDPPPM in the appliance efficiency regulations. The proposed regulations seek to incorporate changes to the appliance regulations to align with the DOE standards and test procedures for DPPP. In addition, the CEC is proposing to adopt the test method for RDPPPM provided in CSA 747-2009 (RA2014), *Energy efficiency test method for small motors*. The proposed test method is for all types of small motors and allows for multiple motor speeds. The CEC proposes minimum motor efficiencies for RDPPPM 5.0 total horsepower or less. The CEC proposes an additional prescriptive variable-speed motor requirement for RDPPPM from 0.5 to 5.0 total horsepower. The RDPPPM below 0.5 total horsepower will not be required to be variable speed.

The specific benefits of the proposed regulations would be cost savings to the consumer, lower statewide energy use, and lower greenhouse gas emissions from lower energy use. The proposed regulations would save approximately 62 gigawatt-hours the first year the standards are in effect. By the year that stock turns over in 2029, the proposed standards would have an annual savings of about 451 gigawatt-hours, which equates to roughly \$82 million in annual savings to California businesses and individuals.

**Determination of inconsistency or incompatibility with existing state regulations**

The CEC has conducted an evaluation for any other regulations in this topic area and has determined the proposed regulations would not prevent compliance with existing state regulations.

The 2019 California Building Code, Title 24, Part 2, sets standards to regulate the construction and operation of in-ground public swimming pools.

California Building Code, Title 24, Part 6 regulates residential in-ground and aboveground swimming pools and spas. The requirements control the design of new pools and the significant retrofit of existing in-ground public swimming pools, and residential in-ground and aboveground swimming pools and spas to ensure safe and energy-efficient pools and maintenance. The regulations control the placement of pool inlets and outlets, skimmers and drains, pipe sizing, and the use of pipe elbows.

Therefore, the CEC has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The CEC proposes to incorporate by reference the following documents:

- NSF/ANSI 50–2015. *Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities.*
- UL 1081–2016. (October 21, 2016). *Standard for Swimming Pool Pumps, Filters, and Chlorinators.*
- Canadian Standards Association (CSA) C747–09 (reaffirmed 2014). *Energy efficiency test methods for small motors.*
- C.F.R., Title 10 Section 431.464(b), Appendix C to subpart Y of part 431, *Uniform Test Method for the Measurement of Energy Efficiency of Dedicated-Purpose Pool Pumps.*

All the documents are available for review at the Energy Commission located at 1516 Ninth Street, Sacramento, California 95814.

Any document that is not copyrighted will be available on the [CEC’s replacement pool pump motor website](https://www.energy.ca.gov/appliances/2019-AAER-02) found at <https://www.energy.ca.gov/appliances/2019-AAER-02>

MANDATED BY FEDERAL LAW OR REGULATIONS

None.

OTHER STATUTORY REQUIREMENTS

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- The mandate on local agencies and school districts: None.
- The cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq: None.
- Cost or savings to any state agency: None.
- Non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in federal funding to the state: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The CEC estimates that approximately 600 California businesses may be impacted by the regulations. However, these regulations are not likely to result in a significant adverse economic impact on any business.

The proposed regulations adopt the federal standards for DPPP and require technically achievable energy efficiency improvements be made to RDPPPM. The proposed regulations do not create the need for a new, non-existent good or service. Instead, they require the improvement of existing goods in the market. The economic impact on any retailers and distributors is expected to be small compared to the total sales of these entities and insufficient to have an adverse economic impact affecting business. There are no manufacturers of RDPPPM located in California and shipments and sales of RDPPPM are not expected to change significantly because of the proposed regulations.

While the efficiency standards have an initial increased incremental cost for the improved efficiency, the CEC assumes that manufacturers will pass the incremental cost to improve the efficiency onto the distributors and retailers, which will then pass on the cost to consumers. However, the increased efficiency will result in lower utility bills through reduced energy consumption. The savings from the lower utility bills over the lifetime of the more efficient appliance will exceed the incremental costs of improvement, resulting in overall economic savings.

Under the appliance efficiency regulations, retailers are responsible for ensuring that the regulated products

they sell are certified to the CEC, and appear in the CEC’s Modernized Appliance Efficiency Database System (MAEDbS) before they are sold or offered for sale in California. Because some RDPPPM are newly covered products, the CEC assumes that retailers will experience some additional costs associated with checking MAEDbS to ensure that the products they sell are certified to the CEC, appear in the MAEDbS, and are therefore compliant and lawful to sell in the state.

Some retailers may choose to incur additional costs if they rebrand an appliance not certified to MAEDbS and wish to sell it in California. These retailers are required to certify the appliances to California. Therefore, they will incur costs associated with reporting to the MAEDbS.

Sellers of electricity, both retail and wholesale, may experience slightly reduced sales of electricity due to the proposed standard. However, any reduction in sales is small compared to the total electricity sales of these entities and therefore negligible.

#### THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The CEC concludes that: (1) the proposal may create jobs within California, (2) it’s unlikely the proposal will eliminate jobs within California, (3) it’s unlikely the proposal will create new businesses in California, (4) it’s unlikely the proposal will eliminate existing businesses within California, (5) it’s unlikely the proposal will result in the expansion of businesses currently doing business within the state.

**Benefit of the Proposed Action:** The proposed regulations would result in cost savings to the consumer, lower statewide energy use, and lower greenhouse gas emissions from the lower energy use. The proposed regulations would save approximately 62 gigawatt–hours the first year the standards are in effect. By the year that stock turns over in 2029, the proposed standards would have an annual savings of about 451 gigawatt–hours, which equates to roughly \$82 million in annual savings to California businesses and individuals.

The proposed regulations will have a significant positive impact on the environment through energy efficiency gains and avoiding GHG emissions and criteria pollutant emissions associated with the generation of electricity.

#### COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

necessarily incur in reasonable compliance with the proposed action.

Pool owners that purchase RDPPPM — including individuals, businesses and small businesses — will save money from the lower utility bills over the seven–year lifetime of the more efficient RDPPPM. The initial incremental cost increase is \$389 to \$424 per motor. But this initial cost increase will be recovered in less than two years by energy savings, which will then exceed initial costs resulting in overall economic savings over the life of the product.

The businesses involved in distribution and sales of RDPPPM may pay increased wholesale purchase prices due to the proposed standards; however, the CEC assumes these costs are entirely passed on to the end consumer. So there are no direct economic impacts to these businesses. Some retailers may choose to incur additional costs if they rebrand an appliance not certified to MAEDbS and wish to sell it in California. These retailers will incur costs associated with certifying the appliances to California, and with reporting to the MAEDbS.

#### BUSINESS REPORT

Although the proposed standards impose a new data reporting requirement on manufacturers of RDPPPM, none of these manufacturers are located in California. As such, there will be no reporting costs for a California business due to the proposed regulations. However, some retailers may choose to stand in as manufacturers when they rebrand a product and take on the manufacturer’s certification burden for that RDPPPM.

State law (Public Resources Code Section 25402(c)(1)) requires manufacturers to certify to the CEC that their appliances comply with the applicable energy efficiency standards before they are sold or offered for sale in the state. The Appliance Efficiency Regulations require manufacturers to provide specified information for this purpose to the MAEDbS. MAEDbS is used by manufacturers and maintained by the CEC to list the appliances authorized to be sold or offered for sale in California. This is necessary to help the CEC and consumers verify compliance with applicable federal and state efficiency standards. Some retailers may choose to act as a manufacturer when they rebrand a product and assume the certification burden for that pool pump model.

It is necessary for the health, safety, or welfare of the people of the state that these regulations, which require a report, apply to businesses.

#### SMALL BUSINESS

The CEC estimates that 60 retailers and distributors impacted are small businesses in California. The CEC is

not aware of any significant cost impacts that a small business, as defined in Government Code Section 11346.3(b)(4)(B), would incur in reasonable compliance with the proposed action. The initial and ongoing costs to California small businesses are the same as the cost for a typical business.

The small businesses involved in the distribution and sales of RDPPPM may experience increased wholesale purchase prices due to the proposed standards. However, the CEC assumes these costs are entirely passed along to the end consumer so that there are no direct economic impacts of the proposed standards to these businesses.

#### CONSIDERATION OF ALTERNATIVES

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

The CEC invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Please direct inquiries concerning all aspects of the rulemaking process, including requests for copies of the proposed text (express terms), the initial statement of reasons (ISOR), any modified version of the regulations, the substance of the proposed regulations, or any other information upon which the rulemaking is based, to:

Corrine Fishman  
 Regulations Manager, Efficiency Division  
 1516 Ninth Street  
 Sacramento, CA 95814-5512  
 (916) 654-4976  
[corrine.fishman@energy.ca.gov](mailto:corrine.fishman@energy.ca.gov)

If Corrine Fishman is unavailable, you may contact Sean Steffensen at [Sean.Steffensen@energy.ca.gov](mailto:Sean.Steffensen@energy.ca.gov) or (916) 651-2908.

#### COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the publication date of this notice in the Notice Register, the rulemaking file consists of this notice, the express terms, the ISOR, documents incorporated by reference, and documents relied upon. Copies may be obtained by contacting Corrine Fishman at the address or phone number listed above or accessed through the CEC's replacement pool pump motor website found at <https://www.energy.ca.gov/appliances/2019-AAER-02/>.

#### AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the proposed regulations pursuant to Government Code Section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

#### COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once prepared, by visiting the CEC's replacement pool pump motor website found at <https://www.energy.ca.gov/appliances/2019-AAER-02/> or contacting the contact person above.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking, including this Notice of Proposed Action, the express terms, and the ISOR have been posted on the CEC's replacement pool pump motor website found at <https://www.energy.ca.gov/appliances/2019-AAER-02/>.

**TITLE 22/MPP. DEPARTMENT OF  
CHILD SUPPORT SERVICES**

**NOTICE OF PROPOSED RULEMAKING TO  
REPEAL MANUAL OF POLICIES AND  
PROCEDURES CHAPTER 12-700 FRANCHISE  
TAX BOARD (FTB) AND FINANCIAL  
MANAGEMENT SERVICES (FMS) TAX  
REFUND INTERCEPT REGULATIONS**

NOTICE IS HEREBY GIVEN that the Department of Child Support Services (DCSS) proposes to repeal Chapter 12-700 of the Manual of Policies and Procedures (MPP) in its entirety. It is necessary to repeal these subsections as they contain requirements and procedures that are no longer consistent, or are in conflict, with current statute and DCSS policy.

**AVAILABILITY OF DOCUMENTS**

The proposed text and Initial Statement of Reasons (ISOR) for the repeal and replacement of MPP Chapter 12-700 in this rulemaking are posted to the DCSS public website at: <https://childsupport.ca.gov/regulations/>.

Any further revised version of the text and the Final Statement of Reasons will be posted to this webpage when they become available. DCSS has available all of the information upon which this rulemaking is based at the contact address listed below. That information is too voluminous to include here. If you do not have internet access, copies of the proposed repealed text of MPP Chapter 12-700 and the Initial Statement of Reasons may be secured from the contact person listed below.

**15-DAY AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

**AVAILABILITY OF THE  
FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Andrew Enriquez at the address below.

**CONTACT PERSON**

Any inquiries regarding this action to repeal the DC-SS MPP Chapter 12-700 may be directed to:

Name:

Andrew Enriquez

Telephone:

916-464-6689

Fax:

916-464-5772

Email Address:

[andrew.enriquez@dcss.ca.gov](mailto:andrew.enriquez@dcss.ca.gov)

Postal Address:

Dept. of Child Support Services  
Policy and Program Branch  
MS-210

Attn: Andrew Enriquez

P.O. Box 419064

Rancho Cordova, CA 95741-9064

The backup contact person for inquiries is:

Name:

Zachary Reed

Telephone:

916-464-7572

Fax:

916-464-5772

Email Address:

[zachary.reed@dcss.ca.gov](mailto:zachary.reed@dcss.ca.gov)

Postal Address:

Dept. of Child Support Services  
Policy and Program Branch  
MS-210

Attn: Zachary Reed

P.O. Box 419064

Rancho Cordova, CA 95741-9064

**45-DAY WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DCSS. All comments should be submitted to the contact person named above at the addresses or phone number provided. The written comment period shall begin on Friday, February 21, 2020 and close on Tuesday April 7, 2020 at midnight.

DCSS shall consider only comments received by the contact person at the DCSS Policy and Program Branch by the deadline.

#### PUBLIC HEARING

DCSS has not scheduled a public hearing for this proposed action. Any interested person or his or her representative may request a public hearing. If DCSS receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period, DCSS will conduct a public hearing on this proposed action.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

DCSS proposes to repeal MPP Chapter 12–700 as it contains outdated regulations specifically describing the roles and responsibilities of local county district attorneys and the Franchise Tax Board in administering and enforcing child support orders. DCSS was established by Assembly Bill (AB) 196 (Chapter 478, Statutes of 1999), and Senate Bill (SB) 542 (Chapter 480, Statutes of 1999), and is the single state organizational unit that has the duty to administer the Title IV–D state plan for securing child and spousal support, medical support, determining paternity, and enforcing child support orders.

The MPP was adopted by the Department of Social Services prior to the establishment of DCSS. At that time, district attorneys would refer delinquent child support cases to the Franchise Tax Board for collection. Subsequent to the creation of the MPP, the duties and responsibilities of the district attorneys were transferred to local child support agencies (LCSAs) in accordance with Family Code Section 17304 and Family Code Section 17305. The delegation of child support enforcement actions to the Franchise Tax Board Child Support Collection Program that were specified in Sections 19271 through 19275 of the Revenue and Taxation Code (RTC) have been repealed.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The objective of the proposed regulation repeal is to ensure that there is clear guidance in regulation regarding the actions that LCSAs take to manage child support cases and enforce child support orders. The regulations contained in the MPP 12–700 are obsolete or are in con-

flict with State and Federal authorities and with existing regulations found in the California Code of Regulations. The specific benefit of this rulemaking will be to provide clarity by repealing conflicting and obsolete regulations.

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

DCSS has reviewed existing regulations and higher authorities and has determined that there are other regulations and statutes that more accurately reflect current child support enforcement requirements which necessitates repealing the obsolete or inaccurate regulations contained in this rulemaking. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing regulations.

#### AUTHORITY AND REFERENCE

Authority: Sections 17306, 17310, and 17312, Family Code.

Reference: Section 17311, Family Code; Sections 303.72, 303.100, and 303.102, 45 Code of Federal Regulations.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Pursuant to Government Code 11346.5, DCSS has determined that the proposed repeal of the DCSS MPP Chapter 12–700 will not impose a cost or savings on any state agency, local agency, or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code; will not result in any nondiscretionary cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; will not impose a mandate on local agencies or school districts; will not have a significant impact on housing costs; and will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DCSS is not aware of any cost impacts that a representative private person or business will incur in reasonable compliance with the proposed action.

Small Business Determination: DCSS has determined that this rulemaking will not have any potential cost impact on small businesses as these regulations pertain to the enforcement of individual child support orders not small business regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DCSS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DCSS 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.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

DCSS does not anticipate any impacts on 1) the creation or elimination of jobs within the State; 2) the creation or elimination of existing businesses in the State; 3) the expansion of businesses in the State. DCSS anticipates benefits to the health and welfare of California residents, specifically to local child support agencies by repealing obsolete regulations. This will result in more standard business practices among counties, less confusion regarding current child support policies, and better service to the public.

GENERAL PUBLIC INTEREST

AIR RESOURCES BOARD

PUBLIC HEARING TO CONSIDER THE PROPOSED AMENDMENTS TO THE REGULATION ON THE COMMERCIALIZATION OF ALTERNATIVE DIESEL FUELS

By notice dated December 24, 2019, and published in the January 10, 2020, California Regulatory Notice Register, Register 2020 No. 2-Z, the California Air Resources Board (CARB or Board) announced it would conduct a public hearing to consider approving for adoption the proposed amendments to the Regulation on the Commercialization of Alternative Diesel Fuels (ADF). The hearing was scheduled for February 27, 2020, at 9:00 a.m., at the California Environmental Protection Agency, California Air Resources Board, 1001 "I" Street, Byron Sher Auditorium, Second Floor, Sacramento, California.

**PLEASE BE ADVISED** that the hearing has been postponed to the following date, time and place:

DATE:  
**March 26, 2020**

TIME:  
9:00 a.m.

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

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., March 26, 2020, and may continue at 8:30 a.m., on March 27, 2020. Please consult the agenda for the hearing, which will be available at least ten days before March 26, 2020, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period will not be extended. The public comment period for this regulatory action began on January 10, 2020. Written comments not physically submitted at the hearing must be submitted on or after January 10, 2020, and **received no later than February 24, 2020**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments. CARB requests that, when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

- Postal mail:  
Clerks' Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814
- Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>.

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

Additionally, the Board requests but does not require that persons who submit written comments to the Board

reference the title of the proposal in their comments to facilitate review.

**SPECIAL ACCOMMODATION REQUEST**

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

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

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

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

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

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

**DEPARTMENT OF  
FISH AND WILDLIFE**

**PROPOSED RESEARCH ON A FULLY  
PROTECTED SPECIES  
Research on Santa Cruz Long-toed Salamander  
(*Ambystoma macrodactylum croceum*)**

The Department of Fish and Wildlife (Department) received a proposal on October 25, 2019 from Dr.

Christopher Searcy, requesting authorization to take the Santa Cruz Long-toed Salamander (*Ambystoma macrodactylum croceum*) (“SCLTS”) for scientific research purposes. The SCLTS is a Fully Protected amphibian and is also listed as Endangered under both the California and federal Endangered Species Acts.

Dr. Searcy is requesting authorization to initiate a long-term research and recovery project, sponsored by the Department and U.S. Fish and Wildlife Service (Service) that evaluates which habitat characteristics are associated with successful recruitment into the SCLTS population. This project would be undertaken across the species’ range in Santa Cruz and Monterey counties in accordance with methods approved by the Department and the Service.

For the first year, Dr. Searcy will be authorized to conduct these activities under the Ventura Fish and Wildlife Office’s comprehensive federal recovery permit until his federal recovery permit is issued. For this project, Dr. Searcy is proposing to install drift fence and pitfall trap arrays around ponds expected to be occupied by SCLTS. Traps will be open for the entire metamorph emergence period and checked daily. All captured SCLTS will measured, weighed, photographed, and released in a burrow on the opposite side of the fence. Tissue samples will be collected, using sterile scissors and ethanol-filled vials, from a subset of SCLTS metamorphs for genetic analyses necessary for recovery. SCLTS can regenerate this tissue.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Dr. Searcy as the Principal Investigator, to carry out the proposed activities. The researchers are also required to have a valid federal recovery permit for SCLTS and a Scientific Collecting Permit to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected amphibian species after a 30 days’ notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected amphibians, it would issue the MOU on or after March 23, 2020, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, [Laura.Patterson@wildlife.ca.gov](mailto:Laura.Patterson@wildlife.ca.gov), 916-373-6633.

DEPARTMENT OF  
FISH AND WILDLIFE

PROPOSED RESEARCH ON A FULLY  
PROTECTED SPECIES  
Research on Santa Cruz Long-toed Salamander  
(*Ambystoma macrodactylum croceum*)

The Department of Fish and Wildlife (Department) has been working with Mark Allaback and David Laabs of Biosearch Associates for over a decade on research and recovery of the Santa Cruz Long-toed Salamander (*Ambystoma macrodactylum croceum*) ('SCLTS'). The SCLTS is a Fully Protected amphibian and is also listed as Endangered under both the California and federal Endangered Species Acts.

The applicants' first SCLTS research and recovery Public Interest Notice (PIN) was published on February 9, 2007. The methods described in that PIN, approved by the Department and the U.S. Fish and Wildlife Service (Service), were limited in scope. This project would expand sampling across the geographic range of the species and employ additional methods to gather data needed to successfully recover SCLTS.

Mr. Allaback (dba Biosearch Associates) has a federal recovery permit from the Service (TE768251-15) and a Scientific Collecting Permit (SCP; SC-000024) from the Department. Standard methods will be undertaken. SCLTS may be individually marked for population studies using passive integrated transponder (PIT) tags, visual implant elastomer (VIE), or similar methods. Disease surveillance will be accomplished through physical examination and skin swabbing using cotton swabs. Genetic data may be collected by taking a small amount of tissue, typically from the tail, using sterile scissors and ethanol-filled vials. SCLTS can regenerate tissue, so removal of a small amount of tail tissue is not expected to adversely affect them. These research and recovery methods in addition to those previously authorized in 2007 would be undertaken across the species' range in Santa Cruz and Monterey counties in accordance with conditions issued by the Department and the Service.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize these qualified professional wildlife researchers, with Mr. Allaback as the Principal Investigator, to carry out the proposed activities. The researchers are also required to have a valid federal recovery permit for SCLTS and a Scientific Collecting Permit to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected amphibian species after a 30 days'

notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected amphibians, it would issue the MOU on or after March 23, 2020, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, [Laura.Patterson@wildlife.ca.gov](mailto:Laura.Patterson@wildlife.ca.gov), 916-373-6633.

OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT

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

ISSUANCE OF SAFE USE  
DETERMINATION FOR EXPOSURES TO  
CRYSTALLINE SILICA FROM THE USE OF  
FOUR WOODWISE® PRODUCTS

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986<sup>1</sup>. OEHHA received a request for a Safe Use Determination (SUD) for exposures to crystalline silica<sup>2</sup> in four Woodwise® wood filler products. The request was made by Design Hardwood Products, Inc. (DHPI), pursuant to Title 27 of the California Code of Regulations, section 25204(b)(3).

The only products covered by the request are the following Woodwise® wood filler products, designed for use on hardwood floors, with crystalline silica content as specified:

- **Full-Trowel Filler:** Designed to spread across the surface of a wood floor and fill any cracks, gaps, or voids in the surface. This product contains no more than 0.6 percent total crystalline silica, and 0.2 percent respirable crystalline silica by weight.
- **Wood Patch:** Designed for spot-filling of a wood floor surface, but can be diluted with water and used similarly to the full-trowel filler product. This product contains no more than 0.6 percent total crystalline silica and 0.2 percent respirable crystalline silica by weight.
- **Pre-Finish Filler:** Designed to fill cracks, nail holes, gouges, and broken edges on pre-finished

<sup>1</sup> The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, is codified at Health and Safety Code section 25249.5 et seq.

<sup>2</sup> Crystalline silica (airborne particles of respirable size) was listed under Proposition 65 as a chemical known to the state to cause cancer effective October 1, 1988.

floors, but can be applied to any wood floor. This product contains no more than 2.0 percent total crystalline silica and 0.2 percent respirable crystalline silica by weight.

- **No Shrink Patch–Quick:** Designed to fill large voids in the surface of a wood floor (e.g., knot holes). This product contains no more than 0.6 percent total crystalline silica and 0.2 percent respirable crystalline silica by weight.

In accordance with the process set forth in Section 25204(f), OEHHA held a written public comment period on this request from March 8, 2019 to April 9, 2019. No hearing was requested and no public comments were received.

As provided in Sections 25204(a) and (k), OEHHA is issuing this safe use determination for respirable crystalline silica exposures arising from use of the four WOODWISE® wood filler products with crystalline silica content as specified (i.e., no more than 0.6 percent total crystalline silica by weight for Full–Trowel Filler, Wood Patch, No Shrink Patch–Quick, no more than 2 percent total crystalline silica by weight for Pre–Finish Filler, and no more than 0.2 percent respirable crystalline silica by weight for any of the products) for professional hardwood flooring installers, “do–it–yourself” users of the products, and occupants of homes and other buildings in which these wood filler products have been used.

The essential elements and results of OEHHA’s assessment are described in the supporting documentation available at: <https://oehha.ca.gov/proposition-65/proposition-65-safe-use-determinations-suds>.

Based on OEHHA’s screening level analysis of the information and data provided by DHPI, the upper–end estimate of a lifetime average respirable crystalline silica exposure concentration for occupational users of the WOODWISE® wood filler products that are the subject of the SUD request<sup>3</sup> is 0.2 micrograms per cubic meter. This exposure concentration falls below the low end of the air concentration range of 0.54 to 15 micrograms per cubic meter associated with an extra cancer risk of one in 100,000 derived from occupational epidemiological studies. OEHHA has determined that respirable crystalline silica exposures arising from use of the four WOODWISE® wood filler products fall below the level posing a significant cancer risk for professional hardwood flooring installers, “do–it–yourself” users of the

products, and occupants of homes and other buildings in which these wood filler products have been used. Thus, exposures to respirable crystalline silica from use of the four WOODWISE® wood filler products within the scope of the request would not require a Proposition 65 warning.

Questions regarding this notice should be directed to:

Tyler Saechao  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010, MS–12B  
Sacramento, California 95812–4010

[P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov)  
Telephone: (916) 445–6900

## 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# 2020–0130–01  
CALIFORNIA HEALTH BENEFIT EXCHANGE  
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.

Title 10  
AMEND: 6400  
Filed 02/05/2020  
Effective 03/06/2020  
Agency Contact: Faviola Adams (916) 228–8668

File# 2020–0107–03  
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING  
1055 Requirements for Course Presentation

The Commission on Peace Officer Standards and Training filed this rulemaking action to amend a regulation to clarify course presenter documentation of course participation.

<sup>3</sup> In deriving this upper–end estimate, the identified scenario is use of the WOODWISE® Full–Trowel Filler product in a single–family home, in which respirable crystalline silica is released into indoor air during the application and sanding of the wood filler product.

Title 11  
AMEND: 1055  
Filed 02/12/2020  
Effective 04/01/2020  
Agency Contact:  
Raymund Nanadiego (916) 227-4852

File# 2020-0113-01  
COMMISSION ON PEACE OFFICER STANDARDS  
AND TRAINING  
Minimum Standards for Training

In this regular rulemaking, the Commission on Peace Officer Standards and Training (“POST”) is amending the requirements to qualify for the Basic Course Waiver Testing Process.

Title 11  
AMEND: 1005  
Filed 02/11/2020  
Effective 04/01/2020  
Agency Contact: Julia Gonwood (916) 227-3915

File# 2020-0115-03  
COMMISSION ON PEACE OFFICER STANDARDS  
AND TRAINING  
Requirements for Course Certification

The Commission on Peace Officer Standards and Training filed this rulemaking action to amend a regulation that sets forth requirements for the certification of courses for increasing the effectiveness of law enforcement.

Title 11  
AMEND: 1052  
Filed 02/12/2020  
Effective 04/01/2020  
Agency Contact: Melanie Dunn (916) 227-4866

File# 2019-1220-03  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION  
Audio Video Surveillance Systems

This action by the Department of Corrections and Rehabilitation (Department) adopts and amends regulations regarding audio-video surveillance in Department Facilities.

Title 15  
ADOPT: 3270.2  
AMEND: 3084.7, 3288, 3314, 3315  
Filed 02/05/2020  
Effective 04/01/2020  
Agency Contact: Josh Jugum (916) 445-2266

File# 2019-1226-02  
DEPARTMENT OF INDUSTRIAL RELATIONS  
Definitions Under Occupational Safety and Health Act  
The Department of Industrial Relations proposes amendments to three definitions as non-substantive changes.

Title 8  
AMEND: 330  
Filed 02/10/2020  
Agency Contact: John Cumming (415) 486-2038

File# 2020-0110-03  
DEPARTMENT OF INSURANCE  
LCA Plan of Operations LC 19-03, 19-04

This file and print action by the Department of Insurance amends the California Automobile Low Cost Program Plan of Operations. This action is exempt from the Administrative Procedure Act pursuant to California Insurance Code section 11620(c).

Title 10  
AMEND: 2498.6  
Filed 02/12/2020  
Effective 02/12/2020  
Agency Contact: Michael Riordan (415) 538-4226

File# 2020-0110-05  
MENTAL HEALTH SERVICES OVERSIGHT AND  
ACCOUNTABILITY COMMISSION  
Conflict-of-Interest Code

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

Title 2  
AMEND: 59550  
Filed 02/05/2020  
Effective 03/06/2020  
Agency Contact:  
Filomena Yeroshek (916) 445-8701

**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. please visit [www.oal.ca.gov](http://www.oal.ca.gov).  
For additional information on actions taken by OAL,