



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. STATE ALLOCATION BOARD

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTION 1859.161, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

REGULATION SECTION PROPOSED FOR AMENDMENTS:

- 1859.161

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation section, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. 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 Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17070.35 and 17078.64 of the Education Code. The proposal interprets and make specific reference Section 17078.53 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities

and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

At its October 23, 2019 meeting, the State Allocation Board adopted a proposed regulatory amendment that would amend the timing of the application filing period for the Charter School Facilities Program (CSFP). Currently, School Facility Program Regulation Section 1859.161 requires that a CSFP application filing round that is the result of an election, must open 90 days after the election and remain open for 120 calendar days. The proposed regulatory amendment removes the 90- and 120-day timelines to allow the SAB to determine the start date and duration for all future application filing rounds.

Bond Funds Impacted

- Kindergarten–University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten–University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten–University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)
- Public Preschool, K–12, and College Health and Safety Bond Act of 2020 (Proposition 13)*

The proposed regulation can be reviewed on the Office of Public School Construction (OPSC) website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>.

Copies of the proposed regulatory amendment will be mailed to any person requesting this information by using OPSC’s contact information set forth below in this Notice. The proposed regulation amends the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

Background and Problem Being Resolved

Currently, School Facility Program Regulation Section 1859.161 requires that a CSFP application filing round that is the result of an election, must open 90-days after the election and remain open for 120 calendar days. To date, there have been six filing rounds for the CSFP; four rounds were the result of an election approving additional funding and two were the result of the SAB establishing additional rounds due to available bond authority. Assembly Bill (AB) 48 (O’Donnell),

*Contingent upon voter approval in March 2020.

Chapter 530, Statutes of 2019, places the Public Preschool, K–12, and College Health and Safety Bond Act of 2020 on the March 2020 ballot. If approved by the voters, additional funding will be authorized for the CSFP and statutory changes would be enacted that would require the adoption and/or amendment of the SFP [CSFP] Regulations. The adoption and/or amendment of the regulations will take longer than 90– days to complete; therefore, it is necessary to change the timing of the application filing period.

OPSC performed a search on whether the proposed regulatory amendment was consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that the proposed regulatory amendment is consistent and compatible with existing State laws and regulations. Proceeding with the proposed regulatory amendment will remove the 90– and 120–day timelines thereby allowing the SAB to determine the start date and duration for all future application filing rounds. This will allow for thoughtful and transparent consideration of regulation changes necessary to implement the program changes set forth in statute.

Anticipated Benefits of the Proposed Regulations

The proposed regulatory amendment promotes transparency for the SAB to establish and determine the duration of the filing rounds. This will benefit school districts and charter schools by ensuring that thoughtful and complete applications are submitted in a filing round that is not forced or rushed. The State of California will also benefit by having the ability to implement potential program modifications on a less rigid timeline. The proposed regulatory amendment does not have a direct impact on the State’s economy or job creation.

The proposed amendment is therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendment continues to carry out the will of the voters.

Summary of the Proposed Regulatory Amendments

Existing Regulation Section 1859.161 specifies the timeframes for submitting applications for bond issue elections. The proposed regulatory amendment removes the 90– and 120–day timelines to allow the SAB to determine the start date and duration for all future application filing periods.

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

Currently, School Facility Program Regulation Section 1859.161 requires that a CSFP application filing round that is the result of an election, must open 90 days after the election and remain open for 120 calendar days. To date, there have been six filing rounds for the CSFP; four rounds were the result of an election approving additional funding and two were the result of the SAB establishing additional rounds due to available bond authority. AB 48 (O’Donnell), Chapter 530, Statutes of 2019, places the Public Preschool, K–12, and College Health and Safety Bond Act of 2020 on the March 2020 ballot. If approved by the voters, additional funding will be authorized for the CSFP and statutory changes would be enacted that would require the adoption and/or amendment of the SFP [CSFP] Regulations. The adoption and/or amendment of the regulations will take longer than 90 days to complete; therefore, it is necessary to change the timing of the application filing period.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed amendment is neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendment is within the SAB’s authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulatory amendment does not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts, or charter schools to incur additional costs in order to comply with the proposed regulatory amendment.

DISCLOSURES REGARDING THE
PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulatory amendment creates no costs to any local agency, school district, or charter school requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulatory amendment creates no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE
ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulatory amendment promotes transparency for the SAB to establish and determine the duration of the filing rounds. This will benefit school districts and charter schools by ensuring that thoughtful and complete applications are submitted in a filing round that is not forced or rushed. The State of California will also benefit by having the ability to implement potential program modifications on a less rigid timeline. This will allow for thoughtful and transparent consideration of regulation changes necessary to implement the program changes set forth in statute. The proposed regulatory amendment does not have a direct impact on the State's economy or job creation.

Proceeding with the implementation of the proposed amendment continues to carry out the will of the voters. Although the proposed regulation does not have a direct effect on the State's economy, creation of jobs, creation of new businesses, or expansion of businesses it will not

eliminate jobs or eliminate existing businesses within California.

Benefits to Public Health and Welfare, Worker Safety, and the State's Environment

- The proposed regulatory amendment promotes transparency for the SAB to establish and determine the duration of the filing rounds. This will benefit school districts and charter schools by ensuring that thoughtful and complete applications are submitted in a filing round that is not forced or rushed. The State of California will also benefit by having the ability to implement potential program modifications on a less rigid timeline. The proposed regulatory amendment does not have a direct impact on the State's economy or job creation.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local educational agencies utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- There is no impact to the State's environment from the proposed regulatory amendments.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulatory amendment will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. Although the proposed regulatory amendment only applies to school districts, charter schools, and local education agencies for purposes of funding school facility projects, the proposed regulatory amendment does not have a direct effect on the creation of new [small] businesses, or expansion of [small] businesses and it will not eliminate jobs or eliminate existing [small] businesses within California. Further, the nature of the proposed regulatory amendment is amending the timelines for the CSFP by removing the 90- and 120-day timelines to allow the SAB flexibility in determining the start date and duration of all future application filing rounds.

**SUBMISSION OF COMMENTS, DOCUMENTS
AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at OPSC no later than April 20, 2020. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address:

Office of Public School Construction
707 Third Street, 6th Floor
West Sacramento, CA 95605

E-mail Address: lisa.jones@dgs.ca.gov

Fax Number: (916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ms. Lisa Jones at (916) 376-1753. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376-1646.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulation substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regula-

tions should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

**SUBSTANTIAL CHANGES WILL
REQUIRE A NEW NOTICE**

If, after receiving comments, the SAB intends to adopt the regulation with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations> then click on "SFP Pending Regulatory Changes."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB has determined 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. The only consideration was approved by the SAB at its October 23, 2019 meeting. No other alternatives are available, as there is insufficient time to make regulation changes to comply with statute within the current regulatory 90-day time line.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency’s regulations coordinator named in this notice or may be accessed on the website listed above.

**TITLE 10. DEPARTMENT OF
BUSINESS OVERSIGHT**

NOTICE IS HEREBY GIVEN
[Government Code Section 11346.5,
Subdivision (a)(1)]

The Commissioner of Business Oversight (“Commissioner”) proposes to adopt Sections 80.126.10, 80.126.20, 80.126.30, 80.128, 80.128.10, and 80.130 of Title 10 of the California Code of Regulations (“C.C.R.”). These proposed regulations relate to the implementation of the California Money Transmission Act (“MTA”).

AUTHORITY
[Government Code section 11346.5,
Subdivision (a)(2)]

Section 334 of the Financial Code.

REFERENCE
[Government Code Section 11346.5,
subdivision (a)(2)]

Sections 334 and 2010 of the Financial Code.

PUBLIC HEARINGS
[Government Code Section 11346.5,
Subdivision (a)(17)]

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department’s contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD
[Government Code Section 11346.5,
Subdivision (a)(15)]

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed as follows:

Regular Mail
Department of Business Oversight
Attn: Pamela Hernandez
One Sansome Street, Suite 600
San Francisco, CA 94104

Electronic Mail
regulations@dbo.ca.gov

Facsimile
(415) 288-8830

Comments may be submitted until 5:00 p.m. on April 21, 2020. If the final day for acceptance of comments is a Saturday, Sunday or state holiday, the comment period will close at 5:00 p.m. on the next business day.

INFORMATIVE DIGEST
[Government Code Section 11346.5,
Subdivision (a)(3)]

Policy Statement and Specific Benefits Anticipated from Regulatory Action [Government Code Section 11346.5, Subdivision (a)(3)(C)].

The objective of the proposed regulations is to adopt rules that clarify the scope of the agent of payee exemption under the Money Transmission Act.

The specific benefits anticipated by this proposed adoption include greater certainty for the money transmitter industry, increased transparency in government and encouragement of public participation in developing regulations meant to protect consumers.

Summary of Existing Laws and Regulations, and Effect of Proposed Action [Government Code Section 11346.6, Subdivision (a)(3)(A)]

Effective January 1, 2014, the California Legislature enacted AB 2209, which included numerous substantive and technical amendments to the MTA (Financial Code section 2000 et seq.). Among other things, this bill codified Section 2010, subdivision (l) of the Financial Code, which exempts from money transmitter licensing requirements transactions in which an agent is appointed by a payee to receive funds on behalf of the payee. This exemption requires a written agreement between the agent and the payee, establishing that a payor’s payment to the agent for payment for goods or services sat-

ifies the payor’s payment obligation to the payee. This contractual release protects consumers and other types of payors by preventing the payor from having to pay twice for a good or a service if the agent fails to deliver funds to the payee. AB 2209 defined “payor” as a person owing payment to a payee for a good or a service. AB 2209 defined “payee” as a person who is owed payment from the payor for providing a good or a service.

Existing law includes definitions specific to the MTA. Existing law also provides for statutory exemptions from the MTA as well as exemptions based on a finding by the Commissioner that such action would be in the public interest and that the regulation of such persons or transactions is not necessary.

The effects of these proposed regulations include:

- Clarifying the definitions of the terms “agent of payee,” “payor,” “payee,” “goods or services” and “transaction.”
- Establishing that the agent of payee exemption does not apply to stored value transactions.

Existing Federal Regulation or Statute [Government Code Section 11346.5, Subdivision (a)(3)(B)]

Money transmission is subject to substantial oversight at the state level. There is no comparable, comprehensive federal regulation or statute that applies to money transmitters. To the extent that there are federal regulations that impact money transmitters, this rule-making will not impact the administration of federal law. The Financial Crimes Enforcement Network (“FinCEN”) is responsible for administering the Bank Secrecy Act (“BSA”), which generally applies to money transmitters. FinCEN’s expansive definition of “money services business” applies to “[a] person wherever located doing business, whether or not on a regular basis or as an organized or licensed business concern, wholly or in substantial part within the United States,” that engages in foreign exchange dealing, check cashing, issuing or selling traveler’s checks or money orders, providing or selling prepaid access and transmitting money. Unless an exemption applies, a business that engages in any of these activities must register with FinCEN as a money services business. FinCEN regulations do not have an agent of payee exemption. However, FinCEN regulations exclude “payment processors” from the definition of a “money transmitter.” The regulations provide that the term “money transmitter” does not include a person that only “acts as a payment processor to facilitate the purchase of, or payment of a bill for, a good or service through a clearance and settlement system by agreement with the creditor or seller.”¹ FinCEN has interpreted the “payment processor exemp-

¹ 31 C.F.R. § 1010.100(ff)(5)(ii)(B).

tion” to require only that a transaction involve “a person to whom money was owed either to complete a transaction, or because of a previously incurred debt.”² Because federal money transmitter oversight is completely independent of state licensing or exempt status, the proposed regulations will not impact the administration of federal law.

Existing State Regulations [Government Code Section 11346.5, Subdivision (a)(3)(D)]

The Department has conducted an evaluation of whether the proposed regulations are consistent with existing regulations and has concluded that these regulations are consistent with existing regulations under the MTA. The proposed regulations are applicable only in transactions involving the agent of payee exemption. There are no existing regulations pertaining to the agent of payee exemption. The proposed regulatory action is consistent with the policy considerations expressed by the legislature in the MTA. Thus, the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

[Title 1, California Code of Regulations,
Section 20, Subdivision (c)(3)]

There are no forms incorporated by reference in the proposed regulatory action.

DISCLOSURES REGARDING THE
PROPOSED ACTION

[Government Code Section 11346.5,
Subdivision (a)(5) and (6), and (12)(A)]

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Significant effect on housing costs: None.

² FIN-2013-R002, Nov. 13, 2013.

ECONOMIC IMPACT ON BUSINESS
[Government Code Section 11346.5,
Subdivision (a)(8)]

The Commissioner has made an initial determination that the proposed regulatory action 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.

EFFECT ON SMALL BUSINESS
[Title 1, California Code of Regulations, Section 4]

The proposed regulations will not affect small business because money transmitters are not a small business within the meaning of Government Code section 11342.610.

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS
[Government Code Section 11346.5,
Subdivision (a)(9)]

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.

RESULTS OF THE
ECONOMIC IMPACT ANALYSIS
[Government Code Section 11346.5,
Subdivision (a)(10)]

The Department has determined that:

- The proposed action will not create or eliminate jobs within California;
- The proposed action will not create new businesses or eliminate existing businesses within this state;
- The proposed action will not affect the expansion of businesses currently doing business within California; and
- No benefits or adverse impacts to worker safety or to the state's environment are anticipated from this regulatory action.
- The anticipated benefits of this proposed adoption to the citizenry of California include increased transparency in government, encouragement of public participation in developing the rules, and ultimately, increased protections to members of the public who utilize money transmission businesses.

CONSIDERATION OF ALTERNATIVES
[Government Code Section 11346.5,
Subdivision (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 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 the law.

AVAILABILITY OF THE NOTICE, STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATIONS AND RULEMAKING FILE
[Government Code Section 11346.5,
Subdivision (a)(16) and (20), and (b)]

As of the date this notice is published, the rulemaking file consists of this notice, the initial statement of reasons, and the proposed text of the regulation. The proposed text may be obtained at any of the below Department of Business Oversight's Front Counters. The initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available by requesting document **PRO 07-17** from the contact person designated below.

Los Angeles Office
300 S. Spring Street, Suite 15513
Los Angeles, CA 90013-1259

Sacramento Office
1515 K Street, Suite 200
Sacramento, CA 95816-4052

San Diego Office
1350 Front Street, Room 2034
San Diego, CA 92101-3697

San Francisco Office
One Sansome Street, Suite 600
San Francisco, CA 94105-2219

The notice, initial statement of reasons and proposed text are also available on the Department's website at www.dbo.ca.gov. At the top of the page, click the "Laws and Regs" index tab, and under "Division of Financial Institutions" click on the "Rulemaking" link.

As required by the Administrative Procedure Act, the Legal Division maintains the rulemaking file. The rulemaking file is available for public inspection and copying throughout the rulemaking process at the Depart-

ment of Business Oversight, Law and Policy Division, 1515 K Street, Suite 200, Sacramento, CA 95814.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

[Government Code Section 11346.5,
Subdivision (a)(18)]

If the Department makes changes 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. A request for a copy of any modified regulation(s) should be addressed to the contact person designated below. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

[Government Code Section 11346.6,
Subdivision (a)(19)]

Upon its completion, the Final Statement of Reasons will be available, and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONTACT PERSON

All inquiries regarding the proposed regulation may be directed to:

Pamela Hernandez
Counsel
One Sansome Street, Suite 600
San Francisco, CA 95104
Telephone: (415) 263-8514
Email: Pamela.Hernandez@dbo.ca.gov

Mark Dyer
Staff Services Analyst
1515 K Street, Suite 200
Sacramento, CA 95816
Telephone: (916) 322-1977
Email: Mark.Dyer@dbo.ca.gov

**TITLE 11. COMMISSION ON PEACE
OFFICER STANDARDS AND TRAINING**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the Cali-

fornia Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

PUBLIC COMMENTS DUE APRIL 20, 2020

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action via fax at (916) 227-4547, letter, or email to:

Commission on POST
Attention: Heidi Hernandez
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
Heidi.hernandez@post.ca.gov

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested in POST by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code Section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code Section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

At the February 13, 2020 meeting, the Commission approved the proposed amendments to Regulation 1016 — Services Provided by the Commission on POST.

This amendment was proposed in order to modify the regulation as follows:

- Eliminate Procedure G by incorporating it into Regulation 1016;
- Replace the word “survey” with the more accurately defined “study”;
- Remove any references to “Peace Officer Training Fund”, which is no longer in existence;
- Remove reference to “PAM Section G”; and
- Request the implementation of charging for select POST management studies pursuant to Penal Code 13513.

Currently, Commission Procedure G-1, Guidelines for Counseling Service, references “Special Survey”

and “General Survey” as services provided; however, the scope of work involved in these processes is beyond that of a simple survey. The service provided is more inclusive of interpreting agency-generated data and providing local law enforcement agencies counseling services/recommendations to improve their administration, management, or law enforcement operations, and increase efficiency or effectiveness.

Commission Procedure G-1-8, Consultants Assigned, currently refers to “Peace Officers’ Training Fund”; however, that fund is no longer in existence, and reference to it should be removed.

Commission Procedure G-1-10, POST Consultants, states that there is no charge for counseling services provided by POST staff. These services require a considerable amount of staff time and resources resulting in an increased financial impact to POST’s budget. POST intends to mitigate this financial impact by charging a fee to conduct general or special studies based upon actual direct costs for completing the study and indirect costs determined in accordance with State Administrative Manual sections 8752 and 8752.1.

The specific benefits anticipated by the proposed changes to Regulation 1016 will be a more accurate reflection of Management Counseling services available to the law enforcement profession. Special and General studies include preliminary evaluations or a scope of work, an analysis of surveys, processes, and functions, and an extensive review of the administration, operation, and service provided by a local law enforcement department. The studies conclude with a written report and recommendations for improvement. Charging the requesting agency a fee for POST staff time to conduct a study will allow POST to continue to provide these services on an ongoing basis regardless of reductions to POST’s budget. By paying for POST staff time, the agencies would still generally obtain studies at costs less than those provided by private contractors, and may be more apt to evaluate and/or implement recommendations for improvement.

Another benefit is that Procedure G will now be incorporated into the California Code of Regulations.

The benefits of the proposed amendments to the regulation will be the enhancement of police processes and operations through the enactment of study recommendations. Thus, California law enforcement agencies can adequately maintain their standards to preserve peace; protect public health, safety, and welfare; and interact in a positive manner with their communities. The proposed amendments will neither benefit nor harm worker safety or the State’s environment.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

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

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, POST may adopt the proposal substantially as set forth without further notice, or POST may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes.

ESTIMATE OF ECONOMIC IMPACT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minimal — Agencies to be charged for time and indirect costs for select POST employees conducting the study. It is estimated the cost per study could be between \$3,000–\$5,000 for studies with a smaller scope of work, and may extend up to \$10,000 for lengthy or involved studies at larger agencies. If cost is an issue, there is a mechanism to allow the POST Executive Director to authorize a study free of charge on a case-by-case basis depending on the needs of the agency.

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, Including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant

statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states. The Commission on POST has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission on POST sets selection and training standards for law enforcement, which does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on POST has determined that there should be little to no cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. POST currently does not charge for these services; however, the cost POST is proposing to charge is for staff time and will still generally be less than the same or similar work provided by private contractors.

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

Effect on Housing Costs: The Commission on POST has made an initial determination that the proposed regulation would have no effect on housing costs.

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT
PER GOV. CODE SECTION 11346.3(b)**

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The benefits of the proposed amendments of regulations to the health and welfare of California residents would be improved community/police relations and enhanced police processes and operations by the enactment of the study recommendations. Thus, the law enforcement standards and mission of the organizations are maintained and will be effective in preserving peace, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), to take this action POST must determine that no reasonable alternative is considered, or that has otherwise been identified and brought to the attention of POST, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective, and less burdensome to

affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of the law.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text of this regulation, with changes clearly indicated, pursuant to Section 11346.8, shall be made available to the public for at least 15 days prior to the date on which the department adopts, amends, or repeals the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person in this notice. The department will accept written comment on the modified regulation for 15 days after the date on which they're first made available to the public.

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Heidi Hernandez, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon from the Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) named above.

**TITLE 15. DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabili-

tation (CDCR or the Department), proposes to amend Sections 3000, 3061, 3105, 3133, 3138, 3162, and 3165 of Title 15, Division 3, Chapter 1, of the California Code of Regulations regarding Indigent Inmates.

PUBLIC HEARING

Date and Time:

April 22, 2020 — 9:00 a.m. to 10:00 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 **March 6, 2020** and closes on **April 22, 2020**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to 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

Josh Jugum
Telephone: (916) 445-2266
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

R. Jimenez
Telephone: (916) 327-5305
Division of Adult Institutions

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, custody, 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

Assembly Bill 2533, approved by the Governor in September 2018, amended PC Section 5007.7 to establish a definition of indigent inmate and to establish that such inmates must be provided with basic supplies necessary for maintaining personal hygiene as well as sufficient resources to communicate with and access the courts.

This action will:

- Amend the definition of the term indigent inmate, pursuant to PC Section 5007.7.
- Codify the Department’s existing practice of providing all inmates with basic supplies necessary for maintaining hygiene, and establish minimum standards.
- Establish that indigent inmates shall be provided with the services of a notary free of charge, pursuant to PC Section 5007.7.

DOCUMENTS INCORPORATED
BY REFERENCE

None.

SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED REGULATIONS

The Department anticipates the proposed regulations will bring the Department into compliance with statute, and ensure indigent inmates are provided with necessary supplies to maintain hygiene, as well as free access to notary services to ensure access to the courts.

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.

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 necessarily 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 it places 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 ensuring indigent inmates have necessary hygiene supplies and access to the courts, thus providing an environment more conducive to rehabilitation.

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.

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. BOARD OF REGISTERED NURSING

- Unprofessional Conduct, § 1441**
- Substantial Relationship Criteria, § 1444**
- Disciplinary Guidelines, § 1444.5**
- Criteria for Rehabilitation, § 1445**

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (hereinafter referred to as “Board”)

proposes to amend California Code of Regulations, Title 16, Division 14, Article 4, Sections 1441, 1444, 1444.5, and 1445, as described in the Informative Digest found below.

PUBLIC HEARING

The Board will hold one public hearing on the proposed regulations at the following time and location:

DATE:

April 22, 2020

TIME:

9:00 a.m.

LOCATION:

Board of Registered Nursing
1747 N. Market Blvd.
Pearl Room
Sacramento, CA 95834

At the time and location listed above, any person(s) may present statements or arguments orally or in writing relevant to this proposal. The public hearing will convene at 8:00 a.m. and will remain open until 11:00 a.m., or until no attendees present testimony, whichever occurs first. Representatives of the Board will preside at the hearing. The Board requests persons who wish to speak to please register before the hearing. Prehearing registration is conducted at the location of the hearing from 8:00 a.m. until the hearing commences. Registered persons will be heard in the order of their registration. Anyone else wishing to speak at the hearing will have an opportunity after all registered persons have been heard.

All visitors are required to sign in prior to attending any meeting at the security desk, located just inside the building’s public entrance. Please be prepared to show photo identification if requested from security. Please allow adequate time to sign in and receive a visitor badge before the public hearing begins.

NOTICE PERTAINING TO ACCESSIBILITY AND REASONABLE ACCOMMODATION

All documents related to this regulation can be made available in alternate format (i.e., Braille, large print, etc.) in accordance with state and federal law. Further, to ensure the public has equal access to all available services and information, the Board will provide disability-related reasonable accommodations upon request. For assistance, please contact Ronnie Whitaker at 916-574-8257 as soon as possible, but no later than 10 business days prior to the scheduled hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service if needed to request reasonable accommodations.

WRITTEN COMMENT PERIOD

Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to the Board in either electronic or hard-copy formats.

Written comments may be submitted to:

Ronnie Whitaker
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-8257
Fax Number: 916-574-7700
E-Mail Address: Ronnie.Whitaker@dca.ca.gov

or

Lashonda Shannon
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Telephone Number: 916-515-5269
Fax Number: 916-574-7700
E-Mail Address: lashonda.shannon@dca.ca.gov

The written comment period will close at 5:00 p.m. Pacific Standard Time on April 21, 2020. Only comments received at the Board office by that date and time will be considered.

The Board, 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 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 480, 481, 482, 488, 493, and 2715 of the Business and Professions Code (Code), and to implement, interpret, or make specific sections 141, 480, 481, 482, 488, and 493 of the Code, the Board is considering amending sections 1441, 1444, 1444.5, and 1445, of Division 14, of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Section 2715 of the Code 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 Nursing Practice Act (NPA). The primary purpose of this proposal is to implement,

interpret, and make specific the provisions of sections 141, 480, 481, 482, 488, and 493 of the Code relative to substantial relationship and rehabilitation criteria as required by Assembly Bill 2138 (2018) (AB 2138). The Board also proposes to make clarifying changes to certain regulations.

The Board is proposing the following changes:

Amend Section 1441 — Unprofessional Conduct.

The existing regulation states that failure to provide to the Board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, shall constitute unprofessional conduct in addition to the conduct described in section 2761(a) of the Code.

Amending section 1441 to be applicable to licensees only is necessary because AB 2138 prohibits the Board from requiring an applicant to disclose or furnish documents related to criminal convictions.

Amend Section 1444 — 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 proposed regulation also includes specified crimes and conduct that the Board would consider to be substantially related.

Amend Section 1444.5 — Disciplinary Guidelines.

The proposed regulation would clarify that the administrative adjudication provisions of the Administrative Procedure Act are applicable when reaching a decision on a disciplinary action.

Amend Section 1445 — 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.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The intent of AB 2138 seeks to reduce barriers to licensure for individuals with prior criminal convictions, which may reduce recidivism and provide economic opportunity to California’s residents. The proposal seeks to conform existing regulations to the requirements of AB 2138, and to improve clarity, transparency, and consistency for applicants and licensees in the Board’s use of their criminal histories. The Board anticipates that with amended criteria, fewer applicants will undergo an enforcement review, which will speed licensure for applicants who would be required to undergo enforcement review under current regulations. This will likely benefit consumers as it may increase the number of licensed registered nurses. Further, applicants, licensees, potential applicants, and the public will know the specific criteria that the Board will use.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

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

The Board anticipates 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. Although the increase in workload to the Board is anticipated to be absorbable within existing resources, the Board may request additional resources through the an-

nual budget process for additional staff should the workload prove to be greater than anticipated.

Costs/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 state of California.

Cost Impact on Representative Private Person or Business:

The Board estimates that there will be no increased costs for businesses or individuals to comply with the proposed regulations, as there would be fewer restrictions for individuals with criminal convictions to obtain licensure. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board estimates that this proposal may affect small businesses, who would have a greater pool of licensed registered nurses from which to hire.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has determined that this regulatory proposal may have impacts 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. Specifically, the proposal may create jobs, new businesses, and expand businesses to the extent that potential licensees were not able to apply previously because of license barriers and now can.

The Board has determined that this proposal may benefit those applicants with a criminal history who apply to the Board for a registered nursing license because they would be more likely to be licensed without restriction at a rate greater than they are now. This may 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 registered nurses by ensuring those applicants and licensees with criminal convictions or prior discipline are rehabilitated and fit to practice nursing without undue restriction based on past conduct. This proposed action will create a positive impact to the health and welfare of Californians. This proposal would not have an impact on the state's environment nor on worker safety, since regulations address neither.

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.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned public hearing or during the written comment period, as described above.

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 of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.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(s) 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 rulemaking action may be addressed to:

Name:

Ronnie Whitaker

Address:

1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Telephone Number:

916-574-8257

Fax Number:

916-574-7700

E-Mail Address:

Ronnie.Whitaker@dca.ca.gov

The backup contact person is:

Name:

Lashonda Shannon

Address:

1747 N. Market Blvd., Suite 150
Sacramento, CA 95834

Telephone Number:

916-515-5269

Fax Number:

916-574-7700

E-Mail Address:

lashonda.shannon@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.rn.ca.gov.

TITLE 16. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

DEPARTMENT OF CONSUMER AFFAIRS Substantial Relationship Criteria, § 602 Criteria for Evaluating Rehabilitation, § 602.1

NOTICE IS HEREBY GIVEN that the Bureau of Security and Investigative Services (Bureau) proposes

to adopt the regulations 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.

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 not later than 5:00 p.m. on Tuesday, April 21, 2020, or must be received by the Bureau at the hearing, should a hearing be held. Oral comments should be made at the hearing, should a hearing be held.

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, 6980.7, 6980.71, 7501.6, 7515, 7574.05, 7581, and 7591.6 of the Business and Professions Code (BPC), and to implement, interpret or make specific Sections 141, 475, 480, 481, 482, 488, 490, 493, 6980.45, 6980.71, 6980.72, 6980.73, 6980.74, 7501.8, 7503.5, 7504.1, 7506.8, 7510.1, 7526.1, 7538, 7561.1, 7561.4, 7574.15, 7582.24, 7582.3, 7583.21, 7587.1, 7591.10, 7591.12, 7593.16, and 7599.61 of the Code, the Bureau proposes changes to Division 7 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau regulates professions in six (6) practice acts: Alarm Company Act, Locksmith Act, Private Investigator Act, Private Security Services Act, Proprietary Security Services Act, and Collateral Recovery Act. Included in its regulatory oversight, the Bureau has the authority to deny applications for licensure or suspend or revoke current licenses in specified circumstances, pursuant to BPC sections 480 and 490.

The Bureau has the authority to deny an application or suspend or revoke a current licensee if the applicant or licensee is convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the applicant seeks licensure or in which the licensee is licensed. This proposal will implement, interpret, and make specific mandates of Assembly Bill 2138 (Chiu, Chapter 995, Statutes of 2018), hereafter referred to as AB 2138, by developing criteria for considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates, pursuant to BPC section 481, operative July 1, 2020.

Additionally, when considering the denial, suspension, revocation, or reinstatement of a license, the Bureau considers if the applicant, licensee, or petitioner provides evidence of rehabilitation. Rehabilitation criteria are contained in three (3) of the Practice Acts regulated by the Bureau (Locksmith Act, Collateral Recovery Act, and Alarm Company Act) and is also contained in section 602.1 of Division 7 of Title 16 of the CCR. This proposal will implement, interpret, and make specific mandates of AB 2138 to develop criteria to evaluate the rehabilitation of a person when considering the denial of a license under BPC section 480 or considering suspension or revocation of a license under BPC section 490, pursuant to BPC section 482, operative July 1, 2020.

The proposal will reduce barriers to licensure for individuals with prior criminal convictions, reduce recidivism, and provide economic opportunity to California’s residents. By reducing barriers to licensure, the Bureau anticipates benefits to consumers who may have greater access to licensed or registered professionals, which would benefit the health and welfare of 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 for purposes of license denial, suspension, or revocation.

ANTICIPATED BENEFITS OF THE 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 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.

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 anticipates that there may be an increased cost to the state as a result of adopting and amending 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.

The Bureau estimates costs to implement the provisions of AB 2138 include workload to obtain criminal history information either from the applicant or from local superior courts. Staff will be required to contact the courts for this information, as well as paying any associated costs for such documents.

The Bureau anticipates costs of \$150,000 in 2020–21 and \$142,000 annually thereafter, possibly requiring the Bureau to hire one Associate Governmental Program Analyst to help implement the provisions of AB 2138.

As a result, the Bureau may be required to request additional resources through the annual budget process for additional staff to accommodate increased workload resulting from enactment of laws affecting the compliance, review, and investigations of applicants' and licensees' fitness or eligibility for licensure.

In the event the proposed regulations increase the number of licensees, the Bureau's application, license, and registration fee revenue will also increase. However, the Bureau anticipates any fee revenue increase to be minimal.

Costs/Savings in Federal Funding to the State: None.
Nondiscretionary Costs/Savings to Local Agencies: No direct nondiscretionary costs or savings to local agencies are anticipated.

Local Mandate: None.

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

Business Impact and Cost Impact on Representative Private Person or Business, and Effect on Small Business:

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.

AB 2138 and the proposed regulations will affect Bureau licensees, registrants, and applicants with past criminal convictions or disciplinary action because they seek to reduce barriers to licensure with the Bureau if the individual can present evidence of rehabilitation.

The Bureau currently provides licensure to approximately 333,504 licensees, registrants, and permit/certificate holders in the state. If more individuals who were previously unable to obtain a license or registration are able to obtain one, the pool of potential licensees and registrants may also increase. This could affect businesses seeking to hire because they have more potential employees to choose from, or they may choose to hire more employees. It may create some new businesses and will not eliminate businesses because some Bureau licensees and registrants may choose to start their own company or small business. The types of businesses that may be affected range from small private companies to large companies. The total number of businesses affected or what percentage of these businesses may be small businesses is unknown.

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.

This proposal may affect small businesses, who would have a greater pool of licensees from which to hire.

Effect on Housing Costs:

None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Bureau has determined that this regulatory proposal will not have a significant 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.

Benefits of the Proposed Action:

This proposal may benefit the health and welfare of California residents because, by reducing barriers to licensure, it will create an opportunity for employment for people who have been convicted of a crime and are able to make a showing of rehabilitation and will benefit consumers who may have greater access to licensed or registered professionals.

This proposal will not affect worker safety because the proposal does not involve worker safety.

This proposal will not affect the state’s environment because it does not involve environmental issues.

The Bureau anticipates that there may be an increased cost to the state as a result of adopting and amending 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. Any workload and costs are anticipated to be minor and absorbable within existing resources.

The Bureau does not anticipate an increase in initial license applications approved per year because the current license review and approval process is already consistent with the proposed regulations. As a result, the proposed regulations are not anticipated to increase licensing and/or enforcement costs related to any expansion of the licensee population.

While the costs for implementing the instant regulations are estimated to be minor and absorbable, the Bureau estimates costs to implement the provisions of AB 2138 will result from the workload to obtain criminal history information either from the applicant or from local county courthouses. Staff will be required to contact the counties for this information, as well as paying any associated costs for such documents.

The Bureau anticipates costs of \$150,000 in 2020–21 and \$142,000 annually thereafter that might necessitate hiring 1.0 Associate Governmental Program Analyst to help to implement the provisions of AB 2138.

In the event the proposed regulations increase the number of licensees, the Bureau’s application, license, and registration fee revenue will also increase. However, the Bureau anticipates any fee revenue increase to be minimal.

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 pro-

posal 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.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned public hearing or during the written comment period, as described above.

CONTACT PERSON

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

Name:

Karissa Huestis

Address:

2420 Del Paso Road, Suite 270
Sacramento, CA 95834

Telephone Number:

(916) 575–7158

Fax Number:

(916) 575–7287

E-Mail Address:

Karissa.Huestis@dca.ca.gov

The backup contact person is:

Name:

Antoine Hage

Address:

2420 Del Paso Road, Suite 270
Sacramento, CA 95834

Telephone Number:

(916) 575–7099

Fax Number:

(916) 575–7287

E-Mail Address:

Antoine.Hage@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.bsis.ca.gov.

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

The Bureau will have the entire rulemaking file available for inspection and copying throughout the rule-making process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons or other information upon which the rulemaking is based. Copies may be obtained by contacting Karissa Huestis at the address or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding the hearing, if requested, 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 Karissa Huestis 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 OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Karissa Huestis at the above address.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.bsis.ca.gov.

**TITLE 16. SPEECH–LANGUAGE
PATHOLOGY AND AUDIOLOGY AND
HEARING AID DISPENSERS BOARD**

NOTICE IS HEREBY GIVEN that the Speech–Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is proposing to take the action described in the Informative Digest below.

Public Hearing and Written Comment Period: No public hearing has been scheduled on the proposed action. However, any interested person or such person’s duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code section 11346.8. Written comments, including those sent by mail or e–mail to the addresses listed under Contact Persons in this Notice, must be received by the Board at its office no later than April 20, 2020.

Availability of Changed or Modified Text: The Board, 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 pro-

posals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any proposal with changes sufficiently related to the original text will be available for 15 days prior to its adoption from the persons designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Business and Professions Code sections 482, 493, 2531.06 and 2531.95, to implement, interpret or make specific sections 141, 475, 480, 481, 482, 488, 490, and 493 of the Business and Professions Code, the Board is considering changes to Division 13.3 and Division 13.4 of Title 16 of the California Code of Regulations as outlined below.

INFORMATIVE DIGEST

The Board is authorized by Business and Professions Code sections 2531.06 and 2531.95 to adopt regulations necessary to implement the Speech–Language Pathology and Audiology and Hearing Aid Dispensers Licensure Act. Section 141 provides for discipline of licenses based on discipline in another jurisdiction. Additionally, as required by Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018), the Board must promulgate regulations to implement, interpret, and make specific sections 475, 480, 481, 482, 488, 490, 493, 2533, and 2533.1 of the Business and Professions Code with respect to the substantial relationship of a crime and other misconduct, and rehabilitation criteria.

The following substantive changes are being proposed:

Section 1399.132

The regulatory proposal sets out the substantial relationship criteria for crimes and acts related to the profession of hearing aid dispensing. The proposed regulation would add professional misconduct and discipline in a foreign jurisdiction to the substantial relationship criteria to be considered when denying, suspending, or revoking a license. In making the substantial relationship determination, the regulatory proposal would require the Board to consider (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 proposed regulation would also specify crimes, professional misconduct, and acts that are substantially related to the hearing aid dispensing profession.

Section 1399.133

The regulatory proposal sets forth the criteria to evaluate rehabilitation for the denial or reinstatement of a license for the profession of hearing aid dispensing. The

proposed regulation would clarify that the Board, when making a determination on an application where the applicant has been convicted of a crime, would have to decide 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, then this regulatory 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 rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The regulation 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.

Section 1399.134

The regulatory proposal sets forth the criteria to evaluate rehabilitation for the suspension or revocation of a license for the profession of hearing aid dispensing. The proposed regulation would clarify that the Board, when considering the suspension or revocation of a license based on the conviction of a crime, would have to use specific criteria to determine whether the licensee made a showing of rehabilitation and is presently eligible for an unrestricted license. If the licensee completed the criminal sentence without a violation of parole or probation, then this regulatory 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 licensee's rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The regulation 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, who did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the Board is considering something other than a crime, such as out-of-state discipline.

Section 1399.156.1

The regulatory proposal sets forth the substantial relationship criteria for crimes and acts related to the professions of speech-language pathology and audiology. The proposed regulation would add professional misconduct and discipline in a foreign jurisdiction to the

substantial relationship criteria to be considered when denying, suspending, or revoking a license. In making the substantial relationship determination, the regulatory proposal would require the Board to consider (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 proposed regulation would also specify crimes, professional misconduct, and acts that are substantially related to the speech-language pathology and audiology professions.

Section 1399.156.2

The regulatory proposal sets forth the criteria to evaluate rehabilitation for the denial or reinstatement of a license for the professions of speech-language pathology and audiology. The proposed regulation would clarify that the Board, when making a determination on an application where the applicant has been convicted of a crime, would have to decide 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, then this regulatory 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 rehabilitation, and the extent to which the terms or conditions of parole were modified, and why. The regulation 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. The regulatory proposals also change terms in the title of this section to be plural to be consistent with other regulations.

Section 1399.156.3

The regulatory proposal sets forth the criteria to evaluate rehabilitation for the suspension or revocation of a license for the professions of speech-language pathology and audiology. The proposed regulation would clarify that the Board, when considering the suspension or revocation of a license based on the conviction of a crime, would have to use specific criteria to determine whether the licensee made a showing of rehabilitation and is presently eligible for an unrestricted license. If the licensee completed the criminal sentence without a violation of parole or probation, then this regulatory 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 proba-

tion 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 regulation 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, who did not sufficiently demonstrate their rehabilitation under the narrower set of criteria, or when the Board is considering something other than a crime, such as out-of-state discipline.

POLICY STATEMENT OVERVIEW

The Board is responsible for licensing and regulating the professions of speech-language pathology, audiology, and hearing aid dispensing. The broad objective of this regulatory proposal is to ensure that the Board's licensing activities are consistent with the changes brought forth by AB 2138. The intent of AB 2138 is to reduce barriers to licensure for individuals with prior criminal convictions. In addition, this regulatory proposal seeks to improve clarity, transparency, and consistency for applicants and licensees in the Board's use of their criminal histories.

ANTICIPATED BENEFITS OF PROPOSAL

This regulatory 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. It may also increase the number of licensees in California, potentially providing consumers greater access to speech and hearing services.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

After conducting a review for any regulations that would relate to or affect this area, the Board evaluated this regulatory proposal and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: The Board anticipates there may be an increased cost to the State as a result of amending the sections identified in this regulatory proposal. By redefining the substantial relationship and re-

habilitation criteria for criminal convictions, Board staff will likely see an increased workload to research convictions and to substantiate that rehabilitation has been achieved. Given the small number of applicants and licensees involved, these costs are predicted to be minor and absorbable.

Cost/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 this regulatory proposal would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Persons or Business: None.

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant 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.

Effect on Small Business: The Board has determined that this regulatory proposal will not impact small businesses in the State of California because the intent of AB 2138 is to reduce barriers to licensure for applicants and licensees with a criminal history or licensure discipline.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: 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 Californians. This proposal would not have an impact on the state's environment nor on worker safety, since regulations address neither.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board 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 Board considered alternative regulatory language that would allow the Board to determine if a crime is substantially related to the profession on a case-by-case basis. However, the Board determined this option may result in additional litigation to determine whether a crime is substantially related to the profession. While the Board also considered regulatory language that would require the Board to find that there has been rehabilitation if the applicant or licensee completed the criminal sentence without a parole or probation violation the Board rejected granting a blanket approval. The Board decided that the proposed text provides a more appropriate framework with which to consider on a case-by-case basis whether successful completion of parole or probation sufficiently demonstrates rehabilitation.

The Board invites interested parties to present written statements or arguments with respect to the above determinations during the written comment period to the Board at 2005 Evergreen Street, Suite 2100, Sacramento, CA 95815.

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 THE PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained upon request from the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board at 2005 Evergreen Street, Suite 2100, Sacramento, CA 95815.

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

All information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the persons 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 persons 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:
Cherise Burns, Assistant Executive Officer

Address:
2005 Evergreen Street, Suite 2100
Sacramento, CA 95815

Telephone Number:
(916) 561-8779

E-Mail Address:
SpeechandHearingRegulations@dca.ca.gov

The backup contact person is:

Name:
Paul Sanchez, Executive Officer

Address:
2005 Evergreen Street, Suite 2100
Sacramento, CA 95815

Telephone Number:
(916) 263-2909

E-Mail Address:
SpeechandHearingRegulations@dca.ca.gov
Website Access: Materials regarding this proposal can be found at www.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

NOTICE IS HEREBY GIVEN that the Emergency Medical Services Authority (EMSA) 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 proposed action at a public hearing to be held at the Emergency Medical Services Authority, 10901 Gold Center Drive, Suite 400, Rancho Cordova, CA 95670, at 10:00 a.m., or as soon as practicable thereafter, on April 21, 2020. Written comments, including those sent by mail, facsimile, or e-mail to addresses listed under Contact Person in this Notice, must be received by EMSA at its office by April 20, 2020, or must be received by EMSA at the public hearing. EMSA may thereafter adopt the proposal substantially as described below or may modify the proposal 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: The Health and Safety Code Section 1797.107 authorizes EMSA to adopt the proposed regulations, which would implement, interpret, clarify, or make specific Sections 1797.6, 1797.52, 1797.53, 1797.58, 1797.60, 1797.67, 1797.70, 1797.72, 1797.74, 1797.76, 1797.78, 1797.80, 1797.82, 1797.84, 1797.85, 1797.88, 1797.92, 1797.94, 1797.102, 1797.103, 1797.105, 1797.122, 1797.170, 1797.171, 1797.172, 1797.176, 1797.178, 1797.184, 1797.185, 1797.201, 1797.204, 1797.206, 1797.218, 1797.220, 1797.222, 1797.224, 1797.226, 1797.227, 1797.250, 1797.252, 1797.254, 1797.257, 1797.258, 1798.150, 1798.160, 1798.162, 1798.170, 1798.172, 1798.208, and 1799.204 of the Health and Safety Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (Health and Safety Code Division 2.5) created EMSA and outlined its authorities, duties, and responsibilities. Included in the Act are the authority and procedures for promulgating regulations (Health and Safety Code section 1797.107), a requirement for the EMSA to assess local EMS areas (Health and Safety Code section 1797.102), a requirement that EMSA develop planning and implementation guidelines for EMS systems that include specific components (Health and Safety Code section 1797.103), a requirement for EMSA to receive, evaluate, and approve plans for the implementation of EMS and trauma care systems from the local EMS agencies (LEMSAs) (Health and Safety Code section 1797.105), authorizes that counties may develop an EMS program and that if they choose to develop a program that counties are required to designate a LEMSE to administer the local EMS (Health and Safety Code section 1797.200), creates the option for LEMSAs to have “exclusive operating areas” (Health and Safety Code section 1797.224), provides for grandfathering exclusive operating areas that existed before June 1, 1980 (Health and Safety Code section 1797.201), and requires LEMSAs to annually submit an EMS plan according to standards and guidelines established by EMSA (Health and Safety Code section 1797.254).

Having established standards and guidelines for plan submittal, EMSA formed workgroups with its stake-

holders to promulgate regulations for both plan submittals and for exclusive operating areas (EOA). The most recent workgroup did not result in a proposal for regulations.

These regulations seek to address these various issues. The proposal provides clarification and specification of what a plan should contain as well as providing various forms and tables for the LEMSAs to use and submit with their respective annual plans. Additionally, this proposal clarifies and makes specific the process for establishing and the continued use of EOAs, including interpreting and providing clarification of certain terms used in the statute that have been the source of confusion and disagreement.

Specifically, the regulatory proposal is as follows:

1. Adopt section 100450 of Division 9 of Title 22 of the California Code of Regulations

This section provides definitions for various terms and acronyms which are frequently used in the chapter.

2. Adopt section 100450.40 of Division 9 of Title 22 of the California Code of Regulations

This section provides specific requirements for the LEMSA annual plans. These requirements include timeframes and components that must be addressed by the annual plan. Additionally, it provides that EMSA may obtain documentation to determine compliance. The section also provides for how a LEMSA may amend an approved plan and what happens if a LEMSA submits an incomplete plan or fails to submit a plan.

3. Adopt section 100450.48 of Division 9 of Title 22 of the California Code of Regulations

This section provides the specific information to be included in the local EMS plan.

4. Adopt section 100450.50 of Division 9 of Title 22 of the California Code of Regulations

This section provides for the use of the implementation guidelines as well as providing for additional activities and guidelines other than those provided in this chapter.

5. Adopt section 100450.51 of Division 9 of Title 22 of the California Code of Regulations

This section sets out the requirements for the organization and management of the LEMSA; as well as the required policies, procedures, and protocols to be included.

6. Adopt section 100450.52 of Division 9 of Title 22 of the California Code of Regulations

This section sets out requirements for staffing and training, along with taking disciplinary action. This also includes establishing procedures for how

to handle specific situations that might arise as part of prehospital response.

7. Adopt section 100450.53 of Division 9 of Title 22 of the California Code of Regulations

This provides requirements for dispatch, communication and quality improvement plans for these elements.

8. Adopt section 100450.54 of Division 9 of Title 22 of the California Code of Regulations

This section provides the requirements for policies and procedures involving response and transportation as well as requiring the inclusion of scope of operations and any special services available and where they are available.

9. Adopt section 100450.55 of Division 9 of Title 22 of the California Code of Regulations

This section provides for requirements regarding hospitals and critical care areas. These provide for various required policies and assessments for specific types of care.

10. Adopt section 100450.56 of Division 9 of Title 22 of the California Code of Regulations

This section provides for the collection of data; evaluation of the data; a system of compliance and standards; and use of collected data for quality improvement programs.

11. Adopt section 100450.57 of Division 9 of Title 22 of the California Code of Regulations

This section requires the plans that include goals and programs for public awareness, education, and training.

12. Adopt section 100450.58 of Division 9 of Title 22 of the California Code of Regulations

This section requires the inclusion of a disaster medical response plan and provides the standards and basic elements that must be included in the disaster plan.

13. Adopt section 100450.59 of Division 9 of Title 22 of the California Code of Regulations

This section addresses the requirements for the transportation plan including specified descriptions and specifications to be included in the transportation portion of the plan.

14. Adopt section 100450.60 of Division 9 of Title 22 of the California Code of Regulations

This section requires the submission of certain statutorily required plans and provides a deadline for when EMSA must notify a LEMSA of its decision.

15. Adopt section 100450.61 of Division 9 of Title 22 of the California Code of Regulations

This section provides requirements for EMSA in this circumstance of a disapproval, including what must be included in notifying a LEMSA of a disapproval. Additionally, it provides the options a LEMSA has in the event of a disapproval.

16. Adopt section 100450.62 of Division 9 of Title 22 of the California Code of Regulations

This section provides that EMSA may suspend or revoke an approved plan and under what circumstances. Furthermore, it specifies how and when it must notify a LEMSA of this action and that the LEMSA may appeal the action.

17. Renumber section 100450.100 to section 100450.70 and amend new section 100450.70 of Division 9 of Title 22 of the California Code of Regulations

This renumbers the current section regarding the appeals process and makes numerous, generally technical, changes to existing language. Also, it adopts that specific costs associated with Commission meetings or discussions are not to be included in administrative hearing costs.

18. Adopt section 100450.79 of Division 9 of Title 22 of the California Code of Regulations

This section provides the criteria to be used for evaluation of changes to “Manner and Scope” when a LEMSA when considering creating an exclusive operating area while not using the competitive process.

19. Adopt section 100450.80 of Division 9 of Title 22 of the California Code of Regulations

This section provides that all EMS areas and subareas are non-exclusive until EMSA approves a local EMS plan creating an exclusive area or subarea. Additionally, it makes additional requirements of LEMSAs where non-exclusive areas are concerned.

20. Adopt section 100450.81 of Division 9 of Title 22 of the California Code of Regulations

This section provides the requirements for creating an exclusive operating area without a competitive process.

21. Adopt section 100450.82 of Division 9 of Title 22 of the California Code of Regulations

This section provides the requirements and procedures for creating an exclusive operating area with a competitive process.

22. Adopt section 100450.83 of Division 9 of Title 22 of the California Code of Regulations

This section provides for periodic intervals of how often and under what circumstances a LEMSA must have competitive processes for exclusive operating areas that have been created through the competitive process.

23. Adopt section 100450.84 of Division 9 of Title 22 of the California Code of Regulations

This section provides the content of the exclusive operating area contract and under what circumstances EMSA may revoke the contract.

24. Adopt section 100450.90 of Division 9 of Title 22 of the California Code of Regulations

This section provides the requirements and procedures for cities and fire districts that fall under the provisions of section 1797.201 of the Health and Safety Code.

25. Adopt section 100450.91 of Division 9 of Title 22 of the California Code of Regulations

This section provides how changes to city and fire districts operating under section 1797.201 of the Health and Safety Code will impact their status under the Code and that of other EMS providers in the area.

26. Adopt section 100450.95 of Division 9 of Title 22 of the California Code of Regulations

This section provides that a LEMSA must notify EMSA in the event of a specified change within thirty days.

Anticipated Benefits of the Proposed Regulations:

These regulations will provide clarity and specificity in the implementation of the EMS system standards and guidelines required in the Health and Safety Code, Division 2.5, section 1797.103. The regulations will assist local governments in the implementation and maintenance of their EMS systems by providing clear and enforceable standards. The regulations will also provide the necessary resources for EMSA to effectively evaluate the local EMS systems in California in order to carry out its responsibilities for oversight of the EMS System.

These regulations will also assist in eliminating the current lack of specificity in sections 1797.201 and 1797.224 of the Health and Safety Code and the current lack of regulations to implement and clarify section 1797.103 of the Health and Safety Code pertaining to EMS system planning and implementation.

Furthermore, this regulatory action will protect the health and safety of the public by defining the standards, policies, and procedures for all local EMS systems, ensuring that the sick and injured being treated in the prehospital setting will have access to a coordinated,

complete and effective EMS system anywhere in California.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, EMSA 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.

DOCUMENTS INCORPORATED
BY REFERENCE

Form 1: EMS Plan System Assessment Summary (9/2019)

Form 2: EMS Plan System Assessment of Standard (9/2019)

Form 3: Ambulance Operating Zone Summary Form (9/2019)

Table 1: System Organization and Management (9/2019)

Table 2: Manpower and Training (9/2019)

Table 3: Communications (9/2019)

Table 4: Response and Transportation (9/2019)

Table 5: Assessment of Hospitals and Critical Care Centers (9/2019)

Table 6: Public Information and Education (9/2019)

Table 7: Disaster Medical Response (9/2019)

DISCLOSURES REGARDING THE
PROPOSED ACTION

Cost or savings to any state agency: EMSA is not aware of any significant cost impacts that a state agency would incur in reasonable compliance with the proposed action. Under statutory law, a local area is not required to form or participate in Emergency Medical Services. It is optional. However, those local areas choosing to form or join a regional LEMSA are statutorily required to submit an annual plan. These regulations seek to specify, clarify, and create a standardization for the plan.

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

Local mandate: None.

Nondiscretionary costs or savings to local agencies: None.

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

Cost impact on a representative private person or business: EMSA is not aware of any costs impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations create a standardized system for local agencies to submit their annual plan as required by statute.

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

Significant effect on housing costs: None.

Effect on small businesses: The proposed regulations may affect small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Economic Impact Assessment:

The Authority concludes that it is: (1) unlikely that the proposal will eliminate any jobs or LEMSAs; (2) unlikely the proposal will create any new jobs initially at the local and state level but may result in new jobs over time at the local and state level as the EMS systems grow and mature; (3) unlikely the proposal will create any new LEMSAs; (4) unlikely the proposal will eliminate any existing LEMSAs; and (5) unlikely the regulations will result in the expansion of LEMSAs currently operating in the state.

Standardizing the required annual plan submitted by the LEMSAs will increase overall efficiencies for all parties. EMSA will be able to review and provide suggested adjustments more quickly and clearly and the LEMSAs will have a standardized system to be used regularly thus providing the LEMSAs with consistency. These increases in efficiency will benefit Californians by assuring the Emergency Medical Services throughout the state meet the basic required standards thus directly benefitting the health and welfare of residents and worker safety. The regulations will have no impact on the environment.

CONSIDERATION OF ALTERNATIVES

EMSA must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the 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.

Any interested person may present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the scheduled hearing.

INITIAL STATEMENT OF REASONS, TEXT OF THE PROPOSAL, FINAL STATEMENT OF REASONS, AND RULEMAKING FILE

Copies of the proposed text, any document incorporated by reference, and the initial statement of reasons may be obtained by contacting the person named below.

All 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.

A copy of the final statement of reasons can be obtained once it has been completed by making a request to the contact person named below or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text are available on the EMSA website at https://emsa.ca.gov/public_comment/.

CONTACT PERSON

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

Name:

Kent Gray, Regulations Manager
EMS Authority

Address:

10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670

Telephone:

(916) 384-1476

Fax:

(916) 324-2875

E-Mail:

Kent.Gray@emsa.ca.gov

The backup contact person is:

Name:

Jennifer Lim, Deputy Director of Legislative,
Regulatory, and External Affairs
EMS Authority

Address:

10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670

Telephone:

(916) 431-3700

Fax:
(916) 324-2875

E-Mail:
Jennifer.Lim@emsa.ca.gov

**TITLE 22. STATE WATER RESOURCES
CONTROL BOARD**

**DIVISION 4. Environmental Health
CHAPTER 15. Domestic Water Quality and
Monitoring Regulations**

**SUBJECT: PERCHLORATE
DETECTION LIMIT FOR
PURPOSES OF REPORTING (DLR)
(SBDDW-20-001)**

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) will conduct a public hearing during which time any interested person or such person's duly authorized representative may present statements, arguments, or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

**NOTICE OF PUBLIC HEARING TO
CONSIDER A REVISION TO THE
DETECTION LIMIT FOR PURPOSES OF
REPORTING (DLR) FOR PERCHLORATE
(Gov. Code, §11346.5(a)(1))**

The State Water Board will conduct an Administrative Procedure Act (APA) public hearing at the time and place described below. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice. The public hearing will begin with a staff presentation summarizing the proposed regulations, followed by an opportunity for public comment. During the comment period, the public will be allowed three minutes to provide oral comments, unless additional time is approved.

DATE:
28 April 2020

TIME:
9:30 a.m.

PLACE:
California Environmental Protection Agency
State Water Resources Control Board
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814

While a quorum of the State Water Board may be present, this hearing is for the public to provide comments in accordance with the APA. The Board will not take formal action. Final regulations are expected to be adopted by the Board later this year, after consideration of all written and oral comments. Additional information regarding State Water Board meetings, hearings, and workshops is available on the Board's Internet webpage at [Board Meeting Information: https://www.waterboards.ca.gov/board_info/calendar/](https://www.waterboards.ca.gov/board_info/calendar/).

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; or
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5600 as soon as possible, but no later than 10 business days before the scheduled State Water 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
- Una acomodación razonable relacionada con una incapacidad

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 341-5600 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 Retransmisión de Mensajes de California.

**WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS
(Gov. Code, §11346.4(a); §11346.5(a)(15))**

Any interested person, or their representative, may submit written comments relevant to the proposed regulatory action to the Clerk to the State Water Board. Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Clerk to the State Water Board by **12:00 noon, May 1, 2020**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing

to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: commentletters@waterboards.ca.gov. The State Water Board requests but does not require that email transmission of comments, particularly those with attachments, contain the regulation package identifier “SBDDW-20-001” in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 341-5620. The State Water Board requests but does not require that faxed comments contain the subject line “SBDDW-20-001”;
3. By mail to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, P.O. Box 997377, MS 7400, Sacramento, CA 95899-7377; or
4. Hand-delivered to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, 1001 I Street, 24th Floor, Sacramento, CA 95814.

The State Water Board requests but does not require that written comments sent by mail or hand-delivered be submitted in triplicate.

The State Water Board requests but does not require that, if reports or articles in excess of 25 pages are submitted in conjunction with the comments, the commentator provide a summary of the report or article and describe the reason for which the report or article is being submitted or is relevant to the proposed regulation.

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the State Water Board to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

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

AUTHORITY AND REFERENCE
(Gov. Code, §11345.5(a)(2);
CCR Title 1, Div 1, Ch. 1, §14)

The State Water Board proposes to adopt this regulation under the authority granted by Health and Safety Code (HSC) sections 116271, 116275, 116293(b), 116325, 116350, and 116375. It is implementing, interpreting, or making more specific HSC sections 116271,

116275, 116350, 116365, 116375, 116385, 116530, 116535, 116540, and 116555.

INFORMATIVE DIGEST
(Gov. Code, §11346.5(a)(3))

Existing Laws and Regulations

All public water systems (PWS), as defined in HSC section 116275, are subject to regulations adopted by the United States Environmental Protection Agency (U.S. EPA) under the Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300f *et seq.*), as well as by the State Water Board under the California Safe Drinking Water Act (HSC, Div. 104, Pt. 12, Ch. 4, §116270 *et seq.*). California has been granted primary enforcement responsibility (“primacy”) by U.S. EPA for PWS in California. California has no authority to enforce federal regulations, but only state regulations. Federal laws and regulations require that California, in order to receive and maintain primacy, promulgate regulations that are no less stringent than the federal regulations.

Pursuant to federal primacy requirements and HSC sections 116271, 116275, 116293(b), 116350, 116375, and 116385, the State Water Board has the responsibility and authority to adopt the subject regulations, that include regulations for water quality monitoring frequencies.

California requires community water systems (CWS) and nontransient-noncommunity (NTNC) water systems to sample their drinking water sources and have the samples analyzed for inorganic chemicals to comply with drinking water standards. The perchlorate monitoring requirements are affected by whether there are detections at or below the detection limit for purposes of reporting (DLR). The presence in a source of certain chemicals at or above the DLR requires a PWS to monitor quarterly.

HSC section 116365 imposes requirements on the State Water Board for adoption of primary drinking water standards for the protection of public health. One of those requirements is that the State Water Board adopt a maximum contaminant level (MCL) as close to the contaminant’s public health goal (PHG) as is technologically and economically feasible at the time of adoption, while placing primary emphasis on protection of public health, and to review those MCLs every five years and amend any standard if changes in technology or treatment techniques have occurred that permit a materially greater protection of public health or attainment of the PHG, or there is new scientific evidence that the contaminant may present a materially different risk to public health than was previously determined. PHGs are established by the California Environmental Protection Agency’s (Cal/EPA) Office of Environmental Health Hazard Assessment (OEHHA).

California Code of Regulations, title 22, sections 64443(b), 64554 (g)(1)(E), and 64560(a)(1) currently refer to the terms or section numbers for “Possible Contaminating Activity” and “Source Water Assessment”.

Effect of Proposed Rulemaking

In February 2015, OEHHA revised the PHG for perchlorate from 0.006 mg/L to 0.001 mg/L. Because of this, the State Water Board is proposing to reduce the DLR from 0.004 to 0.002 mg/L. Data gathered from the monitoring using the lower DLR will allow for improved ability to evaluate the technological and economic feasibility of water treatment to reduce perchlorate levels to concentrations less than the current DLR. The State Water Board could determine whether, pursuant to HSC subsection 116365(g), it is possible to reduce the MCL to a concentration closer to the PHG.

The State Water Board is also proposing to re-adopt definitions for the terms “Possible Contaminating Activity” and “Source Water Assessment”.

Comparable Federal Statute and Regulations

There are no federal regulations or statutes that address the subject of perchlorate in drinking water. The federal Safe Drinking Water Act imposes requirements on each state exercising primary enforcement responsibility (“primacy”) for public water systems and having an approved source water assessment program. Each state’s source water assessment program is adapted to that state’s needs. While U.S. EPA provides guidance, no existing federal regulations or statute provide comparable definitions.

POLICY STATEMENT OVERVIEW
(Gov. Code, §11346.5(a)(3))

Problem Statement

In 2015, OEHHA revised the perchlorate PHG from 0.006 mg/L to 0.001 mg/L. Consistent with HSC subsection 116365(g), this revision was considered in the State Water Board’s 2016 review of the perchlorate MCL. While analytical methods are available to report data at concentrations lower than the current 0.004 mg/L DLR, many water systems and laboratories quantify reported concentrations only as low as the DLR. The lack of perchlorate occurrence data at concentrations below the current DLR hinders the State Water Board’s ability to evaluate whether technology achieves a materially greater protection of public health or attainment of the PHG than was previously determined, and the economic feasibility of lowering the MCL. The State Water Board, therefore, proposes to lower the perchlorate DLR from 0.004 mg/L to 0.002 mg/L to obtain that occurrence data.

California Code of Regulations, title 22, sections 64443(b), 64554 (g)(1)(E), and 64560(a)(1) currently refer to the terms or section numbers for “Possible Contaminating Activity” and “Source Water Assessment”. The definitions for these still-needed terms were repealed by a previous regulatory action.

Objectives (Goals)

Broad objectives of this proposed regulatory action are to:

- Adopt a DLR for perchlorate of 0.002 mg/L to protect public health and maintain consistency with statutory requirements.
- Include definitions for the terms “Possible Contaminating Activity” and “Source Water Assessment”, which were previously contained in Chapter 12 (repealed), but are still needed for the regulations governing drinking water in Title 22.

Benefits

Anticipated benefits from this proposed regulatory action are to:

- Evaluate performance of existing treatment to levels at least as low as 0.002 mg/L.
- Determine perchlorate occurrence in drinking water sources at or below 0.002 mg/L.
- Identify additional public health protection.
- Gather data to be able to determine the technical and economic feasibility of revising the current MCL.
- Clarify references to “Possible Contaminating Activity” and “Source Water Assessment” in existing regulations.

**EVALUATION AS TO WHETHER THE
PROPOSED REGULATIONS ARE
INCONSISTENT OR INCOMPATIBLE WITH
EXISTING STATE REGULATIONS**
(Gov. Code, §11346.5(a)(3)(D))

The State Water Board evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the State Water Board’s existing general regulations and any regulations specific to perchlorate for drinking water. An internet search of other state agency regulations was also performed. The State Water Board determined that this proposal is not inconsistent or incompatible with other existing state regulations.

SUMMARY OF PROPOSAL

Perchlorate DLR:

The State Water Board proposes to amend section 64432 as follows:

- In Table 64432–A, replace the current perchlorate DLR of 0.004 mg/L with a revised perchlorate DLR of 0.002 mg/L.

The primary purpose of the proposed regulations is to adopt a revised DLR of 0.002 mg/L for perchlorate to allow determination of perchlorate occurrence in drinking water sources at concentrations below the current DLR of 0.004 mg/L. Revising the DLR is consistent with the requirements of HSC section 116375 and the supporting regulations.

Referenced definitions from Chapter 12 (repealed):

The State Water Board proposes to re-adopt, and revise references to, the following definitions deleted in the repeal of California Code of Regulations (CCR), Title 22, Division 4, Chapter 12, Article 1:

- Add §64400.95. Possible Contaminating Activity (PCA). “Possible contaminating activity (PCA)” means a human activity that is an actual or potential origin of contamination for a drinking water source and includes sources of both microbiological and chemical contaminants that could have adverse effects upon human health.
- Add §64401.57. Source Water Assessment. “Source water assessment” means an evaluation of a drinking water source that includes delineation of the boundaries of the source area, identification of PCAs within the delineated area, a determination of the PCAs to which the source is most vulnerable, and a summary of the vulnerability of the source to contamination.
- Replace all citations of §63000.84 with §64401.57

The primary reason for reincluding these two definitions, which were repealed along with the rest of Chapter 12, in the proposed regulatory text is because there are still sections in Title 22 that currently refer to these two definitions and their previous section numbers. The proposed text will provide clarity in the regulations where there is reference to the terms “Possible Contaminating Activity” and “Source Water Assessment”.

FORMS OR DOCUMENTS
INCORPORATED BY REFERENCE
(CCR Title 1, Div. 1, Ch. 1, §20(c)(3))

Not Applicable.

MANDATED BY FEDERAL
LAW OR REGULATIONS
(Gov. Code, §11346.2(c))

Adoption of this regulation is not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS
(Gov. Code, §11346.5(a)(4))

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires that state agencies consider the potentially significant environmental impacts of their discretionary actions, which include the development of regulations. Consistent with CCR, Title 14, subparagraph 15061(b)(3), the State Water Board has prepared a Notice of Exemption, concluding that the proposed regulations would certainly not have a significant adverse effect on the environment.

Scientific Peer Review

HSC subsection 57004(b) requires that the scientific portions of any regulation proposed by the California Environmental Protection Agency (Cal/EPA), or any board, department or office within Cal/EPA, be submitted to an external scientific peer review entity for evaluation. “Scientific basis” or “scientific portion” is defined as “those foundations of a rule that are premised upon, or derived from empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.” Where there is no underlying scientific basis for the proposed rule, no peer review is required. Similarly, where the underlying scientific basis for the proposed rule has already been peer reviewed, additional peer review is not required. Cal/EPA’s *Unified California Environmental Protection Agency Policy and Guiding Principles for External Scientific Peer Review*, March 13, 1998 (Cal/EPA Guiding Principles) recognizes that external scientific peer review processes are not warranted where there are no underlying scientific bases at issue, or where the underlying scientific basis has already undergone review.

- Perchlorate DLR

The proposed regulation to lower the perchlorate DLR is a policy decision primarily based on the current number of commercial and municipal laboratories doing business with California public water systems (*i.e.*, laboratory capacity). Laboratory capacity includes the ability to provide a sufficient number of services, at a specified level of service, within a period of time already specified in regulation. This capacity is critical to enable the quantification of perchlorate to a specified level without otherwise impairing PWS compliance with existing monitoring and reporting regulations.

U.S. EPA validated analytical drinking water methods were considered in the development of the proposed regulation. The U.S. EPA methods currently in use by California PWS [*i.e.*, EPA

Methods 314.0 (1999), 314.1 (2005), 331.0 (2005), and 332.0 (2005)] are federally approved drinking water methods subjected to a formal, multi-laboratory validation process. These methods were appropriately reviewed by scientific peers during the multi-laboratory validation and approval process required for publication as an EPA method. In addition, the laboratories currently providing these analytical services are accredited by California's Environmental Laboratory Accreditation Program. There is, therefore, no underlying scientific basis for the regulations that needs to undergo peer review as the decision is based upon how many laboratories can do the analysis using methods that have already undergone peer review.

- Definitions

The proposed re-insertions of definitions for the terms "Possible Contaminating Activity" and "Source Water Assessment" have an administrative, not a scientific, basis. Reinserting these terms is necessary for the regulations to be internally consistent.

California Water Code Section 106.3

California Water Code section 106.3 states that it is the policy of the state that every human has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes. In preparing the proposed regulations, the State Water Board determined the proposed regulations are consistent with this statewide policy. Even though the proposed regulations may result in increased costs to those that are served by PWS, that potential cost is outweighed by the benefits of knowing the potential human exposure to perchlorate in drinking water supplies and whether treatment may be needed, and in having an adequate data set to evaluate the technological and economic feasibility of lowering the perchlorate MCL.

Pre-Notice Meeting with Affected Parties

Government Code subsection 11346.45(a) requires that prior to publication of the notice of proposed action, the agency proposing the regulation must involve parties who would be subject to the proposed regulations in public discussions, when the proposed regulations involve complex proposals or a large number of proposals that cannot be easily reviewed during the comment period. The regulations proposed here are neither complex nor involve large numbers of proposals that could not be easily reviewed during the comment period. Nonetheless, the State Water Board did provide PWS, Environmental Laboratory Technical Advisory Committee (ELTAC) members, and water consumers opportunities to be involved in public discussions about the proposed regulations, including the July 5, 2017

State Water Board meeting; the July 13, 2017 ELTAC meeting; the December 6, 2017 ELTAC meeting; the February 6, 2018 State Water Board meeting; the March 28, 2018 ELTAC meeting; the March 5, 2019 State Water Board meeting; and the April 17, 2019 ELTAC meeting. In addition, staff of the State Water Board's Division of Drinking Water frequently provide regulatory updates to PWS, including the status of the perchlorate DLR revision.

LOCAL MANDATE
(Gov. Code, §11346.5(a)(5))

Pursuant to Government Code paragraph 11346.5(a)(5), the State Water Board has determined the proposed regulatory action would not impose a mandate on a local agency or school district that requires reimbursement pursuant to section 17500 *et seq.*

Local agencies and school districts currently incur costs in their operation of PWS. The costs imposed by these regulations are not the result of a "new program or higher level of service" within the meaning of Article XIII B, section 6 of the California Constitution because they apply generally to all individuals and entities that operate PWS in California, and do not impose unique requirements on local governments. (*County of Los Angeles v. State of California, et al.*, 43 Cal. App. 3d 46 (1987)). In addition, the publicly owned systems can pass on the costs in increased service charges, fees or assessments. Therefore, no state reimbursement of these costs is required. Local regulatory agencies also may incur additional costs for their responsibility to enforce state regulations related to small PWS (fewer than 200 service connections) that they regulate. However, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small PWS (HSC, §101325). Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required (Gov. Code, §17556(d)).

FISCAL IMPACT ESTIMATE
(Gov. Code, §11346.5(a)(6))

(as detailed in the Cost Estimating Methodology in the Initial Statement of Reasons)

Estimated Fiscal Impact on Local Agency or School District

\$836,640 annually, which is not reimbursable by the State pursuant to Article XIII B, section 6 of the California Constitution.

Estimated Fiscal Impact on State Government

\$20,608 annually, which is anticipated to be absorbable by State agencies within their existing bud-

gets. The State Water Board estimates that there will be no change to the Drinking Water Program’s Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under HSC 116565, 116577, 116585, and 116590.

Estimated Fiscal Impact on Federal Funding of State Programs

None.

Other Non-discretionary Cost or Savings Imposed on Local Agencies

None.

Cost to Any Local Agency or School District which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630

None.

HOUSING COSTS
(Gov. Code, §11346.5(a)(12))

The State Water Board has determined that the regulations will have no impact on housing costs.

NO SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES IN CALIFORNIA
(Gov. Code, §11346.5(a)(8); 11346.5(a)(10))

The proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of businesses to compete with businesses in other states.

The proposed regulations directly impact PWS. PWS are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, paragraph 11342.610(b)(8), are specifically excluded from the definition of “small businesses”. However, the State Water Board recognizes that a small number of the identified PWS likely provide water solely to businesses, such as mobile home parks, restaurants, and food processors, and that PWS often provide water to businesses. The State Water Board does not track or have a way of estimating the total number of businesses contained within every PWS. The types of businesses expected to be indirectly impacted consist of every type of business that requires potable drinking water for their customers, employees, or processes/operations.

No reporting is required of businesses, but reporting of monitoring results would continue to be required of the PWS, and such reporting is necessary for the health, safety, or welfare of the people of the state to ensure compliance. Those costs for reporting were considered

as part of the monitoring costs. The State Water Board recognizes that monitoring and reporting costs would likely be passed on to a PWS’s customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation. Such indirect impacts will, however, be insignificant, totaling approximately \$1.6 million statewide. This corresponds to approximately \$224 annually per water system, and \$9 annually per water system customer.

RESULTS OF ECONOMIC IMPACT ASSESSMENT
(Gov. Code, §11346.5(a)(10))

The State Water Board has determined that the economic impact of the proposed regulations would not exceed \$50 million in a 12-month period and that the regulations would not therefore be considered a Major Regulation as defined by CCR, Title 1, Division 3, Chapter 1, subsection 2000(g).

Based on the State Water Board’s Economic Impact Assessment (described in the Initial Statement of Reasons, with additional findings provided in Form STD 399 and its attachment), the proposed regulation is not expected to

- (A) create or eliminate jobs,
- (B) create new businesses or eliminate existing businesses, or
- (C) expand businesses currently doing business within the state of California.

A lower perchlorate DLR would allow collection of water quality data at lower concentrations, allowing determination of the feasibility of lowering the maximum contaminant level in drinking water, thereby facilitating increased protection of public health for California residents.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS
(Gov. Code, §11346.5(a)(9))

The State Water Board is not aware of any direct cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Indirect cost impacts are estimated within Standard Form 399. For the 2,346 PWS potentially subject to increased monitoring under the proposed regulation, the annual cost is estimated at \$224. For individuals served by one of these 2,346 PWS, the cost is estimated at \$9 annually.

REPORTING REQUIREMENTS
(Gov. Code, §11346.5(a)(11); §11346.3(d))

Government Code subsection 11346.36(d) requires that any administrative regulation adopted on or after January 1, 1993 that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for health, safety, or welfare of the people of the state that the regulation apply to businesses. The State Water Board has determined that the proposed regulations would not require reports from businesses to the extent that PWS are not considered businesses pursuant to Government Code paragraph 11342.610(b)(8). To the extent PWS may be considered businesses, reporting of monitoring of drinking water sources for perchlorate is necessary for health, safety, or welfare of the people of the state.

SMALL BUSINESSES
(1 CCR, §4(a) and (b))

The proposed regulation directly impacts public drinking water systems. PWS are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, paragraph 11342.610(b)(8), are specifically excluded from the definition of “small businesses”. However, the State Water Board recognizes that a small number of the identified PWS likely provide water solely to businesses and that PWS often provide water to businesses. The State Water Board also recognizes that costs for monitoring would likely be passed on to a water system’s customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation.

Similarly, no reporting is required of businesses, but reporting of monitoring results would be required of the PWS, and such reporting is necessary for health, safety, or welfare of the people of the state. Those costs for reporting were considered as part of the monitoring costs.

The State Water Board does not track or have a way of estimating the total number of businesses contained within every water system. The types of businesses expected to be indirectly impacted consist of every type of business that requires potable drinking water for their customers, employees, or processes/operations.

CONSIDERATION OF ALTERNATIVES
(Gov. Code, §11346.5(a)(13))

The State Water Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be

more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the 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 State Water 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.

The State Water Board considered an alternative proposal to adopt a DLR of 0.001 mg/L, but rejects the alternative because adequate laboratory capacity does not currently exist to test to a DLR of 0.001 mg/L. Technological feasibility is based on technological capability and laboratory service capacity. The State Water Board has found that there are currently not enough laboratories accredited by California’s Environmental Laboratory Accreditation Program to perform perchlorate analyses at a DLR lower than 0.002 mg/L.

STATE WATER BOARD CONTACT PERSONS
(Gov. Code, §11346.5(a)(14))

Requests for copies of the proposed regulatory text, the Initial Statement of Reasons, subsequent modifications of the proposed regulatory text, if any, or other inquiries concerning the proposed action may be directed to:

Melissa Hall, P.E.
Senior Water Resource Control Engineer
State Water Resources Control Board, Division of
Drinking Water
1001 I Street, 17th Floor
Sacramento, CA 95814
Telephone: (916) 323-0373
Electronic mail: melissa.hall@waterboards.ca.gov

In the event Melissa Hall is not available to respond to requests or inquiries, please contact:

Eric Miguelino, M.D.
Research Scientist IV
State Water Resources Control Board,
Division of Drinking Water
1001 I Street, 17th Floor
Sacramento, CA 95814
Telephone: (916) 449-5556
Electronic mail:
eric.miguelino@waterboards.ca.gov

Please identify the action by using the State Water Board regulation package identifier, “SBDDW-20-001: Perchlorate DLR” in any inquiries or written comments.

AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS, AND
RULEMAKING FILE
(Gov. Code, §11346.5(a)(16))

The State Water Board 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, the text of the proposed regulations, and all other required forms, statements, and reports. The Regulatory Development Unit, Division of Drinking Water, State Water Resources Control Board, 1001 I Street, 17th Floor, Sacramento, CA 95814, will be the location for inspection and copying of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file) throughout the rulemaking process.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT
(Gov. Code, §11346.5(a)(18))

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 State Water Board's Division of Drinking Water Regulatory Development Unit at least 15 days prior to the date on which the State Water Board adopts, amends, or repeals the resulting regulation. The State Water Board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please send requests for copies of any modified regulations to the attention of the Division of Drinking Water, Regulatory Development Unit, at the address indicated above.

AVAILABILITY OF FINAL
STATEMENT OF REASONS
(Gov. Code, §11346.5(a)(19))

The State Water Board will prepare a final statement of reasons pursuant to Government Code section 11346.9 after final adoption of the regulations, and when ready will make the final statement of reasons available.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET
(Gov Code, §11346.4(a)(6); §11346.5(a)(20))

Materials regarding the action described in this notice (including this public notice, the regulation text, and the Initial Statement of Reasons) are available via the Internet and may be accessed in the links within the announcements section from the Division of Drinking Water's [main perchlorate webpage](#), or directly from the [perchlorate regulation webpage](#).

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

SAFE HARBOR AGREEMENT
PROGRAM ACT CONSISTENCY
DETERMINATION REQUEST FOR
Kellogg Ranch Safe Harbor Agreement
2089-2020-003-03
Sonoma County

The California Department of Fish and Wildlife (CDFW) received a notice on February 24, 2020 that Barbara R. Banke, Trustee of the Barbara R. Banke Revocable Trust (Applicant) proposes to rely on a federal Safe Harbor Agreement to carry out a project that involves the implementation of beneficial management activities to provide a net conservation benefit for California Central Coast (CCC) Coho salmon (*Oncorhynchus kisutch*) and CCC steelhead. The proposed project will occur on the Applicant's Kellogg Ranch, located in Sonoma County approximately 9 miles west of Calistoga, California.

The February 24, 2020 notice requested a CDFW determination pursuant to California Fish and Game Code Section 2089.22, that the enhancement of survival permit and safe harbor agreement issued to the Applicant by the National Marine Fisheries Service, effective February 3, 2020, are consistent with the California Safe Harbor Agreement Program Act (SHAPA) for purposes of the proposed Project. If CDFW determines the federal safe harbor agreement is consistent with SHAPA for the proposed Project, the Applicant will not

be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

AVAILABILITY OF INDEX OF PRECEDENTIAL DECISIONS

DEPARTMENT OF MANAGED HEALTH CARE

DATE: March 6, 2020

ACTION: Notice of Availability of Index of Precedential Decisions

NOTICE:

PLEASE TAKE NOTICE that the Department of Managed Health Care’s index of precedential decisions is available to the public by subscription, pursuant to California Government Code section 11425.60(c).

Members of the public may subscribe to the index of precedential decisions by contacting the Department of Managed Health Care’s Office of Legal Services:

Mail:

Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814

Phone:

(916) 322-6727

Fax:

(916) 322-3968

Email:

pra@dmhc.ca.gov

Members of the public may additionally access the index of precedential decisions on the Department of Managed Health Care’s website:

<https://www.dmhc.ca.gov/AbouttheDMHC/LawsRegulations/AdministrativeActionsandDecisions.aspx>

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# 2020-0107-01
BOARD OF FORESTRY AND FIRE PROTECTION
Very High Fire Hazard Severity Zone Adoption, 2019

This action specifies the process by which local agencies submit ordinances and maps designating very high fire hazard severity zones to the Board of Forestry and Fire Protection.

Title 14
ADOPT: 1280.00, 1280.02
AMEND: 1280 [renumbered to 1280.01]
Filed 02/19/2020
Effective 04/01/2020
Agency Contact: Edith Hannigan (916) 862-0120

File# 2020-0107-02
BOARD OF FORESTRY AND FIRE PROTECTION
Very High Fire Hazard Severity Zone Adoption, 2019

This resubmittal action adopts processes, with respect to subdivisions within State Responsibility Areas or Very High Fire Hazard Severity Zones, for counties to transmit to the Board of Forestry and Fire Protection the county’s fire protection findings regarding local approval of tentative maps or of parcel maps for which a tentative map is not required, pursuant to Government Code section 66474.02.

Title 14
ADOPT: 12669.00, 1266.01, 1266.02
Filed 02/20/2020
Effective 04/01/2020
Agency Contact: Edith Hannigan (916) 862-0120

File# 2020-0206-01
BOARD OF FORESTRY AND FIRE PROTECTION
Licensing Fee Admendments, 2020

This action by the Board of Forestry and Fire Protection amends the licensing fees for professional foresters.

Title 14
 AMEND: 1605
 Filed 02/26/2020
 Effective 04/01/2020
 Agency Contact: Eric Hedge (916) 653-9633

File# 2020-0211-02
 BUREAU OF REAL ESTATE APPRAISERS
 Minimum Experience

This rulemaking action amends the requirements to obtain a temporary practice permit and streamlines the process to apply for an appraiser license.

Title 10
 AMEND: 3525, 3541
 REPEAL: 3542
 Filed 02/19/2020
 Effective 04/01/2020
 Agency Contact: Kyle Muteff (916) 341-6126

File# 2020-0211-01
 CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
 Qualified Residential Rental Program (QRRP) Self-Scoring Worksheet and Allowing Additional Time for Application

This emergency rulemaking by the California Debt Limit Allocation Committee amends regulations relating to the Qualified Residential Rental Program and is a deemed emergency pursuant to Government Code section 8869.94.

Title 4
 AMEND: 5000, 5035, 5180
 Filed 02/19/2020
 Effective 02/19/2020
 Agency Contact: Isaac Clark III (916) 651-8484

File# 2020-0214-02
 CALIFORNIA HIGH SPEED RAIL AUTHORITY
 Conflict-of-Interest Code

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

Title 2
 AMEND: 57400
 Filed 02/26/2020
 Effective 03/27/2020
 Agency Contact: Karen Saeturn (916) 403-6928

File# 2020-0213-01
 CALIFORNIA HORSE RACING BOARD
 Suspension of License to Conduct a Race Meeting

This emergency rulemaking action readopts the process under which the California Horse Racing Board may suspend or impose conditions upon a license to conduct a racing meeting when necessary to protect the health and safety of horses or riders, including the process for a hearing on the license suspension or imposition of conditions and for review of a hearing decision suspending or imposing conditions on a license.

Title 4
 ADOPT: 1435
 Filed 02/20/2020
 Effective 02/25/2020
 Agency Contact: Robert Brodnik (916) 263-6025

File# 2020-0219-07
 CALIFORNIA HORSE RACING BOARD
 Medication, Drugs, and Other Substances/Authorized Medication

The California Horse Racing Board submitted this emergency action to amend two regulations to significantly limit the medications, drugs, and other substances that are authorized to be given to a racehorse after entry into a race.

Title 4
 AMEND: 1843.5, 1844
 Filed 02/26/2020
 Effective 02/26/2020
 Agency Contact: Zachary Voss (916) 263-6036

File# 2020-0127-01
 CALIFORNIA TRANSPORTATION COMMISSION
 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 2
 AMEND: 39000, Appendix A
 Filed 02/20/2020
 Effective 03/21/2020
 Agency Contact: Zilan Chen (916) 653-0162

File# 2020-0109-01
 DEPARTMENT OF FISH AND WILDLIFE
 Dungeness Crab Trap Retrieval Program

This change without regulatory effect amends the existing process for retrieval of lost or abandoned Dungeness crab trap gear after closure of a commercial fishing area pursuant to Fish and Game Code section 8276 to also account for closures made pursuant to Fish and Game Code section 8276.1.

Title 14
AMEND: 132.7
Filed 02/20/2020
Agency Contact:
Morgan Ivens-Duran (831) 649-2811

File# 2020-0108-01
DEPARTMENT OF FOOD AND AGRICULTURE
Assessments for Control of Beet Leafhopper

This file and print action by the Department of Food and Agriculture increases the current assessment rates imposed on producers, handlers, and producer-handlers for beet leafhopper control.

Title 3
AMEND: 3601
Filed 02/21/2020
Effective 02/21/2020
Agency Contact: Rachel Avila (916) 403-6813

File# 2020-0110-02
DEPARTMENT OF INSURANCE
CAARP Simplified Rules Manual

The Department of Insurance submitted this file and print action to amend Rules 22 and 26 and the AIP 1250 Private Passenger Application form, and to adopt Rule 22A in the California Automobile Assigned Risk Plan Manual to address rate setting classifications. This action is exempt from the Administrative Procedure Act pursuant to Government Code section 11340.9(g).

Title 10
AMEND: 2498.5
Filed 02/25/2020
Effective 02/25/2020
Agency Contact: Michael Riordan (415) 538-4226

File# 2020-0107-04
DEPARTMENT OF PUBLIC HEALTH
Definition of Social Worker Revision

The Department of Public Health proposed this action to amend regulations governing state licensing of health facilities. The amendments set forth qualifications for social workers employed at these facilities and related services provided, based on the type of licensed entity and the needs of the persons served by them.

Title 22
AMEND: 73103, 73449, 74023, 74653, 74713, 76149, 78097, 78339
Filed 02/19/2020
Effective 04/01/2020
Agency Contact:
Hannah Strom-Martin (916) 440-7371

File# 2020-0116-01
NEW MOTOR VEHICLE BOARD
Case Management

This change without regulatory effect deletes all references to the appeal process for which all statutory authority was removed as of January 1, 2020.

Title 13
AMEND: 550, 551, 551.8, 551.14, 551.15, 551.16, 551.17, 551.25, 553.30, 553.40, 553.75, 554, 555, 555.1, 557, 561, 562, 564, 584, 591, 592, 593.3, 595, 597
REPEAL: 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577
Filed 02/26/2020
Agency Contact: Robin Parker (916) 323-1536

File# 2020-0114-03
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT
Long-Term Care Facility Financial Reporting — Related Parties

This rulemaking action amends reporting procedures and software specifications to enable and instruct skilled nursing facilities on how to report information in accordance with Health and Safety Code section 128734.

Title 22
AMEND: 97019, 97041
Filed 02/26/2020
Effective 04/01/2020
Agency Contact: Starla Ledbetter (916) 326-3984

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

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