



California Regulatory Notice Register

REGISTER 2020, NUMBER 12-Z

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MARCH 20, 2020

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

**CONFLICT-OF-INTEREST CODES
AMENDMENT**

STATE AGENCY:
Fiscal Crisis Management and Assistance Team

MULTI-COUNTY:
Options for Youth-Duarte

ADOPTION

STATE AGENCY:
California Catastrophe Response Council

MULTI-COUNTY:
Opportunities for Learning-Duarte
Options for Youth San-Bernardino

A written comment period has been established commencing on March 20, 2020 and closing on May 4, 2020. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than May 4, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

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

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO ADD RULE 1435, SUSPENSION OF LICENSE TO CONDUCT A RACE MEETING

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

PROPOSED REGULATORY ACTION

The Board proposes to add Rule 1435, Suspension of License to Conduct a Race Meeting, to implement a procedure for the Board to follow in suspending a license to conduct a race meeting license when necessary to protect the health and safety of the horse or rider.

The proposed addition of Rule 1435 will establish that the Board may, upon petition, issue an order suspending a license to conduct a race meeting or imposing restrictions. The petition shall include documents in support of the petition. Prior to the hearing on the petition, the Board shall notify the licensee in writing at least 24 hours before the hearing. At the hearing, the licensee will have the opportunity to be represented by counsel, present written evidence and make oral argument. A recording of the proceedings will be made. The Board will have five days following the hearing to issue a decision. Any decision to suspend a license or impose restrictions shall be reviewed by the Board within 10 calendar days. During the review, the licensee will be afforded the same rights as the initial hearing. Finally,

any suspension issued by the Board shall remain in effect until the Board determines that the matters jeopardizing the health and safety of the horse or rider at the race meeting have been adequately addressed.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, May 21, 2020**, or as soon after that as business before the Board will permit, at the **Department of Consumer Affairs' 1st Floor Hearing Room at 1625 N Market Blvd, Sacramento, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **11:59 p.m. on May 4, 2020**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Robert Brodnik, Staff Counsel
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6025
Fax: (916) 263-6022
E-Mail: rjbrodник@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19481.7, 19440 and 19460 Business and Professions Code. Reference: Sections 19481.7, 19440 and 19460 Business and Professions Code.

Business and Professions Code sections 19481.7, 19440 and 19460 authorizes the Board to adopt the proposed regulations, which would implement, interpret or make specific sections 19481.7 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Horse Racing Board is vested with the existing authority to grant race meet licenses in the state of California. The Board additionally has the authority

to enforce compliance with existing regulations by imposing penalties against the license. The proposed addition of Rule 1435 will establish that the Board may, upon petition, issue an order immediately suspending a license to conduct a race meeting or imposing restrictions.

Subsection (b)(1) establishes that the petition shall include documents in support of the petition which demonstrate to the satisfaction of the Board that permitting the licensee to continue to engage in the licensed activity or permitting the licensee to continue to engage in the licensed activity without restrictions would endanger the health and safety of the horses or riders that are present at the race meeting. This is necessary to ensure that the petition is supported with evidence that describes or identifies the dangerous condition or activity.

Subsection (b)(2) provides instances where the health or safety of the horse or rider may be endangered. Instances where this may exist can include, an above-average number of injuries to horses and/or riders participating in the race meeting, a condition existing within the inclosure that is likely to endanger the health and safety of the horse or rider, or for any other reason the Board finds the health or safety of the horse or rider is endangered. This subsection is necessary to delineate the clear instances where the Board may act to ensure the health and safety of the horse or rider, while still preserving the Board's flexibility to respond to unforeseen conditions that may endanger the health or safety of the horse or rider as they come up.

Subsection (c)(1) provides that notice shall be given at least 24 hours before a hearing on the petition to suspend or restrict a license. Subsection (c)(2) provides that notice shall be given in writing and may be provided by electronic service, mail, facsimile or electronic mail. Finally subsection (c)(3) indicates that notice shall be given to the licensee, its designee, or any officer or director associated with the licensee. This is necessary to ensure the licensee is aware of the potential action the Board could take on the license and clarifies the manner in which the Board can provide that notice. The 24 hour notice requirement is necessary to provide the licensee with sufficient notice while still allowing the Board to address the matter effecting the health and welfare of the horse or rider promptly.

Subsection (d)(1) provides the rights of the licensee at the hearing on the petition. These rights include being represented by counsel, having a record made of the proceedings, having the ability to present written evidence in the form of relevant declarations, affidavits and documents and presenting oral argument. This section is necessary to establish the due process rights afforded to the licensee at the hearing on the petition.

Subsection (e) provides that the Board shall issue a decision on the petition for suspension or within five

business days following submission of the matter. This is necessary to establish a timeline for the Board to take action to ensure the situation is addressed promptly. The five day requirement is necessary to allow sufficient time for the Board to deliberate, prepare and issue a decision on the petition.

Subsection (f) provides that the Board shall review any decision to suspend a racing license or impose license restrictions within 10 calendar days of that decision. This is necessary to provide the Board the ability review the prior action and determine whether additional action needs to be taken or if the matter effecting the health and safety of the horse or rider has been addressed. Additionally, this requirement is mandated by California Business and Professions Code section 19481.7.

Subsection (g)(1) provides the rights of the licensee at the review hearing. These rights include being represented by counsel, having a record made of the proceedings, having the ability to present written evidence in the form of relevant declarations, affidavits and documents and presenting oral argument. This section is necessary to establish the due process rights afforded to the licensee at the review hearing.

Subsection (h) provides that any suspension shall remain in effect until the Board determines that the matters jeopardizing the health and safety of the horse or rider have been adequately addressed. This section is necessary to clarify the Board's power to continue a suspension until the race meet is safe to resume and the matters effecting the health and safety have been addressed.

Subsection (i) provides that as a condition of lifting a suspension, the board may require a licensee to comply with additional safety standards or other requirements as it deems necessary or desirable for the best interests of horse racing and the purposes of this chapter. This section is necessary to clarify the Board's power to impose restrictions on a license that facilitate the continuance of a safe race meet for both the horse or rider.

Subsection (j) provides that failure to comply with a suspension order issued pursuant to subdivision (a)(1) shall constitute a separate cause for disciplinary action against any licensee. This section is necessary to clarify that any suspended licensee who continues to engage in an activity which requires a license, is subject to additional and separate disciplinary action by the Board.

Subsection (k) states that the orders provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided in any other provision of law. This section is necessary to clarify that other relief provide by law is still available.

Finally, subsection (l) provides that a petition for an order suspending a license to conduct a racing meeting or imposing license restrictions may be filed by the Ex-

Executive Director or their designee, or Equine Medical Director of the Board. This section is necessary to clarify who can bring a petition before the Board. The Executive Director or the Equine Medical Director are the most appropriate individuals to have this authority because of their responsibility to the Board to advise on the safety or both horse and rider.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The broad objective of the proposed addition of Rules 1435 is to codify a procedure whereby the Board can take action against a licensed racing association in instances where the health and safety of the horse or rider may be endangered.

During the winter meet last year at the Santa Anita Race Track, thirty thoroughbred horses suffered catastrophic breakdowns and were euthanized. These breakdowns happened between December 26, 2018 and June 23, 2019. Throughout this period of time, the California Horse Racing Board was involved in monitoring the race meet and investigating the fatalities. Unfortunately, while the investigations were pending, the Board was unable to take action to suspend racing in the wake of these deaths. As a result, Senate Bill 469 was introduced which expands the Board's ability suspend a license to conduct a horse race meeting when necessary to protect the health and safety of either the horse or rider. SB 469 was signed into law by California Governor Gavin Newsom on June 24, 2019 and became effective immediately. This authority is now codified in California Business and Professions code section 19481.7. Business and Professions code section 19481.7(d) required the Board to adopt emergency regulations to implement the authority provided by the new law. The Board did so on August 22, 2019.

The proposed addition of Rule 1435 will make permanent the emergency regulation that was adopted by the Board in August of 2019. The anticipated benefit of this proposed addition will be the added authority of the Board to act quickly when the health or safety of the horse or rider is endangered. Accordingly, this addition will benefit the health, safety and welfare of horses, licensees, and the wagering public.

CONSISTENCY EVALUATION

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

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

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed addition of Rules 1435 will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

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

Cost impact on representative private persons or businesses: none.

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

Significant effect on housing costs: none.

RESULT OF ECONOMIC IMPACT ANALYSIS

The adoption of the proposed addition of Rule 1435 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed addition of Rule 1435 will codify a procedure whereby the Board can take action against a licensed racing association in instances where the health and safety of the horse or rider may be endangered. This will not only serve to protect equine and human athletes, but will also enhance the integrity of the sport by allowing the Board to act when the health or safety of the rider is endangered. This proposal will not benefit the state's environment or worker safety.

Effect on small businesses: none. The proposal to add Rule 1435 will not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the

attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

CONTACT PERSON

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

Robert Brodnik
Staff Counsel
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6025
E-mail: rjbrodnik@chrb.ca.gov

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

Amanda Drummond
Policy and Regulation Manager
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6033
E-Mail: amdummond@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Robert Brodnik, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

BOARD WEB ACCESS

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

TITLE 5. STATE TEACHERS' RETIREMENT SYSTEM

Article 2. Rules of Procedure. Section 20511

NOTICE OF PROPOSED RULEMAKING

The California State Teachers' Retirement System ("CalSTRS") and the Teachers' Retirement Board ("board") propose to adopt the regulations described hereunder, after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

The Teachers' Retirement Board will hold a public hearing:

Date and Time

1:00 p.m.
May 7, 2020

The hearing may be rescheduled to occur as early as 8:00 a.m. or as late as 4:00 p.m. as it is incorporated into the board's agenda. Please consult the agenda for the meeting, which will be available at www.CalSTRS.com/teachers-retirement-board by April 29, 2020, to confirm the exact time at which the hearing will be held.

Please arrive promptly for check in before the scheduled start time. The hearing will conclude once each speaker present has provided testimony.

Location

California State Teachers' Retirement System
Boardroom
100 Waterfront Place
West Sacramento, CA 95605

Purpose

To receive oral or written comments about this action. Comments are limited to five minutes per person and must not repeat comments already received in written or verbal form.

Accessibility

The hearing room is accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or visual impairments upon advance request.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to CalSTRS. The written comment period closes on **May 7, 2020**.

CalSTRS will only consider written comments received at CalSTRS' address as reflected below by that date. Submit comments to:

Sal Sanchez
Governmental Relations
California State Teachers' Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
E-Mail: Regulations@CalSTRS.com

AUTHORITY AND REFERENCE

The board has exclusive authority to administer CalSTRS under Article XVI, section 17 of the California Constitution.

Education Code section 22305 provides that any rules and regulations adopted by the board have the force and effect of law.

Government Code section 11120 articulates that it is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed. As stated in the statute, it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

Subdivision (b) of Government Code section 11125.7 provides that a state body may adopt reasonable regulations to ensure that the state body is able to provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item.

These proposed regulations further interpret and make specific Government Code sections 11120 and 11125.7.

The board approved the proposed regulations on January 31, 2020 and directed CalSTRS staff to give public notice and schedule a public hearing before the board.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The board's priorities and goals include the objective of enhancing board meeting effectiveness and efficiency by, among other things, establishing a public comment framework. Historically, the board and its committees have provided opportunities for public comment at the end of discussion on each agenda item and a separate opportunity to comment on topics not on the agenda while accommodating speakers on a case-by-case basis. Members of the public are asked to voluntarily identify themselves and the subject on which they wish to speak by submitting a speaker request form, available in the back of the board room, to CalSTRS staff. The presiding chair of the meeting is provided the form by CalSTRS staff and recognizes the speaker at the designated time. The board has also recognized any speaker stepping forward to speak at the end of the discussion of the agenda item, regardless of whether the speaker submitted a speaker request form as a general practice. Each speaker is allocated three minutes.

The purpose of the Bagley-Keene Open Meeting Act (Bagley-Keene) is "that actions of state agencies be taken openly and that their deliberation be conducted openly" and that "conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed." Bagley-Keene sets forth requirements for state bodies to gener-

ally make their meetings open so that members of the public may attend and participate

Under Bagley–Keene, a state body, such as the board, is required to provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body’s discussion or consideration of the item. While ensuring the broad public right to be heard at public meetings, Bagley–Keene implicitly recognizes the need for efficiency in the conduct of the people’s business through limitations on public comment. Bagley — Keene authorizes a state body to adopt “reasonable regulations” to carry out the intent of the public comment. Specifically, subdivision (b) of Government Code section 11125.7 allows a state body to adopt reasonable regulations, including a limitation on the total amount of time allocated for public comment on particular issues and for each individual speaker.

The proposed public comment regulations are expected to enhance meeting effectiveness and efficiency by establishing a public comment framework, while still allowing the board and its committees to complete the public’s business. The proposed framework also increases fair and equal access to as many members of the public who wish to participate, which in turn increases transparency and openness in conducting the public’s business and furthers the intent of the public comment protections.

No other nonmonetary benefits, such as the protection of public health and safety, worker safety or the environment; the prevention of discrimination; the promotion of fairness or social equity; or an increase in transparency in business and government are anticipated.

The regulations proposed in this rulemaking action make specific the Government Code as it relates to public comments during board and committee meetings. CalSTRS evaluated whether the proposed regulations were inconsistent or incompatible with existing state regulations and found that there are no overlapping provisions with other state regulations. Thus, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

CalSTRS has made the following initial determinations, as required by the California Administrative Procedure Act and Office of Administrative Law regulations:

1. Mandate on local agencies and school districts:
None. The proposed regulations do not place a mandate on local agencies or school districts. CalSTRS has determined that the regulations proposed do not constitute a mandate on school districts or other local agencies. The proposed regulations put into place a framework for the board to receive comments from members of the public.
2. Cost or savings to any state agency:
None. The proposed regulations make modest changes to existing practices, so there would be no substantive changes in practices that would result in additional costs or savings.
3. Cost to any local agency or school district which must be reimbursed in accordance with California Government Code sections 17500 through 17630:
None. The proposed regulations do not place a mandate on local agencies or school districts, and there would be no costs incurred by these entities.
4. Other nondiscretionary cost or savings imposed on local agencies:
None. There are no requirements imposed on local agencies, and therefore, there are no other nondiscretionary costs or savings.
5. Cost or savings in federal funding to the state:
None. These regulations do not relate to any federal program.
6. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:
None. The proposed regulations do not affect businesses.
7. Cost impacts on a representative private person or business:
The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. Results of the economic impact assessment/analysis:
These regulations are not anticipated to have any direct, indirect or induced effect on California businesses. Specifically:
 - The action will not have any effect on the creation or elimination of jobs within the state.
 - The action will not affect the creation of new businesses or the elimination of existing businesses within the state.

- The action will not affect the expansion of businesses currently doing business within the state.
- The action will have no effect on worker safety and the state’s environment.

The proposed action will clarify the process by which members of the public may provide public comments to the board during board and committee meetings. Additionally, the proposed action will increase fair and equal access to as many members of the public who wish to participate, which in turn increases transparency and openness in conducting the public’s business and furthers the intent of the public comment protections. As a result, the regulatory action will indirectly affect the health and welfare of California residents.

As stated in the Informative Digest/Policy Statement Overview, the proposed regulations achieve the board’s objective of enhancing board meeting effectiveness and efficiency by, among other things, establishing a public comment framework.

9. Significant effect on housing costs:
None. The proposed regulations do not relate directly or indirectly to housing costs.
10. Small business determination:
The board has determined that the proposed regulations do not affect small business because the changes are clarifying in nature to improve board meeting effectiveness and efficiency, and to establish a public comment framework.

CONSIDERATION OF ALTERNATIVES

In accordance with paragraph (13) of subdivision (a) of Government Code section 11346.5, CalSTRS and the board must determine that no reasonable alternative considered or otherwise identified and brought to its attention would be:

- More effective in carrying out the purpose for which the action is proposed,
- As effective and less burdensome to affected private persons than the proposed action, or
- More cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CalSTRS and the board invite interested persons to present any statements or arguments that would support alternatives to the proposed regulations in the form of written comments or by providing testimony at the public hearing.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

Sal Sanchez
Governmental Relations
California State Teachers’ Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
Telephone: (916) 414-1994
E-Mail: Regulations@CalSTRS.com

The backup contact person for these inquiries is:

John Maradik-Symkowick
Governmental Relations
California State Teachers’ Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
Telephone: (916) 414-1994
E-Mail: Regulations@CalSTRS.com

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to CalSTRS using the contact information listed above.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The rulemaking file is available for public inspection and copying throughout the rulemaking process at CalSTRS headquarters, located at 100 Waterfront Place, West Sacramento, CA, 95605. As of the date this notice is published in the California Notice Register, the rule-making file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement (STD 399).

Copies of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement are available at no charge by contacting CalSTRS using the contact information listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this notice or may, on its own motion or at the recommendation of any interested person, modify the proposed regulations.

If the board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) avail-

able to the public for at least 15 days before adopting the regulations as revised. The board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please refer to www.CalSTRS.com/regulations or contact CalSTRS using the contact information listed above for copies of modifications, if any.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, CalSTRS will have the Final Statement of Reasons available for public inspection and copying at its headquarters, located at 100 Waterfront Place, West Sacramento, CA, 95605. Upon filing of the amended regulations with the Secretary of State, the Final Statement of Reasons will also be available temporarily on the CalSTRS website at www.CalSTRS.com/approved-regulations.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the proposed regulations are posted on the CalSTRS website at www.CalSTRS.com/regulations.

TITLE 8. DIVISION OF LABOR STANDARDS ENFORCEMENT

**Subject Matter of Regulations:
Public List of Certain Port Drayage Motor Carriers and Customer Sharing of Liability Under Labor Code Section 2810.4
New Sections 13875–13888**

NOTICE IS HEREBY GIVEN that the Labor Commissioner, Chief of the Division of Labor Standards Enforcement, Department of Industrial Relations, pursuant to the authority vested in her by Labor Code section 2810.4(k), proposes to adopt sections 13875 through 13888 in proposed Subchapter 15 of existing Chapter 6, of Division 1, of Title 8, California Code of Regulations, relating to the Public List of Certain Port Drayage Motor Carriers and Customer Sharing of Liability Under Labor Code Section 2810.4.

PROPOSED REGULATORY ACTION

The Labor Commissioner proposes to adopt regulations under new Subchapter 15 of Chapter 6 of Division 1 consisting of the following:

- Article 1. Definitions Used in Subchapter Section 13875. Definitions
- Article 2. Compilation and Maintenance of Public List of Port Drayage Motor Carriers
 - Section 13876. Sources of Information for Internet Website Posting
 - Section 13877. Notice to Port Drayage Motor Carriers
 - Section 13878. Response to Notice
 - Section 13879. Labor Commissioner Disposition of Responses Timely Received
 - Section 13880. Labor Commissioner Disposition Where No Timely Response or No Response Received
 - Section 13881. Removal from Public List
 - Section 13822. Notice to Port Drayage Motor Carrier Successors
- Article 3. Hearing Procedures, Judicial Review
 - Section 13883. Hearing Regarding Determination of Port Drayage Motor Carrier Successor
 - Section 13884. Rights of Parties at Hearing; Taking of Evidence; Rules of Procedure
 - Section 13885. Conduct of Hearing; Rules of Evidence; Role of Hearing Officer
 - Section 13886. Hearing Officer Decision
 - Section 13887. Judicial Review
- Article 4. Enforcement
 - Section 13888. Determining Customer Liability

TIME AND PLACE OF PUBLIC HEARING

The Labor Commissioner’s Office has not scheduled a public hearing on this proposed action. However, the Labor Commissioner’s Office will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period. A written request for a hearing must be sent to the same email address or mailing address listed below for the Contact Person for nonsubstantive inquiries.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Labor Standards Enforcement. **The written comment period closes at midnight on**

May 5, 2020. The Labor Commissioner will consider only comments received at the Division by that time. Equal weight will be accorded to comments presented at the hearing and to other written comments received by midnight on that date by the Division.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Jennifer Stevens, Legislative Analyst and
Regulations Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal
Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825

Written comments may also be sent electronically (via e-mail) using the following e-mail address: DLSERegulations@dir.ca.gov. Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (916) 263-2920.

AUTHORITY AND REFERENCE

Labor Code section 2810.4(k) authorizes the Labor Commissioner, Chief of the Division of Labor Standards Enforcement (also known as the Labor Commissioner's Office) to adopt regulations as necessary to administer and enforce the provisions of Labor Code section 2810.4 that are within the Labor Commissioner's jurisdiction. The proposed regulations implement, interpret, and make specific provisions of Labor Code section 2810.4 that pertain to the Internet website posting and shared customer liability requirements of the law.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

In 2017, USA Today published an investigative series "Rigged," which documented labor violations experienced by drivers in the port trucking industry and the fact that more than \$40 million in unpaid wage judgments remained outstanding while customers continued to hire such companies or their successors to haul goods.¹ In September 2018, Senate Bill ("SB") 1402, introduced by Senator Lara, was enacted to bring about greater accountability in the port trucking industry by requiring the Labor Commissioner to create a public list of trucking companies with outstanding judgments and

¹ Brett Murphy, *Rigged* (USA Today June 16, 2017; June 29, 2017; Oct. 26, 2017; and Dec. 28, 2017).

imposing shared liability on customers that continue to use these companies if there are future labor violations.² This law, codified at Labor Code section 2810.4, went into effect on January 1, 2019. (SB 1402, Chapter 702, Statutes of 2018.)

The Labor Commissioner has maintained a public list of port trucking companies with outstanding judgments on its website since the law went into effect.³ This rule-making action further implements and clarifies the procedures used to compile the public list and to be removed from the public list, the procedures for contesting the Labor Commissioner's determinations, and the manner in which customer liability will be enforced. The relevant provisions of the existing law are described below.

Existing law defines a "port drayage motor carrier" in part as an individual or entity that hires or engages commercial drivers in the port drayage industry, and it includes entities or individuals who succeed in the interest and operation of a port drayage motor carrier consistent with the successorship provisions of Labor Code section 2684.

Existing law defines a "commercial driver" as a person who "holds a valid commercial driver's license who is hired or contracted to provide port drayage services either as an independent contractor or an employee driver."

Existing law defines "port drayage services" as "the movement within California of cargo or intermodal equipment by a commercial motor vehicle whose point-to-point movement has either its origin or destination at a port, including any interchange of power units, chassis, or intermodal containers, or the switching of port drayage drivers that occurs during the movement of that freight."

Existing law requires the Labor Commissioner to post on its website the names, addresses, and essential information for any port drayage motor carrier with any unsatisfied final court judgment, tax assessment, or tax lien that may be released to the public under federal and state disclosure laws. This includes any order, decision, or award obtained by a public or private person or entity pursuant to Labor Code section 98.1 finding that a port drayage motor carrier engaged in illegal conduct including failure to pay wages, imposing unlawful expenses on employees, failure to remit payroll taxes, failure to provide workers' compensation insurance, or misclassification of employees as independent contractors with regard to a port drayage commercial driver.

² Brett Murphy, *California lawmakers pass bill to try to end trucker labor abuse by putting onus on stores* (USA Today Sept. 5, 2018).

³ See https://www.dir.ca.gov/DLSE/List_Port_Trucking_Companies_Outstanding_Judgments.html.

Existing law requires that at least 15 business days prior to posting on its website the names, addresses, and essential information for any port drayage motor carrier, the Labor Commissioner’s Office must notify the port drayage motor carrier by certified mail regarding the alleged conduct and must provide the name, email address, and telephone number of a contact person at the Labor Commissioner’s Office, a copy of the unsatisfied court judgment, assessment, order, decision or award, and a copy of the regulations or rules of practice or procedure for removal of the posting.

Existing law requires that a website posting must be removed within 15 business days after the Labor Commissioner determines there has been full payment of the unsatisfied judgment or that the port drayage motor carrier has entered into an approved settlement dispensing of the judgment.

Existing law requires the Labor Commissioner’s Office to update the Internet website monthly by the fifth day of each month.

Existing law establishes that a “customer” (specifically defined with exemptions) that engages or uses a port drayage motor carrier that is on the list will be jointly and severally liable with the motor carrier, or the motor carrier’s successor, for all civil legal responsibility and civil liability owed to a port truck driver. A customer’s shared liability will be for services a customer obtained after the date the motor carrier appeared on the list, and includes liability with the motor carrier for the full amount of unpaid wages, unreimbursed expenses, damages and penalties, including applicable interest.

Existing law provides that a customer shall be jointly and severally liable from the time the driver is dispatched to begin work on behalf of the customer until all tasks are completed incidental to that work.

Existing law authorizes the Labor Commissioner to adopt regulations and rules of practice and procedure necessary to administer and enforce the Internet website posting and shared customer liability requirements of the law. These proposed regulations implement, interpret, and make specific these statutory provisions that are within the Labor Commissioner’s jurisdiction under Labor Code section 2810.4. First, the regulations provide definitions that further interpret the law. Additionally, the proposed regulations set forth standards for compiling the public list, notifying motor carriers that they have been identified for inclusion on the list, providing a means for motor carriers to respond to the notice and contest their inclusion on the list should they wish to do so (using incorporated form WCA 128 PORT Proof of Payment or Settlement 12/2019), and providing information about how to be removed from the list. The proposed regulations also provide standards for determining whether a motor carrier’s successor should be included on the public list, for notifying such a suc-

cessor, and for allowing the purported successor to request a hearing should they wish to contest the Labor Commissioner’s determination. Finally, the regulations standardize how customer liability will be determined by further clarifying the statutory terms regarding such liability.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulations are intended to establish standards for creating and maintaining the public list mandated by SB 1402, including formal implementation of notice procedures the Labor Commissioner is required to carry out. Further, the proposed regulations are intended to provide clarity regarding enforcement of customers’ joint and several liability under the law.

The primary benefit of the regulatory proposal is that it will incentivize and facilitate payment of unpaid wages, damages, and penalties due to workers and the state. In order to avoid losing business with customers who are concerned about having joint and several liability for future violations, motor carriers with outstanding judgments will pay off these outstanding debts. As a result, port truck drivers who have obtained judgments for unpaid wages and unreimbursed expenses but never actually received their back wages will finally receive what is owed to them, allowing them to support their families and their communities. The Labor Commissioner’s Office had awarded in excess of \$45 million in unlawful deductions from wages and out-of-pocket expenses to more than 400 drivers at the time this law went into effect, but drivers had actually received little of those awards due to nonpayment by the motor carriers. The potential benefit to workers is therefore millions of dollars in wages owed. Since the law went into effect on January 1, 2019, approximately \$1.2 million has been paid, and adoption of the regulatory proposal will further encourage payment of unpaid wages to drivers.

In addition to the enormous benefits to the welfare of workers, the state (and all taxpayers) will benefit by receiving overdue tax payments from port trucking companies that have outstanding tax assessments and tax liens. Further, port trucking companies will be aided by clear rules regarding how motor carriers are placed on the list and how they can be removed from the list. Finally, customers who do business with port trucking companies will benefit from the transparency of the list on the Labor Commissioner’s website, so that they can avoid potentially being held jointly and severally liable for future wage violations incurred by a port trucking company that appears on the list. Thus, the regulatory action furthers the mission of the Labor Commissioner’s Office, which is to ensure a just day’s pay to every

worker and promote economic justice. In addition, the proposed regulation increases transparency in business and government by setting forth rules for compiling and maintaining the list and for customers to avoid liability. Finally, the proposed action indirectly prevents discrimination, and promotes fairness and social equity.

DETERMINATION OF INCONSISTENCY
AND/OR INCOMPATIBILITY WITH EXISTING
STATE REGULATIONS

The Labor Commissioner has determined that these proposed regulations are not inconsistent or incompatible with existing state statutes or other regulations. After conducting a review for any regulations that would relate to or affect this area, the Labor Commissioner has concluded that these regulations are not inconsistent with proposed regulations that pertain to enforcement of shared liability between labor contractors and client employers under Labor Code section 2810.3.

DISCLOSURES REGARDING THE PROPOSED
REGULATORY ACTION

The Labor Commissioner has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

Direct cost impacts on housing: None.

Cost impacts on a representative private person or business: The Labor Commissioner's Office estimates a cost of \$206.20 for a representative business affected by this proposal.

Effect on small business: The Labor Commissioner's Office estimates a cost of \$206.20 for a small business affected by this proposal.

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

Summary Results of the Economic Impact Analysis/
Assessment

The Labor Commissioner's Office concludes that it is (1) unlikely that the proposal will create any jobs within the State of California; (2) unlikely that the proposal will eliminate any jobs within the State of California; (3) unlikely that the proposal will create any new busi-

nesses within the State of California; (4) unlikely that the proposal will eliminate any existing businesses within the State of California; (5) unlikely that the proposal would cause the expansion of businesses currently doing business within the State of California; and (6) likely that the proposal will provide clarity to businesses that face statutory shared liability under Labor Code section 2810.4. Accordingly, the Labor Commissioner has determined that the proposed regulatory action will not have a significant impact on business.

Benefits of the Proposed Action: By incentivizing payment of unpaid wages to port truck drivers and settlement of tax debts owed to the state, the proposed regulation will benefit California residents. The regulatory action furthers the mission of the Labor Commissioner's Office, which is to ensure a just day's pay to every worker and promote economic justice. In addition, the proposed regulation increases transparency in business and government by setting forth clear procedures for the public listing and removal from the list, and for avoiding customer liability. Finally, the proposed action indirectly prevents discrimination, and promotes fairness and social equity.

CONSIDERATION OF ALTERNATIVES

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

The Labor Commissioner has initially determined that no alternatives would be more effective in carrying out the purpose that underlies the proposed regulatory action, or would be at least as effective or less burdensome on the regulated public (port trucking companies and the customers who use them to haul freight).

The Labor Commissioner invites interested persons to present reasonable alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF
PROPOSED REGULATIONS

Prior to proposing to adopt these regulations, as part of the legislative process, the regulated community expressed a need for the Labor Commissioner to issue regulations establishing standards for inclusion on and removal from the public website list.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, an incorporated form (WCA 128 PORT Proof of Payment or Settlement), and the Economic and Fiscal Impact Statement (Form STD 399).

In addition, the Notice, Initial Statement of Reasons, proposed text of regulations, and form may be accessed and downloaded from the Department of Industrial Relations' website at <https://www.dir.ca.gov/Rulemaking/DIRProposed.html>. To access them, please scroll to Division of Labor Standards Enforcement (DLSE), and click on the link for Public List of Certain Port Drayage Motor Carriers and Customer Sharing of Liability Under Labor Code Section 2810.4.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Division of Labor Standards Enforcement, 2031 Howe Avenue, Suite 100, Sacramento, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday, unless the state office is closed for a state holiday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Jennifer Stevens, Legislative Analyst and Regulations Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825
E-mail: jstevens@dir.ca.gov

The telephone number of the contact person is (916) 263-1563.

CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact person:

Patricia Salazar, Staff Attorney
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal Unit
320 W. 4th Street, Suite 600, Los Angeles, CA 90013-2350
E-mail: psalazar@dir.ca.gov

The telephone number of the backup contact person is (213) 897-1511.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Labor Commissioner makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

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 contact person named in this notice or may be accessed on the Department of Industrial Relations' website at www.dir.ca.gov/Rulemaking/DIRProposed.html.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, proposed text of regulations, and the incorporated

form will automatically be sent to those interested persons on the DLSE's mailing list.

If adopted, the regulations as amended will appear in Title 8, California Code of Regulations, commencing with section 13875. The text of the final regulations will also be available through the website of the Office of Administrative Law at www.oal.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 California 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 BY MAY 4, 2020

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Steven.Harding@post.ca.gov, or by letter to:

Commission on POST
Attention: Steve Harding
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested 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

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer

but are enrolled in a training academy for law enforcement officers. This proposed action will update the incorporated by reference document, Training and Testing Specifications for Peace Officer Basic Courses (revised 10/1/2020), to include removal of the learning activity (VI.A.) in Learning Domain 19 (Vehicle Operations). Additionally, the incorporation by reference statements in POST Regulations sections 1005, 1007, and 1008 will be revised to reflect the updated revised date for the Training and Testing Specifications for Peace Officer Basic Courses.

The benefit anticipated by the proposed amendments to the regulations will be to update the training specifications for Peace Officer Basic Courses, which will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

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

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter experts who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test the updated curriculum. The proposed effective date is October 1, 2020.

DOCUMENT INCORPORATED BY REFERENCE

Training and Testing Specifications for Peace Officer Basic Courses, revised 10/1/2020.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission 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. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will

accept written comments on the modified text for 15 days after the date that the revised text is made available.

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: None.

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 requires 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 businesses, including the ability of California businesses to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission 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 Peace Officer Standards and Training 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: The Commission on Peace Officer Standards and Training 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 regulations will increase the efficiency of

the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Steve Harding, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-2816. 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 at 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 approved, submit a written request to the contact person(s) named above.

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

**“Fuel Hazard Reduction Amendments, 2020”
(Permanent Rulemaking)
Division 1.5, Chapter 4
Subchapters 4, 5, and 6, Article 3;
Subchapter 7, Article 2
Amend: §§ 913, 933, 953, 1052, and 1052.4**

NATURE OF PROCEEDING

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

PUBLIC HEARING

The Board will hold a public hearing on May 7, 2020, at its regularly scheduled meeting commencing at 9:00 a.m., at the Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends on May 7, 2020 at the conclusion of the public hearing.

The Board will consider comments received at the Board office by that time and those comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

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

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

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

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

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

AUTHORITY AND REFERENCE

(pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14)

Authority cited: Sections 4551, 4551.5, 4552, 4553, 4561 and 4592 Public Resources Code. Reference: Sections 4513, 4528, 4551.5, 4561, 4562, 4584, 4592, 21001(f) and 21080(b)(4) Public Resources Code

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

(pursuant to GOV § 11346.5(a)(3)(A)-(D))

Pursuant to the Z’berg-Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. the Board is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

Pursuant to PRC § 4551.5, the rules and regulations that the Board is authorized to adopt include measures for fire prevention and control and for prevention and control of damage by forest insects, pests, and disease.

Additionally, pursuant to PRC § 4592, the Board is required to define emergencies by which a Registered Professional Forester “. . . may in an emergency, on behalf of a timber owner or operator, file an “emergency notice” with the department that shall allow immediate commencement of timber operations.”

Furthermore, pursuant to PRC § 4528(d), “site classification” is defined as a “. . . classification of productive potential of timberland into one of five classes by board regulation, consistent with normally accepted forestry practices.”

Pursuant to this statutory authority, the Board amended 14 CCR §§ 913, 933, 953, 1052 and 1052.4, in accordance with the provisions of these statutes.

The history of the development of this regulation is related to an existing regulatory emergency as follows:

- The Board adopted an emergency regulation (OAL Matter No. 2019–0207–02E) related to the emergency reduction of hazardous fuel conditions at their regular meeting scheduled on July 18, 2019.
- Though this emergency regulation was set to expire on February 11, 2020, the emergency condition was still ongoing and the Board had not yet completed regular rulemaking, though substantial progress towards regular rulemaking had been achieved, and the emergency regulation was re-adopted at the December 11, 2019 Board meeting. The re-adopted emergency (OAL Matter 2019–0123–03EE) became effective February 10, 2020 and will expire on May 12, 2020 without the filing of a certificate of compliance.

Wildfire Hazard

Wildfires have influenced California’s landscape as a natural process for millennia, with their frequency, intensity, and seasonal timing being major factors in determining not only floristic composition, but also general land use, throughout the state. Anthropogenic activity, including fire suppression without active forest management, as well as increases in human-caused wildfires, over the last several centuries has resulted in alterations to the natural fire regime, which has resulted in substantial ecosystem stress, particularly in forest and shrub-dominated habitats. Due to fire suppression, the Sierra Nevada and northwestern California have experienced less frequent fires than have historically occurred, causing a buildup of forest fuels, and southern California is experiencing larger and more frequent fires than under historic conditions. Additionally, fire suppression in forested areas has resulted in dense forest stands and has caused a build-up of fuels resulting in higher-than-natural intensity and heat of wildfires, which can destroy otherwise fire-adapted plants and damage soil structure. Furthermore, the recent and prolonged periods of drought throughout the state have resulted in forests which are more prone to fire due to tree mortality from both drought and pests, and are more vulnerable due to fires from the buildup of fuels resulting from these environmental and anthropogenic conditions.

In addition to changing forest conditions, increasing development in the Wildland–Urban Interface (WUI) continues to put more people, homes, and infrastructure in harm’s way from wildland fire. The most recent assessment of California’s WUI shows that as of 2010,

there were about 3 million housing units in Fire Hazard Severity Zones (FHSZ) that are potentially at risk from wildland fire. A large proportion of the houses within FHSZs are in the southern portion of the state. The top five counties for FHSZ housing units, all in southern California, contain about half of all statewide housing units in FHSZ. However, this is a statewide problem, with 37 counties having at least 10,000 housing units in FHSZ. Furthermore, since the frequency of extreme weather events is projected to increase, urban areas both immediately adjacent to and near wildlands will be at risk. The 2017 October Fire Siege clearly showed that the damage from wildland fires can occur in areas previously thought to be at low risk. Recent wildland fires also have demonstrated that post-fire mudslide events can cause substantial loss of life and damage to property and natural resources.

The aggregation of these changing forest conditions and human demographics has resulted in increases in the number of wildfire ignitions, areas burned, and impacts to ecosystems. The number of ignitions has been increasing since 2007, the average acreage burned has doubled since the 1960’s, and forests represent approximately one-third of the 700,000 acres which burn annually. Additionally, the increasing prevalence of very large fires (>100,000 acres) across the West, as well as large scale tree mortality events, has led many experts to posit that the US has entered an era of “mega-fires” or “mega-disturbances.” During this decade, although the number of annual fires has decreased compared to the 2000s, the average fire size has increased from approximately 11,000 acres to 15,000 acres. Fifteen of the twenty largest wildland fires of the modern era have occurred since 2000, and ten of the most destructive have occurred since 2015 including the 2018 Mendocino Complex, which burned almost 460,000 acres. Five of the 20 deadliest fires in California’s history have occurred within the last two years alone (2017 and 2018). The California Department of Insurance identified that insured losses from 2017 and 2018 wildfires and 2018 mudslides totaled over 13.8 billion dollars. This trend of increasingly large, destructive, and costly wildfires is likely to continue unless immediate action is taken.

Finally, the issue of wildfire throughout the state has been one of the main goals of current executive direction. Early in his administration Governor Newsom created a Strike Force which was directed to develop a comprehensive roadmap to address the issues of wildfires, among other issues. Within the Strike Force’s April 2019 report to the Governor, the Strike Force recommended that “[t]he Board of Forestry and Fire Protection should consider changes in regulations, through an emergency rule-making process as needed, to encourage private landowners to engage in fuel reduction projects.”

The fundamental problem is that hazardous fuel conditions exist throughout the state which may require immediate and emergency treatment in order to abate an existing threat of wildfire and the regulatory permitting mechanism which exists to facilitate these operations is not sufficient in order to address these hazardous conditions.

The purpose of the proposed action is to: 1) clarify the scope of lands which may be subject to timber operations pursuant to an Emergency Notice for Fuel Hazard Reduction; 2) to improve the efficacy and suitability of fuel treatments within the Emergency Notice for Fuel Hazard Reduction; 3) to improve immediate wildfire resiliency in post-harvest stands; and 4) to standardize and simplify, to some extent, the conditional requirements of the existing process in order to promote the use of this regulatory process in order to encourage the treatment of hazardous fuel conditions throughout the state and to improve the pace and scale of fuel treatments.

Additionally, the proposed action will clarify that, on lands subject to timber operations pursuant to 14 CCR § 1052.4, those lands are to be considered site IV timberland for stocking purposes pursuant to 14 CCR §§ 912.7, 932.7, and 952.7 immediately following operations in order to achieve the stated goals of hazardous fuel reduction and efficacy of treatment. The proposed action will also clarify the mechanism by which this

The effect of the proposed action is to increase the utilization of the regulatory permitting process of the Emergency Notice for Fuel Hazard Reduction of 14 CCR § 1052.4 in order to address the hazardous conditions across forested lands throughout the state, as well as to improve the efficacy of vegetative treatments in addressing the existing problem of hazardous fuel conditions within this process.

The primary benefit of the proposed action is the reduction in risk to life, property and the environment posed by destructive wildfires through the strategic treatment of hazardous fuel conditions.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to timber operations intended to reduce hazardous fuels and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the pro-

posed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statute to which the proposed action was compared: §§ 4584, 4584.1, 4584.2, and 4592 Public Resources Code.

MANDATED BY FEDERAL LAW OR REGULATIONS

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

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

There are no comparable Federal regulations related to emergency timber operations to reduce hazardous fuels. No existing Federal regulations meeting the same purpose as the proposed action were identified.

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

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

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

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

FISCAL IMPACT (pursuant to GOV § 11346.5(a)(6))

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

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

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

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

The proposed action will not result in costs to any State agency. The proposed action represents a continuation of existing forest practice regulations related to emergency reduction of hazardous fuels from the Forest

Practice Act and allows for improved efficacy of fuel treatments and increased utilization by the regulated public, but does not create additional burden on any state agency.

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

HOUSING COSTS
(pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

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

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

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

The fiscal and economic impact analysis for these Exemption Amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience practicing forestry in California that the Board brings to bear on regulatory development.

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

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

- Will not create jobs within California (GOV § 11346.3(b)(1)(A));

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

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

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

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

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS
(defined in GOV § 11342.610)

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

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

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

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

ALTERNATIVES INFORMATION

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it

considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSON

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

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

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

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

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications

which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

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

INTERNET ACCESS

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

TITLE 19. OFFICE OF THE STATE FIRE MARSHAL

PUBLIC SAFETY DIVISION 1. STATE FIRE MARSHAL CHAPTER 1.5. CONSTRUCTION MATERIALS AND EQUIPMENT LISTINGS ARTICLE 7. FEES

FEE STRUCTURE FOR CONSTRUCTION MATERIALS AND EQUIPMENT LISTINGS

NOTICE IS HEREBY GIVEN pursuant to Government Code, §11346.6, that the California Department of Forestry and Fire Protection — Office of the State Fire Marshal (“OSFM”) or (“SFM”) proposes to take the regulatory action described below in the Informative Digest implementing Title 19, Division 1, Chapter 1.5, Article 7 of the California Code of Regulations (CCR), related to adoption of a new fee structure for construction materials and equipment listings, after considering public comments, objections, or recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person or his/her authorized representative, may submit written comments relevant to the proposed regulatory action. Written comments will be accepted for 45 days beginning **March 20, 2020** and ending **May 4, 2020**. The written comment period closes at **12:00 a.m. Pacific Daylight Time (PDT) on May 5, 2020**. All written comments received by that time and date will be considered and responded to as part of the compilation of the rulemaking file and are subject to disclosure under the Public Records Act (Gov. Code § 6250, et seq.). Written comments should be directed to:

- **Email:** diane.arend@fire.ca.gov (include in the subject line of the email “Comments: BML Fees”).
- **Mail to:**
CAL FIRE / Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244–2460
Attn: Diane Arend, Code Development & Analysis
- **Hand delivered between 8:00 a.m. and 5:00 p.m. (PDT) to:**
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Fourth Floor
Sacramento, California 95815
Attn: Diane Arend, Code Development & Analysis

Pursuant to Government Code §11346.9, the SFM shall respond to comments submitted during the comment period containing objections and/or recommendations specifically directed at the SFM’s proposed action or to the procedures followed by the agency in proposing or adopting the action.

PUBLIC HEARING

The SFM has not scheduled a public hearing on this proposed action. However, the SFM will hold a public hearing to accept comments if a written request is received from any interested person or his/her authorized representative, no later than 15 days before the close of the 45–day written comment period, pursuant to Government Code Section 11346.8. Submit requests to the contact person indicated below.

STATUTORY AUTHORITY

The proposed action will adopt regulations to reflect legislative requirements found in Government Code, § 11346.6.

AUTHORITY AND REFERENCE

Health and Safety Code (HSC) § 13114(b) authorizes the SFM to adopt the proposed regulation.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The regulations proposed in this rulemaking action implements, interprets, clarifies and/or makes specific Health and Safety Code §13114(b) by making the following changes:

Specifically, this action proposes a fee increase for listing fire alarm systems, fire alarm devices, building materials and equipment. This rulemaking action proposes the amendment of Sections 206 (d), and 216 (a), (b), (c), (d), (e) and (f) in Chapter 1.5, Article 7 of Title 19, CCR.

Summary of Existing Laws:

Current law in HSC § 13114(b) requires that all fire alarm equipment and devices be approved and listed by the SFM prior to being sold, marketed, distributed or offered to sale within the state. HSC § 13137 authorized the SFM to charge fees that will not exceed the actual cost of administration of the program.

Summary of Existing Regulations

Existing regulations in CCR, Title 19, Division 1, Chapter 1.5, Article 7 require a fee for listing a fire alarm system or device, building material or equipment. Pursuant to HSC § 13137, the SFM is proposing a fee increase. In 2016–17, the SFM initiated the process of fully assessing workload, analyzing business processes, and updating regulations and fees to create a fee structure that is commensurate with supporting each of the programs’ current operations. Throughout this process, it was identified the revenues generated by each of the Licensing and Certification (L&C) programs needed to be updated to support current and future program costs. Furthermore, additional positions need to be added to reflect current workload demands to ensure full enforcement of HSC § 13137, and L&C expenditures needed to be re–baselined.

Summary of Effect

The proposed regulations will have financial impact to manufacturers who have products that require listing or voluntarily desire to be listed by the SFM.

Comparable Federal Regulations or Statute:

The proposed action does not duplicate or conflict with any federal regulations or statutes. No comparable federal regulations or statutes exist.

Objective and Anticipated Benefits of the Proposed Regulations

The broad objective of the changes proposed in this rulemaking action is intended to ensure that the SFM

has sufficient funding for its operational expenses to carry out the purposes and intent of HSC §13137. Additionally, this regulatory proposal provides a direct benefit to the protection of public health and safety of Californians by providing the building materials industry, fire alarm manufacturers and contractors, building materials manufacturers, building contractors, engineers, architects, state and local fire authorities reliable and efficient products through SFM approved and listed materials, devices and equipment. The regulations also protect California citizens by ensuring that design applications meet minimum State building codes and standards and reduce the risk of future loss of life due to fires.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The SFM has evaluated the proposed regulations and found that they are not inconsistent or incompatible with existing state and federal regulations.

FORMS AND DOCUMENTS
INCORPORATED BY REFERENCE

The following forms are incorporated by reference in the text of the proposed regulations: The application form is used to record the information required for listing a fire alarm system or device, building material or equipment with the Building Materials Listing Program:

1. Application for Listing Service (Rev. 10–2019)

It would be cumbersome, unduly expensive or otherwise impractical to publish this document in the California Code of Regulations. The documents are made available from the agency, or are reasonably available to the affected public from a commonly known or specified source: Office of the State Fire Marshal website: <https://osfm.fire.ca.gov>.

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

There are no other matters prescribed by statute applicable to the SFM, or to any specific regulation. There are no other matters to identify.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The SFM has made the following initial determinations concerning the adoption of the proposed regulations:

1. Mandates on local agencies and school districts: **None.**
2. Costs or savings to any state agency: **None.**
3. Cost to any local agency or school district that must be reimbursed in accordance with Government Code § 17500 through § 17630: **None.**
4. Other nondiscretionary cost or saving imposed on local agencies: **None.**
5. Costs or savings in federal funding to the State of California: **None.**
6. Significant effect on housing costs: **None.**
7. **Significant Statewide Adverse Economic Impacts Directly Affecting Businesses and Individuals:** Although the proposed action may have an impact on businesses statewide that list fire alarm systems, fire alarm devices or building materials or equipment, the SFM concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.

DECLARATION OF EVIDENCE

The SFM has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact.

COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS

There are no significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Costs are towards manufacturers whose products are mandated to be listed prior to sale and marketing in California. The costs for non-mandated listings are equal. It should be noted, the proposed rulemaking does not require participation for listing *non-fire alarm* equipment and devices, and building materials; and participation for listing these products is voluntary.

SMALL BUSINESS DETERMINATION

The SFM has made the initial determination that the proposed regulations may have an effect on small business that list fire alarm systems, fire alarm devices, building materials or equipment products. The impact will likely be to incur an additional expense to make certain products meet minimum building codes and standards for listing, however the nature of the effect on operations will not cause the business to incur any significant expense or have any major impact to small business. The SFM has not identified any alternatives that would lessen any adverse impact, if any, on small businesses.

BUSINESS REPORT

The proposed regulations do not create any reporting requirements.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The SFM concludes that the adoption of these regulations *will not*:

- a) create or eliminate jobs within California;
- b) create new businesses or eliminate existing businesses within California; or
- c) effect the expansion of businesses currently doing business within California.

Benefits to Health and Welfare, Worker Safety, and the Environment.

- d) The State Fire Marshal has assessed that this regulatory proposal *will* benefit the public health and welfare of California residents, worker safety, and the environment by ensuring consistency throughout the State with approved and listed equipment and devices and reduce the risk of loss of life and property from fire throughout the state. The proposed regulations will have a positive impact on the ability of the SFM to carry out its listing functions to ensure that fire alarm equipment, fire alarm devices and fire safety building materials are properly tested and approved and in compliance with minimum building codes and standards.

CONSIDERATION OF ALTERNATIVES

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

The SFM considered reasonable alternatives to the proposed action and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons and small businesses than the proposed action. This conclusion is based on the SFM’s determination that the proposed action is necessary to implement leg-

islative enactments expanding the SFM’s regulatory authority.

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

CONTACT PERSONS

Inquiries or specific questions regarding the proposed rulemaking action may be directed to:

General inquiries:

Diane Arend, Regulations Coordinator
 CAL FIRE/Office of the State Fire Marshal
 2251 Harvard Street, Suite 400
 Sacramento, CA 95815
diane.arend@fire.ca.gov
 Phone: (916) 568-2917

For substantive or technical questions:

David Castillo
 CAL FIRE/Office of the State Fire Marshal
 2251 Harvard Street, Suite 400
 Sacramento, CA 95815
 Email: david.castillo@fire.ca.gov
 Phone: (916) 568-2939

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

The SFM will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above Sacramento Harvard Street address. As of the date of this notice being published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and supporting information. Copies may be obtained through the contact persons at the address and/or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding a public hearing, if requested, and considering all timely and relevant comments received, the SFM may adopt the proposed regulations substantially as described in this notice. If the SFM 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 SFM adopts the regulations as

revised. Requests for copies of any modified regulations should be directed to the contact person at the address listed above. The SFM will accept written comments on the modified regulations for 15 days after the date on which the modifications 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 Diane Arend at the above address and telephone number or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of the Proposed Rulemaking (“NOPA”), the initial statement of reasons (“ISOR”), the text of the proposed regulations (“ET”) and any other materials or documents concerning this rulemaking can be accessed through the Office of the State Fire Marshal’s web address at: <http://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>.

PLAIN ENGLISH DETERMINATION

The proposed Regulations were prepared pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code § 11342.580 and §11346.2(a)(1). The proposed regulations were written to be easily understood by the parties that will use them.

TITLE 22. DEPARTMENT OF AGING

**Posting of Notice § 8010
Facility Entry § 8020
Interference with Actions of Office § 8040**

NOTICE IS HEREBY GIVEN that the California Department of Aging (Department) is proposing to take the action described in the Informative Digest. Any person may present statements or arguments relevant to the proposed action in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Department at its office by 5:00 p.m. on May 5, 2020.

The Department has not scheduled a public hearing on this proposed action. The Department will, however, hold a hearing if it receives a written request for a hear-

ing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period.

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

Authority and Reference: Pursuant to the authority vested by sections 9102, 9105 and 9745 of the Welfare and Institutions Code (WIC), and to implement, interpret and make specific sections 9701, 9712.5, 9715, 9718, 9722, 9723, 9724, 9725, 9730, and 9732 of said Code, the Department is considering changes to sections 8010, 8020, and 8040 of Articles 1, 2 and 3 of Division 1.8 of Title 22 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Amend Title 22 CCR Section 8010, Posting of Notice

The California Office of the State Long-Term Care Ombudsman (Office), located within the Department, advocates for the health, safety, welfare and rights of individuals living in long-term care facilities. To accomplish its goals, the Office designates public and non-profit organizations throughout the state to act as local Ombudsmen in hearing, investigating and resolving complaints filed by or on behalf of long-term care residents.

Existing law, WIC section 9718, requires long-term care facilities to post a notice that identifies the names, addresses and telephone numbers of the Office and the local ombudsman organization, and a description of the services they provide. CCR section 8010(a) includes the provision that the notice be in plain view of residents, patients, visitors and individuals confined to wheelchairs. The proposed amendment will update the wording to reflect that the notice be in plain view of individuals “who use” wheelchairs or other mobility devices.

Amend Title 22 CCR Section 8020, Facility Entry

Existing law, WIC section 9722, authorizes the Office and any ombudsman coordinator access to long-term care facilities to carry out the responsibilities of the program. WIC section 9701 (b) defines “long-term care facility” and section 9701(d) defines “Ombudsman coordinator.” CCR section 8020 erroneously cites

section 9701(a) instead of 9701(b) and section 9701(e) instead of 9701(d) respectively for these definitions. The proposed amendment will correct these references.

WIC Sections 9712.5 and 9726.1 describe the services provided by long-term care ombudsman representatives in the exercise of their lawful responsibilities. The proposed amendment will add these sections to clarify the full scope of services provided by the Office and its representatives.

CCR section 8020(a) sets the timeframe for reasonable access to a facility by any ombudsman coordinator, designated ombudsman or other representative of the Office as 7:00 a.m. to 10:00 p.m. CCR section 8020(b) provides that entry may be made after hours if authorization to do so is first received from the State Ombudsman or their designated representative. If they are not available, authorization may be given by an ombudsman coordinator, followed by notice to the Office. The proposed amendment will change the word “ombudsmen” to “Ombudsman representatives” to be more inclusive and clarify that notice must be given to the “Office” rather than the “State Office.”

WIC section 9701(d) defines an “Ombudsman coordinator” in part, as an individual selected by an approved organization to manage the day-to-day operation of the ombudsman program. CCR section 8020(b) references the “substate ombudsman coordinator.” The proposed amendment will delete the word “substate” to accurately reflect the definition set forth in law.

Amend Title 22 CCR Section 8040, Interference with Actions of Office

Existing law gives representatives of the Office access to long-term care facilities to hear, investigate and resolve complaints to assist residents in protecting their health, safety, welfare, rights and quality of life. Senate Bill (SB) 80 (Committee on Budget and Fiscal Review, Human Services Omnibus, Chapter 27, Statutes of 2019) amends WIC section 9712.5(d)(1) to require representatives of the Office to visit each long-term care facility on a quarterly basis to provide residents with regular and timely access to ombudsman services.

Prior to the passage of SB 80, there was no requirement that long-term care facilities be visited on a regular basis. With the new requirement for quarterly visits, the Office seeks to set standard protocols for its representatives to minimize interference from facility personnel as they carry out their lawful responsibilities.

Existing law, WIC sections 9730 and 9732, provides that anyone who willfully interferes with any lawful action of a representative of the Office is to be reported to the appropriate licensing agency and is subject to a civil penalty. To interpret and make specific these sections, the Department is proposing to amend and adopt regulations to clarify what constitutes willful interference,

the timeframe in which the interference is to be reported to the appropriate licensing agency and the Office, and the statutory remedies available to the Office.

Proposed amendments to CCR section 8040 delete references to “licensee”, “employee”, “agent”, “connected with a long-term care facility”, to simply state that “no person” shall willfully interfere with any lawful action of the Office.

Proposed amendments to CCR section 8040(a) delete the words “prevent”, “impede” and “or” to make the language consistent with WIC sections 9730 and 9732.

Currently, the Office certifies each representative, designating them as an Ombudsman. The Department is proposing to adopt CCR section 8040(a)(1)(A) and (B) to require representatives to have on their person clearly visible photographic identification issued by the Office and to present a copy of the laws and regulations that specify their authority to access long-term care facilities, residents, patients and their medical and personal records. If the representative fails to do both, interference by facility personnel will not be considered willful under proposed CCR section 8040(a)(1)(C).

CCR section 8040(b) specifies that no person shall willfully prevent or interfere with the interviewing of complainants, patients, residents or witnesses. Long-term care Ombudsman representatives interact with residents, patients, and others in the lawful exercise of their responsibilities in many ways, not just when interviewing them during the investigation of complaints. Proposed amendments to this section delete the words “prevent or” to be consistent with law and replace the phrase “the interviewing of” with “confidential communications with” to more accurately reflect the scope of an Ombudsman’s lawful responsibilities. Proposed amendments also replace the phrase “investigation and resolution of complaints” with “lawful exercise of their responsibilities” because the responsibilities of ombudsman representatives include more than the investigation and resolution of complaints.

CCR Section 8040(c) states that no person shall willfully prevent or interfere with the examination or copying of patients’ or residents’ medical or personal records. Proposed amendments delete the words “prevent or” to be consistent with law and add the provision that an Ombudsman has access to residents’ and patients’ medical and personal records, to more accurately reflect the scope of their lawful responsibilities.

CCR section 8040(e) provides that no person shall willfully prevent, impede or interfere with the work of duly authorized representatives of the Office in the investigation and resolution of complaints. Proposed amendments delete the words “prevent, impede or” to be consistent with law. The lawful responsibilities of long-term care Ombudsman representatives include

more than investigating and resolving complaints. They also include advocating for the health, safety, welfare, rights, and quality of life of residents and patients in long-term care facilities. Proposed amendments will specify that no person shall willfully interfere with the lawful work of authorized representatives of the Office and delete the phrase “in the investigation and resolution of complaints” to reflect the full scope of an Ombudsman representative’s responsibilities.

CCR section 8040(d) states that no person shall willfully discriminate, discipline or retaliate against any employee, patient, resident or volunteer for information given to aid the Office in carrying out its lawful responsibilities. Proposed amendments to this section delete the word “willfully” since “discriminate, discipline, and retaliate” are sufficiently descriptive of the actions the regulation prohibits. The amendment also eliminates the provision that this regulation does not apply if the communication made or information given or disclosed was done maliciously or without good faith, because existing law, WIC section 9715(b), adequately addresses this issue.

Proposed CCR section 8040(b)(1) and (2) will specify that interference is considered willful if it continues after the Ombudsman representative provides photographic identification issued by the Office and a copy of the laws and regulations that authorize access to long-term care facilities, residents, patients and their medical and personal records; that interference will not be deemed willful if the person interfering is doing so at the direction of another person who has authority to take or recommend adverse employment actions against them; and that the person who authorizes the employee to interfere will be the one considered as willfully interfering with the lawful actions of the Office.

Proposed CCR section 8040(c) will require the Ombudsman representative who was the subject of the interference to notify the appropriate licensing agency and the State Ombudsman within 24 hours of the occurrence.

Proposed CCR section 8040(d) will specify the Ombudsman representative may seek the assistance of local law enforcement as needed in accordance with WIC section 9732(b).

Proposed CCR section 8040(e) will provide that the State Ombudsman may seek appropriate legal remedies if the person continues to interfere with lawful actions of the Office.

Finally, the Department proposes to delete the reference to WIC section 9720.5 because it addresses program requirements rather than long-term care facilities.

ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendments eliminate obsolete words and phrases and update the regulatory language to be consistent with law and easier to understand. As Ombudsman representatives begin quarterly visits to each long-term care facility, the proposed regulations will further clarify the role of the Ombudsman as well as lessen confusion and willful interference by facility personnel since each representative will have photographic identification issued by the State Ombudsman and will provide a copy of the laws and regulations that authorize access to long-term care facilities, residents, patients and their medical and personal records. The proposed regulations also clearly state what constitutes willful interference and what the consequences are if the law is not followed. Reducing the possibility of willful interference will help Ombudsman representatives meet their statutory obligation to advocate for the health, safety, welfare and rights of long-term care residents and patients.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

Local Mandate: None.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: The Department anticipates there may be a slight increased cost to the Office in issuing photographic identification to its representatives and providing copies of the laws and regulations that authorize access to long-term care facilities, residents, patients and their medical and personal records.

Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability to Compete: The Department has made an initial determination that the proposed regulatory actions would have no significant adverse economic impact directly affecting businesses, including the ability of businesses to compete with businesses in other states.

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

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

Effect on Housing: None.

EFFECT ON SMALL BUSINESS

The Department believes these regulations will have no significant impact on small businesses because the proposed amendments to the regulations delete obsolete language, correct references, simplify language to be consistent with law, and identify the scope of services provided by long-term care Ombudsman representatives. The proposed regulations also identify and make specific what constitutes willful interference with lawful actions of the Office and the statutory remedies available.

RESULT OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Job/New Businesses: The Department concludes that it is (1) unlikely that the proposal will eliminate any jobs, (2) likely that the proposal will create an unknown number of jobs, (3) likely that the proposal will create an unknown number of new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Regulations:

The Department has determined that the proposed regulations will benefit residents and patients in long-term care facilities by providing accurate contact information and access to long-term care Ombudsman services without willful interference from long-term care facility personnel. Reducing the possibility of willful interference will help Ombudsman representatives meet their statutory obligation to advocate for the health, safety, welfare and rights of long-term care residents and patients.

The regulations do not affect worker safety or the state's environment.

BUSINESS REPORTING REQUIREMENT

The proposed regulations do not create business reporting requirements.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13); the Department has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention (1) would be more effective in carrying out the purpose for which each action is proposed, (2) would be as effective and less burdensome to the affected private persons than the proposals described in this notice, or (3) would be more cost effective to the affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any person interested in presenting written statements or arguments with respect to alternatives to the proposed regulations may do so during the public comment period.

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

The entire rulemaking file will be available for inspection and copying throughout the process at the Department's office address listed below. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and the documents upon which the proposals are based.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may amend and adopt the proposed regulations substantially as described in this notice. If the Department makes modifications sufficiently related to the originally proposed text, the modified text, with the changes clearly indicated, will be available to the public for a least 15 days during which written comments will be accepted before the regulations are adopted.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the final statement of reasons will be available by accessing the website or contacting the person(s) listed below.

CONTACT PERSON

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

Name:

Gretchen Kjose

Address:

1300 National Drive, Suite 200

Phone Number:

(916) 419-5261

Fax Number:

(916) 928-2267

E-Mail Address:

gretchen.kjose@aging.ca.gov

The backup contact person is

Name:

Carmen Gibbs

Address:

1300 National Drive, Suite 200

Phone Number:

(916) 419-7500

Fax Number:

(916) 928-2267

Email address: carmen.gibbs@aging.ca.gov

WEBSITE ACCESS

Copies of this Notice, the Initial Statement of Reasons, and the Text of the proposed regulations in underline and strikeout can be found at the California Department of Aging's website: www.aging.ca.gov

GENERAL PUBLIC INTEREST

CALIFORNIA HIGHWAY PATROL

NOTICE OF EXTENSION OF WRITTEN COMMENT PERIOD

The California Highway Patrol published a Notice of Proposed Action in the February 28, 2020 edition of the California Regulatory Notice Register (Register 2020, No. 9-Z) concerning the Cannabis Tax Fund Grant Program. The original comment period deadline was April 14, 2020.

The Department is extending the written comment deadline to April 16, 2020.

Please submit all written comments to:

California Highway Patrol
Impaired Driving Section
P.O. Box 942898
Sacramento, CA 94298-0001

Or e-mail them to: IDSRegs@chp.ca.gov

If you have any questions, please contact:

Vanessa Martinez or Lorie Soltero
Impaired Driving Section
Telephone: (916) 843-4360

DEPARTMENT OF PUBLIC HEALTH

TITLE:

PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT (PHHSBG) ANTICIPATED FUNDING FOR FEDERAL FISCAL YEAR (FFY) 2020

ACTION:

NOTICE OF PHHSBG ADVISORY COMMITTEE MEETING TO GAIN ADVISORY COMMITTEE INPUT ON ALLOCATION OF ANTICIPATED FUNDING FOR FFY 2020

SUBJECT: The Centers for Disease Control and Prevention anticipates making funds available to the California Department of Public Health (CDPH) to support public health infrastructure, address emerging health issues, and optimize the health and well-being of the people in California. The purpose of this Advisory Committee (AC) Meeting is to discuss and receive member comments on the use of FFY 2020 PHHSBG funds during State Fiscal Year (SFY) 20/21.

NOTIFICATION: Notice is hereby given that CDPH will hold an AC Meeting commencing at 10:00 a.m. and ending at 12:00 p.m. PST on Thursday, April 2, 2020 in Room 74.463 (Kings River Round Conference Room) 1616 Capitol Avenue, Sacramento, California, 95814. At which time, CDPH will discuss future use of PHHSBG funding. The AC members will have an opportunity to ask questions and make funding recommendations for the use of FFY 2020 funds during SFY 20/21; and the public will have an opportunity to submit verbal or written comments.

Any person may present statements or arguments orally or in writing relevant to the action described in this notice. If you plan to attend the AC Meeting in person, please bring photo identification so the security guard can admit you into the building. The CDPH — Chronic Disease Control Branch (CDCB), PO Box 997377 MS 7208, Sacramento, California, 95899-7377 must receive any written statements or arguments by 5:00 p.m. Wednesday, April 3, 2020, which is hereby designated as the close of the written comment

period for this AC Meeting. It is requested, but not required, that written statements or arguments be submitted in triplicate.

WEBINAR INFORMATION: Attendees may choose to attend the AC Meeting via webinar rather than attending in person. Please register for the PHHSBG AC Meeting scheduled on Thursday, April 2, 2020 from 10:00 a.m. — 12:00 p.m. PST (<https://attendee.gototraining.com/r/8157896196833619457>). It is highly recommended that attendees register early. After registering, you will receive confirmation e-mail containing information about joining the webinar. **Please contact (916) 552-9917 if you experience technical difficulties.**

AGENDA: The Agenda will be available for review at 1616 Capitol Avenue, Sacramento, California, 95814 from 9:00 a.m. — 6:00 p.m. PST, from March 20, 2020 through April 2, 2020. The Agenda will also be available on the following website: The California Department of Public Health (<https://www.cdph.ca.gov/Programs/CCDCPP/DCDIC/CDCB/Pages/PHHSBGAdvisoryCommitteeMtgs.aspx>) from 9:00 a.m. PST — 6:00 p.m. PST, March 20, 2020 through April 2, 2020.

AVAILABILITY OF INFORMATION FOR REVIEW: This Notice will be made available in appropriate alternative formats, upon request by any person with a disability as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec 12132), and the applicable federal rules and regulations.

CONTACT: inquiries concerning the action described in this notice may be directed to Rebecca Horne at (916) 552-9899; Rebecca.Horne@cdph.ca.gov or the CDCB at (916) 552-9900; PHHSBG@cdph.ca.gov. In any such inquiries, please identify the action by using the Department Control letters “PHHSBG.”

FISH AND GAME COMMISSION

Notice of Findings for Foothill Yellow-Legged Frog (*Rana boylei*) March 10, 2020

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission (Commission), at its meeting in Sacramento, California on December 11, 2019, made a finding pursuant to California Fish and Game Code Section 2075.5, in response to a petition requesting that the Commission add the foothill yellow-legged frog (*Rana boylei*) to the list of threatened or endangered species under the California Endangered Species Act (CESA) (Fish and Game Code, Section 2050 et

seq.; see also California Code of Regulations, Title 14, Section 670.1, Subsection (i)). The Commission made the finding as follows:

1. Listing the Southwest/South Coast, West/Central Coast, and East/Southern Sierra clades as endangered is warranted;
2. Listing the Northeast/Northern Sierra and Feather River clades as threatened is warranted; and
3. Listing the Northwest/North Coast clade is not warranted at this time.

NOTICE IS ALSO GIVEN that, at its February 21, 2020 meeting in Sacramento, California, the Commission adopted the following findings outlining the reasons for its determination.

I. BACKGROUND AND PROCEDURAL HISTORY

Petition History

A petition to list the foothill yellow-legged frog (*Rana boylei*) as threatened under CESA (Petition) was submitted to the Commission on December 14, 2016 by the Center for Biological Diversity (Petitioner). Commission staff transmitted the petition to the California Department of Fish and Wildlife (Department) pursuant to Fish and Game Code Section 2073 on December 22, 2016 and published a formal notice of receipt of the petition on January 20, 2017 (California Regulatory Notice Register 2017, No. 3-Z, p. 46).

A petition to list or delist a species under CESA must include “information regarding the population trend, range, distribution, abundance, and life history of a species, the factors affecting the ability of the population to survive and reproduce, the degree and immediacy of the threat, the impact of existing management efforts, suggestions for future management, and the availability and sources of information. The petition shall also include information regarding the kind of habitat necessary for species survival, a detailed distribution map, and any other factors that the petitioner deems relevant” (Fish and Game Code, Section 2072.3).

On April 17, 2017, the Department provided the Commission with its evaluation of the petition, *Evaluation of the Petition from the Center for Biological Diversity to List the Foothill Yellow-legged Frog (Rana boylei) as Threatened under the California Endangered Species Act*, to assist the Commission in making a determination as to whether the petitioned action may be warranted based on the sufficiency of scientific information (Fish and Game Code, sections 2073.5 & 2074.2; California Code Regulations, Title 14, Section 670.1, subsections (d) & (e)).

Focusing on the information available to the Department relating to each of the relevant categories, the De-

partment recommended to the Commission that the petition be accepted.

At its scheduled public meeting on June 21, 2017 in Smith River, the Commission considered the petition, the Department's petition evaluation and recommendation, and comments received. The Commission found that sufficient information existed to indicate the petitioned action may be warranted and accepted the petition for consideration. Upon publication of the Commission's notice of its findings, the foothill yellow-legged frog was designated a candidate species on July 7, 2017 (California Regulatory Notice Register 2017, No. 27-Z, p. 986).

The Commission's action designating the foothill yellow-legged frog as a candidate species triggered the Department's process for conducting a status review to inform the Commission's decision on whether listing the species is warranted. At its scheduled public meeting on June 21, 2018 in Sacramento, the Commission granted the Department a six-month extension to complete the status review and facilitate external peer review.

The Department completed its review and submitted *Report to the Fish and Game Commission a Status Review of the Foothill Yellow-Legged Frog (Rana boylei) in California* (Status Report) at the Commission's October 2019 meeting. The report represents the Department's final written review of the status of the foothill yellow-legged frog and is based upon the best scientific information available to the Department.

Species Description

Foothill yellow-legged frogs are small- to medium-sized frogs that are typically gray, brown, olive, or reddish with brown-black flecking and mottling, which often matches the local substrate. Foothill yellow-legged frogs have a relatively squat body and granular skin, giving them a rough appearance like toads, and their dorsolateral folds are indistinct compared to other western North American ranids.

Their abdomen is white with variable amounts of dark mottling on the chest and throat, and as their name suggests, the undersides of their hind limbs are often yellow. Foothill yellow-legged frogs reach sexual maturity around two to three years old and can live over a decade. Adult females likely lay one clutch of eggs per year. Egg masses resemble a cluster of grapes with several hundred embryos, and tadpoles metamorphose in the same season the eggs were laid.

Foothill yellow-legged frogs historically ranged from the Willamette River drainage in Oregon west of the Sierra-Cascade crest to at least the San Gabriel River drainage in Los Angeles County in California, and a disjunct population was discovered in the mid-1960s in the Sierra San Pedro Mártir, Baja California Norte,

México. In California, the species has been reported from foothill and mountain streams in the Klamath, Cascade, Sutter Buttes, Coast, Sierra Nevada, and Transverse ranges from sea level to 6,400 ft, although rarely above 5,000 ft. Foothill yellow-legged frog populations exhibit strong genetic variation across their range.

Genetic divergence is often depicted as a phylogenetic tree, which visually summarizes the evolutionary relationships among populations and taxa. A branch on a phylogenetic tree that contains a group of lineages comprised of an ancestor and all its descendants is referred to as a monophyletic group, or a clade. Clades are nested hierarchically in a phylogenetic tree, and effective conservation strategies often identify the "major" clades, which represent populations from the most divergent lineages in that tree, as key management units. These major clades may be sufficiently differentiated into diagnosable species or subspecies, or they may diverge to that point if the evolutionary process continues. Two recent landscape genomics studies recovered five and six deeply divergent clades, respectively. (McCartney-Melstad et al. 2018 and Peek 2018). Genetic diversity within clades is generally lower in the southern part of the foothill yellow-legged frog's range, making them less capable of adapting to changing conditions.

Federal Status

The foothill yellow-legged frog is currently under review for possible listing as threatened or endangered under the federal Endangered Species Act (ESA) in response to a July 11, 2012 petition submitted by the Center for Biological Diversity. On July 1, 2015, the U.S. Fish and Wildlife Service (USFWS) published its 90-day finding that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted and initiated a status review of the species (USFWS 2015). On March 16, 2016, the Center for Biological Diversity sued the USFWS to compel issuance of a 12-month finding on whether listing under the ESA is warranted. On August 30, 2016, the parties reached a stipulated settlement agreement that the USFWS shall publish its 12-month finding in the Federal Register on or before September 30, 2020 (Center for Biological Diversity v. S.M.R. Jewell (D.D.C. Aug. 30, 2016, No. 16-CV-00503)).

II. STATUTORY AND LEGAL FRAMEWORK

The Commission, as established by the California State Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (California Constitution, Article IV, Section 20, Subdivision (b); Fish and Game Code, Section 2070.) The CESA listing process

for foothill yellow-legged frog began in the present case with the Petitioners' submittal of the Petition to the Commission. The regulatory and legal process that ensued is described in some detail in the preceding section above, along with related references to the Fish and Game Code and controlling regulation. The CESA listing process generally is also described in some detail in published appellate case law in California, including:

- *Central Coast Forest Association v. California Fish and Game Commission* (2018) 18 Cal. App. 5th 1191;
- *Central Coast Forest Association v. California Fish and Game Commission* (2017) 2 Cal. 5th 594;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535;
- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105; and
- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104.

The “is warranted” determination at issue here stems from Commission obligations established by Fish and Game Code Section 2075.5. Under this provision, the Commission is required to make a finding regarding the candidate species status at the end of the CESA listing process as follows: that the petitioned action is not warranted, that the petitioned action is warranted, or that the petitioned action is not warranted, but listing the candidate species at a different status than that requested by the petitioner is warranted.

The Commission made the finding under Fish and Game Code Section 2075.5(e)(1) that listing the Northwest/North Coast clade is not warranted. The Commission made the finding under Section 2075.5(e)(2) that listing the Feather River and Northeast/Northern Sierra clades as threatened is warranted and that listing the East/Southern Sierra, West/Central Coast, and Southwest/South Coast clades as endangered is warranted.

The Commission was guided in making these determinations by statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish and Game Code, Section 2062.) Similarly, the Fish and Game Code defines a threatened

species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter.” (*Id.*, Section 2067.)

The Commission also considered Title 14, Section 670.1, subsection (i)(1)(A), of the California Code of Regulations in making its determination. This provision provides, in pertinent part, that a species shall be listed as endangered or threatened under CESA if the Commission determines that the species' continued existence is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

Fish and Game Code Section 2070 provides similar guidance; this section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides policy direction not specific to the Commission per se, indicating that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes of CESA. (Fish and Game Code, Section 2055.) This policy direction does not compel a particular determination by the Commission in the CESA listing context. Nevertheless, “[l]aws providing for the conservation of natural resources' such as the CESA' are of great remedial and public importance and thus should be construed liberally.” (*California Forestry Association v. California Fish and Game Commission*, supra, 156 Cal. App.4th at pp. 1545–1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish and Game Code, sections 2051, 2052.)

Finally, in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party. (See, e.g., *Id.*, sections 2071, 2074.4, 2078; California Code of Regulations, Title 14, Section 670.1, Subsection (h).) The related notice obligations and public hearing opportunities before the Commission are also considerable. (Fish and Game Code, sections 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; California Code Regulations, Title 14, Section 670.1, sub-

sections (c), (e), (g), (i); see also Government Code, Section 11120 et seq.) All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a review of the candidate species' status culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science. (Fish and Game Code, sections 2073.4, 2073.5, 2074.4, 2074.6; California Code of Regulations, Title 14, Section 670.1, subsections (d), (f), (h).)

III. FACTUAL AND SCIENTIFIC BASES FOR THE COMMISSION'S FINAL DETERMINATION

The Commission has determined that each of the six foothill yellow-legged frog genetic clades described in the Status Report—Northwest/North Coast, Feather River, Northeast/Northern Sierra, East/Southern Sierra, West/Central Coast, and Southwest/South Coast—qualify as a “species or subspecies” under CESA and listing the foothill yellow-legged frog by genetic clade is the prudent approach based on the genetic divergence among the six clades, the genetic diversity within the six clades, the reproductive isolation of the six clades, the relative connectivity of populations within each of the six clades, and due to the disparate degrees of imperilment among the six clades; these bases are supported in the Department's Status Report and presentation to the Commission on December 11, 2019. The clades are as described in the Status Report sections 3.2.2 through 3.2.7 and corresponding figures 7 through 18 and depicted in slide number 8 of the Department's December 11, 2019 PowerPoint presentation to the Commission.

The factual and scientific bases for the Commission's identification of the six clades, the determination that designating three clades as an endangered species under CESA is warranted, the determination that designating two clades as a threatened species under CESA is warranted, and the determination that designating one clade as a threatened or endangered species is not warranted, are set forth in detail in the Commission's record of proceedings including the Petition, the Department's petition evaluation report, the Department's Status Report, written and oral comments received from members of the public, the regulated community, tribal entities, the scientific community, and other evidence included in the Commission's record of proceedings. The issues addressed in these findings represent some, but not all of the evidence, issues, and considerations affecting the Commission's final determination. Other issues aired before and considered by the Commission are ad-

ressed in detail in the record before the Commission, which record is incorporated herein by reference.

Threats

Present or Threatened Modification or Destruction of Habitat

The most widespread, and potentially most significant, threats are associated with dams and their flow regimes, particularly in areas where they are concentrated and occur in a series along a river. (DFW 2019). Dams and their operations can result in several factors that contribute to population declines and possible extirpation; these factors include confusing breeding cues, scouring and stranding of egg masses and tadpoles, reducing the quality and quantity of breeding and rearing habitat, diminishing tadpole growth rate, creating barriers to gene flow, and supporting the establishment and spread of non-native species (Hayes et al. 2016). Subpopulations of foothill yellow-legged frogs on regulated rivers are more genetically isolated, and the type of water operations significantly affects the degree of connectivity and associated gene flow among them (Peek 2010, 2018; DFW 2019). Reservoirs created behind dams are often uninhabitable and represent barriers to gene flow (Bourque 2008; Peek 2010, 2018). This decreased connectivity can lead to loss of genetic diversity, which can reduce a species' ability to adapt to changing conditions (Palstra and Ruzzante 2008). Dams can result in aseasonal or asynchronous breeding cues, scouring and stranding of egg masses and tadpoles, reduction in quality and quantity of breeding and rearing habitat, slower tadpole growth rate, barriers to gene flow among populations, and establishment and spread of non-native species (Hayes et al. 2016). These impacts appear to be most severe when the dam is operated for the generation of hydropower that use hydropeaking and pulse flows (Kupferberg et al. 2009c, Peek 2018). Foothill yellow-legged frog abundance below dams is an average of five times lower than in unregulated rivers (Kupferberg et al. 2012). The number, height, and distance upstream of dams in a watershed influenced whether foothill yellow-legged frogs still occurred at sites that were occupied in 1975 (Ibid.)

The other widespread threat to foothill yellow-legged frog habitat is climate change. While drought, wildland fires, floods, and landslides are natural, and ostensibly necessary, disturbance events for preservation of native biodiversity, climate change is expected to result in increased frequency and severity of these events in ways that may exceed species' abilities to adapt (Williams et al. 2008, Hoffmann and Sgrò 2011, Keely and Syphard 2016). These disturbance events, which can lead to local extirpations, will occur across a landscape of mostly fragmented and small populations, so the likelihood of natural recolonization will be high-

ly impaired (DFW 2019). Climatic changes in flow regime can lead to increased competition, predation, and disease transmission as species become concentrated in areas that remain wet into the late summer (Adams et al. 2017a, Kupferberg and Catenazzi 2019). Loss of riparian vegetation from wildland fires can result in increased stream temperatures or concentrations of nutrients and trace heavy metals that inhibit growth and survival (Spencer and Hauer 1991, Megahan et al. 1995, Burton et al. 2016). Stream sedimentation from landslides following fire or excessive precipitation can destroy or degrade breeding and rearing habitat (Harvey and Lisle 1998, Olson and Davis 2009, Kupferberg et al. 2011b). At least some models predict unprecedented dryness in the latter half of the century (Cook et al. 2015).

Several other activities have the potential to destroy or degrade foothill yellow-legged frog habitat, but they are less common across the range (DFW 2019); they also tend to have relatively small areas of impact, although they can be significant in those areas, particularly if populations are already small and declining (DFW 2019). Activities that lead to potential impacts include mining, cannabis cultivation, vineyard expansion, overgrazing, timber harvest, recreation, and some stream habitat restoration projects (Harvey and Lisle 1998, Belsky et al. 1999, Merelender 2000, Pilliod et al. 2003, Bauer et al. 2015).

Predation

Predation is a likely contributor to foothill yellow-legged frog population declines where the habitat is degraded by one or many other risk factors (Hayes and Jennings 1986). Several studies have demonstrated the synergistic impacts of predators and other stressors: foothill yellow-legged frogs, primarily as demonstrated through studies on tadpoles, are more susceptible to predation when exposed to some agrochemicals, cold water, high velocities, excess sedimentation, and even the presence of other species of predators (Harvey and Lisle 1998, Adams et al. 2003, Olson and Davis 2009, Kupferberg et al. 2011b, Kerby and Sih 2015, Catenazzi and Kupferberg 2018). Foothill yellow-legged frog tadpoles appear to be naïve to chemical cues from some non-native predators; they have not evolved those species-specific predator avoidance behaviors (Paoletti et al. 2011). Furthermore, early life stages are often more sensitive to environmental stressors, making them more vulnerable to predation, and foothill yellow-legged frog population dynamics are highly sensitive to egg and tadpole mortality (Kats and Ferrer 2003, Kupferberg et al. 2009c). Predation pressure is likely positively associated with proximity to anthropogenic changes in the environment, so in more remote or pris-

tine places, it probably does not have a serious population-level impact (DFW 2019).

Disease

Perhaps the most widely recognized amphibian disease is chytridiomycosis, which is caused by the fungal pathogen *Batrachochytrium dendrobatidis* (Bd). Previous studies suggested foothill yellow-legged frogs may not be susceptible to Bd-associated mass mortality; skin peptides strongly inhibited growth of the fungus in the lab, and the only detectable difference between Bd+ and Bd- juvenile foothill yellow-legged frogs was slower growth (Davidson et al. 2007). At Pinnacles National Park in 2006, 18% of post-metamorphic foothill yellow-legged frogs tested positive for Bd; all were asymptomatic and at least one Bd+ foothill yellow-legged frog subsequently tested negative, demonstrating an ability to shed the fungus (Lowe 2009). However, recent studies have found historical evidence of Bd contributing to the extirpation of foothill yellow-legged frogs in southern California, an acute die-off in 2013 in the Alameda Creek watershed, and another in 2018 in Coyote Creek (Adams et al. 2017a,b; Kupferberg and Catenazzi 2019). Bd is likely present in the environment throughout the foothill yellow-legged frog's range, and with bullfrogs and treefrogs acting as carriers, it will remain a threat to the species; however, given the dynamics of the two recent die-offs in the San Francisco Bay area, the probability of future outbreaks may be greater in areas where the species is under additional stressors like drought and introduced species (Adams et al. 2017a, Kupferberg and Catenazzi 2019). Therefore, as with predation, foothill yellow-legged frogs are less likely to experience the adverse impacts of diseases in more remote areas with fewer anthropogenic changes to the environment (DFW 2019).

Other Natural Events or Human-Related Activities

Agrochemicals, particularly organophosphates that act as endocrine disruptors, can travel substantial distances from the area of application through atmospheric drift and have been implicated in the disappearance and declines of many species of amphibians in California including foothill yellow-legged frogs (LeNoir et al. 1999, Davidson 2004, Lind 2005, Olson and Davis 2009). Foothill yellow-legged frogs appear to be significantly more sensitive to the adverse impacts of some pesticides than other native species (Sparling and Fellers 2009, Kerby and Sih 2015).

The prevalence of small populations is a threat. Many foothill yellow-legged frog populations are small, isolated from other populations, and possess low genetic diversity (McCartney-Melstad et al. 2018, Peek 2018). Genetic diversity is important in providing a population the capacity to evolve in response to environmental

changes, and connectivity among populations is important for gene exchange and in minimizing probability of local extinction (Lande and Shannon 1996, Williams et al. 2008, Eriksson et al. 2014). Small populations are at much greater risk of extirpation primarily through the disproportionate impact of demographic, environmental, and genetic stochasticity than robust populations (Lande and Shannon 1996, Palstra and Ruzzante 2008). Based on a foothill yellow-legged frog population viability analysis, populations in regulated rivers face a 4- to 13-fold greater extinction risk in 30 years than populations in unregulated rivers due to smaller population sizes (Kupferberg et al. 2009c). The threat posed by small population sizes is significant and the general pattern shows increases in severity from north to south; however, many sites, primarily in the northern Sierra Nevada, in watersheds with large hydropower projects are also at high risk (DFW 2019).

Endangered Clades

The Commission determined that the continued existence of the Southwest/South Coast, West/Central Coast, and East/Southern Sierra clades in the State of California are in serious danger or threatened by one or a combination of the factors described above.

The Commission also determined that the information in the Commission's record constitutes the best scientific information available and established that designating the Southwest/South Coast, West/Central Coast, and East/Southern Sierra clades as endangered species under CESA is warranted.

The species has disappeared from nearly all known historically-occupied locations of the Southwest/South Coast clade and only two populations from this clade are known to be extant (DFW 2019, McCartney-Melstad et al. 2018, Peek 2018). These populations appear to be extremely small and rapidly losing genetic diversity, making them at high risk of extirpation (McCartney-Melstad et al. 2018, Peek 2018).

Foothill yellow-legged frogs appear to be extirpated from a relatively large proportion of historically occupied sites within the West/Central Coast clade, particularly in the heavily urbanized northern portion around the San Francisco Bay. In the northern portion of the clade, nearly all the remaining populations are located above dams, which line the mountains surrounding the Bay Area, and two are known to have undergone recent disease-associated die-offs (DFW 2019). These higher elevation sites are more often intermittent or ephemeral streams than the lower in the watersheds. As a result, the more frequent and extreme droughts that have dried up large areas may have contributed to recent declines (DFW 2019). Illegal cannabis cultivation, historical mining effects, overgrazing, and recreation likely con-

tributed to declines and may continue to threaten remaining populations (DFW 2019).

Like the Southwest/South Coast clade, widespread extirpations in the East/Southern Sierra clade were observed as early as the 1970s (DFW 2019). Dams and introduced species were credited as causal factors in these declines in distribution and abundance, and mining and disease may also have contributed (DFW 2019). This area is relatively arid, and drought effects appear greater here than in northern areas that exhibit both more precipitation and a smaller difference between drought years and the historical average (DFW 2019). There is a relatively high number of hydropower generating dams in series along the major rivers in this clade and at least one new proposed dam near one of the remaining populations (DFW 2019). Some of the most dramatic declines experienced by any frog in the family that includes foothill yellow-legged frogs in California occurred in the Sierra Nevada east of the San Joaquin Valley, where over half of the state's total pesticide usage occurs (Sparling et al. 2001). Like the Southwest/South Coast clade, the East/Southern Sierra clade has low genetic variability and a trajectory of continued loss of diversity (Peek 2018).

Threatened Clades

The Commission determined that the Feather River and Northeast/Northern Sierra clades in the state of California, while not presently threatened with extinction, are likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by CESA.

The Northeast/Northern Sierra clade occupies a relatively small area with many hydropower dams (DFW 2019). The general pattern in the Northeast/Northern Sierra clade, and across the range, is that unregulated rivers or reaches have more areas that are occupied more consistently over time and in larger numbers than regulated rivers or reaches (DFW 2019). The area is also more mesic and experienced less of a change in precipitation during the recent drought than more southern clades (DFW 2019). However, this pattern may not continue as some models suggest loss of snowmelt will be greater in the northern Sierra Nevada, and one of the climate change exposure models suggests that a comparatively large proportion of the lower elevations will experience climatic conditions not currently known from the area by the end of the century (DFW 2019).

Despite the Feather River clade being included in the Northeast clade as defined in one recent study, the Feather River clade is very distinct and located primarily in Plumas and Butte counties (DFW 2019, Peek 2018). The Feather River clade is the smallest, has a high density of hydropower dams (DFW 2019), and re-

cently experienced one of the largest, most catastrophic wildfires in California history (DFW 2019). Despite the threats, foothill yellow-legged frogs appear to continue to be relatively broadly distributed within the clade, although with all the dams in the area, most populations are likely disconnected (DFW 2019). The clade is the only clade where foothill yellow-legged frogs and Sierra Nevada yellow-legged frogs overlap and can hybridize (DFW 2019). The genetic variation within the clade is greater than the other clades except for the Northwest/North Coast (DFW 2019). Most of the area within the clade’s boundaries is U.S. Forest Service-managed, and little urbanization pressure or known extirpations exist in this area (DFW 2019). The Feather River clade shares many of the same threats as the Northeast/Northern Sierra clade (e.g., relatively small area with many hydropower dams) (DFW 2019).

Not Warranted Determination

The Commission determined that the Northwest/North Coast clade in the State of California, is not presently threatened with extinction and is not likely to become endangered in the foreseeable future in the absence of the special protection and management efforts required by CESA.

The Northwest/North Coast clade is the largest, with the most robust populations and the greatest genetic diversity (McCartney-Melstad et al. 2018, Peek 2018). The area is the least densely populated by humans; contains relatively few hydropower dams, particularly further north; and has the highest precipitation in the species’ California range (DFW 2019). The species is still known to occur in most, if not all, historically occupied watersheds; presumed extirpations are mainly concentrated in the southern portion of the clade around the heavily urbanized San Francisco Bay area (DFW 2019). This is the only clade with an increasing trend in genetic diversity (Peek 2018). The proliferation of cannabis cultivation, particularly illicit grows in and around what is known as the Emerald Triangle (Humboldt, Mendocino and Trinity counties), the apparent increase in severe wildland fires in the area, and potential climate change effects are cause for concern (DFW 2019). As a result, this clade does not currently warrant listing as either endangered or threatened (DFW 2019).

**IV. FINAL DETERMINATION
BY THE COMMISSION**

The Commission has weighed and evaluated the information for and against designating the six clades as threatened or endangered under CESA. The information includes scientific and other general evidence in the Petition; the Department’s Petition evaluation report; the Department’s Status Report; the Department’s

related recommendations; written and oral comments received from members of the public, the regulated community, various public agencies, and the scientific community; and other evidence included in the Commission’s record of proceedings.

Based upon the evidence in the record, the Commission has determined that the best scientific information available indicates that the continued existence of the Northwest/North Coast clade of foothill yellow-legged frog is not in serious danger or threatened by present or threatened modifications or destruction of the species’ habitat, predation, competition, disease, or other natural occurrences or human-related activities, where such factors are considered individually or in combination. (See generally California Code Regulations, Title 14, Section 670.1, Subsection (i)(2); Fish and Game Code, Section 2075.5, Subdivision (a)(1).) The Commission determines that there is sufficient scientific information to indicate that designating the Northwest/North Coast clade as threatened or endangered is not warranted.

Based upon the evidence in the record the Commission has determined that the best scientific information available indicates that the continued existence of the Feather River clade, Northeast/Northern Sierra clade, East/Southern Sierra clade, West/Central Coast clade, and Southwest/South Coast clade are in serious danger or threatened by present or threatened modifications or destruction of the species’ habitat, predation, competition, disease, or other natural occurrences or human-related activities, where such factors are considered individually or in combination. (See generally California Code Regulations, Title 14, Section 670.1, Subsection (i)(1)(A); Fish and Game Code, sections 2062, 2067.) The Commission determines that there is sufficient scientific information to indicate that designating the East/Southern Sierra, West/Central Coast, and Southwest/South Coast clades as endangered species under CESA and designating the Feather River and Northeast/Northern Sierra clades as a threatened species under CESA is warranted at this time. With the adoption and publication of these findings, each of these five clades of foothill yellow-legged frog for purposes of its legal status under CESA and, for further proceedings under CESA, shall be listed as follows:

- Southwest/South Coast clade — endangered;
- West/Central Coast clade — endangered;
- East/Southern Sierra clade — endangered;
- Northeast/Northern Sierra clade — threatened;
- and
- Feather River clade — threatened.

With the adoption and publication of these findings the foothill yellow-legged frog shall be removed from

the list of candidate species maintained pursuant to Fish and Game Code Section 2074.2.

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OAL REGULATORY DETERMINATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATION

(Summary Disposition)

(Pursuant to Government Code Section 11340.5 and Title 1, section 270, of the California Code of Regulations)

Date: March 5, 2020

To: Drake Felde

From: Chapter Two Compliance Unit

Subject:

**2020 OAL DETERMINATION NO. 1(S)
(CTU2020-0116-01)**

(Summary Disposition issued pursuant to Government Code, section 11340.5; California Code of Regulations, title 1, section 270(f))

Petition challenging as an underground regulation Operations Procedure 802 dated June 2018, issued by California Department of Corrections and Rehabilitation, Pleasant Valley State Prison, titled "Temperature Changes in Education."

On January 16, 2020, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether Operations Procedure 802 dated June 2018, issued by California Department of Corrections and Rehabilitation, Pleasant Valley State Prison, titled "Temperature Changes in Education" constitutes an underground regulation. Operations Procedure 802 is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA). Such a rule is called an "underground regulation" as defined in California Code of Regulations, title 1, section 250, subsection (a):

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the Department of Corrections and Rehabilitation (Department):

The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

- (1) Rules issued by the director applying solely to a particular prison or other correctional facility . . .

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a "local rule" adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...
The Donovan policy is not a rule of general application. It applies solely to Donovan and,

¹ "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rule challenged by your petition was issued by Pleasant Valley State Prison and applies solely to the inmates of the Pleasant Valley State Prison. Inmates housed at other facilities are governed by those other facilities' criteria for procedures related to temperature changes in buildings. Therefore, the rule is a "local rule" and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.²

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

March 5, 2020

/s/

Amy R. Gowan
Attorney

For:

Kenneth J. Pogue
Director

Copy:

Ralph M. Diaz, Secretary, CDCR
Ying Sun, Associate Director, CDCR

² The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) **An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** [Emphasis added.]

**SUSPENSION OF
ACTION REGARDING
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**(Pursuant to Title 1, section 280, of the
California Code of Regulations)**

On January 6, 2020, the Office of Administrative Law (OAL) received a petition challenging three provisions contained in a letter to Petitioner Robert Nigg regarding Dolphin's Cove Resort as alleged underground regulations. The letter is dated July 22, 2019, and issued by the Department of Real Estate.

On March 4, 2020, the Department of Real Estate certified to OAL that it will no longer issue, use or enforce, or attempt to issue, use or enforce, one aspect of the petition regarding the interpretation of "developer"; therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on that aspect of this petition.

March 4, 2020

VIA U.S. MAIL

Kenneth Pogue, Director
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, California 95814

Re: Section 280 Certification¹
File Number: CTU2020-0106-01

Dear Mr. Pogue:

This letter is in response to a petition, dated January 6, 2020, received by your office from Robert Nigg, a member of the public. The petition challenges, among other things, the Department of Real Estate's ("Department") interpretation of who is a "developer" under Business and Professions Code ("Bus. & Prof. Code") section 11212(i) and Commissioner's Regulation ("Regulation") 2805. Mr. Nigg asserted that the Department's interpretation of who is a "developer," and as expressed in its correspondence with him, constituted an "underground regulation" within the meaning of Government Code ("Gov. Code") section 11340.5.

The Department has reviewed the petition and the Department's relevant correspondence with Mr. Nigg. As a result of such review, the Department certifies that it will no longer issue, use or enforce, or attempt to is-

¹ This letter is filed in accordance with Section 280 of Title 1 of the California Code of Regulations.

sue, use or enforce, the consideration of whether a person or entity is engaging in “actual day-to-day sales activities” as a determination of whether such a person or entity is a “developer” within the meaning of Bus. & Prof. Code section 11212(i) or Regulation 2805 as well as any other applicable statutes comprising the Vacation Ownership and Time-share Act of 2004 (“Act”) and its accompanying Regulations. The consideration or provision no longer issued, used or enforced by the Department was previously expressed by the Department in a letter to Mr. Nigg, dated July 22, 2019:²

The Department considers “persons who offer time-share interests for disposition in the ordinary course of business” to include only those persons or entities who are engaging in the actual day-to-day sales activities.³ After reviewing the available evidence, the Department concludes that [Redacted Name #1] is the only entity who is engaging in such sales activities. In your November 5, 2017, communication, you stated that [Redacted Name #2] is a party to the sales contracts and, thus, should be considered a developer under the Relevant Statutes. However, [Redacted Name #2] is a party to the sales contracts because it is the entity holding title to the units (as required by section 11255 of the Act) and, as a result, it is a necessary party to those transactions.

In other words, being a party to the sales contracts does not mean that [Name #2 Redacted] is engaging in the actual day-to-day sales activities along with [Name #1 Redacted]. (Emphases added.)

By making this certification, the Department makes no representation whatsoever that the foregoing emphasized language from the above-cited correspondence (or similar language in any other correspondence) between the Department and Mr. Nigg qualifies as an “underground regulation.”

The undersigned makes this certification in accordance with Section 280 of Title 1 of the California Code of Regulations (“CCR”). A copy of this certification has been sent to Mr. Nigg as required by Section 280(a) of Title 1, CCR.

If you have any questions or concerns, then please contact the undersigned at (916) 576-8100. Thank you.

Sincerely,
/s/
Sandra Knau
Acting Real Estate Commissioner

cc: Robert Nigg

DISAPPROVAL DECISION

DECISION OF DISAPPROVAL OF REGULATORY ACTION

Printed below is the summary of an Office of Administrative Law’s disapproval decision. You may request a copy of the decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, California 95814-4339, Phone Number: (916) 323-6225, Fax Number: (916) 323-6826. Please request by OAL file number.

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

State of California
Office of Administrative Law

In re:
Department of Resources Recycling and Recovery

Regulatory Action: Title 14
California Code of Regulations

Adopt sections: 17409.5.1, 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.6, 17409.5.7, 17409.5.8, 17409.5.9, 17409.5.10, 17409.5.10.5, 17409.5.11, 17409.5.12, 17414.2, 17896.44.1, 18981.1, 18981.2, 18982, 18983.1, 18983.2, 18984, 18984.1, 18984.2, 18984.3, 18984.4, 18984.5, 18984.6, 18984.7, 18984.8, 18984.9, 18984.10, 18984.11, 18984.12, 18984.13, 18984.14, 18985.1, 18985.2, 18985.3, 18986.1, 18986.2, 18986.3, 18987.1, 18988.1, 18988.2, 18988.3, 18988.4, 18989.1, 18989.2, 18990.1, 18990.2, 18991.1, 18991.2, 18991.3, 18991.4, 18991.5, 18992.1, 18992.2, 18992.3, 18993.1, 18993.2, 18993.3, 18993.4, 18994.1, 18994.2, 18995.1, 18995.2, 18995.3, 18995.4, 18996.1, 18996.2, 18996.3, 18996.4, 18996.5, 18996.6, 18996.7, 18996.8, 18996.9, 18997.1, 18997.2, 18997.3, 18997.4, 18997.5, 18997.6, 18998, 18998.1, 18998.2, 18998.3, 18998.4

² This consideration or provision was also expressed by the Department in a follow-up letter to Mr. Nigg, dated September 18, 2019.

³ The footnote from the July 22, 2019, letter has been removed from this letter because it is not germane to the subject matter contained herein.

Amend sections: 17402, 17402.5, 17403.0, 17409.5, 17852, 17855, 17867, 17869, 17896.2, 17896.6, 17896.25, 17896.45, 17896.57, 18083, 18815.4, 18815.5, 18815.7,

**Regulatory Action: Title 27
California Code of Regulations
Adopt sections: 20750.1, 21695
Amend sections: 20164, 21570, 21590, 21650, 21660.2**

DECISION OF DISAPPROVAL OF REGULATORY ACTION

**Government Code Section 11349.3
OAL Matter Number: 2020-0121-03
OAL Matter Type: Regular (S)**

SUMMARY OF REGULATORY ACTION

On January 21, 2020, the Department of Resources Recycling and Recovery (Department) submitted to the Office of Administrative Law (OAL) its proposed action to establish policies and require the implementation of programs for the diversion of organic waste from landfill disposal to recovery activities to reduce the methane gas generation that would otherwise occur.

DECISION

On March 4, 2020, OAL notified the Department that it could not approve this action because of failure to meet the clarity and necessity standards and certain procedural requirements of the California Administrative Procedure Act (APA).

CONCLUSION

For the reasons outlined above, OAL disapproved the above-referenced rulemaking action. Pursuant to Government Code section 11349.4(a), the Department may resubmit this action to OAL for review within 120 days of its receipt of this Decision of Disapproval.

Prior to resubmission, any substantial changes made to the regulation text to address the issues discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11346.8(c) and section 44 of Title 1 of the CCR.

Prior to resubmission, any relied-upon documents identified by the Department for inclusion in the rulemaking record, and which have not already been identified and made available pursuant to Government Code section 11346.2(b)(3) or 11347.1, must be made available pursuant to Government Code section 11347.1.

A copy of this Decision of Disapproval will be emailed to the Department on the date indicated below.

Date: March 11, 2020

/s/

Dale P. Mentink

Senior Attorney

For: Kenneth J. Pogue

Director, OAL

Original: Ken DaRosa, Acting Director, CalRecycle

Copies: Harlee Branch, CalRecycle

Department of Finance, Major Regulations Division

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# 2020-0124-02

BOARD OF BEHAVIORAL SCIENCES

Abandonment, Rescoring, APCC Registration Fee

In this resubmitted rulemaking action, the Board amends its regulation related to the abandonment of license applications. The Board also adopts a regulation to address the rescoring of board administered paper-and-pencil exams. In adopting this regulation, the Board repeals an existing regulation that discusses the examination rescoring fees.

Title 16

ADOPT: 1805.08

AMEND: 1806, 1816.1

REPEAL: 1816.3

Filed 03/09/2020

Effective 07/01/2020

Agency Contact: Christy Berger (916) 574-7817

File# 2020-0203-03

CALIFORNIA HORSE RACING BOARD

Postmortem Examination Review

In this regular rulemaking, the California Horse Racing Board ("CHRB") is requiring that a postmortem examination review panel convene to determine the circumstances of each equine fatality occurring within a CHRB inclosure. The regulations adopted in this rule-

making will also require that the postmortem examination review panel prepare and file a written report with the Executive Director and the owner or trainer of the expired horse.

Title 4
 ADOPT: 1846.6
 Filed 03/10/2020
 Effective 07/01/2020
 Agency Contact:
 Nicole Lopes-Gravelly (916) 263-6397

File# 2020-0227-01
 DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Medical Care

This second emergency readoption action, pursuant to Government Code section 11346.1, repeals, amends, and adopts regulations to update health care policies applicable to patients of the Department of Corrections and Rehabilitation.

Title 15
 ADOPT: 3999.100, 3999.101, 3999.108, 3999.109, 3999.110, 3999.111, 3999.112, 3999.113, 3999.114, 3999.115, 3999.116, 3999.125, 3999.126, 3999.127, 3999.130, 3999.131, 3999.133, 3999.134, 3999.135, 3999.136, 3999.137, 3999.138, 3999.139, 3999.140, 3999.141, 3999.142, 3999.143, 3999.144, 3999.145, 3999.146, 3999.147, 3999.201, 3999.205, 3999.215, 3999.216, 3999.217, 3999.218, 3999.219, 3999.240, 3999.241, 3999.300, 3999.301, 3999.302, 3999.303, 3999.304, 3999.305, 3999.306, 3999.307, 3999.308, 3999.309, 3999.310, 3999.315, 3999.325, 3999.326, 3999.368, 3999.375, 3999.380, 3999.381, 3999.382, 3999.383, 3999.384, 3999.385, 3999.390, 3999.391, 3999.392, 3999.393, 3999.394, 3999.396, 3999.400, 3999.401, 3999.410, 3999.411, 3999.415, 3999.418, 3999.419, 3999.427, 3999.428, 3999.430, 3999.431
 AMEND: 3999.98, 3999.99, 3999.320
 REPEAL: 3352, 3352.1, 3355, 3355.2
 Filed 03/09/2020
 Effective 03/09/2020
 Agency Contact: Julie Inderkum (916) 691-0697

File# 2020-0123-02
 DEPARTMENT OF SOCIAL SERVICES
 Adult Protective Services Program Regulation Amendments (Definitions)

In this regular rulemaking, the Department of Social Services is amending definitions for the Adult Protective Services program.

Title MPP
 AMEND: 33-130
 Filed 03/04/2020
 Effective 07/01/2020
 Agency Contact: Everardo Vaca (916) 657-2363

File# 2020-0204-01
 EMERGENCY MEDICAL SERVICES AUTHORITY
 Required Course Content

This change without regulatory effect filing by the Emergency Medical Services Authority amends section 100075 of title 22 of the California Code of Regulations to correct subdivision numbering.

Title 22
 AMEND: 100075
 Filed 03/10/2020
 Agency Contact: Kent Gray (916) 384-1476

File# 2020-0127-02
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 Heat Illness Prevention in Outdoor Places of Employment

This change without regulatory effect filing by the Occupational Safety and Health Standards Board amends section 3395 of title 8 of the California Code of Regulations to refer to the Maria Isabel Vasquez Jimenez heat illness standard to align with Labor Code section 6721.

Title 8
 AMEND: 3395
 Filed 03/10/2020
 Agency Contact: Christina Shupe (916) 274-5721

File# 2020-0121-02
 SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
 San Francisco Bay Plan — Update of Bay Plan Map 5

This action by the San Francisco Bay Conservation and Development Commission amends the San Fran-

cisco Bay plan to revise Bay Play Map No. 5 and San Francisco Waterfront Special Area Plan Map 7 to modify the waterfront park Priority Use Area designation at India Basin.

Title 14
 AMEND: 11900
 Filed 03/04/2020
 Effective 03/04/2020
 Agency Contact:
 Lawrence J. Goldzband (415) 352-3653

File# 2020-0129-02
 SECRETARY OF STATE
 Risk Limiting Audits

This action implements election ballot risk-limiting audits pursuant to Elections Code section 15367.

Title 2
 ADOPT: 20110, 20111, 20112, 20113, 20114, 20115, 20116, 20117, 20118, 20119, 20120, 20121, 20122, 20123, 20124, 20125, 20126
 Filed 03/05/2020
 Effective 03/05/2020
 Agency Contact: Raj Bathla (916) 695-1597

File# 2020-0121-01
 STATE PERSONNEL BOARD
 Applications, Transfers, and Special Assignments

This action adopts, amends, and repeals regulations related to civil service applications, transfers and special assignments. These regulations are exempt from the Administrative Procedure Act. (Govt. Code, § 18211.)

Title 2
 ADOPT: 249.1.1, 249.1.2., 249.1.3., 249.8., 280.1., 425., 426., 427., 428., 429., 430., 432., 434., 435., (Article 19.1) 437., 438., 438.1., 438.2., 438.3., 438.4., 438.5., 438.6., 438.7., 4339., 439.1., 439.2., 439.3., 439.4., 440., 440.1., 440.2., 440.3., 440.4., 441., 441.1., 441.2., 442.
 AMEND: 151.5, 170, 174., 249., 249.1., 250.2, 548.95.
 REPEAL: 249.8, 425., 426., 427., 430, 432., 433.1, 434., 435., 438., 439., 440., 441., 442., 443. 444
 Filed 03/04/2020
 Effective 07/01/2020
 Agency Contact: Lori Gillihan (916) 651-1043

File# 2020-0122-03
 STATE TEACHERS RETIREMENT SYSTEM
 Format for Employer Reports

This rulemaking action identifies and incorporates the file format specifications required to electronically submit member data to CalSTRS.

Title 5
 ADOPT: 27800, 27801
 AMEND: 27000, 27001, 27002, 27702, 27703
 Filed 03/05/2020
 Effective 07/01/2020
 Agency Contact: Sal Sanchez (916) 414-1994

File# 2020-0122-02
 STATE WATER RESOURCES CONTROL BOARD
 San Diego Regional Water Quality Control Plan Update

This action amends the Water Quality Control Plan for the San Diego Region. On February 8, 2017, the San Diego Regional Water Quality Control Board adopted Resolution No. R9-2017-0015 to adopt site-specific water effect ratios (WERs) for dissolved copper and zinc in Chollas Creek during wet weather and update the numeric targets for Chollas Creek dissolved copper and zinc total maximum daily limits (TMDLs) to incorporate site-specific WERs. On September 17, 2019, the State Water Resources Control Board approved the amendments under Resolution No. 2019-0046.

Title 23
 AMEND: 3989.7
 Filed 03/05/2020
 Effective 03/05/2020
 Agency Contact: Melissa Corona (916) 341-5254

**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.