



# California Regulatory Notice Register

REGISTER 2020, NUMBER 18-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

MAY 1, 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.

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

**PROPOSED ACTION ON REGULATIONS**

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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**

**MULTI-COUNTY:**

Sacramento Area Council of Governments  
East Bay Municipal Utility District

A written comment period has been established commencing on May 1, 2020 and closing on June 15, 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 June 15, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

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

**EFFECT ON HOUSING COSTS AND BUSINESSES**

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

**AUTHORITY**

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

**REFERENCE**

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

**CONTACT**

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

AVAILABILITY OF PROPOSED  
CONFLICT-OF-INTEREST CODES

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

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

OCAL PROGRAM

**NOTICE IS HEREBY GIVEN** that the California Department of Food and Agriculture (Department) proposes to adopt regulations to implement Chapter 3, OCal Program, within Title 3 of the California Code of Regulations. With this rulemaking, the Department will propose permanent regulations after the consideration of all comments, objections, and recommendations regarding the proposed action.

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

PUBLIC HEARING

Any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a hearing by contacting the persons listed in this notice under Contact Persons.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit to the Department written comments relevant to the proposed regulatory action. The written comment period closes on July 7, 2020. The Department will only consider comments received at the Department offices by that time.

Submit comments to:

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

AUTHORITY AND REFERENCE

The Department is proposing to adopt Title 3, Division 8, Chapter 3 of the California Code of Regulations, including sections 10000-10001, 10100-10105, 10200-10210, 10300-10303, 10400-10412, 10500-10506, 10600-10603, and 10700-10713 as the OCal Program. Sections 26012, 26013, 26062, and 26062.5 of the California Business and Professions Code authorize the Department to adopt, implement, and enforce these regulations. The proposed regulations will implement, interpret, make specific, or reference sections 26012, 26013, 26050, 26061, 26062, 26062.5, 26180, and 26181 of the California Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Existing Law:

**Senate Bill 94** (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) requires, not later than January 1, 2021, the Department of Food and Agriculture to establish a program for cannabis comparable to the National Organic Program (NOP) and the California Organic Food and Farming Act. Existing law requires the department to be the sole determiner of organic designation and certification, unless the National Organic Program authorizes organic designation and certification for cannabis, in which case the Department's authority would become inoperative and would be repealed on the following January 1. Existing law prohibits a person from representing, selling, or offering for sale any cannabis or cannabis products as organic or with the designation or certification established by the Department, except as provided in the OCal Program regulations.

**Assembly Bill 97** (Ting, Chapter 40, Statutes of 2019) removed the requirement that the Department of Food and Agriculture be the sole determiner of designation and certification. The bill requires the State Department of Public Health (CDPH) to establish a certification program for manufactured cannabis products comparable to the National Organic Program and the California Organic Food and Farming Act and would make the State Department of Public Health's authority inoperative if the National Organic Program authorizes organic designation and certification for cannabis. The bill would prohibit a person from representing, selling, or offering for sale any cannabis or cannabis products as organic or with the designation or certification established by the Department of Food and Agriculture or the State Department of Public Health, except as provided

in the OCal Program and the CDPH certification program regulations.

Objectives of this Regulatory Action

These proposed regulations serve to implement the California Department of Food and Agriculture’s (Department) responsibilities under the Medicinal and Adult Use Cannabis Regulation Safety Act.

The proposed regulations will:

- 1) Establish an organic certification program for California cannabis, the OCal Program.
- 2) Establish an OCal Program seal and designation (OCal).
- 3) Set minimum standards for production of cannabis intended to be sold, labeled, or represented as OCal that are comparable to the National Organic Program and the California Organic Food and Farming Act.
- 4) Establish labeling and marketing standards for use of the program’s seal and designation.

The OCal Program held multiple public meetings, allowing for broad input from county representatives, current organic certifiers, cannabis industry representatives, and members of the public. Comments received during meetings were considered during the development of the regulations. Comments not considered were either in conflict with existing statute or not within reason.

Anticipated Benefits of this Regulatory Action

Some of the many benefits of creating a State level program, comparable to the NOP, for certifying cannabis produced organically are listed below.

1) Public and Consumer Benefits

The OCal Program under CDFA will assure consumers that nonmanufactured OCal cannabis and cannabis products are uniformly certified to State standards by an accredited, OCal-registered certifying agent. The OCal seal protects consumers from fraud and provides a means for product differentiation.

2) Environmental Benefits

A well-managed organic farming system:

- Creates healthy soils with the potential for increased carbon sequestration and available water capacity;
- Reduces fossil fuel needs associated with external nitrogen fertilizer inputs; and
- Reduces waste by recycling excess or deficient nutrients and container growing media.

Inconsistency with Federal Regulations or Statutes

The United States Drug Enforcement Administration, under the Controlled Substances Act, lists

cannabis as a Schedule I drug. Schedule I drugs are defined as having a high potential for abuse, having no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use of the drug under medical supervision (21 U.S.C. § 812).

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

Consistency with Existing State Regulations

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

PLAIN ENGLISH REQUIREMENT

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts — None.

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

Cost or savings to state agencies — There will be a cost to the State to administer the OCal program. There are no additional costs or savings to state agencies associated with the proposed regulations.

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

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

Cost impacts on a representative private person or business — Participation in the cannabis OCal program will be voluntary. Thus, there are no mandated costs on cannabis businesses. There would be a cost to cannabis businesses that choose to participate in the OCal Program. Consumers may choose to purchase potentially more expensive OCal cannabis.

Business created to certify for the OCal Program may compete with existing cannabis certification businesses.

Effect on small business — There may be an effect on small businesses.

Effect on housing costs — None.

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

### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

California Government Code section 11346.3 requires state agencies to assess the potential economic impacts on California businesses and individuals when proposing to adopt or amend any administrative regulation. Following is a summary of results of the economic impact analysis:

- The proposed OCal Program would result in an estimated net increase of 142 FTE jobs in California.
- The proposed OCal Program would not impact the creation of new businesses or elimination of existing businesses, but it will encourage modest new business development.
- The proposed OCal Program would not affect the expansion of businesses currently doing business within the State.
- The proposed OCal Program could provide benefits to the health and welfare of California residents, worker safety, and the state's environment by creating additional jobs, providing consumers with a means for product differentiation, spurring industry innovation in sustainable agriculture, and stimulating increased economic activity in regions heavily populated by OCal cannabis producers.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in

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

The Department considered an alternative to the proposed OCal regulations in which the Department would certify cultivators and distributors rather than using independent certifying agents. This would result in significantly higher economic and fiscal costs without generating additional quantifiable benefits.

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

### CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

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

The backup contact person for these inquiries is:

Charlene Graham  
California Department of Food and Agriculture  
CalCannabis Cultivation Licensing Division  
P.O. Box 942871  
Sacramento, CA 94271  
CDFA.CalCannabis\_OCal@cdfa.ca.gov  
Phone: (916) 576-4234

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

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

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

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

AVAILABILITY OF THE  
FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS

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

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

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to amend Sections 3044, 3190, 3314, 3315, and 3376 into Title 15, Division 3, Chapter 1, regarding Work Group and Privilege Group C.

PUBLIC COMMENT PERIOD

The public comment period begins **May 1, 2020** and closes on **June 19, 2020**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to [rpbm@cdcr.ca.gov](mailto:rpbm@cdcr.ca.gov), before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code Section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

CONTACT PERSONS

Primary Contact

Anthony Carter  
Telephone: (916) 445-2220  
Regulation and Policy  
Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

Back-Up

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

Program Contact

Douglas Snell  
Telephone: (916) 323-2356  
Mental Health Compliance Team  
Division of Adult Institutions  
P.O. Box 942883  
Sacramento, CA 94283-0001

AUTHORITY AND REFERENCE

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

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

**PC Section 5054** provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of

prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of regulation on an emergency basis.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The reason for these amendments is to provide a standardized statewide approach that identify processes that shall be followed when an inmate is placed on Privilege Group C or deemed a program failure. Existing language lacks specificity, which can lead to disparate application of the rules concerning the privileges an inmate on Privilege Group C or those deemed a program failure may receive. These proposed regulations are consistent with the Department's commitment to provide inmates with a pathway to truly earn a second chance to succeed, while at the same time ensuring public safety and reducing recidivism. The CDCR is committed to making prisons safer by promoting education, rehabilitation, and good conduct through credit-earning incentives and earned privileges through positive programming.

#### **This action will:**

- Standardize out-of-cell activities for inmates placed in Privilege Group C.
- Provide additional consequences for those inmates who choose not to abide by departmental regulations, thereby incentivizing the need to program appropriately.
- Ensure all Privilege Group C or program failure inmates continue to participate in scheduled therapeutic programming activities, to include religious services and self-help groups.
- Notify the Interdisciplinary Treatment Team when an inmate who is a participant in the Mental Health Services Delivery System at the Enhanced Outpatient Program level of care or higher is placed in Privilege Group C as a result of a disciplinary hearing.

#### DOCUMENTS INCORPORATED BY REFERENCE

None.

#### SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

CDCR has determined the proposed regulations may have a positive impact on public safety, the health and welfare of California's residents, worker safety, and on inmates by ensuring the safe incarceration of offenders. The proposed regulations also provide direction to CDCR staff and inmates of the new procedure for inmates assigned to Privilege Group C or deemed a program failure. The CDCR is committed to making prisons safer by promoting education, rehabilitation, mental health services, good conduct through credit-earning incentives, and earned privileges through positive programming. The proposed regulatory action provides additional consequences for those inmates who choose not to abide by departmental rules and regulations as a means of motivating inmates to take advantage of incentives received as a result of programming positively. Additionally, the regulations comply with the Special Master's Twenty Seventh Round Monitoring Report — *Coleman v. Brown* affirmation order.

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

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the CDCR has concluded that these are the only regulations that concern the Work and Privilege Group C.

#### LOCAL MANDATES

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

#### FISCAL IMPACT STATEMENT

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



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

#### EFFECT ON HOUSING COSTS

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

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

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

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

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

#### EFFECT ON SMALL BUSINESSES

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

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

#### CONSIDERATION OF ALTERNATIVES

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

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

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

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

#### AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

FISH AND GAME COMMISSION

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

Mountain Lion  
(*Puma concolor*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its April 15–16, 2020 teleconference meeting, accepted for consideration the petition submitted to list an evolutionarily significant unit (ESU) of mountain lions (*Puma concolor*) in southern and central coastal California as threatened or endangered under the California Endangered Species Act.

Pursuant to subdivision (e)(2) of Section 2074.2 of the Fish and Game Code, the Commission determined that the amount of information contained in the petition, when considered in light of the California Department of Fish and Wildlife’s (Department) written evaluation report, the comments received, and the remainder of the administrative record, would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur.

Based on that finding and the acceptance of the petition, the Commission is also providing notice that the Southern California/Central Coast ESU of mountain lions is a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the April 15–16, 2020 Commission meeting, are on file and available for public review from Melissa Miller–Henson, Executive Director, California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, California 95814, phone (916) 653–4899.

Written comments or data related to the petitioned action should be directed to the Department contact via email ([Esther.Burkett@wildlife.ca.gov](mailto:Esther.Burkett@wildlife.ca.gov)); include “Mountain Lion ESU” in the subject line. Comments may also be submitted by mail, addressed to: California Department of Fish and Wildlife, Wildlife Branch, Attn: Esther Burkett/Mountain Lion ESU, P.O. Box 944209, Sacramento, CA 94244–2090. Submission of information via email is preferred.

NOTICE OF FINDINGS

Shasta Snow–wreath  
(*Neviusia cliftonii*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its April 15–16, 2020 teleconference meeting, accepted for consideration the petition submitted to list Shasta snow–wreath (*Neviusia cliftonii*) as endangered under the California Endangered Species Act.

Pursuant to subdivision (e)(2) of Section 2074.2 of the Fish and Game Code, the Commission determined that the amount of information contained in the petition, when considered in light of the California Department of Fish and Wildlife’s (Department) written evaluation report, the comments received, and the remainder of the administrative record, would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur.

Based on that finding and the acceptance of the petition, the Commission is also providing notice that the Shasta snow–wreath is a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the April 15–16, 2020 Commission meeting, are on file and available for public review from Melissa Miller–Henson, Executive Director, California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, California 95814, phone (916) 653–4899.

Written comments or data related to the petitioned action should be directed to the California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA 94244–2090, Attn: Cherylun Burton, or email [nativeplants@wildlife.ca.gov](mailto:nativeplants@wildlife.ca.gov) (include “Shasta snow–wreath” in subject line). Submission of information via email is preferred.

**FISH AND GAME COMMISSION**

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

**NOTICE OF RECEIPT OF PETITION**

Agassiz's desert tortoise  
(*Gopherus agassizii*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission (Commission), on March 23, 2020, received a petition from the Defenders of Wildlife, Desert Tortoise Council, and Desert Tortoise Preserve Committee to to change the status of Agassiz's desert tortoise (*Gopherus agassizii*) from threatened to endangered under the California Endangered Species Act.

Typical habitat of the desert tortoise in the Mojave Desert is characterized as creosote bush scrub ranging in elevation from approximately 1,000 to 5,500 feet, although more generally it occupies a variety of habitats from sandy flats to rocky foothills, including alluvial fans, washes and canyons where suitable soils for den construction might be found, starting at near sea level in elevation. A key habitat component within this habitat is a reliable food source in the form of annual forbs and grasses, which rely on annual precipitation ranging from approximately 2–8 inches.

Pursuant to Section 2073 of the Fish and Game Code, on April 13, 2020, Commission staff transmitted the petition to the California Department of Fish and Wildlife (Department) for review pursuant to Section 2073.5 of said code. The Commission received the petition at its April 15–16, 2020 teleconference. It is anticipated that the Department's evaluation and recommendation relating to the petition will be received by the Commission at its August 19–20, 2020, meeting in Fortuna.

Interested parties may contact Dan Applebee, Senior Environmental Scientist–Specialist, California Department of Fish and Wildlife, PO Box 944209, Sacramento, CA 94244–2090, telephone (916) 373–6634, or email [Daniel.Applebee@wildlife.ca.gov](mailto:Daniel.Applebee@wildlife.ca.gov) for information on the petition or to submit information to the Department relating to the petitioned species.

**NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

**PUBLIC MEETING:**

On **June 18, 2020**, at 10:00 a.m.  
in Room 310 of the County Administration Center  
1600 Pacific Highway, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**BUSINESS MEETING:**

On **June 18, 2020**, at 10:00 a.m.  
in Room 310 of the County Administration Center  
1600 Pacific Highway, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:**

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274–5721 or the state-wide Disability Accommodation Coordinator at 1–866–326–1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1–800–735–2929 (TTY) or 1–800–855–3000 (TTY–Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer–

Aided Transcription System or Communication Access Realtime Translation (CART), a sign–language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**RULEMAKING PETITION  
DECISION**

**DEPARTMENT OF INSURANCE**

**DECISION REGARDING  
PETITION FOR HEARING**

On March 23, 2020, the Consumer Federation of California Education Foundation (“CFC”) submitted a Petition for Hearing, Petition to Participate, and Notice of Intent to Seek Compensation to Commissioner Ricardo Lara (“Petition”), and cited to Insurance Code sections 1861.02, 1861.05, 1861.10 and Title 10, California Code of Regulations, sections 2653.1, 2661.2 and 2661.3 as authority for the Petition. The Petition seeks a public hearing to ensure that insurers providing personal and commercial automobile insurance in California provide appropriate rate and premium relief to policyholders in response to the COVID–19 pandemic.

**RELIEF REQUESTED**

The Petition requests that the Commissioner hold a public hearing or virtual public hearing to evaluate the rate and premium relief appropriate for commercial and personal automobile insurance motorists. Additionally, the Petition requests the Commissioner to issue a bulletin to insurers directing them to develop mechanisms for informing and re–rating policyholders who reduced the number of miles driven in response to the COVID–19 pandemic.

**AUTHORITY AND REFERENCE  
CITED IN THE PETITION**

Petitioners cite California Insurance Code sections 1861.02, 1861.05, 1861.10 and Title 10, California Code of Regulations Sections 2653.1, 2661.2 and 2661.3 as authority for the Petition.

**THE COMMISSIONER’S DETERMINATION**

The Commissioner denies the Petition to the extent it requests a rulemaking proceeding, and denies the Petition to the extent it requests a public hearing pursuant to California Insurance Code sections 1861.05(c) and 1861.10(a) or section 2653.1 of Title 10 of the California Code of Regulations. The Commissioner, however, grants the Petition to the extent it requests that the Commissioner issue a bulletin directing insurers to provide appropriate rate and premium relief in response to the COVID–19 pandemic.

**REASONS SUPPORTING THE  
COMMISSIONER’S DETERMINATION**

Although Petitioner does not cite to California Government Code section 11340.6, to the extent this Petition can be construed as a petition for rulemaking, including any required public hearing, within the meaning of that section, the petition is denied. California law provides that the Administrative Procedure Act (“APA”) does not apply to ratemaking regulations. The APA expressly states that Chapter 3.5, entitled “Administrative Regulations and Rulemaking” “does not apply to: [a] regulation that establishes or fixes rates, prices, or tariffs.” (Gov. Code, § 11340.9(g); accord *20th Century Insurance Co. v. Garamendi* (1994) 8 Cal.4th 216, 270.). Additionally, in light of “shelter in–place” orders throughout California and the immediate need for rate and premium relief for policyholders in many lines of insurance, the Commissioner determined that a rulemaking proceeding would not provide timely guidance to insurers, policyholders, and the public.

Accordingly, to the extent the Petition may be construed as a request for the adoption of a regulation, the Commissioner denies such request by the Petitioner.

**FURTHER DETERMINATION**

Although the Commissioner denies the Petition in part, he also grants significant portions of the relief Petitioner requests. CFC proactively and correctly highlighted an important reduction in risk to private passenger automobile insurance exposures in California due to the COVID–19 pandemic. As CFC notes in its petition: “[w]ith a statewide Stay at Home order now in effect, the decline in traffic and accidents will reduce auto insurance losses substantially over the course of this crisis.” Indeed, subsequent California motorist traffic data provides strong support for CFC’s predictions. According to a University of California, Davis “Special Report: Impact of COVID19 on California Traffic Accidents,” reduced driving has resulted in fewer accidents, injuries, and fatalities on public highways and roads.

The Commissioner agrees that there is an immediate need for a bulletin to require insurers to recognize the abrupt and substantial change in risk exposures caused by the COVID-19 pandemic, and return premium to Californians. Accordingly, on April 13, 2020, Commissioner Lara issued Bulletin 2020-3. While Petitioner sought relief only with respect to the commercial and private passenger automobile lines of insurance, the Commissioner determined that changes in risk exposures due to the COVID-19 pandemic extend beyond automobile insurance.

As is set forth in detail in Bulletin 2020-3, the Commissioner directed insurers to make premium refunds for additional lines, including workers' compensation insurance, commercial multiple peril insurance, commercial liability insurance, medical malpractice insurance, and other lines of coverage where the measures of risk are substantially overstated as a result of the COVID-19 pandemic. Bulletin 2020-3 also imposes certain notice and reporting requirements, as specified. While broader in scope than requested in the Petition, Bulletin 2020-3 also includes guidance and instructions to insurers to respond to Petitioner's demand for immediate personal and commercial automobile rate relief.

AGENCY CONTACT PERSON

Bryant Henley, Deputy Commissioner & Special Counsel  
 California Department of Insurance  
 300 Capitol Mall, 17<sup>th</sup> Floor  
 Sacramento, CA 95814  
 Bryant.Henley@insurance.ca.gov  
 916-492-3500

OBTAINING COPIES OF THE PETITION

Interested persons may obtain a copy of the Petition from the Agency Contact Person.  
 Dated: April 21, 2020.

**DIVISION OF WORKERS' COMPENSATION**

**DEPARTMENT OF INDUSTRIAL RELATIONS**

**NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS (Government Code section 11340.7)**

TITLE 8, CALIFORNIA CODE OF REGULATIONS, SECTION 9785(b), ARTICLE 5 OF CHAPTER 4.5, SUBCHAPTER 1

**PETITIONER:**

**Joseph V. Capurro, California Applicants' Attorney's Assn**

By letter dated March 11, 2020, Joseph V. Capurro (Petitioner), President of the California Applicants' Attorney's Association, petitioned the Division of Workers' Compensation (DWC) in accordance with Government Code section 11340.6. The DWC received Petitioner's letter on March 17, 2020. The Petitioner requests that the DWC amend a provision of former California Code of Regulations, title 8 ("8 CCR"), section 9785(b) to require that any discharge of an injured worker from further treatment by the primary treating physician must include a personal exam by the primary treating physician and that the discharge be documented in either a PR3, PR4 or Medical-Legal Report.

AUTHORITY

Labor Code section 133 gives the Administrative Director the power and jurisdiction to do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon the Administrative Director under the Labor Code. The statutes establishing the procedures for medical treatment, procurement of medical treatment, and processing of claims for payment for medical treatment, sections 4600-4615, are found in Article 2 of Chapter 4 in Division 4 of the Labor Code. Labor Code section 4603.5 gives the Administrative Director the authority to adopt rules pertaining to the format and content of all notices required by Article 2.

Labor Code section 5307.3 authorizes the Administrative Director of the DWC to adopt, amend, or repeal any rule or regulation that is reasonably necessary to enforce Division 4 of the Labor Code, except where that power is specifically given to the Workers' Compensation Appeals Board.

CONTACT PERSON

Please direct any inquiries regarding this action to Winslow F. West, Industrial Relations Counsel, Divi-

sion of Workers' Compensation — Legal Unit, P.O. Box 70823, Oakland, CA 94612.

### AVAILABILITY OF PETITION

The petition to amend title 8, California Code of Regulations section 9785(b) is available upon request directed to the Division's contact person.

### SUMMARY OF THE PETITION

Petitioner requests that the DWC amend former California Code of Regulations, title 8 ("8 CCR"), section 9785(b) to further define "discharge from treatment" by a treating physician and require a physical examination and reporting upon discharge from care by a primary treating physician. Petitioner proposes the following amendment to former section 9785(b):

(b) There shall be no more than one primary treating physician at a time. Where the primary treating physician discharges the employee from further treatment and there is a dispute concerning the need for continuing treatment, no other primary treating physician shall be identified unless and until the dispute is resolved. Any discharge from further treatment shall include a personal exam by the primary treating physician and the discharge must be documented in either a PR3, PR4, or Medical Legal Report. If it is determined that there is no further need continuing treatment, then the physician who discharged the employee shall remain the primary treating physician. If it is determined that there is further need for continuing treatment, a new primary treating physician may be selected.

The petition states that the regulation is ambiguous and has led to unnecessary treatment delays and litigation. The petition cites three Workers' Compensation Appeals Board cases to support the proposition that ambiguity in the regulation has led to litigation.

### DEPARTMENT DECISION

DWC denies the petition.

The petition requests that the Administrative Director amend a regulation that no longer exists in the form related in the Petition for Amendment.

The petition recites the iteration of the regulation that existed and was in effect prior to the amendment of the regulation by SB 899 in 2004. The current iteration of the regulation does not contain any ambiguity as to "discharge from further treatment." The amended regulation removes any ambiguity as to when an employee may designate a new primary treating physician. The

current version of the regulation, enacted after SB 899, provides a remedy for the employee who disputes a medical determination by the primary treating physician, including a determination that the employee should be released from care. The regulation provides for the employee to resolve the dispute through submission to the QME process, where the employee will receive an examination prior to the issuance of a medical-legal report.

The first case cited by Petitioner, *Acosta v. Balance Staffing Services* (2014 Cal. Wrk. Comp. P.D. Lexis 480), involved the proper interpretation of "discharged from treatment" without the need for further current medical treatment as being a discharge from care under the former regulation 9785(b). The case went on to opine that the proper way to dispute this finding and seek a change in primary treating physician was through the QME process.

The second and third cases cited by Petitioner mainly opine on the interpretation of MPN procedures and only peripherally deal with 9785(b). However, all of the cases are unanimous in their finding that under both iterations of 9785(b), the proper way to dispute a treating physician's medical determination involving a discharge from care is through the QME process.

Given the amendment of the regulation and the proper assessment of the current case law, there does not appear to be any ambiguity of the nature stated in the Petition to Amend in the current version of the regulation. Therefore, there is no current need for the requested amendment.

### 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# 2020-0323-02  
AIR RESOURCES BOARD  
2019 State Area Designations

The Air Resources Board amended a regulation that designates areas of California as Attainment, Nonattainment, Nonattainment-transitional, or Unclassified relative to compliance with State ambient air quality standards for ozone. The amendments redesignate Santa Barbara County in the South Central Coast Air Basin from Nonattainment-transitional to Attainment and redesignate Yuba County and that portion of Sutter County outside of the Sutter Buttes in the Sacramento Valley Air Basin from Attainment to Nonattainment.

Title 17  
 AMEND: 60201  
 Filed 04/16/2020  
 Effective 07/01/2020  
 Agency Contact: Bradley Bechtold (916) 322-6533

Title 4  
 AMEND: 10170.17, 10170.18, 10170.19,  
 10170.20, 10170.21, 10170.22, 10170.24(a)  
 Filed 04/20/2020  
 Effective 04/20/2020  
 Agency Contact: Katrina Johantgen (213) 620-4608

File# 2020-0306-02  
 BOARD OF ACCOUNTANCY  
 Obsolete or Outdated

In this rulemaking action, the Board of Accountancy amends and repeals various regulations to remove provisions that are obsolete and outdated, such as provisions related to the expired 24-month period for credit retention, paper and pencil examinations, fees applicable between July 2014 and June 2016, and the Report Quality Monitoring Committee.

Title 16  
 AMEND: 7.1, 70, 75.5  
 REPEAL: 8, 87.6, 89.1  
 Filed 04/16/2020  
 Effective 07/01/2020  
 Agency Contact: Deanne Pearce (916) 561-1740

File# 2020-0403-03  
 CALIFORNIA STATE UNIVERSITY  
 Occupational Therapy Doctorate Degree

This action by the Board of Trustees of the California State University, submitted to OAL for courtesy filing with the Secretary of State and for printing in the California Code of Regulations, adopts regulations regarding occupational therapy doctorate degree requirements. This action is exempt from the Administrative Procedure Act under Education Code section 89030 and takes effect upon filing with the Secretary of State under Education Code section 89030.1.

Title 5  
 ADOPT: 40050.5, 40519, 40519.1, 41024  
 Filed 04/22/2020  
 Effective 04/22/2020  
 Agency Contact: Jason Taylor (562) 951-4500

File# 2020-0306-03  
 BOARD OF FORESTRY AND FIRE PROTECTION  
 Fire Safety Survey, 2019

This action by the Board of Forestry and Fire Protection adopts regulations establishing procedures for the identification and evaluation of existing subdivisions located in state responsibility areas or very high fire hazard zones.

Title 14  
 ADOPT: 1267.00, 1267.01, 1267.02, 1267.03  
 Filed 04/20/2020  
 Effective 07/01/2020  
 Agency Contact: Edith Hannigan (916) 862-0120

File# 2020-0312-02  
 COMMISSION ON PEACE OFFICER STANDARDS  
 AND TRAINING  
 Code of Ethics

This action adopts an affirmation administered to peace officer trainees to adhere to certain standards of conduct.

Title 11  
 AMEND: 1013  
 Filed 04/22/2020  
 Effective 07/01/2020  
 Agency Contact: Scott Loggins (916) 227-2807

File# 2020-0409-01  
 CALIFORNIA SCHOOL FINANCE AUTHORITY  
 Charter School Revolving Loan Program

In this emergency action, the California School Finance Authority amends Charter School Revolving Loan Fund Program regulations to, among other things: define "good standing" and "nonprofit entity;" prohibit charter schools operated as for-profit entities from applying for loans; and change the loan application schedule from annual to an ongoing first-come first-served basis based on availability of funding.

File# 2020-0305-02  
 DIVISION OF LABOR STANDARDS  
 ENFORCEMENT  
 Enforcement of Client Employer Liability Under Labor Code Section 2810.3

This action provides standards for the enforcement of Labor Code section 2810.3, which establishes civil liability in client employers for the payment of wages and all sums payable to employees and the state for the failure to pay wages. The action specifies recordkeeping requirements for labor contractors as well as a method for allocating civil liability for payment of wages between or among multiple client employers when employees perform labor, work, or services for more than one client employer in a day or in a week.

Title 8  
ADOPT: 13830, 13831, 13832  
Filed 04/16/2020  
Effective 07/01/2020  
Agency Contact: Laura Moskowitz (415) 703-5252

File# 2020-0415-05  
FISH AND GAME COMMISSION  
Special Measures for Sport Fishing to Protect Public Health

This emergency rulemaking action by the Fish and Game Commission authorizes the temporary suspension, delay, or restriction of sport fishing if necessary to protect public health from the immediate threat posed by COVID-19.

Title 14  
ADOPT: 8.02  
Filed 04/16/2020  
Effective 04/17/2020  
Agency Contact: Sherrie Fonbuena (916) 654-9866

File# 2020-0316-04  
HASTINGS COLLEGE OF THE LAW  
Conflict-of-Interest Code

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

Title 2  
ADOPT: 59870  
Filed 04/21/2020  
Effective 05/21/2020  
Agency Contact: John K. DiPaolo (415) 565-4787

File# 2020-0415-02  
SECRETARY OF STATE  
Digital Signatures

This emergency action replaces the existing Approved List of Digital Signature Certification Authorities with the requirement that public entities only accept

certificates from authorities recognized by at least one of the three certificate programs identified in the regulations.

Title 2  
AMEND: 22000, 22002, 22003, 22005  
REPEAL: 22004  
Filed 04/22/2020  
Effective 04/22/2020  
Agency Contact: Taylor Kayatta (916) 695-1530

File# 2020-0415-01  
STATE ALLOCATION BOARD  
Emergency Powers of the Executive Officer; COVID-19

This emergency action by the State Allocation Board authorizes the extension of deadlines for programs under the authority of the board.

Title 2  
ADOPT: 1580  
Filed 04/22/2020  
Effective 04/22/2020  
Agency Contact: Lisa Jones (916) 376-1753

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

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