



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **June 18, 2020** at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m. on June 17, 2020.**

BACKGROUND/OVERVIEW

Section 87105 requires a public official holding an office identified in Section 87200 to publicly identify a financial interest that gives rise to a conflict, or potential conflict, of interest under Section 87100 and immediately prior to the consideration of the matter do three things:

- (1) publicly identify the financial interest in detail
- (2) recuse himself or herself from discussing and voting on the matter
- (3) leave the room until after the matter is concluded.

Regulation 18707, subdivision (a)(3)(B), provides an exception to the public identification duties where an official is “absent” from the meeting.

Concerned citizens recently brought to the Commission’s attention that an elected public official in their county attended a public meeting in which they understood the official to have a financial interest in an item on the agenda. The public official reportedly left the

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

meeting prior to the particular agenda item, and then returned to the meeting after the item was completed, with no disclosure as to his financial interest. The Commission directed staff to review Regulation 18707 and propose amendments which will avoid such circumventions of the disclosure requirements.

REGULATORY ACTION

Repeal and Adopt 2 Cal. Code Regs. Section 18707

Commission staff proposes non-substantive clean-up amendments to Regulation 18707, resulting in its repeal and adoption, and a substantive clarification that Section 87200 public officials who have a financial interest in a decision on a meeting agenda may not avoid the public identification requirements in Section 87105 by a partial absence from the meeting.

Staff proposes addressing the avoidance issue by clarifying the timing for public identification of a financial interest in a meeting, as follows:

- (a)(2) Timing. Public identification of the financial interest must be made immediately prior to consideration of the agenda item. Partial absence from a meeting does not excuse the official’s public identification requirement. If an official leaves a meeting in advance of the agenda item in which the official is disqualified, the official must publicly identify the agenda item and the financial interest prior to leaving the meeting. An official first joining a meeting after the consideration of an agency item in which the official is disqualified must publicly identify the agenda item and the financial interest immediately upon joining the meeting.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issue identified above or any related issue.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. None.
Fiscal Impact on State Government. None.
Fiscal Impact on Federal Funding of State Programs. None.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

Government Code sections 87100, 87101, 87105, and 87200.

CONTACT

Any inquiries should be made to L. Karen Harrison, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 4. CALIFORNIA HORSE RACING BOARD

RULE 1503.5, CONTINUING EDUCATION FOR TRAINERS AND ASSISTANT TRAINERS

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

PROPOSED REGULATORY ACTION

The Board proposes to add Board Rule 1503.5, Continuing Education for Trainers and Assistant Trainers. The proposed regulation provides that commencing June 1, 2021, applicants for renewal of license as trainer or assistant trainer shall certify that during the previous 36-month period they completed a total of 12 hours of approved continuing education (ACE) coursework. Licensees are required to maintain records of completed course work for a period of four years from the date the courses were completed and shall provide such records to the Board upon request. The stewards shall waive the ACE requirements for applicants who are not domiciled in California, and who certify that they have had twelve or fewer starts in California, other than stakes races, during the previous 36 months. Waivers may also be granted for good cause provided the applicant completes the ACE requirements within 12 months of renewal of license. Unless a waiver is granted, failure to complete ACE coursework shall result in the applicant's inability to renew his or her license. The proposed regulation defines trainers' continuing education as instruction intended to foster competence and knowledge in horsemanship, and which specifically promotes compliance with California's horse racing law and reg-

ulations; equine health, safety and welfare in racing, and the promotion of human safety and welfare.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, July 16, 2020**, or as soon after that as business before the Board will permit, in the **Steeplechase Room at the Del Mar Hilton, 15575 Jimmy Durante Blvd., Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes **on June 29, 2020**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

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

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19460 and 19520, Business and Professions Code (BPC). Reference: Sections 19420 and 19440, BPC.

BPC sections 19420, 19440, 19460 and 19520 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19420 and 19440, BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19420 provides that jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the Board. BPC section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out

fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. BPC section 19460 provides that all licenses granted under this chapter are subject to all rules, regulations, and conditions prescribed by the Board. BPC section 19520 provides that every person who participates in, or has anything to do with, the racing of horses, shall be licensed by the Board pursuant to rules and regulations that the Board may adopt.

Trainers' and assistant trainers' professional duties involve considerable responsibility, complexity and variety. They decide the day-to-day preparations needed to train a horse to run in a race. They manage the care, feeding and grooming regimen of the horse, as well as the horse's exercise and rest. In addition, trainers in large part make decisions regarding the medications and physical therapy treatments their horses receive. Ideally, trainers and assistant trainers work to run stables that are efficient, cost-effective and successful, and they hire and train employees in the best practices. All of this requires that trainers and assistant trainers must be informed about such issues as changing theories in training methods, discoveries regarding the physiological effects of exercise, or research regarding medications and its effects on the horses in their care. They must also be aware of issues involving stable management and their employees. The Board requires first time applicants for license as trainer or assistant trainer to pass written, oral and practical examinations prior to issuance of a license. However, to renew a license as trainer or assistant trainer, an applicant is only required to submit a completed application and pay the prescribed fee. The Board currently does not ask trainers or assistant trainers who apply to renew a license to demonstrate that they have taken any actions to improve their level of horsemanship, or if they have kept abreast of equine medication, health and safety issues, or management and human resource topics. To ensure California's trainers and assistant trainers are familiar and current with issues affecting their profession, the Board proposes to add Board Rule 1503.5, Continuing Education for Trainers and Assistant Trainers.

Subsection 1503.5(a) provides that commencing June 1, 2021, an applicant for renewal of licenses as trainer or assistant trainer shall certify that during the preceding 36-month period, he or she has completed a total of 12 hours of Board approved ACE course work. The term of license for a trainer or assistant trainer is three years, which means that during the term of license, a licensee would have to complete no more than four hours of ACE course work per year to meet the educational requirements of the proposed regulation. The Board believes it is necessary to ensure that trainers and

assistant trainers are informed regarding issues relevant to their profession, while not being burdened by unreasonable demands on their time. As many of the ACE courses will be available online and can be taken at the convenience of the student, a trainer should be able to fulfill the ACE requirement without otherwise impacting his or her training routine.

The date at which applicants for renewal of license as trainer or assistant trainer must begin providing evidence of ACE course work has been set at June 1, 2021. The Board has determined it is necessary to provide a reasonable amount of time between the anticipated effective date of the proposed regulation (mid 2020) and the date renewal of license as trainer or assistant trainer will require ACE course work.

The proposed addition of Board Rule 1503.5 requires applicants for renewal of license as trainer or assistant trainer to demonstrate completion of at least 12 hours of Board approved ACE course work during the previous 36 months. Subsection 1503.5(a)(1) provides that the applicant shall provide such certification by submitting a completed form CHRB-59a Certification of Approved Continuing Education (ACE) Coursework (New 01/20) (CHRB-59a). The form shall be submitted with the licensee's application for renewal of license. The CHRB-59a records how many hours of ACE coursework the applicant completed, as well as the period during which the coursework occurred. This information is necessary for the licensing technician to process the renewal of license; the applicant is affirming that he or she completed the required ACE course work within the timeframe provided under Board Rule 1503.5. In submitting the signed form, the applicant certifies under penalty of perjury that he or she has completed the hours of continuing education necessary for renewal of license, and that the coursework occurred during the previous 36 months. The penalty of perjury is consistent with other Board forms associated with application for license, which are also completed under penalty of perjury. The applicant is affirming that the information he or she provides is true and correct. The CHRB-59a does not require the applicant to list every ACE course taken, as the Board does not believe it is possible or necessary for its licensing technicians to verify each applicant's certification. If there are questions regarding an applicant's ACE coursework, the Board may audit the applicant's records. Subsection 1503.5(b) requires the licensee to maintain records of completed ACE coursework for a period of four years from the date the course was completed. The four-year period is necessary to ensure the records are available for audit, if required, for at least one year beyond the renewal of license.

Subsection 1503.5(b) provides that the records of ACE coursework may be in a form provided by an ACE

course or may be recorded on the form CHRB-242 Continuing Education Certificate of Attendance (New 01/20) (CHRB-242). The CHRB-242 is necessary, as not all ACE courses may provide evidence of completion. For example, courses may be online, such as the free online modules offered by The Jockey Club, or the University of California Davis education modules available on the CHRB website. If a certificate of completion is not issued, it will be the responsibility of the licensee to record his or her use of such online courses. As provided by subsections (b)(1) through (b)(3), any records of ACE coursework shall include at least the title of the course, meeting or conference, the date, location and provider of the ACE course, and the number of ACE hours earned. The recording of information regarding ACE course work is necessary if, for any reason, the Board wishes to conduct an audit. In submitting the signed form, the applicant certifies under penalty of perjury that he or she has completed an ACE course necessary for renewal of license. The penalty of perjury is consistent with other CHRB forms associated with application for license, which are also completed under penalty of perjury. The applicant is affirming that the information he or she provides is true and correct. Subsection 1503.5(b) states the CHRB-242 will be available at all Board offices and on the Board's website. The online and paper distribution of the form is necessary to ensure trainers and assistant trainers have easy access to the document.

Subsection 1503.5(c) states that unless a waiver is granted under subsection (e), failure to maintain or produce records of completed ACE coursework shall result in the applicant's inability to renew a license as trainer or assistant trainer. Applicants for renewal of license as trainer or assistant trainer are required to certify that they have completed 12 hours of ACE coursework by completing the form CHRB-59a. The CHRB-59a does not require the applicant to list each course; one merely certifies that one has completed twelve hours of ACE coursework. However, under subsection 1503.5(b), the Board may require the applicant to present a record of completion of ACE coursework. Applicants who certify they have completed the ACE course work, but who do not have complete records, may be referred to the stewards for a determination. The stewards, under Board Rule 1527, General Authority of Stewards, have general authority and supervision over all licensees and other persons attendant on horses.

Subsection 1503.5(d) provides that the stewards shall fine and/or suspend or revoke the license of any applicant for license as assistant trainer or trainer who has provided false certification of completed ACE coursework. Board Rule 1405, Punishment by the Board, states that a violation of any provision of Division 4, whether or not a penalty is fixed therein, is punishable

by revocation or suspension of any license, or by fine, or by any combination of these penalties. Board Rule 1900, Grounds for Suspension or Revocation, states that any provision which is grounds for denial of license is grounds for suspension or revocation. Board Rule 1489, Grounds for Denial or Refusal of License, provides that the Board may refuse to issue a license or deny a license to any person who has made any material misrepresentation or false statement in his or her application for license.

Subsections 1503.5(e) through (e)(1) provide a mechanism wherein the stewards shall waive the ACE requirements of any applicant for renewal of license who is not domiciled in California, and who has had twelve or fewer starts in races in California, other than stakes races¹, during the previous 36-month period. One reason to grant a waiver is to avoid duplication, as the applicant may be domiciled in a state that currently has trainer continuing education requirements, such as New York or Colorado. In addition, the Board does not wish to discourage trainers who may occasionally run horses in California. An applicant for renewal of license as trainer or assistant trainer, who runs horses no more than four times a year in California, may decide against returning. Stakes races are not included in the count. The Board has determined it is necessary to exclude stakes races to encourage out-of-state participation in California's highest quality races. Many of the top East Coast stables only participate in California to run in the Breeders Cup and other major stakes races. If the applicant wishes to receive a waiver, subsection 1503.5(e)(1) states he or she must complete the form CHRB-59b, Request for Waiver of Approved Continuing Education (ACE) Requirements (New 01/20) (CHRB-59b). By Completing the CHRB-59b, the applicant names his or her city and state of residence and certifies that they have had fewer than twelve starts in California, other than stakes races, during the previous 36-month period. The applicant must also list all California starts, less stakes races, over the previous 36-months. After reviewing the form and talking to the applicant, the stewards shall approve request that meet the criteria of subsection 1503.5(e), and sign and date the form. If approved, the completed CHRB-59b would then be submitted to the Board's occupational licensing technician with the application for renewal.

Subsections (e)(2) through (e)(3) provide that the ACE requirements may be waived for good cause provided the ACE requirements are met within a timeframe

¹ Stakes races are horse races in which the purse offered is made up at least in part of money (such as entry fees) put up by the owners of the horses entered to race. Stakes races are where the top horses compete. They carry the most prestige and have the biggest purses.

not to exceed 12 months from the date of renewal of license. The Board has determined that there may be circumstances under which it is reasonable to allow a trainer or assistant trainer to renew a license despite not having completed the required ACE coursework. “Good cause” may include a change in the licensee’s state of residence. An out-of-state trainer who holds a Board-issued license may move to California just prior to renewal of license, or for financial or medical reasons a trainer may not have participated in the industry for an extended period². If the stewards grant a waiver for good cause, the licensee must complete the ACE requirements within 12 months of the date of renewal of license. Subsections (e)(2) through (e)(3) are necessary to allow for flexibility in the renewal of trainer and assistant trainer licenses without relinquishing the requirement for completed ACE coursework. If the stewards grant a waiver for good cause, they shall provide the applicant with a signed recommendation card CHRB-59 (Rev. 12/15).

Subsection 1503.5(e)(4) provides that if a waiver is denied, the applicant will be ineligible for renewal of license until he or she has completed the ACE requirements. If a waiver is denied it is necessary to disallow renewal of license to ensure only qualified candidates hold a trainer or assistant trainer license. The purpose of the ACE requirements is to guarantee that California’s trainers and assistant trainers demonstrate that they have taken actions to improve their level of horsemanship, and have kept abreast of equine medication, health and safety issues, and management and human resource topics.

Subsection 1503.5(f) provides that the Board shall approve ACE curriculum no later than November 1 of the year prior to the ACE curriculum being added to the list of Board approved ACE courses. The Equine Medical Director (EMD), in consultation with the California Thoroughbred Trainers (CTT), shall make a presentation of the proposed ACE curriculum to the Board. Advanced approval of the ACE curriculum is necessary to ensure an adequate number of courses will be available, and that the curriculum is relevant and will contribute to licensees’ learning and development as trainers and assistant trainers. The CTT is the horsemen’s organization representing California thoroughbred trainers. Its involvement with the presentation of ACE curriculum is necessary to ensure trainers’ active support and participation in the concept of continuing education.

² Rule 1509, Use of License Required, provides that to maintain the qualifications for any license, one must have been regularly engaged in the occupation for which the license was issued for no less than 21 working or racing days during the term of license. Under Rule 1486, Term of License, a trainer or assistant trainer license granted by the Board shall expire in its third year on the last day of the birth month of the licensee.

Subsections 1503.5(f)(1) through (f)(2) provide that subsequent to the yearly ACE curriculum presentation to the Board, the EMD may modify the course list to add or remove a course. A current list of Board approved ACE courses shall be available at all Board offices and on the Board’s website. It is necessary to allow the EMD to modify the ACE course listing to provide new course materials as they become available, and to remove content that is discontinued. The Board maintains an office at each live race meeting. The proximity to trainers and assistant trainers at the racetrack, coupled with electronic access, will provide for wide distribution of the current listing of Board approved ACE courses. The maintenance of a current listing of ACE courses is necessary in order to inform trainers and assistant trainers of available educational opportunities. The listing will also serve to prevent licensees from attempting to take credit for courses or seminars that are not Board approved.

Subsection 1503.5(f)(2)(A) states the EMD shall assign the hours credited to an ACE course. In addition to the actual time necessary to complete the ACE course, the EMD shall consider the difficulty of the course and expected learning outcomes. The flexibility in assigning “hours” to an ACE course is necessary to encourage licensees to take courses that may be more difficult and/or beneficial. Two ACE courses may involve the same amount of time, but one may have a greater learning impact.

Subsection 1503(f)(3) states that if a licensee completes ACE coursework, and the course is subsequently removed from the listing of Board approved ACE courses, the completed coursework will still satisfy the requirements of the regulation. The provision is necessary to ensure that “delisting” of ACE courses is not retroactive, and licensees are not forced to take additional ACE courses after a completed course is removed from the Board’s curriculum.

Subsection 1503(g) provides a definition of ACE coursework. The definition is necessary to provide a common understanding of the concept of trainer continuing education and the subject areas the Board believes will educate trainers and assistant trainers in best business practices and human resources, and will advance the health, safety and welfare of horse and rider.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed addition of Board Rule 1503.5 provides that commencing June 1, 2020, applicants for renewal of license as trainer or assistant trainer shall certify that during the previous 36-month period they have completed a total of 12 hours of approved continuing education (ACE) coursework. Licensees are required to

maintain records of completed course work for a period of four years from the date the course was completed and shall provide such records to the Board upon request. The stewards may waive the ACE requirements for applicants who are not domiciled in California, and who have had twelve or fewer starts in California, other than stakes races, during the previous 36-months, or for good cause. The proposed regulation defines trainers' continuing education as instruction intended to foster competence and knowledge in horsemanship, and which specifically promotes compliance with California's horse racing law and regulations; equine health, safety and welfare in racing, and the promotion of human safety and welfare.

The proposed addition of Board Rule 1503.5 benefits California's horse racing industry, horsemen and the public by ensuring that trainers and assistant trainers engage in a program of continuing education. Trainers and assistant trainers who are aware of advances in training techniques and medication issues; changes in horse racing law and regulations; and issues related to the health, safety and welfare of backstretch personnel and jockeys, are assets who help maintain the integrity of California's horse racing industry. The proposed addition of Board Rule 1503.5 is consistent with current Board regulations in that the trainer is responsible for the condition of the horse entered to race. The proposed regulation will help to protect worker safety. The proposed regulation will not protect public health and safety, the environment, the prevention of discrimination, the promotion of fairness or social equity, or increase openness and transparency in government.

CONSISTENCY EVALUATION

During the process of developing the addition to Board Rule 1503.5, 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.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed addition of Board Rule 1503.5 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.

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

ECONOMIC IMPACT ASSESSMENT

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

The adoption of the proposed addition of Board Rule 1503.5 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 Board Rule 1503.5 will provide consistency and clarity with regards to the necessity for trainers and assistant trainers to engage in an ongoing program of continuing education. The proposed amendment will protect the interests of California horsemen and the public by ensuring trainers and assistant trainers are informed regarding advancements in horsemanship, equine medication and health and safety issues, and issues relating to the health, safety, and welfare of backstretch personnel and jockeys.

The proposed addition of Board Rule 1503.5 will impact trainers and assistant trainers who apply for renewal of license. However, the net economic effect of the proposed regulation will be negligible. The majority of continuing education courses will require little or no participation fees.

The proposed regulation will not impact the state's environment.

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

Significant effect on housing costs: none.

Effect on small businesses: none. The proposal to add Board Rule 1503.5 does not affect small businesses because horse racing is not a small business under GC section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed 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 Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

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

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

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

Amanda Drummond, Manager
Policy and Regulations
Telephone (916) 263-6033
Email: amdrummond@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

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

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modi-

fied text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Zachary Voss at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

BOARD WEB ACCESS

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

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN that the Department of Motor Vehicles, pursuant to the authority vested in it by Section 87306 of the Government Code, proposes to amend its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of Sections 87300 through 87302, and Section 87306 of the Government Code.

The Department of Motor Vehicles proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of Section 87302 of the Government Code.

This amendment reflects the organizational structure of the Department of Motor Vehicles as of August 1, 2019, and makes other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the contact person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than **June 29, 2020**, or at the conclusion of the public hearing, if a hearing is requested, whichever comes later, to the contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than June 15, 2020, by contacting the contact person set forth below.

The Department of Motor Vehicles has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the contact person set forth below.

The Department of Motor Vehicles has determined that the proposed amendments:

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

In making these proposed amendments, the Department of Motor Vehicles must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

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

Randi Calkins, Regulations Analyst
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-128
Sacramento, CA 94232-3820
Telephone: (916) 657-8898
Facsimile: (916) 657-6243
Email: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following backup person:

Shelly Johnson Marker, Chief of Staff
Telephone: (916) 657-6469

TITLE 14. DEPARTMENT OF FISH AND WILDLIFE

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt the addition of Section 132.8 to Title 14, California Code of Regulations (CCR), implementing the Risk Assessment Mitigation Program (RAMP): Commercial Dungeness Crab Fishery. Section 8276.1 of the Fish and Game Code (FGC) requires the Department, in consultation with the California Dungeness Crab Fishing Gear Working Group (Working Group) and other stakeholders, to adopt regulations establishing criteria and protocols to assess and manage risk of marine life entanglement with fishing gear associated with the commercial Dungeness crab fishery.

The Working Group has developed the RAMP to assess circumstances where entanglement risk may be elevated and provide recommendations on appropriate management responses to the Director of the Department (Director) to take action. The pilot RAMP program developed by the Working Group is the basis for the proposed regulations.

The proposed RAMP regulations implement the program as required under FGC Section 8276.1(b). The RAMP, as listed by subsection, consists of the following:

- (a) definitions;
- (b) a risk assessment schedule;
- (c) triggers for management actions;
- (d) management considerations;
- (e) management actions;
- (f) notification process;
- (g) mandatory reporting requirements; and
- (h) alternative gear authorization.

After consideration of all public comments, objections, and recommendations regarding the proposed action, the Department may adopt the proposed regulations.

PUBLIC HEARING

A virtual public hearing is scheduled by as follows:

Date:

Monday, June 29, 2020

Time:

10 a.m. to 12 p.m. (meeting details will be made available on the Whale Safe Fisheries Page: wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries)

Location:

Teleconference and Webinar

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to the Department. All written comments must be received by the Department via mail, or e-mail, no later than **June 29, 2020**, to the contact as follows:

California Department of Fish and Wildlife,
 Marine Region
 Attn: Ryan Bartling, Sr. Environmental Scientist
 3637 Westwind Blvd, Santa Rosa, CA
 Email: WhaleSafeFisheries@wildlife.ca.gov

AUTHORITY AND REFERENCE

Authority: Section 8276.1, Fish and Game Code.
 Reference: Sections 8276, 8276.1, 8276.5, 9002.5, 9008, Fish and Game Code.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Background

Under current regulations, the California Department of Fish and Wildlife (Department) Director’s authority to alter operations of the commercial Dungeness crab fishery is limited to closures protecting human health (Fish and Game Code (FGC) Section 5523) and delays due to low crab quality (FGC Section 8276.2). Senate Bill (SB) 1309 (2018, McGuire) added Section 8276.1 to the FGC. FGC Section 8276.1(c) provides additional, interim authority for the Director to restrict take of Dungeness crab in response to significant risk of marine life entanglement. FGC Section 8276.1(b) requires the Department, in consultation with the California Dungeness Crab Fishing Gear Working Group (Working Group) and other stakeholders, to adopt regulations establishing criteria and protocols to evaluate and respond to potential risk of marine life entanglement.

Regulatory Proposal

The proposed regulation would add Section 132.8 to Title 14, California Code of Regulations (CCR) to establish a Risk Assessment Mitigation Program (RAMP) which will evaluate and respond to marine life entanglement risk from California commercial Dungeness crab fishing gear. Upon the effective date of these regulations, the RAMP would replace the Director’s interim authority under FGC Section 8276.1(c) as the primary mechanism for mitigating entanglement risk in this fishery. The following is a summary of the new regulations proposed in Section 132.8:

- Define Actionable Species which will be considered under the RAMP as Blue Whales, Humpback Whales, and Pacific Leatherback Sea Turtles;
- Define six Fishing Zones which prescribe the scale at which available data will be assessed and management actions considered;
- Specify how Impact Score Calculations are used to represent severity of injury caused by Confirmed Entanglements with California Commercial Dungeness Crab Gear or Confirmed Entanglements with Unknown Fishing Gear and the necessity for management action;
- Define the Working Group and their role in assessing available information and informing management actions by the Director;
- Specify the frequency and process by which Risk Assessments will be conducted;
- Specify triggers for management action, including closure of one or more Fishing Zones, based on confirmed entanglements (Impact Score Calculation) or presence of Actionable Species;
- Identify data which will be considered when determining the need for, and appropriate category of, management action;
- Identify categories of management actions which the Director may implement in response to attainment of a specified trigger as including an advisory to the Fleet, depth constraint, vertical line/gear reduction, closure of one or more Fishing zones, and use of Alternative Gear;
- Specify the process by which the Department will notify the Fleet of any management actions;
- Establish mandatory reporting requirements for all members of the Fleet, and additional requirements when fishing during a depth constraint or using Alternative Gear; and
- Define Alternative Gear and the process by which it will be authorized to reduce the risk of marine life entanglement, including circumstances in which the Department would not approve an initial application or later deauthorize an approved gear.

Benefits of the Proposed Regulations

The proposed regulations will clearly define the process by which the Department, in consultation with the Working Group, will implement and remove restrictions on commercial Dungeness crab fishing activity in response to marine life entanglement risk. This will provide a measure of certainty to fishery participants regarding how their future operations may be impacted. Furthermore, regulations are expected to promote the survival and recovery of Actionable Species by reducing anthropogenic impacts from entanglement in fish-

ing gear. These regulations are also expected to provide benefits to other marine life which co-occur in space or time with Actionable Species and are at similar risk of entanglement.

Consistency and Compatibility with Existing Regulations

The Legislature has delegated authority to the Department to adopt regulations establishing criteria and protocols to evaluate and respond to risk of marine life entanglement in the commercial Dungeness crab fishery (Section 8276.1 of the FGC). The Department has reviewed existing regulations in Title 14, CCR and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulation. Department staff have searched the CCR and has found no other State regulations that implement measures to reduce marine life entanglement in commercial Dungeness crab fishing gear.

DOCUMENTS INCORPORATED BY REFERENCE

Title 50, Code of Federal Regulations (CFR) Part 660, sections 660.71 through 660.74, as revised December 12, 2018:

Section 660.71, CFR — Latitude/longitude coordinates defining the 10–fm (18–m) through 40–fm (73–m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_171

Section 660.72, CFR — Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_172

Section 660.73, CFR — Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_173

Section 660.74, CFR — Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_174

DOCUMENTS SUPPORTING THE PROPOSED REGULATION CHANGE

Senate Bill 1309, 2018, McGuire, available from: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1309

Benson, S.R., K.A. Forney, J.T. Harvey, J.V. Carretta, and P.H. Dutton (2007). Abundance, distribution, and habitat of leatherback turtles (*Dermochelys coriacea*) off California, 1990–2003. *Fishery Bulletin*, 105(3): 337–347.

Calambokidis, J., G.H. Steiger, C. Curtice, J. Harrison, M.C. Ferguson, E. Becker, M. DeAngelis, and S.M. Van Parijs. 2015. Biologically Important Areas for Selected Cetaceans Within U.S. Waters — West Coast Region. *Aquatic Mammals*, 41(1): 39–53. DOI 10.1578/AM.41.1.2015.39

Carretta, J. V., K.A. Forney, E.M. Oleson, D.W. Weller, A.R. Lang, J. Baker, M.M. Muto, B. Hanson, A.J. Orr, H. Huber, M.S. Lowry, J. Barlow, J.E. Moore, D. Lynch, L. Carswell, and R.L. Brownell Jr. 2019. Humpback Whale (*Megaptera novaengliae*): California/ Oregon/ Washington Stock (pp. 173–182), and Blue Whale (*Balaenoptera musculus musculus*): Eastern North Pacific Stock (pp. 183–190), *In* Assessment U.S. Pacific Marine Mammal Stock Assessments: 2018. U.S. Department of Commerce, NOAA Technical Memorandum NMFSSWFSC–617.

California Dungeness Crab Fishing Gear Working Group, Guidelines for Research and Development Projects, Focus on Ropeless Gear Innovations, Feb 2019: http://www.opc.ca.gov/webmaster/media_library/2019/02/Whales-Gear-Innovations-R-and-D-Guidelines-February-2019.pdf

California Dungeness Crab Fishing Gear Working Group, Recommendations Memo, November 12 2019: http://www.opc.ca.gov/webmaster/media_library/2019/11/CAWhaleWorkingGroup_Highlights_RecommendationsMemo_SeptOct2019_FINAL.pdf

California Dungeness Crab Fishing Gear Working Group, Recommendations Memo, October 15 2018: http://www.opc.ca.gov/webmaster/media_library/2018/10/Whales_WorkingGroup_Recommendations_Memo_October2018_FINAL.pdf

California Dungeness Crab Fishing Gear Working Group, Call Summary, September 26 2019: http://www.opc.ca.gov/webmaster/media_library/2019/10/CAWorkingGroup_WebinarSummary_Sept262019.pdf

California Dungeness Crab Fishing Gear Working Group, Summary of Key Themes, September 4–5 2019: <http://www.opc.ca.gov/webmaster/media>

[library/2019/10/CAWorkingGroup_KeyThemesSummary_FINAL_Sept4-52019.pdf](#)

California Dungeness Crab Fishing Gear Working Group, Summary of Key Themes, March 26 2019: http://www.opc.ca.gov/webmaster/media_library/2019/04/CAWhaleWorkingGroup_KeyThemesSummary_26March2019Meeting_FINAL.pdf

California Dungeness Crab Fishing Gear Working Group Risk Assessment and Recommendation: <https://www.wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>

NMFS, 2012a. NMFS Policy Directive (PD-02-038), Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals, effective January 27, 2012, available from: https://www.avma.org/sites/default/files/resources/noaa_serious_injury_policy.pdf

NMFS, 2012b. NMFS Instruction (02-038-01), Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals: Process for Injury Determinations, effective January 27, 2012, available from: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-policies-guidance-and-regulations>

Saez, L., D. Lawson, and M. DeAngelis. 2020. Large whale entanglements off the U.S. West Coast, from 1982-2017. NOAA Tech. Memo. NMFS-OPR-63, 48 p. 64 Federal Register 102, May 27, 1999. North Pacific Fishery Management Council; Public Meetings, pages 28800-28802. Available from: <https://www.govinfo.gov/content/pkg/FR-1999-05-27/pdf/FR-1999-05-27.pdf>

77 Federal Register 4169, January 26, 2012. NOAA Endangered and Threatened Species: Final rule to revise the critical habitat designation for the endangered Leatherback Sea Turtle, pages 4170-4201. Available from <https://www.govinfo.gov/content/pkg/FR-2012-01-26/pdf/2012-995.pdf>

IMPACT OF THE REGULATORY ACTION

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because west coast states with commercial Dungeness crab fisheries are developing or have similar mitigation programs in effect.

As reported by NOAA, in 2018, Working Groups in Oregon and Washington (both initially formed in 2017) continued meeting to evaluate whale entanglements, develop Best Practices Guides applicable to their respective state fisheries, and discuss potential measures to avoid entanglements with Dungeness crab and other gear in their state. Potential measures that have been discussed by the Working Groups and industry at large include: limitations on gear during the later portion of the fishing season, implementing summer buoy tags to better distinguish when entanglements may be occurring, and promoting research to determine if there are particular whale “hot spot” areas that could be avoided by fishermen during certain times.

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

The Department anticipates the potential for some seasonal impacts on the creation or elimination of jobs due to direct, indirect and induced impacts, some jobs (from 50 to 900) may be eliminated during a potential full closure period. Any fishery closures are to be minimized in duration and extent, and expeditiously lifted when the risk has been abated. The Department does not anticipate substantial impacts on the creation of new businesses or the elimination of existing businesses within the state because any fishery closures would be minimized in duration and extent, and because it’s expected that businesses are diversified and are fishing other species commercially to offset the unpredictability of the Dungeness crab fishery. The Department anticipates benefits to the health and welfare of California residents from better protection of the State’s natural resources and through the better management of valuable state fisheries that benefit fishing communities and consumers, among other residents of the state. The Department does not anticipate any benefits to worker safety because this regulatory action will not impact working conditions or worker safety. The Department anticipates benefits to the environment through the better protection of the State’s natural resources better management of sustainable fisheries.

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

The proposed regulation does not impose new compliance costs directly to businesses, most of which are commercial fishermen operating under a Dungeness crab vessel permit. However, RAMP management actions could result in season delays, early closures, and/or a 50 percent reduction in gear that could reduce the amount of Dungeness crab brought to market. Due to concern for privacy of individual permit holders, we do not have access to an average harvest per vessel to estimate an average potential revenue loss per vessel. The impacts on the total fishery and supporting businesses from a range of potential reductions in the direct expenditure from the seasonal Dungeness crab harvest is described in a Standardized Regulatory Impact Assessment (SRIA; Appendix A to the ISOR) and Supplement to the SRIA, prepared for the proposed regulation (see attached Appendix B to the ISOR).

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

The Department anticipates ongoing Implementation, Monitoring, and Enforcement Costs. The Department also anticipates to experience reductions in Landings Fee Revenue projected to range from \$0 to a maximum of \$2,057,628 per fiscal year of full implementation. No impact on costs/savings in Federal Funding to the State are anticipated.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: *This regulation does not affect any local entity or program.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The proposed regulations may affect several entities characterized as small businesses in that they are independently owned and operated business that are not dominant in their field of operation (CA GOV Code, Article 2, 11342.610). The Department does not collect information on the overall business diversification or

size of Dungeness crab permit holders, but data on vessel size is collected (SRIA, pg. 5–8). For the state of California, about 60 percent of active permits are in the medium and large category or 36–99 feet in length, with the remaining 40 percent categorized as small vessels or less than 36 feet (per recent Department 2013–14 and 2014–15 permitting and landings data). Additionally, it is reasonable to presume that a large share of businesses that support the Dungeness crab fleet harvest and distribution are small businesses.

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ASSESSMENT (SRIA)

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State: The Department anticipates the potential for some seasonal impacts on the creation or elimination of jobs due to direct, indirect and induced impacts, some jobs (from 50 to 900) may be eliminated during a potential full closure period, but any fishery closures are to be minimized in duration and extent, and expeditiously lifted when the risk has been abated.
- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State: The Department does not anticipate substantial impacts on the creation of new businesses or the elimination of existing businesses within the state because any fishery closures would be minimized in duration and extent, and because it's expected that businesses are diversified and are fishing other species commercially to offset the unpredictability of the Dungeness crab fishery.
- (c) Effects of the Regulation on Competitive Advantages or Disadvantages for Businesses Currently Doing Business Within the State: The Department does not anticipate substantial impacts on the competitive advantages or disadvantages for businesses currently doing business within the state because other west coast states with commercial Dungeness crab fisheries are developing or have similar mitigation programs in effect.
- (d) Effects of the Regulation on the increase or decrease of investment in the state.

It is difficult to measure the change in investment that this regulation could induce; however, generally new requirements may induce compliance investment.

Since the environmental consequences of marine life bycatch have precipitated public and legislative action, now new government

regulations may act as critical triggers to prompt investment. Fishing gear designers and manufacturers are anticipated to be compelled to invest in the development new gear protocols that comply with developing alternative gear standards. The spread of new technologies may eventually bring costs down and externalities as well.

- (e) Effects of the Regulation on the incentives for innovation in products, materials, or processes in the state.

Innovation typically involves research and development expenditures and prototype development at less than cost-effective scales of production. Moreover, firms that invest in innovation often have difficulty retaining all of the benefits of their expenditures because their new technologies may be copied by competing firms. In this instance the proposed regulations will spur incentives to innovate in a larger variety of crab trap gear types than are currently available. Over time competition among manufacturers is expected to promote innovation in performance and to reduce production costs that may be passed onto consumers.

- (f) Benefits of the Regulation to the Health and Welfare of California Residents: The Department anticipates benefits to the health and welfare of California residents from better protection of the State’s natural resources and through the better management of valuable state fisheries that benefit fishing communities and consumers, among other residents of the state.
- (g) Benefits of the Regulation to Worker Safety: The Department does not anticipate any benefits to worker safety because this regulatory action will not impact working conditions or worker safety.
- (h) Benefits of the Regulation to the State’s Environment: The proposed regulations will clearly define the process by which the Department, in consultation with the Working Group, will implement and remove restrictions on commercial Dungeness crab fishing activity in response to marine life entanglement risk. This will provide a measure of certainty to fishery participants regarding how their future operations may be impacted. Furthermore, regulations are expected to promote the survival and recovery of Actionable Species by reducing anthropogenic impacts from entanglement in fishing gear. These regulations are also expected to provide benefits to other marine life which co-occur in space or time

with Actionable Species and are at similar risk of entanglement.

COMMENTS MADE BY THE DEPARTMENT OF FINANCE (DOF) ON THE SRIA

On March 4, 2020, the Department submitted a SRIA for the regulation to DOF. On April 3, 2020, The Department received a letter from DOF with comments on the SRIA requesting expanded discussion on certain elements of the SRIA. The Supplement to SRIA (Appendix B) addresses those comments and presents such expanded discussion. The SRIA, and the Supplement to the SRIA, are appendices A and B to the Initial Statement of Reasons (ISOR).

DOF generally concurred with the methodology used to estimate impacts of proposed regulations, with three exceptions as summarized with comment and response below and expanded upon in Appendix B to the ISOR.

Comment 1A. Disclose risk factors triggering each mitigation action. The SRIA does not describe the risk thresholds and it is unclear what the typical levels of risk factors are. The analysis and identification of costs should be augmented with an assessment of the likelihood that a particular mitigation action would be triggered in any one season.

Response 1A. Two main risk factors are central to the RAMP risk assessment determinations: 1) number of confirmed entanglements of Actionable Species and 2) the Marine Life Concentrations of those species. While the collection of consistent historical data series to construct overlapping probability distributions is a goal in progress, provisionally, the CDFW Marine Region scientists’ observations of the Dungeness Crab fishery support the view that the less restrictive Scenarios 2 or 3 (as described in the SRIA on Projected Scenarios, pgs. 16–18), are anticipated to be the most likely to occur in future fishing seasons.

Comment 1B. the SRIA should clarify the methodology for estimating benefits, identify the number of entanglements that occur in the baseline, and assess the likely reduction in bycatch under each scenario.

Response 1B. Given that the RAMP program has not been enacted, a cautious approach to projecting the possible benefits was taken. We derived a range of for the monetary value per whale that was used to calculate the dollar value of saving 50 percent (25 whales saved), 75 percent (38 whales saved), or 100 percent (50 whales saved) of the five-year average number of west coast whale entanglements. While the proposed RAMP program focuses on the three Actionable Species, the program could contribute to reduced entanglement for all listed and non-listed whales which would benefit the

whale-watching industry, provide ecosystem benefits and enhance non-use value benefits.

Comment 1C. It is not clear how the 50 percent, 75 percent, and 100 percent reductions relate to the historical data used for the cost estimates.

Response 1C. The costs of implementing each Scenario were based on projected reductions in the Dungeness crab ex-vessel value (harvest tons multiplied by market price). Delays due to other issues (meat quality and/or domoic acid) provided evidence of how season delays or early closures could impact fleet dynamics and harvest volumes (as a sort of proxy for delays or closures due to marine life entanglement risk). Given no history on the effectiveness of the proposed RAMP, the benefits achieved from each Scenario could only be speculative, suggesting the strategy of posing a range of success rates to, at a minimum, illustrate the relative magnitude of the probable benefits to costs.

Comment 2. The SRIA should discuss disparate impacts of the regulations on businesses and individuals. This should be done by clearly describing the number of small versus large businesses, their regional distributions, and how impacts on affected entities might vary.

Response 2. Directly affected individuals would be Dungeness crab permit holders/vessel operators and deckhands, the latter whom may be employees of a specific vessel/business or independent contractors that work for a few vessels/businesses in one or more fisheries throughout year. The Department does not collect information on the overall business diversification or size of Dungeness crab permit holders, but data on vessel size is collected. About 60 percent of active permits are in the medium and large category or 36–99 feet in length, with the remaining 40 percent categorized as small vessels or less than 36 feet. Anecdotal information suggests greater difficulty is anticipated for small vessel owners to adapt to shorter seasons, more frequent service intervals, and/or depth restrictions. Larger vessels were described as advantaged by ability to operate in a wider range of sea conditions, ability to stay out overnight, and cover more area of the fishing grounds. Some also expressed the view that larger vessels that are affiliated with larger business operations may be more diversified than small vessel owners, such that they can weather a slow down in one fishery, by still working other fisheries.

Comment 3. The SRIA identifies alternatives, although procedures for assessing risk and determining numerical thresholds are not detailed in the SRIA. The SRIA must evaluate and discuss the costs and benefits associated with at least two of the alternatives considered.

Response 3. In summary, the alternatives analyzed are expected to be greater or equal to costs in the Scenarios analyzed in the SRIA, with equal or lower benefits.

Alt 1 — Other Actionable Species: estimated to have higher costs than any of the proposed regulations scenarios evaluated in the SRIA; and the same highest level of benefits of scenario 5 based on similar numbers of saved animals (or slightly reduced).

Alt 2 — Higher Entanglement Triggers: estimated to have the same costs of the proposed regulation due to possibility of a full closure; and lower benefits (fewer Actionable Species saved).

CONSIDERATION OF ALTERNATIVES

The Department is under mandate to implement regulations for FGC Section 8276.1. However, several different approaches for the RAMP itself were approached, discussed and either implemented, or rejected in discussions with the Working Group and other stakeholders. Below is a summary of the alternatives considered, but ultimately not utilized for this rulemaking:

- Integration of other fisheries — other commercial and recreational fishing sectors that pose entanglement risk to marine life;
- Inclusion of other Actionable Species — Grey whales or others;
- The process for entanglement confirmation — roles of the Department and NOAA in confirming entanglements, entanglement review board, etc.;
- Entanglement triggers — higher takes levels;
- Using Potential Biological Removal — to set take levels and thresholds;
- Pacific Leatherback Sea Turtle Take Levels — using other fisheries as a reference;
- Undetected and Unreported Entanglements — accounting mechanisms;
- Marine Life Concentrations — additional data sources and methodology;
- Alternative season structure — static management approach;
- Fishing Zone resolution — course vs fine scale approaches.; and
- Vertical Line/Gear Reduction options — alternate management approach.

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency 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 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 substance of the proposed action should be directed to:

California Department of Fish and Wildlife,
Marine Region
Attn: Ryan Bartling, Sr. Environmental Scientist
3637 Westwind Blvd
Santa Rosa, CA 95403
Email: Whalesafefisheries@wildlife.ca.gov

The backup contact person is:

California Department of Fish and Wildlife,
Marine Region
Attn: Morgan Ivens-Duran, Environmental
Scientist
20 Lower Ragsdale Dr Suite #100
Monterey, CA 93940
Phone: (831) 649-2811
Email: Morgan.Ivens-Duran@wildlife.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) 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 Ryan Bartling (see above for contact information).

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

The Department will have the entire rulemaking file available for inspection and copying at its office at the Santa Rosa address above. In the event of office closures due to public health concerns, the rulemaking file will be available electronically upon request by contacting the Department at Whalesafefisheries@wildlife.ca.gov. As of the date this notice is published, the rulemaking file consists of:

1. STD Form 400: Notice of Proposed Action
2. Initial Statement of Reasons
3. Proposed Text of the Regulation: Addition of Section 132.8, Title 14, CCR
4. Economic and Fiscal Impact Assessment (Form STD 399) and addendum

5. Standardized Regulatory Impact Assessment (SRIA): Proposed Addition of Section 132.8, Title 14, California Code of Regulations for the Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery (February 2020)
6. Comments from the Dept. of Finance, and SRIA Supplement (Proposed Addition of Section 132.8, Title 14, California Code of Regulations for the Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery April 2020)
7. Documents or Reports Supporting the Proposed Regulation Change

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The rulemaking file is available online at: <https://www.wildlife.ca.gov/Notices/Regulations>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received by the Department, 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 the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ryan Bartling (see above for further contact information). The Department would accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by checking the website at the link provided above or contacting Ryan Bartling (see above for further contact information).

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 adopt new Section 3040.3 into Title 15, Division 3, Chapter 1, regarding Education Assignments.

PUBLIC COMMENT PERIOD

The public comment period begins **May 15, 2020** and closes on **July 2, 2020**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

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

S. Pollock
Telephone: (916) 445-2308
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

Hillary Iserman
Telephone: (916) 545-0599
Division of Rehabilitative
Programs

AUTHORITY AND REFERENCE

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

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

that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of a regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Current regulations do not provide for educational assignments of inmates even though they are provided for in the authorizing statutes of Penal Codes 2053 and 2053.1. Adoption of these regulations will implement, interpret, and make specific Penal Codes 2053 and 2053.1.

The adoption of new Section 3040.3 will also rectify issues identified in the California State Audit, released January 31, 2019, which stated in part, "Corrections has neither consistently placed inmates on waiting lists for needed rehabilitation programs nor prioritized those with the highest need correctly. This has contributed to Corrections' failure to meet any of the rehabilitative needs for 62 percent of the inmates released in fiscal year 2017-18 who had been assessed as at risk of recidivating."

This action will:

- Ensure that the Department properly identifies and places inmates into education programs in accordance with their rehabilitative needs, and in accordance with Penal Code 2053.
- Establish Adult Basic Education (ABE) and Adult Secondary Education (ASE) for inmates who do not have a nationally recognized high school diploma, high school equivalency, or certificate of completion.
- Establish the reading level guidelines for ABE and ASE.
- Provide that inmates who are precluded from placement into ABE or ASE shall have the

preclusion documented pursuant to Section 3375(g). In addition, inmates at the Enhanced Outpatient Program level of care shall participate in ABE and ASE courses in accordance with Section 3043.7(d)(1).

- Provide that inmates with language barriers or developmental, cognitive, or physical impairments shall be mainstreamed in ABE and ASE courses and offered additional assistance with course assignments during course hours.
- Allow for Post-Secondary Education for those inmates with a high school diploma or high school equivalency.
- Allow inmates to participate in Career Technical Education if they have a medium to high need for employment based on the Department's automated needs assessment tool.
- Allow for inmates to participate in Computer Related Technologies to educate inmates on computer literacy.
- Provide Transition classes to inmates within two years of release or prior to a parole consideration, which will provide inmates with essential skills necessary to be successful in the community upon release.

**DOCUMENTS INCORPORATED
BY REFERENCE**

N/A

**SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED REGULATIONS**

These regulations will ensure that all the educational rehabilitative needs of inmates are met prior to their release, and will better prepare inmates for success in college and/or employment once released from prison. By improving the education and skills of inmates, they will be better equipped to financially support themselves and their families, which will lead to reduced recidivism and safer communities.

**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 regu-

lations. This was determined by performing a search of existing regulations.

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

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

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

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESS**

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

EFFECT ON SMALL BUSINESSES

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

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect on worker safety or the State's environment. These regulations may benefit the welfare of California residents by helping to make inmates released from prison more successful in employment, which will in turn reduce recidivism and create safer communities.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND
INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO
PROPOSED TEXT

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

**TITLE 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 Section 3075.2 of Title 15, Division 3, Chapter 1, regarding Release Funds for Exonerated Persons.

PUBLIC COMMENT PERIOD

The public comment period begins **May 15, 2020** and closes on **July 2, 2020**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpm@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
S. Pollock
Telephone: (916) 445-2308
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

Walter Mazza
 Telephone: (661) 664-3417
 Accounting Services Branch

INFORMATIVE DIGEST/POLICY STATEMENT
 OVERVIEW

Current regulations provide that inmates/parolees shall receive a release allowance as specified in Penal Code Section 2713.1, which in most circumstances provides a release allowance in the amount of two hundred dollars (\$200).

Due to the passage of Senate Bill 1050, Penal Code 3007.05(d) was amended to provide that “[I]n addition to any other payment to which the person is entitled to by law, a person who is exonerated shall be paid the sum of one thousand dollars (\$1000) upon release, from funds to be made available upon appropriation by the Legislature for this purpose.”

This action will:

- Revise Section 3075.2, Releases, to adopt new language concerning exonerated inmates, and specify that they shall be paid the sum specified in Penal Code Section 3007.05(d).
- Update the CDCR Form 102, Release Statement, to provide for the new allowance that will be provided to exonerated persons.
- Provide instruction regarding the disbursement and method of payment for funds provided to exonerated persons.

AUTHORITY AND REFERENCE

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

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

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of a regulation on an emergency basis.

DOCUMENTS INCORPORATED
 BY REFERENCE

The CDCR Form 102 (Rev. 08/19), Release Statement, is incorporated by reference and a copy is provided in this rulemaking action.

SPECIFIC BENEFITS ANTICIPATED BY THE
 PROPOSED REGULATIONS

The proposed amendments will update the California Code of Regulations to comply with the new Penal Code requirements, and provide current information and instructions on the issuance of funds for exonerated individuals. This will allow CDCR staff to process these funds in a timely manner, providing the highest level of service for exonerated persons, and assisting them with the reintegration process.

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. This was determined by performing a search of existing regulations.

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

- Cost or savings to any State agency: *\$5,000*
- 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 effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect on worker safety or the State’s environment. These regulations may benefit the welfare of California residents by helping to provide greater financial assistance to exonerated persons, which will assist them with reintegration back into their communities.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

**AVAILABILITY OF CHANGES TO
PROPOSED TEXT**

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

**TITLE 21. CALIFORNIA STATE
TRANSPORTATION AGENCY**

NOTICE IS HEREBY GIVEN that the California State Transportation Agency, pursuant to the authority vested in it by Section 87306 of the Government Code, proposes to amend its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of Sections 87300 through 87302, and Section 87306 of the Government Code.

The California State Transportation Agency proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of Section 87302 of the Government Code.

This amendment reflects the organizational structure of the California State Transportation Agency as of April 1, 2020, and makes other technical changes to reflect the current organizational structure of the Agency. Copies of the amended code are available and may be requested from the contact person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than June 29, 2020, or at the conclusion of the public hearing, if a hearing is requested, whichever comes later, to the contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than June 15, 2020, by contacting the contact person set forth below.

The California State Transportation Agency has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the pro-

posed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the contact person set forth below.

The California State Transportation Agency has determined that the proposed amendments:

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

In making these proposed amendments, the California State Transportation Agency must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

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

Augustin R. Jimenez, Deputy General Counsel
California State Transportation Agency
915 Capitol Mall, Suite 350B
Sacramento, CA 95814
(916) 323-5400

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION
REQUEST FOR
Lower Moffett Creek Scour — DES Brokered Project
2080-2020-001-01
Siskiyou County

The California Department of Fish and Wildlife (CDFW) received a notice on April 29, 2020 that the California Department of Transportation (Caltrans) proposes to rely on a consultation between federal

agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the replacement of Moffett Creek bridge. The proposed project will occur approximately six miles north of Fort Jones, from 0.3 mile south to 0.3 mile north of Lower Moffett Creek Road, in Siskiyou County.

The National Marine Fisheries Service (NMFS) issued a federal biological opinion (Service Ref. No. 2013-9731) in a memorandum to the U.S. Army Corps of Engineers and Caltrans on October 18, 2013, which considered the effects of the proposed project on state and federally threatened Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*).

Pursuant to California Fish and Game Code section 2080.1, Caltrans is requesting a determination that the BO and its associated ITS are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF
FISH AND WILDLIFE**

**FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR**

**Gallo CTS Ponds and Creek Enhancement Project
(Tracking Number: 1653-2020-052-001-R3)
Sonoma County**

California Department of Fish and Wildlife (CDFW) received a Request to Approve on April 29, 2020, that the Jane Bricker of E. & J. Gallo Winery (Gallo) proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the restoration of a portion of an unnamed tributary to Washoe Creek that runs through the Project site and the establishment of three breeding ponds for California Tiger Salamander (CTS). The proposed project will be carried out on a tributary to Washoe Creek, located at 2888 Stony Point Road in Petaluma near Cotati, Sonoma County, California.

On February 19, 2019, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Gallo CTS Ponds and Creek Enhancement Project. The Re-

gional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. 1B190012WNSO) for coverage under the General 401 Order on April 16, 2020.

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

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

DEPARTMENT OF PUBLIC HEALTH

TITLE:

PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT (PHHSBG) STATE PLAN FOR FEDERAL FISCAL YEAR (FFY) 2020

ACTION:

NOTICE OF ADVISORY COMMITTEE MEETING FOR FFY 2020 STATE PLAN

SUBJECT: Notice is given that the California Preventive Health and Health Services Block Grant (PHHSBG) Advisory Committee (AC) will meet on Thursday, May 28, 2020 from 10:00 a.m. to 12:00 p.m. PDT to discuss the approval of the PHHSBG State Plan, California's application for Federal Fiscal Year (FFY) 2020.

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, maintain emergency medical services, and optimize the health and well-being of the people in California. The purpose of the AC Meeting is to obtain feedback and AC approval of the FFY 2020 PHHSBG State Plan, which identifies all program activities that will be funded during State Fiscal Year 2020-21 (July 1, 2020-June 30, 2021).

NOTIFICATION: Notice is hereby given that CDPH will hold an AC Meeting commencing at 10:00 AM and ending at 12:00 PM PST on Thursday, May 28, 2020 via GoToTraining Webinar. During this time,

CDPH will discuss future use of PHHSBG funding. The AC members will have an opportunity to discuss the FFY 2020 PHHSBG State Plan; 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. The CDPH — Chronic Disease Control Branch (CDCB), P.O. Box 997377 MS 7208, Sacramento, California, 95899–7377 must receive any written statements or arguments by 5:00 PM Friday, May 29, 2020, which is hereby designated as the close of the written comment period for this AC Meeting. Any person may submit statements or arguments via email to PHHSBG@cdph.ca.gov. Due to the COVID–19 pandemic, Governor Gavin Newsom issued Executive Order N–25–20 (<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf>), which allows public meetings to be held via teleconferencing only.

WEBINAR INFORMATION: Attendees may attend the AC Meeting via webinar. Please register for the PHHSBG AC webinar (<https://attendee.gototraining.com/r/2845097793038473729>) scheduled on Thursday, May 28, 2020 from 10:00 a.m.–12:00 p.m. PDT. It is highly recommended that attendees register early. After registering, you will receive confirmation e–mail containing information about joining the webinar. **Please contact PHHSBG@cdph.ca.gov if you experience technical difficulties.**

AGENDA: The Agenda will be available for review beginning on May 15, 2020 on the following website: The California Department of Public Health (<https://www.cdph.ca.gov/Programs/CCDPPH/DCDIC/CDCB/Pages/PHHSBGAdvisoryCommitteeMtgs.aspx>).

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 Rebecca.Horne@cdph.ca.gov or the CDCB at (916) 552–9900 or PHHSBG@cdph.ca.gov. For email inquiries, please identify the action by using the Department Control letters “PHHSBG.”

DEPARTMENT OF PUBLIC HEALTH

TITLE:

PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT (PHHSBG) STATE PLAN FOR FEDERAL FISCAL YEAR (FFY) 2020

ACTION:

NOTICE OF PUBLIC HEARING FOR FFY 2020 STATE PLAN

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, maintain emergency medical services, and optimize the health and well–being of the people in California. The purpose of this hearing is to discuss and receive comments on the FFY 2020 PHHSBG State Plan, which identifies all program activities that will be funded during State Fiscal Year 2020–21 (July 1, 2020–June 30, 2021).

NOTIFICATION: Notice is hereby given that CDPH will hold a Public Hearing commencing at 2:00 p.m. and ending at 4:00 p.m. PDT on Tuesday, May 26, 2020 via GoToTraining webinar.

Any person may present statements or arguments orally or in writing relevant to the action described in this notice. The CDPH — Chronic Disease Control Branch (CDCB), P.O. Box 997377 MS 7208, Sacramento, California, 95899–7377 must receive any written statements or arguments by 5:00 p.m. Wednesday, May 27, 2020, which is hereby designated as the close of the written comment period for this Public Hearing. Any person may submit statements or arguments via email to PHHSBG@cdph.ca.gov.

Due to the COVID–19 pandemic, Governor Gavin Newsom issued Executive Order N–25–20 (<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf>), which allows public meetings to be held via teleconferencing only.

WEBINAR INFORMATION: Attendees may attend the Public Hearing via webinar. Please register for the PHHSBG Public Hearing webinar (<https://attendee.gototraining.com/r/5167147603774258945>) scheduled on Tuesday, May 26, 2020 from 2:00 p.m.–4:00 p.m. PDT. It is highly recommended that attendees register early. After registering, you will receive confirmation e–mail containing information about joining the webinar. **Please email PHHSBG@cdph.ca.gov if you experience technical difficulties.**

AGENDA: The Agenda will be available for review beginning on May 15, 2020 on the following website: The California Department of Public Health (<https://www.cdph.ca.gov/Programs/CCDPPH/DCDIC/CDCB/Pages/PHHSBGAdvisoryCommitteeMgs.aspx>).

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 Rebecca.Horne@cdph.ca.gov or the CDCB at (916) 552-9900 or PHHSBG@cdph.ca.gov. For email inquiries, please identify the action by using the Department Control letters "PHHSBG."

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# 2020-0420-03
BOARD OF FORESTRY AND FIRE PROTECTION
Emergency Fuel Hazard Reduction Amendments, 2019

This is the second readoption of emergency rulemaking action no. 2019-0731-01E (first readoption no. 2020-0123-03EE), which amended emergency timber harvesting practices to reduce wildfire threat and hazardous fuel conditions.

Title 14
AMEND: 913, 933, 953, 1052, 1052.4
Filed 04/29/2020
Effective 05/11/2020
Agency Contact: Eric Hedge (916) 653-9633

File# 2020-0420-02
BOARD OF PHARMACY
HIV Preexposure and Postexposure Prophylaxis Furnishing

This emergency rulemaking action by the California Board of Pharmacy adopts regulations relating to the independent initiation and furnishing of HIV preexposure and postexposure prophylaxis to patients as authorized by Statutes 2019, chapter 532 (SB 159).

Title 16
ADOPT: 1747
Filed 04/30/2020
Effective 04/30/2020
Agency Contact: Lori Martinez (916) 574-7917

File# 2020-0320-01
CALIFORNIA ENERGY COMMISSION
Modification of Reg. Governing PSD Program

This rulemaking action by the California Energy Commission amends the Power Source Disclosure Program regulations to adopt an accounting methodology to calculate greenhouse gas emissions intensities, clarify requirements regarding calculation of the fuel mix, and establish a method and format for disclosing retail suppliers' procurement of unbundled renewable energy credits as a percentage of retail sales.

Title 20
ADOPT: 1393, 1394.1, 1394.2
AMEND: 1391, 1392, 1393 (renumbered as 1394.1), 1394, Appendix A (renumbered as 1394.2)
Filed 05/04/2020
Effective 05/04/2020
Agency Contact: Lisa DeCarlo (916) 654-5195

File# 2020-0424-02
CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD
CalSavers Retirement Savings Program — Extension of First Deadline

The California Secure Choice Retirement Savings Investment Board submitted this deemed emergency action to amend a regulation in the CalSavers Retirement Savings Program to change the first registration deadline from June 30, 2020 to September 30, 2020 for eligible employers with more than 100 employees.

Title 10
AMEND: 10002
Filed 05/04/2020
Effective 05/04/2020
Agency Contact: Eric Lawyer (916) 838-2869

File# 2020-0416-02
CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
CTCAC Regulations implementing federal and state LIHTC laws

This action amends regulations governing federal and state Low Income Housing Tax Credit programs. Pursuant to Health and Safety Code section 50199.17(a), the regulations are exempt from the pro-

cedural requirements of the Chapter 3.5 of Part 1 of Division 3 of the Government Code, except as provided in subdivision (b).

Title 4
 AMEND: 10315, 10322, 10335
 Filed 05/04/2020
 Effective 04/03/2020
 Agency Contact:
 Gina Ferguson (916) 651-7707

File# 2020-0323-01
 DEPARTMENT OF FOOD AND AGRICULTURE
 Japanese Beetle Exterior Quarantine

In this rulemaking action, the Department amends its regulation related to the Japanese Beetle Exterior Quarantine. The amendment establishes inspection procedures, a fine for compliance violations, and an appeals process to challenge the imposition of a civil penalty for compliance violation.

Title 3
 AMEND: 3280
 Filed 05/05/2020
 Effective 05/05/2020
 Agency Contact: Karen Olmstead (916) 403-6879

File# 2020-0326-02
 DEPARTMENT OF FOOD AND AGRICULTURE
 Fertilizing Materials Mill Assessment

In this action, the Department amends and adopts regulations to ensure that claims on fertilizer product labels accurately disclose potential heavy metal contamination and accurately state the primary, secondary, and micronutrient contents of fertilizer products. The action also lowers the mill assessment rate charged by the Department to fertilizer product manufacturers for its Fertilizing Materials Assessment Program from \$0.002 to \$0.0015 per dollar of sales of these products.

Title 3
 ADOPT: 2317.5
 AMEND: 2303, 2326.1
 Filed 05/04/2020
 Effective 07/01/2020
 Agency Contact: Dale Woods (916) 900-5236

File# 2020-0402-02
 DEPARTMENT OF FOOD AND AGRICULTURE
 Fireplace and Stove Wood

The Department of Food and Agriculture is standardizing and making consistent method of sale, advertising, and labeling requirements for packaged and non-packaged firewood with the national uniform model standard for fireplace and stove wood.

Title 4
 AMEND: 4530, 4531, 4532
 REPEAL: 4533, 4534, 4535, 4535.1, 4535.2, 4535.3, 4536, 4536., 4536.2
 Filed 05/04/2020
 Effective 07/01/2020
 Agency Contact: Samuel Ferris (916) 229-3000

File# 2020-0408-02
 DEPARTMENT OF FOOD AND AGRICULTURE
 Peach Mosaic Disease Interior and Exterior Quarantine

This action repeals regulations concerning the exterior and interior quarantine of articles and commodities which may carry peach mosaic and any virus capable of causing symptoms identical to those of peach mosaic disease.

Title 3
 REPEAL: 3262, 3400
 Filed 05/06/2020
 Effective 07/01/2020
 Agency Contact: Karen Olmstead (916) 403-6879

File# 2020-0319-01
 DEPARTMENT OF HEALTH CARE SERVICES
 Mental Health Services Act (MHSA) Fiscal Regulations

This action adopts a framework for counties, as defined, that receive Mental Health Services Act (MHSA) funds, to allocate, transfer, expend, and report the use of these funds, including provisions governing the reversion of funds to the state as a result of a county's failure to spend MHSA funds within specified time periods.

Title 9
 ADOPT: 3200.022, 3200.025, 3200.079, 3200.181, 3200.195, 3200.197, 3200.213, 3200.227, 3200.244, 3200.252, 3200.254.1, 3200.257, 3200.258, 3200.323, 3420, 3420.10, 3420.15, 3420.20, 3420.30, 3420.35, 3420.40, 3420.45, 3420.50, 3420.55, 3420.60, 3420.65, 3510.005, 3510.030
 AMEND: 3200.080, 3200.110, 3200.251, 3200.260, 3510
 Filed 05/06/2020
 Effective 07/01/2020
 Agency Contact: Greg Rodriguez (916) 440-7766

File# 2020-0403-02
 DEPARTMENT OF PUBLIC HEALTH
 Health and Therapeutic Medical Physicist Authorization

In this action, the Department of Public Health establishes the qualifications, authorization, and renewal processes, including new application and renewal fees and continuing education requirements, for persons

who perform therapeutic X-ray system output calibrations and radiation protection surveys of therapeutic X-ray installations. The action also establishes the process for previously authorized persons to remain authorized and specifies the standards for limiting, revoking, and suspending authorization.

Title 17

ADOPT: 30313.05, 30313.07, 30313.09, 30313.10, 30313.15, 30313.20, 30313.25, 30313.30, 30313.40, 30313.45, 30313.50

AMEND: 30306, 30307, 30312, 30313

Filed 05/06/2020

Effective 07/01/2020

Agency Contact: Dawn Basciano (916) 440-7367

File# 2020-0417-02

FAIR POLITICAL PRACTICES COMMISSION

18310.1 Public Participation

In this action, the Fair Political Practices Commission adopts a new regulation to establish rules related to public participation during Commission meetings.

Title 2

ADOPT: 18310.1

Filed 05/05/2020

Effective 06/04/2020

Agency Contact: Amanda Apostol (916) 324-3854

File# 2020-0417-03

FAIR POLITICAL PRACTICES COMMISSION

Return of Excessive Contributions

In this action, the Fair Political Practices Commission amends its regulation to revise the rules related to the return of excessive contributions.

Title 2

AMEND: 18531

Filed 05/05/2020

Effective 06/04/2020

Agency Contact: Amanda Apostol (916) 324-3854

File# 2020-0421-02

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Process Safety Management of Acutely Hazardous Materials, Appendix A List of Acutely Hazardous Chemicals, Toxics and Reactives (HORCHER)

The Occupational Safety and Standards Board (Board) amends the list of acutely hazardous chemicals, toxics and reactives. pursuant to Labor Code section 142.3 which mandates the Board to adopt regulations at least as effective as federal regulations. This action is in response to technical amendments issued by the U.S. Department of Labor, Occupational Safety and Health Administration.

Title 8

AMEND: 5189

Filed 05/04/2020

Effective 05/04/2020

Agency Contact: Christina Shupe (916) 274-5721

File# 2020-0421-03

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Protection from Wildfire Smoke

This second emergency readopt action clarifies existing regulations regarding general respiratory protection at the workplace by adopting more specific standards with respect to protections from wildfire smoke. (See OAL Matter Nos. 2019-0709-04E, 2020-0106-02EE.)

Title 8

ADOPT: 5141.1

Filed 04/30/2020

Effective 06/23/2020

Agency Contact: Christina Shupe (916) 274-5721

**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.