



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 5. CALIFORNIA STATE
TEACHERS' RETIREMENT SYSTEM**

**Title 5. Education.
Division 3. Teachers' Retirement System.
Chapter 1. Teachers' Retirement System.
Article 2. Rules of Procedure.
Section 20511**

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

PUBLIC HEARING

The Teachers' Retirement Board will hold a public hearing:

Date and Time

1:00 p.m.
July 16, 2020

The hearing may be rescheduled to occur as early as 8:00 a.m. or as late as 4:00 p.m. as it is incorporated into the board's agenda. Please consult the agenda for the meeting, which will be available at www.CalSTRS.com/teachers-retirement-board by July 3, 2020, to confirm the exact time at which the hearing will be held.

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

Location

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

Also, via telephone using the following number:
833-986-0555

Purpose

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

Accessibility

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

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to CalSTRS. The written comment period closes on **July 16, 2020**. CalSTRS will only consider written comments received at CalSTRS' address as reflected below by that date. Submit comments to:

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

AUTHORITY AND REFERENCE

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

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

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

agencies be taken openly and that their deliberation be conducted openly.

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

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

Under Bagley-Keene, a state body, such as the board, is required to provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. While ensuring the broad public right to be heard at public meetings, Bagley-Keene implicitly recognizes the need for efficiency in the con-

duct of the people's business through limitations on public comment. Bagley-Keene authorizes a state body to adopt "reasonable regulations" to carry out the intent of the public comment. Specifically, subdivision (b) of Government Code section 11125.7 allows a state body to adopt reasonable regulations, including a limitation on the total amount of time allocated for public comment on particular issues and for each individual speaker.

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

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

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

DISCLOSURES REGARDING THE PROPOSED ACTION

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

1. Mandate on local agencies and school districts:
None. The proposed regulations do not place a mandate on local agencies or school districts. CalSTRS has determined that the regulations proposed do not constitute a mandate on school districts or other local agencies. The proposed regulations put into place a framework for the board to receive comments from members of the public.
2. Cost or savings to any state agency:
None. The proposed regulations make modest changes to existing practices, so there would be no

substantive changes in practices that would result in additional costs or savings.

3. Cost to any local agency or school district which must be reimbursed in accordance with California Government Code sections 17500 through 17630: None. The proposed regulations do not place a mandate on local agencies or school districts, and there would be no costs incurred by these entities.
4. Other nondiscretionary cost or savings imposed on local agencies: None. There are no requirements imposed on local agencies, and therefore, there are no other nondiscretionary costs or savings.
5. Cost or savings in federal funding to the state: None. These regulations do not relate to any federal program.
6. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None. The proposed regulations do not affect businesses.
7. Cost impacts on a representative private person or business: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. Results of the economic impact assessment/analysis: These regulations are not anticipated to have any direct, indirect or induced effect on California businesses. Specifically:
 - The action will not have any effect on the creation or elimination of jobs within the state.
 - The action will not affect the creation of new businesses or the elimination of existing businesses within the state.
 - The action will not affect the expansion of businesses currently doing business within the state.
 - The action will have no effect on worker safety and the state's environment.

The proposed action will clarify the process by which members of the public may provide public comments to the board during board and committee meetings. Additionally, the proposed action will increase fair and equal access to as many members of the public who wish to participate, which in turn increases transparency and openness in conducting the public's business

and furthers the intent of the public comment protections. As a result, the regulatory action will indirectly affect the health and welfare of California residents.

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

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

CONSIDERATION OF ALTERNATIVES

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

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

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

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

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

The backup contact person for these inquiries is:

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

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

If the board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. The board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please refer to www.CalSTRS.com/regulations or contact CalSTRS using the contact information listed above for copies of modifications, if any.

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office not later than July 13, 2020.

The board has not scheduled a public hearing on this proposed action. The board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

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

Authority and Reference: Section 4005 of the Business and Professions Code (B&P) authorizes the board to adopt these regulations. The proposed regulations implement, interpret, and make specific sections 4022.5, 4022.7, 4025, 4043, 4045, 4051, 4053, 4053.1,

4054, 4059, 4059.5, 4080, 4081, 4105, 4120, 4160, 4161, 4161.5, 4163, 4164, 4165, 4304, 4332, and 4342 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The California State Board of Pharmacy (board) proposes to amend Article 10 and Sections 1780, 1781, 1782, and 1783 of Article 10 of Division 17 of Title 16 of the California Code of Regulations (CCR) for the purpose of updating the board’s specific licensing requirements pertaining to dangerous drug distributors, including third-party logistics providers (3PLs).

Existing pharmacy law specifies that protection of the public is the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions and generally authorizes the board to adopt and amend rules and regulations necessary for the protection of the public pertaining to the practice of pharmacy. Additionally, existing law establishes that the board is authorized to issue a wholesale license (B&P section 4160).

Dangerous drugs and dangerous devices are those available by prescription only. (B&P section 4022.) National standards establish how various businesses in the pharmaceutical chain handle prescription drugs to ensure that, when they are ultimately received by the consumer, the prescription drugs are safe and effective. Generally, this is accomplished by ensuring that the prescription drugs are not damaged by the conditions under which they are transported, stored, or otherwise handled. Manufacturers, wholesalers, and third party logistic providers all handle the prescription drugs and are therefore similarly regulated with similar expectations.

Previously, the board licensed third-party logistics providers (3PLs) as wholesalers; however, effective November 2013, section 585, subdivision (b), of the Federal Food, Drug, and Cosmetic Act (21 United States Code Section 360eee-4, subdivision (b)(2)) no longer allows states to license 3PLs as wholesalers. As 3PLs are a recognized member of the drug supply chain, the board successfully obtained legislation to establish 3PLs as a separate licensing category (Assembly Bill 2605, Bonilla, Chapter 507, Statutes of 2014).

AB 2605 added or amended, among other things, B&P sections 4022.7, 4045, 4053.1, 4160, and 4161 to make the following changes:

- **B&P section 4022.7:**
 - Established the definition of a designated representative-3PL.
 - Established the definition of a responsible manager, who is also a designated representative-3PL.

- **B&P section 4045:**
 - Established the definition of a “third-party logistics provider.” A 3PL provides or coordinates the warehousing of, or other logistics services for, a prescription drug or device on behalf of another person. The 3PL does not, however, take ownership, nor have responsibility to direct the sale or disposition of, the drug or device.
- **B&P section 4053.1:**
 - Established the board’s authority to issue a license to a designated representative-3PL and specified that person’s role as providing sufficient and qualified supervision of a 3PL’s place of business by ensuring the safe handling, storage, warehousing, distribution, and shipment of drugs and devices.
 - Established the minimum qualifications to obtain said license.
- **B&P section 4160:**
 - Established the board’s authority to issue a 3PL license and specifies that the location must operate with a designated representative-3PL present.
 - Established that, no person may act as a 3PL without, first, obtaining a license from the board.
- **B&P section 4161:**
 - Established the board’s authority to issue a nonresident 3PL license for those performing the services outside California for drugs that ultimately come into California.
 - Requires board licensure for anyone operating as a nonresident 3PL.

In its current form, this proposal will formalize regulatory oversight of 3PLs in a manner consistent with the regulation of drug wholesalers by specifying the conditions under which the drugs are secured, maintained, accessed, monitored, and handled. It will reimpose those regulations that applied to 3PLs before the change in federal and state law. It will specify when a 3PL must have a designated representative-3PL present and in control. It will require activity reporting to the board. It will also specify where and to whom a 3PL may furnish a dangerous drug or device, and require record keeping with respect to its functions.

Existing law permits the board to take action necessary to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia (USP) or the National Formulary, or that violate any provision of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the

Health and Safety Code). Existing law requires designated representatives, individuals who are responsible for the safety wholesalers or 3PLs, to be knowledgeable and understand the safe storage, handling, and transport of dangerous drugs and dangerous devices. (B&P §§ 4053, 4053.1.)

In addition to the changes above, the proposal will update the references in regulation section 1780 to the storage and handling standards of the United States Pharmacopeia (USP), which currently refers to the standards in the 1990, 22nd Revision, to reference the most recent version. This change will require that wholesalers and 3PLs follow the current version of the USP with respect to storage and handling standards. The United States Pharmacopeia is the international standard for handling drugs, including their storage conditions, to ensure that the drugs maintain their safety and efficacy. Not referencing the current standards could impact patient safety. For example, if storage conditions are too hot, a drug could lose potency, and the consumer could be harmed by taking a drug that does not provide the anticipated effect.

Anticipated Benefits of Proposal

This regulatory proposal will benefit the health and welfare of California residents because the proposed regulation will allow the board to maintain the regulatory oversight of 3PLs in a manner consistent with their previous oversight when 3PLs were licensed as drug wholesalers. As third-party logistics providers can no longer be licensed as wholesalers, by clearly specifying the minimum qualification for 3PLs, these regulations will ensure that the pharmaceutical drug supply chain safely distributes prescription medication in California. Requiring 3PLs to meet minimum qualifications for licensure and operation, thus making it more likely that dangerous drugs will be transported, stored and otherwise handled under appropriate conditions, will allow the board to ensure, that the drug supply chain is safe and that the drugs being distributed to consumers are effective.

By making it clear that the board expects licensees to comply with current USP standards for safe and effective handling of each specific drug, it is making the regulation more current and logical. The board does not expect that licensees would be complying with 1990 standards in 2018.

Consistency and Compatibility with Existing State Regulations

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

Fiscal Impact Estimates

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses and/or employees. This initial determination is based on the absence of testimony to that effect during the development of the proposed regulation, which occurred over several months.

Additionally, the proposed regulation establishes the regulatory requirements that apply to third-party logistics provider by extending existing regulations. Prior to 2014, these entities were licensed as a “wholesaler” in California; however, as the result of amendments to the Food, Drug, and Cosmetic Act and Pharmacy Law, the board now licenses these entities 3PLs.

Requiring drug distributors to examine all materials both upon receipt and before shipment is also not expected to have a cost impact as it is current industry practice to perform these examinations to ensure accurate receipt and shipment of drugs, and ensure containers have not been damaged or drugs contaminated during shipment or storage.

The updated reference standard is also not expected to have a cost impact. Despite the existing regulation’s current reference, the board anticipates that dangerous drug distributors (manufacturers, wholesalers, and 3PLs) already apply the most recent standards established by USP.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

While the board does not have nor does it maintain data to define if any of its licensees are a “small business” as defined in Government Code section 11342.610, the board has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact directly affecting

small businesses. The board anticipates that manufacturers, wholesalers and 3PLs are, by their nature, rather large businesses. Additionally, this proposal establishes that the regulatory requirements that apply to wholesalers also apply to 3PLs. Prior to 2014, these entities were considered and licensed as “wholesalers” in California and subject to the same rules; however, as the result of the Federal Food, Drug, and Cosmetic Act, the board can no longer license these entities as wholesalers.

As noted above, the updated reference standard is also not expected to have a cost impact. Despite the existing regulation’s current reference, the board anticipates that dangerous drug distributors (manufacturers, wholesalers, and 3PLs) already apply the most recent standards established by USP.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses:

The board has determined that it is:

- (1) unlikely that this proposal will create jobs within California;
- (2) unlikely that this proposal will eliminate jobs within California;
- (3) unlikely that this proposal will create new businesses within California;
- (4) unlikely that this proposal will eliminate of existing businesses within California;
- (5) unlikely that this proposal will expand businesses currently doing business in the State of California.

Benefits of Regulation:

This regulatory proposal will benefit the health and welfare of California residents because the proposed regulation maintains the regulatory oversight of 3PLs in a manner consistent with their previous oversight when 3PLs were licensed as wholesalers. As third-party logistics providers can no longer be licensed as wholesalers, by clearly specifying the minimum qualification for 3PLs, these regulations will ensure that the pharmaceutical drug supply chain complies with the standards established by the board for other drug distributors for safely distributing prescription medication in or into California. Requiring 3PLs to meet minimum qualifications for licensure and operation, will allow the board to ensure, that the drug supply chain is safe and that the drugs being distributed to consumers are effective. The proposed regulations do not affect worker safety or the state’s environment.

BUSINESS REPORT

The proposal would require a 3PL business to make a report upon request by board staff. The report is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments in writing relevant to the above determinations at the address listed for the Contact Person.

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

The board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address listed for, and from the person identified as, the contact person below. The rulemaking file currently includes this notice, the proposed text of the regulations, the documents incorporated by reference, the initial statement of reasons, and all the information upon which the proposal is based.

AVAILABILITY OF MODIFIED TEXT

If the board proposes to substantively modify the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the board adopts the regulations as revised. Requests for copies of any modified regulations may be sent to the contact person below. The board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE
FINAL STATEMENT OF REASONS

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written re-

quest to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name:

Lori Martinez

Address:

2720 Gateway Oaks Dr., Ste 100
Sacramento, CA 95833

Phone No.:

(916) 518-3078

Fax No.:

(916) 574-8618

E-Mail Address:

Lori.Martinez@dca.ca.gov

The backup contact person is:

Name:

Debbie Damoth

Address:

2720 Gateway Oaks Dr., Ste 100
Sacramento, CA 95833

Phone No.:

(916) 518-3090

Fax No.:

(916) 574-8618

E-Mail Address:

Debbie.Damoth@dca.ca.gov

Website Access

Materials regarding this proposal can be found at the Board of Pharmacy's website: www.pharmacy.ca.gov.

TITLE 16. RESPIRATORY CARE BOARD

NOTICE IS HEREBY GIVEN that the Respiratory Care Board of California (Board) proposes to take the action to amend sections 1399.370 and 1399.372 of Article 7 of Division 13.6 of Title 16 of the California Code of Regulations (CCR) regarding Substantial Relationship, and Rehabilitation Criteria for Denials, Suspensions, or Revocations as described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any person or his/her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Please submit written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Persons" in this Notice. The written comment period closes at **5:00 p.m. on Tuesday, July 14, 2020**. The Board will consider only comments received at the Board's office by that time. Written or oral comments also may be received by the Board at a hearing, if any is scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the persons designated in this Notice as Contact Persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 3722, and to implement, interpret or make specific BPC sections 141, 475, 480, 481, 482, 488, 490, 492, 493, 3722, 3750, 3750.5, 3751, 3752, 3752.5, 3752.6, 3752.7, 3753, 3754.5, and 3755, the Board is considering changes to Article 7, Division 13.6 of Title 16 of the CCR.

INFORMATIVE DIGEST

The Board licenses respiratory care practitioners and respiratory care practitioner applicants who are health care practitioners that provide health care services. Existing law (BPC sections 480 and 490) presently autho-

rizes the Board to deny an application for licensure or discipline a licensee based on a conviction for a crime or act substantially related to the licensed business or profession. BPC section 481 authorizes the Board to develop criteria for determining whether a crime or act is substantially related to the qualifications, functions, or duties of respiratory care practice. BPC section 482 requires the Board to develop criteria to evaluate an applicant's or licensee's rehabilitation when considering the denial of a license or discipline of a licensee. The Board has adopted regulations (16 CCR 1399.370 and 1399.372) that set forth its substantial relationship criteria and rehabilitation criteria for crimes or acts considered substantially related to qualifications, functions, or duties of a licensee.

Effective July 1, 2020, pursuant to the provisions of Assembly Bill 2138 (Stats. 2018, ch. 995) (hereafter, AB 2138), the Board's existing authority to deny an applicant a license based upon a substantially related criminal conviction will significantly change. This proposal seeks to adopt regulations consistent with this recently enacted legislation and to more accurately reflect the Board's authority to consider denials and discipline.

Effective July 1, 2020, BPC section 481, subsection (b) will require the Board's substantial relationship criteria regulations to include all of the following:

- The nature and gravity of the offense.
- The number of years elapsed since the date of the offense.
- The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

The proposed regulatory amendments will also address other changes to law enacted by AB 2138. These proposed amendments include references to "professional misconduct" as this will be considered a legal basis for denial under BPC section 480. The proposed language will also add references to discipline under BPC section 141 because substantially related acts that are the basis for discipline in another jurisdiction may be used to discipline a licensee under that section. The proposed amendments also add that substantially related crimes, professional misconduct, or acts would include violating other state or federal laws governing the practice of respiratory care.

In addition, the Board proposes to add new rehabilitation criteria to help the Board consider whether an applicant or licensee made a "showing of rehabilitation" as required by AB 2138. (BPC sections 480, 482, as added by AB 2138, sections 4, 9.) The proposed amendments will also implement changes to how the Board considers rehabilitation evidence when considering denials or discipline.

Finally, the proposed regulation amends the rehabilitation criteria for reinstatement or modification of penalty consistent with the rehabilitation criteria for denials or discipline and makes other minor revisions.

Anticipated Benefits of the Proposed Regulation:

The proposed regulatory action places applicants and licensees on notice that the Board is statutorily authorized to deny, suspend, or revoke a license because of professional misconduct and discipline taken by another licensing board or jurisdiction. The proposed amendments also make relevant parties (e.g., the Office of the Attorney General, Office of Administrative Hearings, respondents, and respondent's counsels) aware that when considering denial or discipline of applicants or licensees, the Board uses the listed criteria to determine whether the crime, act, or professional misconduct is substantially related to respiratory care practice.

AB 2138 was enacted to reduce licensing and employment barriers for people who are rehabilitated. The proposed regulatory action furthers that goal by adopting criteria that emphasizes an applicant's or licensee's rehabilitative efforts and what is needed to make a showing of rehabilitation. This may lead to fewer denials and an increase in the number of licensed respiratory care practitioners in the marketplace, allowing for more health care providers to treat increasing numbers of California consumers.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

1. Mandate on local agencies and school districts: None.
2. Costs or savings to any state agencies: None.
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
4. Other nondiscretionary costs or savings imposed on local agencies: None.
5. Costs or savings in federal funding to the state: None.
6. Cost impacts on representative private person or business: The Board is not aware of any cost

impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

7. Statewide adverse economic impact directly affecting businesses and individuals: None.
8. Significant effect on housing costs: None.

Business Impact:

The regulatory amendments will not have a significant statewide adverse economic impact directly affecting businesses. This initial determination is based on the following facts:

The Board has approximately 23,600 licensees for the current fiscal year. During the 2016/2017 fiscal year the Board issued 1,105 licenses and denied 1, and in fiscal year 2017/2018 the Board issued 1,116 licenses and denied 0. Therefore, the Board has denied fewer than .01% of all applicants.

Since the Board has denied fewer than .01% of all applicants this proposal will not have an adverse economic impact. AB 2138 was enacted to reduce licensing and employment barriers for people who have been convicted of a crime or due to acts underlying the conviction, who have a certificate of rehabilitation, were granted clemency, made a showing of rehabilitation, or the conviction was dismissed or expunged. These proposed amendments will further assist in that effort through adoption of standards designed to implement new substantial relationship and rehabilitation criteria. As a result, the Board anticipates that there may be fewer denials or disciplinary actions based upon criminal convictions and, therefore, no significant or statewide adverse economic impacts.

Effect on Small Business:

This regulation will not have a significant statewide effect on small businesses because the proposal is not of sufficient magnitude to expand businesses. This initial determination is based on the following facts:

Historically, the Board denied fewer than 1% of all applications. Even assuming the number of denials or discipline would decrease because of these proposed amendments, the Board believes that this data demonstrates that the decrease would not be significant enough to expand businesses who hire respiratory care practitioners.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses

The Board has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs or create new businesses or eliminate existing businesses, and the expansion of businesses cur-

rently doing business within the State of California because the proposal is not of sufficient magnitude to create or eliminate businesses. Historically, the Board has denied fewer than 1% of all applicants. Even assuming the number of denials or discipline would decrease because of the proposed regulatory action, the Board believes that this data demonstrates that these regulations would not be significant enough to create or eliminate businesses that hire respiratory care practitioner (RCP) applicants and RCPs who have violated the Act, or employers who employ RCPs who are under investigation or on probation.

Effect on Small Business

The Board has determined that the proposed regulations will not significantly affect small businesses in the State of California. These regulations only impact RCP applicants and licensees who have violated the Act, or employers who have RCPs in their employ who are under investigation or on probation.

Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

This regulatory proposal will provide a very modest benefit to the health and welfare of California residents because by implementing criteria that emphasize rehabilitative efforts, the proposal will create an opportunity for employment for people who have been convicted of a crime and are able to make a showing of rehabilitation. This may lead to an increase in RCPs and RCP applicants in the marketplace and, therefore, allow for more health care providers to treat increasing numbers of California consumers. This proposed rulemaking is not anticipated to have an impact on worker safety or the State's environment as it does not involve worker safety or environmental issues.

CONSIDERATION OF ALTERNATIVES

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

Any interested persons may present written statements relevant to the above determinations to the Board at the address indicated under Contact Persons.

INITIAL STATEMENT OF
REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation, and of the initial statement of reasons, including any document incorporated by reference, and all of the information upon which the proposal is based, may be obtained upon request to the Board at 3750 Rosin Court, Suite 100, Sacramento, CA 95834 or on the Board's website at www.rcb.ca.gov.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the persons named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the website listed, on the following page.

CONTACT PERSONS

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

Name:

Christine Molina

Address:

3750 Rosin Court, Suite 100
Sacramento, CA 95834

Telephone No.:

(916) 999.2190

Fax No.:

(916) 263.7311

E-Mail Address:

rcbinfo@dca.ca.gov

The backup contact person is:

Name:

Stephanie Nunez

Address:

3750 Rosin Court, Suite 100
Sacramento, CA 95834

Telephone No.:

(916) 999.2190

Fax No.:

(916) 263.7311

E-Mail Address:

rcbinfo@dca.ca.gov

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

**TITLE 20. CALIFORNIA PUBLIC
UTILITIES COMMISSION**

The California Public Utilities Commission (Commission) proposes to amend regulations described below after considering all comments, objections, or recommendations regarding the proposal.

PROPOSED REGULATORY ACTION

At a duly noticed regularly scheduled meeting not earlier than August 6, 2020, in the Commission Auditorium, 505 Van Ness Avenue, San Francisco, the Commission will consider a proposal to amend its Rules of Practice and Procedure set forth in Division 1, Chapter 1 of Title 20 of the California Code of Regulations. The Commission proposes amendments to its Rules of Practice and Procedure to implement recent statutory changes, eliminate procedural requirements that have been rendered unnecessary due to technological and practical advancements, promote the efficient and transparent resolution of Commission proceedings, and clarify ambiguous terms.

AUTHORITY TO ADOPT RULES

Article XII, Section 2 of the California Constitution and Section 1701 of the Public Utilities Code authorize the Commission to adopt Rules of Practice and Procedure.

INFORMATIVE DIGEST

The Commission proposes amendments to its Rules of Practice and Procedure as follows:

- Conform the regulations to statutory changes enacted pursuant to Senate Bill (SB) 1358 (Stats. 2018, ch. 519) regarding the determination of need for hearing.
- Implement the requirements of Assembly Bill (AB) 1054 (Stats. 2019, ch. 79) regarding catastrophic wildfire proceedings.
- Modify Rule 1.3 to clarify the definition of "quasi-legislative."

- Eliminate the requirement in Rule 1.10(c) that a certificate of service be attached to the e-mail message as a separate document when a document is being served by e-mail.
- Delete the requirement in Rule 1.10(d) for parties to electronically re-serve a document upon notice of failed delivery.
- Update Rules 1.13 and 1.14 to reflect the unavailability of the Commission's Los Angeles office for filing documents in hard copy.
- Adopt a new Rule 1.18 implementing the procedure for public comment, parties' response to public comment, and the Commission's use of public comment.
- Modify the special service requirement for the Proponent's Environmental Assessment in Rule 2.4, modify Rule 2.4 to reference the applicable guidelines for preparing the Proponent's Environmental Assessment, and modify Rule 2.5 to clarify that fees for recovery of costs will include the costs of monitoring and enforcing compliance with an environmental review document.
- Modify Rule 2.7 to limit the requirement for parties to serve their application, protest, or response to any person upon request to electronic service.
- Adopt new Rule 2.8 providing that the Executive Director may issue an order dismissing an application upon an unopposed motion for dismissal by the applicant or stipulation of all parties.
- Adopt new Rule 2.9 to establish an expedited procedure for applications.
- Modify Rule 3.6 to implement the Commission's Tribal Land Policy guidelines regarding contents of an application.
- Conform Rule 4.1 regarding who may file a complaint to Pub. Util. Code Section 2705.6 regarding the authority of mobilehome park tenants to file such complaints.
- Modify Rule 4.5 to authorize the Executive Director to issue an order dismissing a complaint upon an unopposed motion for dismissal by the complainant or stipulation of all parties.
- Modify Rule 7.2 to require the ruling setting the prehearing conference to address remote participation at the prehearing conference and to clarify the timing for prehearing conferences.
- Adopt new Rule 7.5 to clarify the primary procedures in quasi-legislative proceedings.
- Modify Rule 8.1(d) to reflect the renaming of the Office of Ratepayer Advocates to Public Advocates Office pursuant to SB 854 (Stats. 2018, ch. 51).
- Modify Rule 8.2(c)(3)(B) to harmonize it with Rules 8.2(c)(3)(A) and 8.4 and clarify that only written ex parte communications permissible under Rule 8.2(c)(3)(A) are not subject to the reporting requirements set forth in Rule 8.4.
- Modify Rule 8.2 to conform to statutory changes enacted pursuant to SB 1358 and AB 1054 regarding ratesetting deliberative meetings and ex parte communications requirements.
- Modify Rule 8.4 to allow a single notice of ex parte communication to address multiple proceedings.
- Modify Rule 8.4 to require service of notices of ex parte communications to decisionmakers to be done electronically.
- Modify Rule 10.1 to allow parties to ask the administrative law judge to require service of discovery on all parties.
- Modify Rule 12.1 to require disclosure of related agreements in a motion for approval of settlement.
- Eliminate the requirement in Rule 13.1 that applicants for rate increases post or publish notice of evidentiary hearings.
- Modify Rule 13.3 with respect to the assigned Commissioner's presence at hearing.
- Modify Rule 13.6 to clarify the standards for the admissibility of evidence in hearings before the Commission.
- Adopt new Rule 13.9 to require parties to meet and confer to resolve contested issues after the service of rebuttal testimony.
- Modify Rule 13.13 to limit the right to oral argument to ratesetting and quasi-legislative proceedings in which the assigned Commissioner has determined that hearings are needed consistent with the provisions of Pub. Util. Code Sections 1701.3 and 1701.4.
- Modify Rule 14.2 to require service of proposed decisions and revisions to proposed decisions that are not filed.
- Eliminate the ambiguous reference to "major" proceedings in Rule 14.3 regarding page limitations for comments on proposed decisions.
- Modify Rule 14.5 to harmonize the deadline for submitting comment on a draft resolution to the deadline for filing comment on a proposed decision.
- Modify Rule 15.3 to clarify where hard copies of agenda item documents may be obtained.

- Modify Rules 15.3 and 15.4 to eliminate the term “draft decision” which is a term no longer used at the Commission.
- Modify Rule 15.5 to conform to Pub. Util. Code Section 1701.2 to provide for a decision of the presiding officer in all adjudicatory proceedings regardless of whether a hearing was held.
- Modify Rule 16.1 to impose a page limit on applications for rehearing and responses.
- Modify several rules to edit the titles to better reflect their subject matter, correct typographical errors, and provide semantical consistency between rules.

AVAILABILITY OF STATEMENT OF REASONS AND PROPOSED TEXT

The proposed rule amendments are set forth in draft Resolution ALJ-381, which is available on the Commission’s website at <http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=337641495>. The draft resolution includes a more detailed initial statement of the reasons for the rule amendments, and the appendix to the draft resolution sets forth the complete text of the proposed rule amendments.

COMMENTS AND INQUIRIES

Any interested person may submit written comments concerning the proposed rule amendments. The written comment period closes at 5:00 p.m. on July 13, 2020. All comments must be served on the following contact person:

Sophia Park
 Administrative Law Judge
 California Public Utilities Commission
 Division of Administrative Law Judges
 505 Van Ness Avenue
 San Francisco, CA 94102
 Telephone: (415) 703-2116
 e-mail: Sophia.Park@cpuc.ca.gov

Inquiries concerning the substance of the proposed amendment, requests for copies of the text for the proposed amendments, or other questions should be directed to Judge Park at the above street or e-mail address or telephone number.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, the Commission may adopt the proposed rule amendments substantially as

described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Commission adopts the rule amendments. Requests for copies of any modified rule amendments should be sent to the attention of Judge Park at either of the addresses indicated above. The Commission will accept written comments on the modified regulations, if any, for 15 days after the date on which the modifications are made.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

**HABITAT RESTORATION AND ENHANCEMENT ACT
 CONSISTENCY DETERMINATION NO.
 1653-2020-052-001-R3**

Project:
 Gallo CTS Ponds and Creek Enhancement Project

Location:
 Sonoma County

Applicant:
 E. & J. Gallo Winery, Jake Bricker

Notifier:
 Prunuske Chatham, Inc., Carrie Lukacic

Background

Project Location: The Gallo CTS Ponds and Creek Enhancement Project (Project) is located at 2888 Stony Point Road, Sonoma County, California 94952, at a property owned by E. & J. Gallo Winery, Assessor Parcel Number (APN) 024-050-012, and affects an ephemeral unnamed tributary (stream) to Washoe Creek. The Project is located west of the City of Cotati, and project coordinates are approximately latitude 38.3169 and longitude 122.732. The stream supports a population of western pond turtle (*Actinemys marmorata*) and likely supports California tiger salamander (CTS; *Ambystoma californiense*), California red-legged frog (*Rana draytonii*), reptiles, amphibians, mammals, invertebrates, and nesting, wintering, and foraging birds.

Project Description: E. & J. Gallo Winery represented by Jake Bricker (Applicant) proposes to enhance and restore habitat within and adjacent to the ephemeral stream for the benefit of CTS and the other species de-

scribed above. The Project includes: 1) the enhancement of 490 linear feet of the stream, 2) the construction of three CTS breeding ponds adjacent to and outside of the stream banks and riparian corridor, and 3) the repair of a small roadside drainage ditch that has eroded and become incised 18 to 36 inches deep, creating a possible physical barrier to CTS migration, all within an approximately 4.5-acre Project area. The stream is currently eroding, deeply incised, and choked with non-native Himalayan blackberry (*Rubus armeniacus*). The blackberry will be removed and replaced with native plants, the channel bed will be restored, two head cuts will be repaired with rock, four log grade control structures will be installed, and three bank laybacks for wildlife crossing will be constructed. A 33-foot-long, 48-inch diameter culvert crossing allowing for 100-year storm flows will be constructed for vehicles and cattle to cross the stream and to reduce impacts to the remainder of the stream corridor from ongoing ranching operations. The entire riparian corridor will be fenced to improve the stream restoration. The three new ponds will provide breeding habitat for CTS in the Southwest Cotati Conservation Area identified in the Santa Rosa Plain Conservation Strategy (2005) and in the West Cotati Core Area identified in the U.S. Fish and Wildlife Service's Recovery Plan for the Santa Rosa Plain (2016). Pond 1, located approximately 65 feet north of the stream, will have a surface area of 0.19 acre, a maximum depth of 3.5 feet, and a volume of 0.36 acre-feet. Pond 2, located approximately 60 feet south of the stream, will have a surface area of 0.17 acre, a maximum depth of 4 feet, and a volume of 0.36 acre-feet. Pond 3, located approximately 90 feet south of the stream, will have a surface area of 0.13 acre, a maximum depth of 4 feet, and a volume of 0.23 acre-feet. The small roadside drainage ditch will be filled in with soil and capped with 6 inches of bank run rock to create a shallow swale along the road. Three rolling dips will be installed to break up concentrated flow. Approximately 15 cubic yards of soil fill and 45 cubic yards of rock fill will be placed within 2,345 square feet and 310 linear feet of the ditch. As part of the Project, the Applicant proposes to execute a deed restriction to ensure that the property will continue to be managed in accordance with the purposes of the Project. The deed restriction will preclude future development within the Project area and ensure that the restored stream and CTS breeding ponds will be protected and continue to be managed for the intended purposes.

Project Size: The total area of ground disturbance associated with the Project is approximately 4.5 acres and 490 linear feet. The Applicant has included Project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the

California Environmental Quality Act (CEQA; Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) soil excavation, (2) soil fill, and (3) rock fill.

Project Timeframes:

Start date: June 15, 2020

Completion date: October 15, 2020

Work window: June 15 to October 15, 2020

If more time is needed to complete Project activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative. Revegetation work is not limited to the above work window but must be completed within the same season as Project activities.

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and CTS habitat, the North Coast Regional Water Quality Control Board (RWQCB) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B190012WNSO), for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to western pond turtle, CTS, California red-legged frog, burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), and nesting birds.

Receiving Water: Tributary to Washoe Creek

Filled or Excavated Area:

Permanent area impacted: 0.005 acres

Temporary area impacted: 0.05 acres

Length temporarily impacted: 457 linear feet

Length permanently impacted: 33 linear feet

In addition to the excavated area impacting the stream described above, the Project includes excavation for the CTS breeding ponds adjacent to and outside of the stream banks and repair of the small roadside ditch as described above. The total Project area is approximately 4.5 acres.

Dredge Volume: None.

Discharge Volume: 1,715 cubic yards of soil excavation, 245 cubic yards of soil fill, and 175 cubic yards of rock fill over 0.74 acres

Project Location: 38.3169 Latitude, -122.732 Longitude

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Re-

gional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with CEQA (Pub. Resources Code, § 21000 et seq.).

On April 29, 2020, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on May 5, 2020, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2020-0505-10) on May 15, 2020. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that: (1) the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project, and (2) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Administrative Measures; (2) Work Period and Planning; (3) Threatened and Endangered Species Protection; and (4) Wildlife Protection and Prevention; (5) Vegetation Protection, Prevention, and Restoration; (6) Culvert Design and Construction; (7) Rock Armoring; (8) Erosion and Sediment Control; (9) Material Handling, Debris, and Waste; (10) Toxic and Hazardous Material; (11) Spills and Emergencies, and (12) Reporting Measures. The specific avoidance and minimization requirements are found in an attachment to the NOI, entitled *Lake and Streambed Alteration and California Endangered Species Act Fish and Wildlife Protection Measures Gallo CTS Ponds and Creek Enhancement Project*.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for

restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, entitled *Revised — Gallo Two Rock Ranch California Tiger Salamander Breeding Pond Creation and Riparian Enhancement Project Management and Monitoring Plan*, dated December 2019, prepared by Prunuske Chatham, Inc.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number 1B190012WNSO indicated above; and
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. The Applicant shall include the Project name and WDID number with all future inquiries and document submissions. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. The Applicant shall submit documents electronically to Ms. Melanie Day, Senior Environmental Scientist (Specialist), at Melanie.Day@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with Section 1900) of this Division and Chapter 1.5 (commencing with Section 2050) of Division 3. Additionally, the Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. [See generally Fish and Game Code, § 1654, subd. (c)].

DEPARTMENT OF INSURANCE

REG-2020-00006

May 19, 2020

UPDATED NOTICE OF HEARING

COMMERCIAL AUTOMOBILE INSURANCE
PROCEDURE RATES FOR THE CALIFORNIA
AUTOMOBILE ASSIGNED RISK PLAN

On March 31, 2020 California Insurance Commissioner Ricardo Lara issued a Notice of Hearing. The hearing was to allow public comment on REG 2020-00005 and REG-2020-00006. The hearing was to take place at the Ronald Reagan Building 300 S. Spring Street Los Angeles CA 90013 in the Hearing Room at 1 p.m. Due to the current Shelter in Place mandated by the City of Los Angeles, an in person hearing can no longer be held. However, the Department of Insurance has arranged for the hearing to be held via a telephonic hearing. Anyone interested in making comments please call the conference call line below at the designated time, 1:00 p.m. on June 3, 2020 to participate in the public hearing. In addition, comments will still be accepted via mail/email/facsimile to the Department of Insurance contact person listed in the March 31, 2020 public notice, attached herein.

UPDATED PUBLIC HEARING INFORMATION

Public Hearing Date
June 3, 2020 at 1:00 p.m.
California Department of Insurance
TELEPHONIC PARTICIPATION ONLY
Toll-Free Conference Call Telephone Number:
877-226-8163
Participant Access Code: 1516608

Participants will be given instructions on how to provide testimony once they have accessed the hearing. The hearing will continue on the date noted above until all testimony has been submitted or until 5:00 p.m., whichever is earlier.

Access to Telephonic Conference Call

This hearing will be open to the public. To make it possible for the Department to advise attendees of future rulemaking activity, as well as to aid the Department of Insurance in managing attendance, we request that you voluntarily RSVP as soon as possible, preferably by Monday, June 1, 2020, by providing your name(s), the name of the organization you represent, and your contact information, including email address of each attendee to RiordanM@insurance.ca.gov. An RSVP is not required to attend the telephonic confer-

ence and all attendees are invited to participate regardless of whether there was an RSVP.

The telephonic conference to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make specific arrangements, if necessary.

DEPARTMENT OF INSURANCE

REG-2020-00005

May 19, 2020

UPDATED NOTICE OF HEARING
CALIFORNIA LOW COST AUTOMOBILE
PLAN PLAN OF OPERATIONS

On March 31, 2020 California Insurance Commissioner Ricardo Lara issued a Notice of Hearing. The hearing was to allow public comment on REG 2020-00005 and REG-2020-00006. The hearing was to take place at the Ronald Reagan Building 300 S. Spring Street Los Angeles CA 90013 in the Hearing Room at 1 p.m. Due to the current Shelter in Place mandated by the City of Los Angeles, an in person hearing can no longer be held. However, the Department of Insurance has arranged for the hearing to be held via a telephonic hearing. Anyone interested in making comments please call the conference call line below at the designated time, 1:00 p.m. on June 3, 2020 to participate in the public hearing. In addition, comments will still be accepted via mail/email/facsimile to the Department of Insurance contact person listed in the March 31, 2020 public notice, attached herein.

UPDATED PUBLIC HEARING INFORMATION

Public Hearing Date
June 3, 2020 at 1:00 p.m.
California Department of Insurance
TELEPHONIC PARTICIPATION ONLY
Toll-Free Conference Call Telephone Number:
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**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

**BKK Landfill Facility Proposed Third-Party Cost
Recovery for Future Work
NOTICE OF 60-DAY PUBLIC COMMENT
PERIOD: May 29 to July 28, 2020**

Please comment on the proposed Second Disbursement Amendment to the Third Partial Consent Decree regarding the closed BKK Facility at 2210 South Azusa Avenue, West Covina, California 91792. The BKK Facility includes a former hazardous waste disposal Class I Landfill.

DTSC is currently addressing hazardous substances contamination at the BKK Facility to protect public health and the environment from actual and/or threatened releases of hazardous substances. Under DTSC’s oversight, a group of former customers, known as the BKK Working Group (“BWG”), is conducting response actions at the site pursuant to federal consent decrees. These response actions include the “Essential Activities” at the Class I Landfill, an Engineering Evaluation/Cost Analysis (“EE/CA”) of the systems at the Class I Landfill, and a Remedial Investigation/Feasibility Study (“RI/FS”) of groundwater contamination. Together, the EE/CA and RI/FS will detail the cleanup objectives and recommend a final set of response actions for the site. DTSC and BWG seek to pursue a joint cost recovery initiative to recover funds from other potentially responsible parties (referred to as “third parties”) to finance future response actions.

The proposed Second Disbursement Amendment specifies how DTSC and the BWG will collect settlement funds from third parties; establishes the Third-Party Settlement PRP Escrow Account to hold, manage, and distribute settlement funds received from third

parties; and describes how settlement funds placed in the Third-Party Settlement PRP Escrow Account or in DTSC’s BKK sub-account established pursuant to Health and Safety Code section 25330.4 will be used to finance future response actions at the Class I Landfill. Part of the settlement funds will be used to reimburse DTSC for past response costs. The proposed Second Disbursement Amendment also revises portions of the original Disbursement Amendment regarding the use of settlement funds paid by JPMorgan Chase Bank, N.A. pursuant to a consent decree entered with DTSC in 2017.

WHERE DO I SUBMIT MY COMMENTS?

Comments should include “BKK Second Disbursement Amendment” in the subject line of the email or letter to: Kamili Siglowide, Project Manager, Department of Toxic Substances Control, 8800 Cal Center Drive, Sacramento, CA 95826 or Kamili.Siglowide@dtsc.ca.gov. DTSC will respond to comments received, report the comments to the United States District Court for the Central District of California and as appropriate, ask the Court to approve the Second Disbursement Amendment.

WHERE TO GET MORE INFORMATION?

On EnviroStor: http://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=19490005. In the future, documents will be available for review at the following repository: West Covina Library, 1601 W. West Covina Parkway, West Covina, CA 91790, (626) 962-3541. DTSC is accepting comments for a 60-days instead of the usual 30 days due to the Covid-19 pandemic.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is announcing the availability of the revised draft technical support document for the proposed updated Public Health Goal (PHG) for 1,2-dibromo-3-chloropropane (DBCP) in drinking water. A PHG is the level of a drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996¹ requires OEHHA to develop PHGs based exclusively on public health considerations.² PHGs published by OEHHA are considered

¹ Codified at Health and Safety Code, section 116270 *et seq.*

² Health and Safety Code, section 116365(c).

by the State Water Resources Control Board in setting drinking water standards (Maximum Contaminant Levels, or MCLs) for California.³

The draft technical support document, posted on the OEHHA website (<https://oehha.ca.gov/water>), presents the scientific information available on the toxicity of DBCP and the calculation of the updated PHG. The proposed updated PHG of 0.003 parts per billion (ppb) is based on carcinogenicity and is set at a level of risk of one additional cancer case per one million persons exposed over a 70-year lifetime. OEHHA also presents a health-protective drinking water concentration for noncancer health effects of DBCP.

The initial draft technical support document was released for a 45-day public comment period in March 2019, in which no comments were received. Subsequently, an external scientific peer review was completed in October 2019. OEHHA has changed the proposed updated PHG from 0.002 ppb in the initial draft to 0.003 ppb in the second draft, based on re-evaluation of cancer risk data following comments from scientific peer reviewers. This would represent a small increase from the current PHG of 0.0017 ppb, which has been in place since 1999. The draft technical support document is being released for a second public comment that begins May 29, 2020 and ends June 29, 2020.

The public is encouraged to submit written comments via OEHHA's website, rather than in paper form. Comments may be submitted electronically through the following link: <https://oehha.ca.gov/comments>.

Hard-copy comments may be mailed to the address below. Any written comments concerning this draft PHG document, regardless of the form or method of transmission, must be received by the PHG program by June 29, 2020 to be considered.

Following the second public comment period, OEHHA will evaluate all the comments received, and revise the document as appropriate. After any subsequent revisions, the final document will be posted on the OEHHA website along with responses to the external peer review comments and to major comments received during the two public comment periods.

If you would like to receive further information on this announcement or have questions, please contact Hermelinda Jimenez at PHG.Program@oehha.ca.gov or at (916) 324-7572. Written inquiries can also be addressed to:

Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
P.O. Box 4010, MS-12B
Sacramento, California 95812-4010
Attention: PHG Program

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

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

PUBLIC MEETING:

On **July 16, 2020**, at 10:00 a.m.
in the Council Chambers of the Santa Clara City Hall
1500 Warburton Avenue, Santa Clara, California.

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

BUSINESS MEETING:

On **July 16, 2020**, at 10:00 a.m.
in the Council Chambers of the Santa Clara City Hall
1500 Warburton Avenue, Santa Clara, California.

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

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

³ Health and Safety Code, section 116365(a) and (b).

1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**SUSPENSION OF
ACTION REGARDING
UNDERGROUND REGULATIONS**

DEPARTMENT OF PUBLIC HEALTH

OFFICE OF ADMINISTRATIVE LAW

**SUSPENSION OF ACTION REGARDING
UNDERGROUND REGULATIONS**

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

On March 10, 2020, the Office of Administrative Law (OAL) received a petition challenging the Department of Public Health’s memorandum titled *California Homemade Food Act, Frequently Asked Questions, AB 1616 (Gatto) — Cottage Food Operations and AB 1252 Amendments* as an alleged underground regulation. Specifically, the petition challenges item 9 of the memorandum regarding limitations on Internet sales and delivery of cottage food products.

On May 18, 2020, the Department of Public Health certified to the OAL that the challenged memorandum had been rescinded; therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

**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# 2020-0408-03
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
Responsible Beverage Service Training Program

This resubmittal action implements the Responsible Beverage Service Training Program Act of 2017 (RB-STPA), codified as Business and Professions Code sections 25680-25686, including the required curriculum standards for RBS training courses, approval standards for accreditation agencies and training providers, reporting requirements of ABC on-premises licensees, the establishment of an online alcohol server certification system, and enforcement standards and penalties for violations of the RBSTPA by accreditation agencies, training providers, and ABC on-premises licensees.

Title 4
ADOPT: 160, 161, 162, 163, 164, 165, 166, 167, 168, 168.1, 168.2, 168.3, 169, 170, 171, 172, 173
Filed 05/20/2020
Effective 05/20/2020
Agency Contact: Robert de Ruyter (916) 419-8958

File# 2020-0402-03
DEPARTMENT OF INDUSTRIAL RELATIONS
OSIP — Annual Report of Public Self-Insured Employers

This rulemaking action establishes requirements for reporting information needed to evaluate the administrative costs, expenditures, solvency, and performance of public self-insured employer workers’ compensation programs.

Title 8
ADOPT: 15203.11
AMEND: 15203.2, 15251, 15430
Filed 05/14/2020
Effective 07/01/2020
Agency Contact: John Cumming (415) 486-2038

File# 2020-0403-01
DEPARTMENT OF JUSTICE
CURES Regulations

The Department of Justice (“DOJ”) maintains the Controlled Substance Utilization Review and Evaluation System (“CURES”) “for the electronic monitoring of, and internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.” (Health & Saf. Code, sec. 11165, subd. (a).) In this regular rulemaking, DOJ is adopting regulations concerning the access and use of information within CURES.

Title 11
ADOPT: 820, 821, 822, 823, 824, 825, 826, 827, 828
Filed 05/14/2020
Effective 07/01/2020
Agency Contact: Julia Zuffelato (916) 210-6040

File# 2020-0407-01
DEPARTMENT OF SOCIAL SERVICES
Children Residential Facilities Psychotropic Medications

In this regular rulemaking the Department of Social Services amends several sections regarding the use and management of psychotropic medications by children and youths in foster care and group homes.

Title 22, MPP
AMEND: 83001, 83064, 83068.1, 83070, 83072.1, 83075, 84001, 84044, 84065, 84068.1, 84070, 84072.1, 84075, 89201, 89370, 89468, 89475, 89475.1
Filed 05/20/2020
Effective 07/01/2020
Agency Contact: Everardo Vaca (916) 657-2363

File# 2020-0504-01
DIVISION OF WORKERS’ COMPENSATION
QME Regulations in Response to COVID-19

The Division of Workers’ Compensation (DWC) is adopting a process to provide that a QME, AME or other medical-legal report and required documents may be served electronically. DWC is also providing how and when a telehealth medical-legal evaluation can be performed.

Title 8
ADOPT: 36.7, 46.2
Filed 05/14/2020
Effective 05/14/2020
Agency Contact:
Nicole Richardson (510) 286-0656

**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.