



# 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**

*Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.*

**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

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

**CONFLICT-OF-INTEREST CODES**

**ADOPTION**

**MULTI-COUNTY:** Navigator Schools

A written comment period has been established commencing on October 30, 2020 and closing on December 14, 2020. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the

proposed conflict-of-interest code(s). Any written comments must be received no later than December 14, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**TITLE 5. COMMISSION ON TEACHER CREDENTIALING**

**PERTAINING TO PUPIL PERSONNEL SERVICES CREDENTIALS IN SCHOOL COUNSELING, SCHOOL PSYCHOLOGY, AND SCHOOL SOCIAL WORK**

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action. A copy of the proposed regulations is included with the added text underlined and the deleted text lined out.

The Commission has not scheduled a public hearing on this proposed action. However, the Commission will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the comment period.

**SUMMARY OF PROPOSED ACTION**

The Commission on Teacher Credentialing (Commission) proposes to repeal sections 80632, 80632.1, 80632.2, 80632.3, 80632.4, 80632.5 which are the outdated Pupil Personnel Educator Preparation program standards. The Commission is also proposing to adopt section 80605 which contains definitions related to educator preparation program standards and section 80614 which contains the most recently adopted Commission Pupil Personnel Educator Preparation program standards. Lastly, the Commission proposes amendments to section 80049 to remove out-of-date terminology and correct the language related to the Basic Skills Requirement.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by email relevant to the proposed action. The written comment period closes at midnight on December 21, 2020. Comments must be received by that time or may be submitted at the public hearing, should one be requested. Interested parties may fax their response to (916) 327-3165; write to the Commission on Teacher Credentialing, attn. Joshua

Speaks, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email to [JSpeaks@ctc.ca.gov](mailto:JSpeaks@ctc.ca.gov) or Kathryn Taylor at [Kathryn.Taylor@ctc.ca.gov](mailto:Kathryn.Taylor@ctc.ca.gov).

Any written comments received by the closing of the public comment period will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

#### AUTHORITY AND REFERENCE

Education Code (EC) section 44225(q) authorizes the Commission to adopt the proposed regulations and amendments. These regulations are proposed in order to implement, interpret, and make specific the following: Education Code section 44372(b) pertaining to powers and duties of the Commission related to accreditation; section 44266 referring to Pupil Personnel Services credentials; and section 44225 pertaining to educator preparation programs meeting standards approved by the Commission.

As mandated as part of its duties, the Commission adopted revised Pupil Personnel Services (PPS) program standards in 2019 and those program standards will be added to these proposed regulations

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### *Summary of Existing Laws and Regulations*

Education Code section 44225 authorizes the Commission to adopt these proposed new regulations and amendments and establish standards for entry into the profession. The proposed new regulations and amendments implement, interpret, and make specific the following: Education Code section 44372(b) pertaining to powers and duties of the Commission related to accreditation; section 44266 referring to Pupil Personnel Services credentials; and section 44227 pertaining to educator preparation programs meeting standards approved by the Commission.

Existing regulations for the PPS program standards (80632, 80632.1, 80632.2, 80632.3, 80632.4, 80632.5) are over thirty years old. The Commission has recently updated and adopted new PPS standards.

Existing regulation section 80049 provides the specific requirements for Professional Clear Services Credential with a specialization in PPS.

##### *Summary of Effect of the Proposed Rulemaking*

Over the last thirty years, California public schools have experienced significant changes in the nature and context of the types of challenges they have faced, and the roles and responsibilities of PPS professionals at the school and district level have also changed in

response to these new realities. Additionally, national professional standards around the expectations for these school professionals have been updated during this period. The proposed regulations will bring program standards up to date, benefiting the needs of public school children.

Due to the age of the current PPS standards in regulation the Commission is proposing to repeal sections 80632, 80632.1, 80632.2, 80632.3, 80632.4, 80632.5 and adopt sections 80605 and 80614. Organizationally, this will house all the Commission's program standards regulations in the same section, benefiting the stakeholders who need to access the regulations. Additionally, this will provide a definitions section that will apply to future sets of program standards as they are adopted and placed in the "Professional Preparation Programs" article of the Commission's regulations.

Finally, proposed amendments to section 80049 remove out of date terminology and broaden the language related to the Basic Skills Requirement. Currently regulations state candidates must pass the California Basic Education Skills Test (CBEST) to demonstrate basic skills. However, the authorizing education code, 44225(b), CBEST is only one of several ways for individuals to demonstrate basic skills for other credential areas. This change would bring the PPS credential requirements around basic skills in line with all other credentials and provide candidates with numerous options.

##### *Determination of Substantial Differences from Existing Federal Regulation or Statute*

The Commission has determined through a search of Title 34 Education Regulations and U.S. Code Title 20 Education, and a general search through Westlaw Edge that no comparable federal statutes regarding standards for educator preparation programs exist. Search terms included: educator preparation, teacher preparation, educator preparation standards, postsecondary standards, education preparation standards, and teacher education. The Commission did not expect to find any comparable federal law as there is no national system of teacher certification or licensure.

##### *Objectives and Anticipated Benefits of the Proposed Regulations*

The Commission anticipates that the proposed amendments will continue to benefit the health and welfare of California residents, as PPS educators work as school counselors, psychologists, and social workers — professionals that provide critical support for the academic, social and emotional, and mental well-being of TK–12 students. Parents and other educators will benefit from the enhanced school climate which creates a safer, healthier environment in which learning can take place. Additionally, the proposed amendments ensure high quality educator prepara-

tion programs which result in effective educators for California students. The new standards and proposed regulations should ensure a more prepared workforce for PPS positions who are better able to address the current needs of TK–12 students in California in the coming decade.

*Determination of Inconsistency/Incompatibility with Existing State Regulations*

The Commission has determined that the proposed regulation amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Commission has concluded that these are the only regulations that concern the standards for Pupil Personnel Services educator preparation and credential authorization statements for Pupil Personnel Services related credentials.

DOCUMENTS INCORPORATED  
BY REFERENCE

Pupil Personnel Services: School Counseling Preconditions, Program Standards, and Performance Expectations, adopted by the Commission April 2019, published May 2020

Pupil Personnel Services: School Psychology Preconditions, Program Standards, and Performance Expectations, adopted by the Commission April 2019, published May 2020

Pupil Personnel Services: School Social Work Preconditions, Program Standards, and Performance Expectations, adopted by the Commission April 2019, published May 2020

DISCLOSURES REGARDING THE  
PROPOSED ACTIONS/FISCAL IMPACT

The Commission has made the following initial determinations.

**Local Mandate**

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code. Local education agencies may choose to sponsor educator preparation programs utilizing the proposed regulations; however no mandate exists requiring local agencies or school districts to have educator preparation programs and, therefore, no reimbursement in accordance with Part 7 (commencing with section 17500) of the Government Code is required.

**Fiscal Impact**

*Costs to any local agency or school districts requiring reimbursement pursuant to Government Code section 17500 et seq.*

These proposed regulations will not impose a cost to local agencies or school districts requiring reimbursement in accordance with Part 7 (commencing with section 17500) of the Government Code, as sponsoring an educator preparation program which is aligned to the proposed regulations and is not required by law.

*Cost or savings to any state agency.*

None. Sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law.

*Other non-discretionary costs or savings imposed upon local agencies.*

None. Sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law.

*Cost or savings in federal funding to the state.*

None. Sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law.

**Housing Costs**

No significant effect on housing costs exists. Sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law and would not affect housing costs.

**Significant Statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states**

The proposal will not have an impact. The proposed regulations are the standards that Commission accredited educator preparation programs must align their preparation program with to maintain accreditation for their program and the statement of authorization for the related credential.

Participation in educator preparation is not mandated by law and would not directly affect business in California or their ability to compete with businesses in other states.

**Statement of the Results of the Economic Impact Assessment**

In accordance with Government Code section 11346.3(b), the Commission has made the following assessments regarding the proposed regulations:

*Creation or Elimination of Jobs within California*

The proposed amendments pertain to program standards and credential requirements for institutions operating, or seeking to operate PPS programs, as well



as the requirements for candidates within those programs. It is unlikely the proposed amendments will create jobs in California. Due to the educator shortage it is unlikely that the proposal will eliminate any jobs within California.

*Creation of New Businesses or Elimination of Existing Business within California*

The proposed amendments pertain to program standards and credential requirements for institutions operating, or seeking to operate PPS programs, as well as the requirements for candidates within those programs. It is unlikely that the proposal will create any new businesses within the State of California as institutions operating programs must already be an existing educational entity. Further, it is unlikely that the proposal will eliminate any existing businesses within the State of California as there is currently an educator shortage and educational institutions run multiple programs outside of educator preparation that impact business.

*Expansion of Businesses Currently Doing Business within the California*

It is possible that the proposal would cause the expansion of businesses currently doing business within the State of California. The proposed regulations apply to currently approved institutions or to institutions seeking approval which must already have regional accreditation and are only expanding their business into educator preparation in California. It is unclear whether or not any significant number of businesses would expand into California for the purposes of operating Pupil Personnel Services educator preparation programs.

*Benefits of the Regulations*

The Commission anticipates that the proposed amendments will continue to benefit the health and welfare of California residents, as Pupil Personnel Services educators may work in a school counselor, psychologist, or social worker capacity resulting in a health and welfare benefit to students, colleagues, and parents. The proposed amendments ensure high quality educator preparation programs which result in effective educators for California students. Further, appropriate and high-quality mental health support within the public school system will also benefit worker safety and public health in the larger sense. The Commission does not anticipate the proposed regulations will result in direct benefits to the state's environment.

**COST IMPACTS ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

Cost impacts to a representative business would be minimal. Non-Commission approved private/

independent education entities elect to offer a program(s) and may allocate staffing and budget in any manner deemed appropriate by the business. The Commission is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

**BUSINESS REPORT**

Regardless of their status as a for-profit or not-for-profit educational institution, programs seeking accreditation must provide the Commission with a written document which describes how the programs meet the standards. All Commission-approved programs leading to licensure must provide documentation demonstrating that their programs are in accordance with Commission-adopted preconditions, standards, and performance expectations in order to operate a PPS preparation program.

**EFFECT ON SMALL BUSINESS**

The proposed regulations will not have a significant adverse economic impact upon small business. The proposed regulations apply only to educational institutions electing to offer or offering Commission-approved and accredited educator programs. Educational institutions are California State Universities, Universities of California, private four-year colleges and universities, or local education agencies, none of which meet the definition for small business as defined in government code 11342.610. The vast majority of Commission approved program sponsors are nonprofit educational institutions. Very few institutions of higher education approved by the Commission at this time are for-profit businesses. Because offering an educator preparation program is voluntary, any institution must evaluate whether or not they have sufficient resources to offer a high-quality preparation program in accordance with the state adopted standards, state statute, and regulations.

**ALTERNATIVES STATEMENT**

The Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearing.

CONTACT PERSON/  
FURTHER INFORMATION

General or substantive inquiries concerning the proposed action may be directed to Joshua Speaks by telephone at (916) 327-5339, by mail at Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811, or by email to Joshua Speaks ([JSpeaks@ctc.ca.gov](mailto:JSpeaks@ctc.ca.gov)) or Kathryn Taylor ([Kathryn.Taylor@ctc.ca.gov](mailto:Kathryn.Taylor@ctc.ca.gov)). General question inquiries may also be directed to the addresses mentioned above. Upon request, a copy of the express terms of the proposed action and a copy of the Initial Statement of Reasons will be made available. This information is also available on the Commission's website at <http://www.ctc.ca.gov/notices/rulemaking.html>. In addition, all the information on which this proposal is based is available for inspection and copying.

AVAILABILITY OF STATEMENT OF  
REASONS AND TEXT OF  
PROPOSED REGULATIONS

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, and an economic impact assessment/analysis contained in the Initial Statement of Reasons. Copies may be obtained by contacting Joshua Speaks or Kathryn Taylor at the addresses or telephone number provided above.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL  
STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, following the conclusion of the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Joshua Speaks at [JSpeaks@ctc.ca.gov](mailto:JSpeaks@ctc.ca.gov).

AVAILABILITY OF  
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Commission's website at <http://www.ctc.ca.gov/notices/rulemaking.html>.

**TITLE 17. DEPARTMENT OF  
DEVELOPMENTAL SERVICES**

EARLY INTERVENTION SERVICES

The Department of Developmental Services (Department) proposes to amend the Early Intervention Services regulations as described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

The public comment period for this regulatory action will begin on **October 30, 2020**. For any written comment to be considered, it must be received by the Department no later than **December 14, 2020**, the close of the 45-Day comment period.

To be considered, any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory in one of the following ways:

By email to: [RegulationsMailing@dds.ca.gov](mailto:RegulationsMailing@dds.ca.gov)

The Department requests that all comments, particularly those emailed with attachments, contain the regulation package identifier "**Early Intervention Amendments**" in the subject line to facilitate timely identification and review.

By mail to:

The Department of Developmental Services  
Legislation, Regulations and Public Affairs  
**RE: Early Intervention Amendments**  
1600 9<sup>th</sup> Street  
Sacramento, CA 95814

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department 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 before the close of the written comment period (**November 30, 2020**).

Copies of the express terms of the proposed regulation and the Initial Statement of Reasons, or other information upon which this rulemaking is based, are available from Ms. DeRego at the contact information listed on the last page of this notice. This notice, the Initial Statement of Reasons and the text of the proposed regulations are also available on the Internet at <http://www.dds.ca.gov/transparency/laws-regulations/emergency-and-proposed-regulations/>. Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed above once it is prepared.

If a request for public hearing is received, the hearing will be conducted in accordance with the Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed amendment summarized below is required by federal law to align with federal statute and regulation.

Currently, Section 52000, Title 17, California Code of Regulations (CCR) provides definitions for early intervention services and the evaluation and assessment of the infants and toddlers who are referred for determination of eligibility for these services. However, to align with federal statute, State regulation must also contain a definition for “assistive technology service” to allow for these services.

The Department proposes to amend Section 52000, Title 17, CCR by adding the definition of “assistive technology service” to more accurately align with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).

The failure to amend Title 17 regulations in conformity with Part C federal rules would negatively affect the Department receiving the full Part C grant for the Early Intervention Services.

#### **Anticipated Benefits**

The proposed amendment, which adds the definition of “assistive technology service,” completes a prior set of definitions that was added to CCR, Title 17 on October 1, 2019. The proposed amendment will indirectly impact the health and welfare of the infants and toddlers in the Early Start program as the proposed amendment ensures the continuity of the federal grant which sustains these services. Also, the proposed amendment within Title 17, Division 2, section 52000 provides a definition to services available and responsibilities of the service providers for the Early Start program toddlers, infants, and their families.

As these are the only regulations dealing with this subject matter for infants and toddlers with develop-

mental disabilities, the Department finds that the proposed regulations are compatible and consistent with existing state statute and regulations.

#### LOCAL MANDATE STATEMENT

These regulations do not constitute a mandate on local agencies or school districts.

#### FISCAL IMPACT

Cost or savings to any state agency: Cost of less than \$10 million per year.

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

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

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

Cost impacts on a representative private person or business: None. 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 DIRECTLY AFFECTING 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.

#### SMALL BUSINESS IMPACT STATEMENT

The Department has determined that there is unlikely to be an impact on small business as a result of filing of these regulations. The proposed amendment to the regulation does not create a burden on businesses.

#### STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The proposed amendment does not represent any policy shift in administering the Early Start program for the State. Therefore, the Department forecasts no economic impact and concludes that it is: (1) unlikely that the proposal will eliminate any jobs for the Early Start program service providers, (2) unlikely that the proposal will create an unknown number of jobs for service providers, (3) unlikely that the proposal will create an unknown number of new businesses providing services in the Early Start program, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will



result in the expansion of businesses currently doing business within the state.

The proposed amendment will indirectly impact the health and welfare of the infants and toddlers in the Early Start program as the proposed amendment ensures the continuity of the federal grant which sustains these services.

**STATEMENT OF EFFECT ON  
HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

**STATEMENT OF  
ALTERNATIVES CONSIDERED**

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 Department that 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.

**AUTHORITY AND REFERENCE**

Authority: Welfare and Institutions Code section 4405; and Government Code section 11152

Reference: Welfare and Institutions Code sections 4631; 4648(a); and 4691

**CONTACT PERSON REGARDING THE  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATIONS**

Contact Person:  
Sharon DeRego  
(916) 654-2773

Backup:  
Emily Woolford  
(916) 654-2773

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

If the Department makes modifications which are sufficiently related to the originally proposed text, with the exception of grammatical changes, 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 regulation as revised. Please send requests for copies of any modified regulation to the attention of the contact persons indicated above. The Department will accept written comments on the modified regulation for 15 days after the date on which it is made available.

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

DIVISION 4. Environmental Health  
CHAPTER 15 — Domestic Water Quality and  
Monitoring Regulations  
CHAPTER 15.5 — Disinfectant Residuals,  
Disinfection Byproducts and Disinfection  
Byproduct Precursors  
CHAPTER 17 — Surface Water Treatment

SUBJECT: REVISED TOTAL COLIFORM  
RULE (SBDDW-20-002)

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

**NOTICE OF PUBLIC HEARING TO  
CONSIDER ADOPTION OF A REVISED  
TOTAL COLIFORM RULE  
(Gov. Code, § 11346.5(a)(1))**

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

**DATE: 17 December 2020**

**TIME: 9:30 a.m.**

**Video and Teleconference Participation**

As a result of the COVID-19 emergency and the Governor's Executive Orders to protect public health by limiting public gatherings and requiring social distancing, this meeting is scheduled at this time to occur

via remote presence. The hearing will be recorded and will be webcast at <https://video.calepa.ca.gov/>.

For those who only wish to watch the hearing, the customary webcast remains available at <https://video.calepa.ca.gov/> and should be used UNLESS you intend to comment.

For those who wish to make oral comments, additional information about participating telephonically or via the remote meeting solution is available here: [https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/Regulations.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Regulations.html).

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

#### *Special Accommodation Request*

Consistent with California Government Code section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; or
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5600 as soon as possible, but no later than 10 business days before the scheduled State Water Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia
- Documentos disponibles en un formato alterno u otro idioma
- Una acomodación razonable relacionada con una incapacidad

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 341-5600 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

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

Any interested person, or their representative, may submit written comments relevant to the proposed regulatory action to the Clerk to the State Water Board. Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Clerk to the State Water Board by **12:00 p.m. noon, December 18, 2020**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov). The State Water Board requests but does not require that email transmission of comments, particularly those with attachments, contain the regulation package identifier "SBDDW-20-002" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 341-5620. The State Water Board requests but does not require that faxed comments contain the subject line "SBDDW-20-002";
3. By mail to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, P.O. Box 997377, MS 7400, Sacramento, CA 95899-7377; or
4. Hand-delivered to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, 1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814.

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

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

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

Please note that under the California Public Records Act (Gov. Code, § 6250 *et seq.*), your written and oral comments, attachments, and associated contact infor-

mation (e.g., your address, phone, email, *etc.*) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

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

The State Water Board proposes to adopt this regulation under the authority granted by Health and Safety Code (HSC) sections 116271, 116350, and 116375. It is implementing, interpreting, or making more specific HSC sections 116275, 116325, 116350, 116365, 116370, 116375, 116385, 116390, 116400, 116430, 116450, 116460, 116470, 116525, 116530, 116540, 116550, 116555, and 116735.

INFORMATIVE DIGEST

(Gov. Code, § 11346.5(a)(3))

*Existing Laws and Regulations* (Gov. Code § 11346.5(a)(3)(A))

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

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

On February 13, 2013, the U.S. EPA promulgated the Revisions to the Total Coliform Rule (aka Revised Total Coliform Rule) (RTCR) (78 Fed. Reg. 10270; amended Feb. 26, 2014, 79 Fed. Reg. 10665), as required by the Safe Drinking Water Act Amendments of 1996. Minor corrections took effect April 28, 2014, with the more significant revisions taking effect on April 1, 2016. The federal RTCR applies to public

water systems and increases public health protection through the reduction of potential pathways of entry for fecal contamination into distribution systems and builds on the federal Total Coliform Rule (TCR) to protect public health by ensuring the integrity of the drinking water distribution system and monitoring for the presence of microbial contamination. With limited exceptions, public water systems have been required to comply with the federal RTCR since April 1, 2016. Since then, California public water systems have been working to comply with both the federal RTCR, subject to federal enforcement, and California’s existing bacteriological quality regulations. California currently has adopted the necessary regulations and gained primacy for the federal TCR and is proposing to do the same for the federal RTCR.

*Effect of Proposed Rulemaking* (Gov. Code § 11346.5(a)(3)(A))

The key provisions of the federal RTCR include:

- Establishing a maximum contaminant level (MCL) for *Escherichia coli* (*E. coli*) for protection against potential fecal contamination;
- Specifying best available technologies for *E. coli*;
- Specifying public notification health effects language for public water systems violating the *E. coli* MCL;
- Specifying public notification health effects language for public water systems with corrective action violations and/or undergoing a total coliform or *E. coli* assessment;
- Setting a coliform treatment technique requirement;
- Establishing requirements for monitoring total coliforms and *E. coli* according to a bacteriological sample siting plan and schedule specific to the public water system;
- Establishing provisions allowing public water systems to transition to the federal RTCR using their existing TCR monitoring frequency, including public water systems on reduced monitoring under the existing TCR;
- Establishing requirements for seasonal systems to monitor and certify the completion of a state-approved start-up procedures;
- Establishing requirements for assessments and corrective action when monitoring results show that public water systems may be vulnerable to contamination;
- Establishing public notification requirements and health effects language for public water systems that experience a total coliform or *E. coli* assessment and/or corrective action violation;



- Specifying language for public water systems to include in Consumer Confidence Reports when total coliforms or *E. coli* are detected; and
- Specifying language for community water systems to include in their Consumer Confidence Reports when they must conduct an assessment or if they incur an *E. coli* MCL violation.

The proposed regulations also include a 2010 federal Long-Term 2 Enhanced Surface Water Treatment Rule alternative *E. coli* concentration to trigger Cryptosporidium monitoring.

In addition to incorporating required elements of the federal RTCR in order to retain primacy, the proposed regulations also include provisions beyond those contained in the U.S. EPA RTCR. These additional provisions are designed to provide additional protection of public health. Significant differences in the proposed state-only RTCR requirements include:

- Requirements for bacteriological monitoring of a groundwater (not Groundwater Under the Direct Influence of Surface Water) source that is continuously disinfected and for revising bacteriological sample siting plans to include the source sample sites;
- Requirements for public water systems on reduced bacteriological monitoring to return to routine bacteriological monitoring;
- Requirements for coliform density determinations of total coliforms and *E. coli*, if directed by the State Water Board;
- For public water systems collecting one sample per month, eliminating the need to submit a monthly summary of a bacteriological monitoring result, and clarifying the minimum monthly summary elements for public water systems collecting more than one sample per month;
- Requirements for a report and corrective action when monitoring results indicate a possible significant rise in bacterial count; and
- Requirements for seasonal system start-up procedure components; actions to be taken prior to serving water to the public; and a provision allowing an alternative to certain start-up procedure components.

None of the proposed amendments would affect California's primacy status, because the net effect of these amendments is that the state's regulation would be more stringent than the federal RTCR, consistent with section 116270(f) of the Health and Safety Code. *Comparable Federal Statute and Regulations* (Gov. Code § 11346.5(a)(3)(B))

Federal laws and regulations require that California, in order to receive and maintain primacy, promulgate regulations that are no less stringent than the federal

regulations. HSC section 116270(f) states California's legislative intent to improve upon minimum requirements of the federal Safe Drinking Water Act and to establish a program that is more protective of public health than the minimum federal requirements. The State Water Board is proposing additional requirements beyond the U.S. EPA's RTCR requirements set forth in 78 Federal Register 10270 (February 13, 2013, Vol. 78, No. 30), 79 Federal Register 10665 (February 26, 2014, Vol. 79, No. 38), and 40 Code of Federal Regulations (CFR) 141.2; 141.4(a) and (b); 141.21(h); 141.52(a)(1) through (6); 141.52(b); 141.63(a)(2) and (b) through (f); 141.71(b); 141.74(b) and (c); 141.132(c); 141.153(c), (d), and (h); 141.202(a); 141.203(b), 141.204(a); 141.402(a); 141.405(b); 141.803(a); 141.851(a) through (e); 141.852(a) through (c); 141.853(a) through (c); 141.854(a) through (j); 141.855(a) through (f); 141.856(a) through (c); 141.857(a) through (d); 141.858(a) and (b); 141.859(a) through (d); 141.860(a) through (d); 141.861(a) and (b); 142.14(a); 142.15(c); 142.16(q); and 142.63(b).

The proposed regulations establish and clarify requirements that are in addition to the federal RTCR, which are known as state-only requirements. The substantive portions of the proposed regulations

- establish requirements for bacteriological monitoring, bacteriological reporting, and bacteriological sample siting plans;
- establish requirements for documentation on trained personnel (sample collector/field tester), public water system notification procedures, seasonal system start-up procedures; clarify population basis for determining the minimum number of routine bacteriological samples required; and clarify the basis for bacteriological reporting (service connections vs. population);
- establish requirements for increased bacteriological monitoring of groundwater sources, requests and contents of requests, coliform density determination (if directed by the State Water Board), and Significant Rise in Bacterial Count (SRBC) report and notification; and eliminate a need for Bacteriological Sample Siting Plan update due to personnel changes; and
- establish requirements for definitions, bacteriological sample siting plans, an alternative basis for determining the number of routine bacteriological samples required, an SRBC investigation, seasonal systems (water quality reporting, State Water Board approval, and an alternative approach to the seasonal system start-up procedure); and clarify bacteriological reporting requirements.

Specific differences are described in further detail in the Initial Statement of Reasons and Cost Estimating Methodology.



*Policy Statement Overview* (Gov. Code, § 11346.5(a)(3)(C))

To maintain primary enforcement authority over the federal RTCR, the State Water Board proposes to adopt regulations substantially conforming to the federal regulations while also organizing and wording the regulations to maintain consistency with existing state regulations and referencing state regulations for clarity. The revisions also provide updates to other provisions in State regulations that reference analytical methods and other requirements in the RTCR (e.g., Public Notification and Ground Water Rules); improve upon the public health protection afforded through compliance with federal requirements with additional state-only requirements for monitoring, reporting, and seasonal system start-up requirements; and clarification and other nonsubstantive corrections to existing regulations.

*Objectives*

Broad objectives of this proposed regulatory action are to:

- Provide the public with increased protection against microbial pathogens in drinking water served by public water systems;
- Protect public health by ensuring the integrity of the drinking water distribution system and monitoring for the presence of microbial contamination; and
- Maintain primary enforcement authority (“primacy”) through the adoption of drinking water regulations no less stringent than those promulgated by U.S. EPA.

*Benefits*

The proposed regulatory action is expected to improve public health and safety through the following:

- Establishing a health goal and Maximum Contaminant Level (MCL) for *E. coli*;
- Establishing a treatment technique for total coliform bacteria, requiring PWS to find and correct sanitary defects in the drinking water distribution system that may lead to microbial contamination;
- Increasing oversight of seasonally operated water systems in the form of minimum start-up procedures, PWS submittal of bacteriological and disinfection monitoring results, and required State Water Board approval;
- Requiring additional bacteriological samples to provide more information about the distribution system and water sources as a whole and help to evaluate if there is a serious problem in an area of the distribution system that may pose a significant risk to consumers; and

- Improving upon the federal RTCR requirements by requiring more frequent and more specific monitoring to provide more information on source contamination and determination of any data trends.

Additional anticipated benefits include:

- Improved clarity of requirements through increased specificity and reduced redundancy;
- Enhanced public awareness of water quality served by requiring public notification when an *E. coli* MCL violation occurs, and when a PWS fails to conduct a required assessment or corrective action to prevent microbial contamination; and
- Improved clarity and understanding of existing regulations regarding a significant rise in bacterial count.

*Evaluation as to Whether the Proposed Regulations are Inconsistent or Incompatible with Existing State Regulations* (Gov. Code, § 11346.5(a)(3)(D))

The State Water Board reviewed its existing general regulations and regulations specific to coliform organisms in drinking water to evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. It was determined that no other state regulation addressed the same subject matter and that this proposal, if adopted, would not be inconsistent or incompatible with other existing state regulations.

OTHER STATUTORY REQUIREMENTS

(Gov. Code, § 11346.5(a)(4))

*California Environmental Quality Act*

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

*Scientific Peer Review* (Health and Safety Code, § 57004(b))

Health and Safety Code subsection 57004(b) requires that the scientific portions of any regulation proposed by the California Environmental Protection Agency (Cal/EPA), or any board, department or office within Cal/EPA, be submitted to an external scientific peer review entity for evaluation. “Scientific basis” or “scientific portion” is defined as “those foundations of a rule that are premised upon, or derived from empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or

the environment.” Where there is no underlying scientific basis for the proposed rule, no peer review is required. Similarly, where the underlying scientific basis for the proposed rule has already been peer reviewed, additional peer review is not required. Cal/EPA’s *Unified California Environmental Protection Agency Policy and Guiding Principles for External Scientific Peer Review*, March 13, 1998 (Cal/EPA Guiding Principles) recognizes that external scientific peer review processes are not warranted where there are no underlying scientific bases at issue, or where the underlying scientific basis has already undergone review.

The RTCR revises the existing TCR which was established by the U.S. EPA in 1989. The revisions do not change the fundamental approach for monitoring and maintaining the microbiological quality of the drinking water supply. The RTCR more clearly establishes operational requirements that public water systems evaluate and maintain the microbiological quality of the water supplied to the public. The RTCR establishes incentives for public water systems to correct any microbiological quality issues promptly thereby avoiding technical violations that were the focus of the 1989 TCR. The RTCR more clearly defines the framework of the investigation process by basing violations not only on the sample results but also on the adequacy and timeliness of the investigation and corrective action taken by the public water system to fix the underlying problem. The RTCR is primarily a shift in policy and approach based on the experience gained from the TCR nationwide since 1989. The proposed revisions, therefore, do not have a “scientific basis” or “scientific portion” to submit to any such review.

*Safe, Clean, Affordable Water* (California Water Code, § 106.3)

California Water Code section 106.3 states that it is the policy of the state that every human has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes. In preparing the proposed regulations, the State Water Board determined the proposed regulations are consistent with this statewide policy. While the proposed regulations may result in increased costs to those served by a PWS, that potential cost is expected to render water neither unaffordable nor inaccessible and is outweighed by the increased public health benefits of improved public notification and information, provision of more representative bacteriological monitoring data resulting from site-specific total coliforms and *E. coli* sampling plans, increased emphasis on corrective actions, increased knowledge of bacteriological conditions to allow timely health-protective responses, and assurances of proper seasonal system start-up practices.

*Pre-Notice Meeting with Affected Parties* (Gov. Code 11346.45(a))

Government Code subsection 11346.45(a) requires that prior to publication of the notice of proposed action, the agency proposing the regulation must involve parties who would be subject to the proposed regulations in public discussions, when the proposed regulations involve complex proposals or a large number of proposals that cannot be easily reviewed during the comment period. The regulations proposed here are neither complex nor involve large numbers of proposals that could not be easily reviewed during the comment period. To the extent they are complex, the bulk of the proposed regulations are federal requirements that have been in effect and enforceable by U.S. EPA since April 2016, for which regulated entities have had ample time to consider and review. Nonetheless, the State Water Board did provide PWS and water consumers opportunities to be involved in public discussions about the proposed regulations, including the February 3, 2017 release of draft California Revised Total Coliform Regulations, and the State Water Board workshop presentations made on February 23, 24, and 28, 2017 and March 17, 29, and 30, 2017, in Bakersfield, Fresno, Garden Grove, San Jose, Sacramento, and Redding, respectively. In addition, staff of the State Water Board’s Division of Drinking Water frequently provide regulatory updates to PWS, including the status of the proposed Revised Total Coliform Rule.

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

The proposed regulations would not impose a mandate on local agencies or school districts that requires state reimbursement. The proposed regulations implement a federal mandate for which the regulated community must comply, regardless of the adoption of this regulation, and establishes and clarifies requirements that are in addition to the federal RTCR and are known as state-only requirements. The proposed regulations will not be a requirement unique to local government and will apply equally to public and private water systems.

Local agencies and school districts currently incur costs in their operation of PWS. The costs imposed by the proposed regulations are not the result of a “new program or higher level of service” within the meaning of Article XIIIB, section 6 of the California Constitution because they apply generally to all individuals and entities that operate PWS in California, and do not impose unique requirements on local governments. (*County of Los Angeles v. State of California, et al.*, 43 Cal. App. 3d 46 (1987)). In addition, the publicly owned systems may pass on the costs in increased service charges, fees or assessments.

Therefore, no state reimbursement of these costs is required. Local regulatory agencies also may incur additional costs for their responsibility to enforce state regulations related to small PWS (fewer than 200 service connections) that they regulate. However, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small PWS (HSC, § 101325). Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required (Gov. Code, § 17556(d)).

**FISCAL IMPACT ESTIMATE**

**Direct and Indirect Costs**

(Gov. Code, § 11346.5(a)(6))

(as detailed in the Cost Estimating

Methodology in the Initial Statement of Reasons)

*Estimated Fiscal Impact on Local Agency or School District*

\$121,000 annually, plus one-time costs of \$26,000, which are not reimbursable by the State pursuant to Article XIII B, section 6 of the California Constitution.

*Estimated Fiscal Impact on State Government*

\$5,500 annually, plus one-time costs of \$2,300, which are anticipated to be absorbable by State agencies within their existing budgets. The State Water Board estimates that there will be no change to the Drinking Water Program's Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under HSC 116565, 116577, 116585, and 116590.

*Estimated Fiscal Impact on Federal Funding of State Programs*

None.

*Other Non-discretionary Cost or Savings Imposed on Local Agencies*

None.

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

None.

**HOUSING COSTS**

(Gov. Code, § 11346.5(a)(12))

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

**NO SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES IN CALIFORNIA**

(Gov. Code, § 11346.5(a)(8); § 11346.5(a)(10))

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

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

No reporting is required of businesses, but reporting of monitoring results would continue to be required of the PWS. Such reporting is necessary for the health, safety, and welfare of the people of the state to ensure compliance with the regulations. The State Water Board recognizes that monitoring and reporting costs would likely be passed on to a PWS's customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT**

(Gov. Code, § 11346.5(a)(10); § 11346.3(b)(1))

The State Water Board has determined that the economic impact of the proposed regulations would be approximately \$4.2 million statewide over the course of 20 years, would not exceed \$50 million in a 12-month period, and that the regulations would not therefore be considered a Major Regulation as defined by CCR, Title 1, Division 3, Chapter 1, subsection 2000(g).

Based on the State Water Board's Economic Impact Assessment (described in the Initial Statement of Reasons, with additional findings provided in Form



STD 399 and its attachment), the proposed regulation is not expected to:

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

The proposed regulations would incorporate and build on the federal RTCR to enhance and protect public health and welfare through improved monitoring for the presence of microbial contamination in groundwater sources and the distribution system, investigation and response to microbial contamination, and ensured integrity of drinking water distribution systems, thereby facilitating increased protection of public health for California residents.

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

The State Water Board is not aware of any direct cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Indirect economic impact will likely occur due to PWS passing on costs of compliance to customers, which may include private persons or businesses. Indirect cost impacts are estimated within Standard Form 399.

For the PWS potentially subject to increased costs under the proposed regulation, the total average annual cost for all of these systems is estimated at \$209,000, plus a one-time initial cost for bacteriological sample siting plans of \$63,000. For the average individual PWS affected by the proposed regulations, depending on which specific regulations apply, cost impacts may include an approximately \$622 annual cost increase due to raw water bacteriological monitoring, a \$24.30 annual cost decrease due to monthly coliform summary relief, a one-time additional cost of \$103, or a combination of any of these three.

For individuals served by one of these PWS, depending on which regulations apply, cost impacts may include an approximately \$0.16 annual cost increase relative to raw water bacteriological monitoring, a \$0.40 annual cost decrease relative to monthly coliform summary relief, a one-time additional cost of \$0.03, or a combination of any of these three.

**BUSINESS REPORT**  
(Gov. Code, § 11346.5(a)(11); § 11346.3(d))

Government Code subsection 11346.36(d) requires that any administrative regulation adopted on or after January 1, 1993 that requires a report shall not apply to businesses, unless the state agency adopting the reg-

ulation makes a finding that it is necessary for health, safety, or welfare of the people of the state that the regulation apply to businesses. The State Water Board has determined that the proposed regulations would not require reports from businesses to the extent that PWS are not considered businesses pursuant to Government Code paragraph 11342.610(b)(8). Although monitoring frequency could be increased as a result of the regulation for the public water systems with less than 1,000 persons served that are using groundwater, any costs for the reporting are already included in the estimate for the monitoring. To the extent that public water systems may be considered businesses, reporting of monitoring is necessary for health, safety, or welfare of the people of the state.

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

The proposed regulation directly impacts public drinking water systems. PWS are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, paragraph 11342.610(b)(8), are specifically excluded from the definition of “small business”. However, the State Water Board recognizes that a small number of the identified PWS likely provide water solely to businesses and that PWS often provide water to businesses in addition to residences. The State Water Board also recognizes that costs for monitoring would likely be passed on to a water system’s customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation. Similarly, no reporting is required of businesses, but reporting of monitoring results would be required of a PWS, and such reporting is necessary for the health, safety, or welfare of the people of the state. Reporting costs were considered as part of the monitoring costs.

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

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

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

- (1) more effective in carrying out the purpose for which the action is proposed,



- (2) as effective and less burdensome to affected private persons than the proposed action, or
- (3) more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

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

The following documents are incorporated by reference in the regulations as it would be too cumbersome, unduly expensive, or impractical to publish these documents into regulation.

1. 40 Code of Federal Regulations section 141.23 through 141.41, 141.66, and 141.89, Code of Federal Regulations — Annual Edition, July 1, 2019 edition.
2. 40 Code of Federal Regulations sections 141.402, 141.405, 141.852, and 141.853(c) (78 Fed. Reg. 10270 (February 13, 2013), “National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule.”
3. 40 Code of Federal Regulations section 141.852 (79 Fed. Reg. 10665 (February 26, 2014), “National Primary Drinking Water Regulations: Minor Correction to the Revisions to the Total Coliform Rule.”
4. Drinking Water Source Assessment and Protection (DWSAP) Program, California Department of Health Services, Division of Drinking Water and Environmental Management, January 1999, including Revisions 1 (dated April 1999) and 2 (dated January 2000).

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

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

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

In the event Melissa Hall is not available, please contact:

Mark Bartson, P.E.  
Supervising Sanitary Engineer  
State Water Resources Control Board, Division of  
Drinking Water  
1001 I Street, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
Telephone: (916) 449-5622  
Electronic mail:  
[mark.bartson@waterboards.ca.gov](mailto:mark.bartson@waterboards.ca.gov)

**Please identify the action by using the State Water Board regulation package identifier, “SBDDW-20-002: Revised Total Coliform Rule” in any inquiries or written comments.**

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

The State Water Board has prepared and has available for public review an Initial Statement of Reasons for the proposed regulations, all the information upon which the proposed regulations are based, the text of the proposed regulations, and all other required forms, statements, and reports. The Regulatory Development Unit, Division of Drinking Water, State Water Resources Control Board, 1001 I Street, 17<sup>th</sup> Floor, Sacramento, CA 95814, will be the location for inspection and copying of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file) throughout the rulemaking process.

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

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the State Water Board’s Division of Drinking Water Regulatory Development Unit at least 15 days prior to the date on which the State Water Board adopts, amends, or repeals the resulting regulation. The State Water Board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please send requests for copies of any modified regulations to the attention of the Division of Drinking Water, Regulatory Development Unit, at the address indicated above.

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

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

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

Materials regarding the action described in this notice (including this public notice, the regulation text, and the Initial Statement of Reasons) are available via the Internet and may be accessed in the links within the announcements section from the Division of Drinking Water's Revised Total Coliform Rule Internet Web page at [https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/rtrc.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/rtrc.html).

**GENERAL PUBLIC INTEREST**

**CALIFORNIA DEPARTMENT OF  
REAL ESTATE**

**NOTICE OF HEARING BY THE REAL  
ESTATE COMMISSIONER: ANNUAL FEE  
REVIEW — REQUIRED BY STATUTE**

Real Estate Commissioner Douglas R. McCauley proposes to consider whether the fees charged by the Department of Real Estate ("DRE") should be lower than the maximum amount allowed pursuant to California Business and Professions Code ("the Code") Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011. The Commissioner's consideration will include all comments, objections and recommendations regarding such fees.

**PUBLIC HEARING ANNOUNCEMENT**

Sections 10226 and 11011 of the Code require, among other things, that at least one regulation hearing be held each calendar year to determine if fees lower than those authorized under Section 10226.5(b) of the Code should be prescribed. The hearing referred to below shall serve as the regulation hearing for the purpose of satisfying the requirement of Sections 10226(a) and 11011(a) of the Code. DRE may present, at this hearing, relevant data compiled by the DRE,

and other sources, if appropriate, that have been used or which may be used in making the determination if fees should be lower. There is no proposal to adopt, amend and/or repeal any sections of the California Code of Regulations (CCR) at this time. However, the Commissioner wishes to consider all comments, objections and recommendations regarding such fees.

DRE will hold a public hearing starting at 10:00 a.m., on Wednesday, December 16, 2020, at the DRE's Sacramento Office, located at 1651 Exposition Boulevard, Sacramento, California. The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

DRE is also making this year's hearing available online via the GoToWebinar App. Members of the public may register in advance at: <https://attendee.gotowebinar.com/register/6132605679159514896>.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to DRE's fee structure. The written comment period closes on December 16, 2020. All written comments must be received by 5:00 p.m. on that date at DRE's Sacramento Office as follows:

Daniel E. Kehew, Real Estate Counsel  
California Department of Real Estate  
P.O. Box 137007  
Sacramento, CA 95813-7007  
Email: [DRERegs@dre.ca.gov](mailto:DRERegs@dre.ca.gov)  
Telephone: (916) 576-7842

Backup contact person for this proposed action is James B. Damrell at (916) 576-8100.

DRE will mail or deliver a copy of this Hearing Notice by the Commissioner to DRE's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with DRE.
2. The Secretary of the Business, Consumer Services and Housing Agency.
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.) DRE has no way of knowing which licensees are small businesses.
4. The California Association of Realtors (a real estate licensee trade organization) and the California Building Industry Association (a home builders trade organization).

5. A substantial number of land developers. Not small businesses by definition, they may, nevertheless, be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.)

**DEPARTMENT OF  
FISH AND WILDLIFE**

CALIFORNIA SAFE HARBOR AGREEMENT  
PROGRAM ACT CONSISTENCY  
DETERMINATION NO. 2080–2020–004–01

**Project:**

Butte Creek Ranch Northern Spotted Owl and Gray Wolf Safe Harbor Agreement — Federal Permit Number: TE38853D–0

**Location:**

Butte Creek Ranch, Siskiyou County

**Applicant:**

Hart Family: Forrest B. Hart and Susan S. Hart, Trustees of “The Hart Family 2003 Trust”; Laura Hart Hyde, Trustee of “The Laura Hart Hyde 2013 Trust”; Alexandra F. Hart, Trustee of “The Alexandra F. Hart 2014 Trust”; Pamela Isabel Piemme, a single woman; and Andrew P. Silva and Mary A. Silva, Co–Trustees of “The Silva Family Trust U/D/T November 21, 2008” (collectively “Property Owners”)

**Background**

The Hart Family is voluntarily undertaking a broad plan and supporting several actions on the Butte Creek Ranch that will benefit and contribute to the recovery of the federally and state–listed northern spotted owl (NSO; *Strix occidentalis caurina*) and gray wolf (*Canis lupus*) as part of Safe Harbor Agreement (SHA) and Federal Permit TE38853D–0.

Management actions include silviculture and retention requirements; avoidance, minimization and monitoring measures; and management of five Special Habitat Management Zones (SHMZs) with rare or sensitive habitat types that encompass approximately 1,300 acres, including the headwaters of Butte Creek, wet meadows, mature forest reserves, aspen stands, and montane hardwoods. A SHMZ is an area exhibiting special habitat qualities and ecological characteristics that warrant management considerations that are distinct from other portions of the Enrolled Lands. No timber harvesting, vegetative management, animal grazing, road building or other construction or uses shall occur within the SHMZs, except pursuant to a Habitat Enhancement Plan (HEP) prepared in consultation with the California Department of Fish and

Wildlife (Department) that seeks to achieve the habitat management goals for each specific SHMZ. All of these stated actions are intended to provide a net conservation benefit to the northern spotted owl and gray wolf.

Because these management actions as well as management practices associated with timber harvest activities (Covered Activities) may result in take of a species designated as threatened or endangered under the federal Endangered Species Act (ESA), the U.S. Fish and Wildlife Service (USFWS) issued a SHA and a federal 10(a)(1)(A) enhancement of survival permit (Permit No. TE38853D–0) for the Project. The SHA describes the Project and requires the Applicant to comply with terms of the SHA and the federal 10(a)(1)(A) enhancement of survival permit and sets forth measures to avoid and minimize impacts to northern spotted owl and gray wolf (Covered Species).

The SHA is expected to result in a net conservation benefit to the Covered Species over the 50–year term by enhancing nesting, roosting, denning, and foraging habitat as well as travel corridors and habitat connectivity, while giving assurances to the Property Owners that no additional future regulatory restrictions will be imposed as a result of conservation actions.

Project actions are summarized below and are fully described in the following documents:

- Butte Creek Ranch Safe Harbor Agreement for Voluntary Habitat Enhancement Activities Benefitting Northern Spotted Owl and Gray Wolf on Private Lands in Siskiyou County, California, Butte Creek Ranch and United States Fish and Wildlife Service (USFWS), approved May 15, 2019.
- Butte Creek Ranch Safe Harbor Agreement Federal Permit TE38853D–0. USFWS. Signed May 15, 2019 and amended March 6, 2020.
- Butte Creek Deed of Conservation Easement between Pacific Forest Trust and the Butte Creek Ranch Property Owners, approved July 15, 2015.

The covered or enrolled lands include approximately 3,468 acres on the Hart Family’s Butte Creek Ranch property (Enrolled Lands) located northeast of Mount Shasta, in Siskiyou County, California. Enrolled Lands are described in Figure 1 and Appendix A of the SHA.

*NSO Baseline Habitat and Proposed Enhancement*

The existing conditions for NSO are estimated to be 65 acres of nesting/roosting habitat and 1,045 acres of foraging habitat. Currently there are no known NSO occurrences within or immediately adjacent to the Enrolled Lands. Historic timber harvest (1920s and 1930s) on the Enrolled Lands focused on removing large ponderosa and Jeffrey pines, resulting in existing conifer stands that are disproportionately popu-



lated with red fir, mountain hemlock, and lodgepole pine. Historic wildfires have likely altered several ridges on the Enrolled Lands, with current vegetation characterized as chaparral habitat with dominant occurrences of manzanita, chinquapin, and snowbrush in the ridge areas. The Enrolled Lands are fragmented by large tracts of unsuitable NSO habitat, with some comprised of tree species and habitat types not associated with NSO use. While this amount and quality of habitat is currently insufficient to support a territorial single NSO or NSO pair, these acres could potentially be used by NSO from a territory located adjacent to the Enrolled Lands.

The SHA is expected to result in a net conservation benefit to NSO over the 50-year duration by enhancing NSO habitat and increasing nesting, roosting and foraging opportunities as timber growth and selection harvest occurs on the Enrolled Lands. The SHA will result in management of the Enrolled Lands for threats to NSO (barred owl and catastrophic fire). No known NSO occur on the Enrolled Lands, and if individuals disperse from adjacent areas and establish a new territory on the Enrolled Lands, the net conservation benefit for NSO would be met through a NSO population increase. The SHA benefit to NSO also occurs through the significant increase in suitable nesting/roosting, foraging, and dispersal habitat within the Enrolled Lands. Impacts of incidental take through disturbance will be minimized through incidental take avoidance and minimization measures.

NSO habitat is expected to increase and spatially change as timber growth and harvest occurs on the Enrolled Lands over the term of the SHA. The SHA prohibits the use of even-aged silviculture and specifically requires an increase in average tree diameter post harvest, while also maintaining a moderate to dense overstory canopy. The SHA also requires the retention of snags, large downed wood, and designated wildlife trees within harvested areas. These silviculture methods and habitat retention features will benefit NSO by increasing prey availability, creating structures for nesting and roosting, providing protection from predators, and providing a moderated microclimate during extreme weather events.

The estimated existing habitat for NSO (65 acres of nesting/roosting and 1,045 acres of foraging) will increase under the silviculture and retention methods, with an estimated total of 428 acres of high quality nesting/roosting and 2,313 acres of foraging available by year 2060 within the Enrolled Lands.

Several features of the Conservation Easement and SHA contribute to the Project's habitat enhancement and species protection efforts which provide the net conservation benefit to NSO. Those features are summarized below.

Forest management practices will develop the following general forest characteristics across the Enrolled Lands to benefit NSO, allowing for variability across the landscape and over time:

- A mix of dominant tree species including white fir, red fir, ponderosa pine, lodgepole pine, mountain hemlock and other associated conifers, as well as hardwood species such as black oak, alder, aspen, willow and cottonwood with relative composition depending on elevation, aspect and moisture.
- A structurally complex multi-story forest canopy of variable densities and heights with a mosaic of vertical and horizontal spacing, allowing for scattered forest openings due to natural disturbances, mortality and timber harvesting.
- A range of age classes and seral stages distributed across the landscape, from seedlings and early seral openings to late seral trees and late seral functionality; including greater than or equal to 20 percent of conifer volume in trees greater than 30 inch in DBH.
- Snags (standing dead trees greater than 12 foot in height), downed logs and large woody debris (LWD) on the forest floor, including at least two conifer snags greater than 19 inches DBH and at least one 10–19 inch DBH conifer snag, on average per acre; one downed LWD log greater than 19 inches large-end-diameter; and at least three downed LWD logs greater than 10 inches and less than 19 inches large-end-diameter on average per acre.
- Wildlife Trees: Conifer and hardwood trees having features of structural decadence (i.e., large diameters, large lateral branches) or significant wildlife value (i.e., tree cavities, broken or re-grown tops, or other nesting platforms) well distributed across the landscape at densities that average three such trees per acre.

Timber harvest restrictions will include the following to benefit NSO:

- Silvicultural Systems: Uneven-aged management silvicultural systems will be used, including individual selection, group selection, sanitation salvage, commercial thinning, or similar techniques. Openings created through timber harvest will not exceed 2.5 acres provided, however, the opening size cannot exceed 0.25 acre on slopes 60 percent and greater or on soils with high erosion hazard ratings.
- Maximum harvest volumes: Timber harvests will not remove more than 20 percent per decade of Net Merchantable Forest Inventory volume. Such allowable harvest is measured against inventory at the beginning of each decade.



- Minimum leave stand: After any uneven-aged timber harvest, the residual stand for that harvest unit will contain a distribution of native tree species, with a preponderance of such uncut trees to be windfirm, with full crown and able to promote regeneration of trees with form and exhibiting high-quality genetic characteristics. Trees with significant habitat values will also be given preference for retention, such as dominant and co-dominant conifers, large diameter conifer (especially ponderosa pine and Douglas fir trees greater than or equal to 30 inch DBH) and hardwood trees (especially oak trees greater than or equal to 24 inch DBH), and wildlife trees.
- Snags: In general, snags will be retained for wildlife habitat benefits and will not be intentionally removed, except for reasons of prevention of epidemic levels of insect infestation and disease, wildfire control, or forest worker and public safety.
- Butte Creek Headwaters Special Habitat Management Zone (SHMZ): maintain and enhance approximately 327 acres of mature forest conditions or late seral forest composition and stand structural diversity. These late seral characteristics are expected to benefit NSO by providing high quality nesting, roosting and foraging habitat.

**Barred Owl Management:** The barred owl represents a significant threat to the NSO and has expanded its range to completely overlap the NSO range. Barred owls affect NSO through competition for resources, direct harm through aggressive behavior, and hybridization. Barred owls have not been detected on the Enrolled Lands, but if barred owls become established in the future, they could pose a threat by outcompeting NSO for habitat. Under the SHA, the Property Owners will allow the USFWS access onto the Enrolled Lands to conduct barred owl surveys, implement control measures, and monitor the effectiveness of the control strategy.

#### *Gray Wolf Baseline Habitat and Proposed Enhancement*

One of the first places known to support reproducing wolves in California in many decades occurs on the Enrolled Lands. In 2015, using trail cameras, the Department documented two adults and five pups from the Shasta Pack within 0.5 mile of the Enrolled Lands' boundary on U.S. Forest Service lands. In November of 2015 and May of 2016, a single male wolf track was detected on the Enrolled Lands and verified through DNA analysis. The Enrolled Lands provide suitable summer range, foraging, and dispersal habitat, with limited breeding and denning opportunities due to the

high elevation. The adjacent Klamath National Forest previously provided suitable denning habitat.

Land use on the Enrolled Lands is compatible with existing and future wolf occupancy. Comprised of commercial timberlands and rangelands located in proximity to public lands, the Enrolled Lands are relatively undeveloped and isolated. Therefore, wolves will likely continue to use the Enrolled Lands due to limited levels of road traffic, recreation, noise disturbance, human presence, and land use. The availability of prey and perennial water sources provides an important landscape habitat component for dispersing wolves and could support a pack in the future. The baseline prey conditions for wolves on the Enrolled Lands are estimated to be 1,083 acres of deer and elk habitat.

The SHA is expected to result in a net conservation benefit for wolves and increase survivorship and reproduction by maintaining suitable habitat areas with limited human disturbance. Conservation and development of prey habitat and minimizing adverse human and livestock interactions with wolves through conservation, minimization, and avoidance measures will benefit a wolf pack or dispersing individuals and may also deter wolf depredation on livestock.

The SHA is expected to result in a net conservation benefit to gray wolf over the 50-year term via the habitat enhancement and species protection commitments summarized below.

**SHMZ Meadow Management:** The SHA identifies the Upper Meadow, Lower Meadow, and Lake SHMZs that provide approximately 667 acres of wet meadow management. Management goals shall provide for maintenance and enhancement of the grass/forb meadow habitat complex and riparian conditions, and the expansion of the range of wet meadow habitats within designated SHMZs. This wet meadow habitat enhancement and expansion would provide a net conservation benefit to the wolf by providing increased suitable foraging habitat over time within the Enrolled Lands.

**SHMZ Grazing Management:** Grazing of livestock or related management activities will only be conducted in SHMZs in accordance with a Habitat Enhancement Plan. Access of cattle to SHMZs will be controlled by Range Stewards, as well as barriers such as cattle guards and temporary drift fences. Cattle will be moved as needed to address any concerns regarding impacts to vegetation and streams evidenced by monitoring SHMZs. These restrictions will benefit wolf recovery by creating and enhancing suitable rendezvous and denning sites, travel corridors, and prey habitat by improving riparian vegetation, shrubs and forbs, aspen stands, and meadow habitat. These are important for both wolves and prey as travel corridors and for potential wolf denning and rendezvous sites.

Protection of Riparian Travel Corridors: Riparian Management Zones are areas within the Enrolled Lands that provide forest management and equipment restrictions. Riparian Management Zone boundaries are defined by stream class with specific buffers required for all Class I (at least 150 feet from the edge of the active high watermark), II (at least 100 feet from the edge of the active high watermark), and III (at least 50 feet from the edge of the active high watermark) stream channels. Riparian Management Zones will be maintained and enhanced with natural vegetative composition typical of riparian areas, including aspen, cottonwood, and large hardwood trees in multi-storied stands. These actions will provide shade, stabilize soils, minimize sedimentation, and allow for recruitment of large wood debris (“LWD”) into streams. These riparian areas exceed the requirements of the current Forest Practice Rules and shall provide critical connectivity and rendezvous site habitats for gray wolf.

Prey Habitat Management: Deer and elk are generally most abundant in early successional forests, oak woodlands, mountain meadows, shrub lands, and aspen communities. SHA commitments include forest management actions designed to maintain or enhance baseline conditions of habitat required for wolf prey populations by creating canopy gaps in portions of the forest to promote understory grasses, forbs, and shrubs; maintaining floristically diverse early seral forest openings and non-forest habitats on portions of the Enrolled Lands; and retaining and restoring mast producing hardwoods. These management actions are detailed in the required Forest Management Plan (completed in 2020). In addition, the Property Owners will prohibit the use of sport hunting rifles to take ungulates.

Grazing Impact Management: Pacific Forest Trust and the Property Owners will review the impacts of grazing on an annual basis as part of the Easement’s monitoring program through on-site inspection as described below in section 4.3. Impacts of livestock on potential wolf denning sites will be evaluated by the USFWS and the Department during this review.

Ungulate Surveys: An ungulate survey protocol will be developed in conjunction with the Department during the preparation of a Habitat Enhancement Plan. The protocol will be used to conduct periodic surveys across the Enrolled Lands to assess deer and elk habitat selection and use, population, health, and distribution.

Wolf Surveys: The Property Owners will use trail cameras and coordinate with adjacent landowners and the Department to monitor local wolf activity as part of the monitoring component of the SHA.

Wolf — Livestock Interaction: Gray wolves can adversely affect livestock directly, by killing or injur-

ing individual animals, or indirectly, by modifying livestock behavior and physiological processes. To minimize wolf/livestock interaction and protect potential wolf denning areas, the Property Owners will implement avoidance and minimization measures as required by the Easement and the SHA, including employment of a certified Range Steward, special management of livestock, and communication with Department and USFWS staff to determine the most appropriate response to conflicts.

Individual Wolves and Denning Structures: The SHA provides for the protection of suitable habitat for denning, hunting and dispersing wolves by restricting increases in human activity and requiring improvements to existing suitable habitat. The Property Owners will implement avoidance and minimization measures specific to individual wolves or denning structures as required by the Easement and the SHA, including reporting observations and avoiding den or rendezvous sites.

Road Management: Roads on the Enrolled Lands are not currently a threat to wolves due to infrequent use and private access. Roads receive little to no use during the winter and early spring months due to snow pack conditions. In the summer and fall, road use increases during periodic timber harvesting operations, livestock grazing, recreation, or occasional maintenance. To further minimize potential impacts to wolves, road and stream crossing construction, use, expansion or reconstruction actions performed by the Property Owners will adhere to several avoidance and minimization measures which restrict increases in road density and use as required by the Easement and the SHA.

*Adaptive Management*

The USFWS will contact the Property Owners annually to evaluate their implementation of the SHA and to identify any modifications that may be necessary. The USFWS will coordinate with Pacific Forest Trust to monitor the provisions of the Easement that apply to the SHA and accompany Pacific Forest Trust staff on field reviews and inspections as appropriate.

The Property Owners, the Department, and the USFWS will meet in person each year after the annual report has been submitted to evaluate the implementation of the SHA and determine if modifications to the agreement are necessary. The evaluation will include review of the previous year’s grazing operations and timber harvesting activities (if conducted), application of the conservation measures, and impacts to Covered Species. Elements of the SHA that may warrant adaptive management based on changed conditions or new information include, but are not limited to:

- Timing, frequency, or survey protocols based on previous survey results.

- Incidental take avoidance and minimization measures based on current status of Covered Species on the Enrolled Lands.
- Management activities based on actual changes in habitat over time and impacts to and incidental take of Covered Species.
- Conservation measures to minimize disturbance of Covered Species based on yearly operations and the effectiveness of meeting the SHA biological goals and objectives.

*Consistency Determination Request*

On August 14, 2020, the Department’s Director received a letter from the Hart Family requesting a determination pursuant to California Fish and Game Code Section 2089.22 that the SHA and its related section 10(a)(1)(A) enhancement of survival permit are consistent with the California Safe Harbor Agreement Program Act for the northern spotted owl and gray wolf on the Enrolled Lands (Cal. Reg. Notice Register 2020, No. 36–Z, p. 1211.).

**Determination**

The Department has determined that the SHA, including the federal 10(a)(1)(A) enhancement of survival permit, is consistent with the California Safe Harbor Agreement Program Act as to the Project and the anticipated non-lethal incidental take of the Covered Species because the conservation, avoidance and minimization measures contained in the SHA and its related section 10(a)(1)(A) enhancement of survival permit meet the conditions set forth in Fish and Game Code section 2089.6 for authorizing incidental take of CESA-listed species. Specifically, the Department finds that: (1) take of the Covered Species will be incidental to an otherwise lawful activity; (2) implementation of the SHA is reasonably expected to provide a net conservation benefit to the Covered Species; (3) the Project will not jeopardize the continued existence of the Covered Species; (4) the Hart Family has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized by the SHA, including returning to baseline conditions; (5) the SHA has established an approved monitoring program; (6) the Department has determined that sufficient funding is ensured to complete baseline surveys on the Enrolled Lands and that there is sufficient funding to carry out management actions and for monitoring for the duration of the SHA; and (7) implementation of the SHA is not in conflict with a Department-approved conservation or recovery program for the Covered Species.

*Conservation, Avoidance, and Minimization Measures*

The avoidance and minimization measures in the SHA include, but are not limited to, the following:

The following conservation, avoidance, and minimization measures, included in the SHA, provide net conservation benefit to NSO:

- The Property Owners will conduct surveys of suitable NSO habitat using the call stations identified by the USFWS in Map 2 of the SHA or within 0.25 miles of a sale boundary during the active breeding season (February 1 through August 31). Surveys will be conducted according to the “Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls, USFWS 2012” or the applicable current NSO survey protocol approved by the USFWS, with results reviewed by the USFWS prior to operations.
- The Property Owners will conduct strategic NSO surveys every five years to monitor occupancy using a modified survey protocol and call station map (Map 2) developed by the USFWS, and obtain survey results from adjacent landowners and federal land managers.
- If it is determined that NSO has become established on the Enrolled Lands, the Property Owners will not conduct timber operations in suitable habitat within 1.3 miles of an occupied nest or roost site without notifying the USFWS. In addition, timber operations, road use, and maintenance within 0.25 miles of an active nest site is not allowed during the breeding season, with the exception of a Limited Operating Period after July 9 that allows noise disturbance from timber operations and other activities, if it is determined that no NSO are present or the owls are not nesting.
- Property Owners will allow the USFWS access onto the Enrolled Lands to conduct barred owl surveys, implement control measures, and monitor the effectiveness of the control strategy.

The following conservation, avoidance, and minimization measures, included in the SHA, provide net conservation benefit to gray wolf:

- The Property Owners will employ a certified Range Steward for the purposes of monitoring cattle grazing and usage patterns while concurrently practicing range reconnaissance methods, such as perimeter surveillance and camera monitoring, as tools for mitigating potential cattle/predator interface risks. Livestock observation will include their location, numbers present, and disposition and/or changes in disposition. Surveillance will be conducted either by foot, horseback, and/or bicycle using established Range Steward techniques in close association with accredited range biologists and agency personnel.
- The Property Owners will continue to use sustainable stock grazing practices. Livestock grazing on the Enrolled Lands will not exceed



180 AUM per calendar year as established in the Easement. Further, livestock will not be grazed on the Enrolled Lands prior to July 1st of any year without the prior written approval of Pacific Forest Trust in accordance with the Easement. These restrictions on the quantity and timing of livestock grazing will help reduce potential wolf/livestock interactions.

- The Property Owners will continue to use livestock husbandry practices that reduce potential conflicts with wolves. Property Owners will continue to maintain the Butte Creek “dams” (mother cows) in a group throughout the entire year without comingling with other ranch cattle. New cows will be added to the group each May, but the social network will remain strong with roughly 80 percent of returning dams. This social network, in addition to selecting for docility, reduces the potential for livestock/wolf interaction by encouraging herding and grouping, and resulting in individuals being reticent to wander or splinter into subgroups to any significant degree.
- Pacific Forest Trust and the Property Owners will review the impacts of grazing on an annual basis as part of the Easement’s monitoring program through on-site inspection. Impacts of livestock on potential wolf denning sites will be evaluated by the USFWS and the Department during this review.
- Property Owners will continue their practice of removing sick or injured livestock from the range as soon as is feasible, and not leaving carcasses and bone piles on the Enrolled Lands to prevent attracting wolves to the area where livestock is grazed.
- When necessary, the Property Owners will use non-lethal techniques to protect livestock and reduce conflict with wolves including, but not limited to, fencing, hazing, fladry, increased human presence through Range Stewards, and corralling and moving the cattle when a wolf is detected in the vicinity.
- Should any denning or rendezvous sites be detected on or nearby the Enrolled Lands, the Steward and/or the Property Owners will consult with the appropriate State and/or Federal agency staff as to the most appropriate response.
- The Property Owners will place a portable corral system on the Enrolled Lands while cattle are present to help gather and transport livestock off of the Enrolled Lands if a potential conflict with wolves is imminent.
- The Property Owners and Range Steward are trained to identify, and are highly vigilant about,

any indication that wolves may be present, including the presence of tracks and scat and using trail cameras to detect wolves. The Property Owners and Range Steward have attended formal trainings to learn techniques for minimizing livestock/wolf interaction, including a Range Rider program and Working Circle workshop. Stewards will have both a working understanding of wolf and large predator biology as well as livestock handling techniques. Stewards will be familiar with the livestock present.

- The Property Owners will continue to be in close communication with neighboring landowners, the Department, California Wolf Center, and Working Circle about wolf activity and location of cattle.
- Any observations of gray wolves, suspected denning structures, or evidence of wolf activity will be reported to the USFWS as soon as possible and within 48 hours.
- The USFWS will be allowed access to the Enrolled Lands for the purposes of evaluating the potential presence of wolves. Any structure or site that is confirmed or suspected to be a wolf den will be mapped and may be monitored using remote trail cameras or other methods.
- Den and rendezvous sites will be avoided between March 15 and September 15 to the extent reasonably possible to prevent disturbance, which may lead to abandonment of the site. All structures that have been determined to be used by a breeding pair will be afforded adequate protection measures per consultation with the USFWS and the Department. Specific distances or more flexible dates for the seasonal restriction may be developed in coordination with the USFWS and the Department, depending on factors such as topography, water availability, meadows, and survey results.
- Trained livestock personnel and/or a Range Steward will be present at least three days per week during the active grazing season. Human presence will increase if a wolf is detected in the area.
- Property Owners will relocate livestock to the home ranch in the Shasta Valley if the potential for wolf/livestock interactions pose an elevated threat to livestock.
- Property Owners will work closely with accredited wolf conservation organizations as a means of learning and sharing the latest science with respect to livestock-predator interaction.
- If any vegetation disturbance activities are proposed within the most recent wolf activity mapping provided by the Department, consultation



with the USFWS and the Department will occur to develop incidental take avoidance and minimization measures.

- Prior to any new road, landing, or skid trail construction or other significant ground disturbing activity using mechanized equipment, the area will be visually inspected for den sites within 24 hours prior to operations during the critical denning period between March 15 and June 15.
- Road density will not increase over time. If a road is proposed for construction, an equal amount of road will be decommissioned for use by motorized vehicle.
- Restricted private use across ownership will be maintained by controlling public access with locked gates.
- Motorized vehicles will not be used off roads, except directly in connection with permitted forest management, range management, conservation or wildlife management activities.
- A Road Management Plan will be developed that includes descriptions and mapped locations of existing and planned roads, including plans for construction, maintenance and decommissioning thereof consistent with Best Management Practices. Currently, there are no plans to develop or construct new roads, but the Plan will be amended as road use is proposed for change.

*Monitoring and Reporting Measures*

As part of the terms and conditions of the Easement, forest management activities will be conducted in accordance with a long-term Forest Management Plan prepared in consultation with the Department for management of the Enrolled Lands as a working forest. Several provisions of the Forest Management Plan can be used to monitor the implementation of the SHA to determine if the Property Owner’s forest management activities are promoting conditions that provide suitable NSO, wolf, and prey species habitat over the permit term, and whether the SHA needs to be modified to be successful and meet the original goals and objectives.

The Property Owners will submit an annual report to the USFWS that describes any activities related to the Covered Species that took place on the Enrolled Lands within the calendar year by December 31st of each year. The USFWS will be responsible for reviewing monitoring and reporting requirements.

The annual report will include, but not be limited to:

- Incidental take avoidance and minimization measures, if applied.
- Results of surveys if conducted, including field forms and maps.

- Changes in baseline conditions that decrease the number of individuals or habitat below existing conditions, whether the change was caused by or beyond the control of the Property Owners.
- Description of activities that occur and impacts on Covered Species if known, including an accounting of incidental take.
- Description of how conservation measures are applied.
- A summary of yearly operations to determine if the level and scope of activities are consistent with existing baseline conditions and continue to meet the intent of the SHA to minimize disturbance to Covered Species.

The following information from the Forest Management Plan may be included in the annual report, if appropriate:

- Forest stand descriptions and locations, including size classes, diameter distribution, growth rates, relevant inventory information (i.e., snags, large woody debris, hardwoods, Wildlife Trees) and maps.
- Descriptions and mapped locations of known fish and wildlife habitats, especially species listed as threatened or endangered at the federal or state level, rare plants, watercourses, wetlands and other water bodies, including management considerations thereof.
- Measures for achieving the species composition, seral stages diversity and forest structural elements of the Performance Goal and for the Riparian Management Zones.
- Description of stand management history; occurrences of disease, insect infestation and fires based on best available knowledge.
- Silvicultural and harvest methods, schedules, and equipment to be used.
- Projections of growth, harvest yield and inventory maintained and updated on a decadal basis at a minimum.
- Road Management Plan, including Best Management Practices developed in conjunction with the Department to minimize and avoid impacts to resources, including Covered Species.

*Financial Assurances*

The Property Owners executed a Conservation Easement on the Enrolled Lands with Pacific Forest Trust in 2015 and secured grant funding from the Wildlife Conservation Board’s Forest Conservation Program (\$1,659,500) and the California Natural Resource Agency’s Environmental Enhancement and Mitigation Program (\$500,000). The Conservation Easement and grant funding will permanently protect the Enrolled Lands from future development and

ensure sufficient funding for the Property Owners to carry out management actions and monitoring for the duration of the SHA.

*Incidental Take Authorization*

Pursuant to Fish and Game Code section 2089.22, if a federal SHA is approved pursuant to applicable provisions of federal law and that SHA includes species that are both federal and state listed, no further approval under the state SHA Program Act (Fish & G. Code, § 2089.2 et seq.) is required for incidental take of those species, provided the Property Owners implement the Project and future land and water use and management practices as described in the approved federal SHA; the Property Owners and the Department follow specified procedures; and the Department determines the federal SHA is consistent with applicable criteria. Additionally, the Property Owners must adhere to all measures contained in the approved federal SHA and comply with other conditions described in the federal 10(a)(1)(A) enhancement of survival permit.

If there are any substantive changes to the federal SHA or if USFWS amends or replaces the federal 10(a)(1)(A) enhancement of survival permit, the Property Owners shall be required to obtain a new consistency determination from the Department. (See generally Fish & G. Code, §§ 2081.1, 2081, subds. (b) and (c).) Any Department authorization pursuant to Fish and Game Code section 2089.22(a) to take species identified in a federal agreement shall terminate immediately upon the expiration or termination of the federal agreement.

**DEPARTMENT OF  
FISH AND WILDLIFE**

**PROPOSED RESEARCH ON A  
FULLY PROTECTED SPECIES**

Research on Santa Cruz  
Long-toed Salamander

(*Ambystoma macrodactylum croceum*)

The Department of Fish and Wildlife (Department) received a proposal in October 2020 from Chad Mitcham, requesting authorization to take the Santa Cruz Long-toed Salamander (*Ambystoma macrodactylum croceum*) ('SCLTS') for scientific research purposes. The SCLTS is a Fully Protected amphibian and is also listed as Endangered under both the California and federal Endangered Species Acts.

Mr. Mitcham is requesting authorization to capture, handle and mark SCLTS, collect genetic and disease samples, salvage dead specimens, and conduct training workshops. In addition, Mr. Mitcham is requesting authorization to propagate, rear, conduct research

on, and release SCLTS as part of a multi-agency recovery effort to augment small existing populations and introduce the species into newly created habitat. This work is being funded through the U.S. Fish and Wildlife Service (Service) and will be undertaken across the species' range in Santa Cruz and Monterey counties in accordance with methods approved by the Department and the Service.

Most SCLTS populations are small, disconnected from each other, and appear to be losing genetic diversity, which could adversely affect their fitness (i.e., survival and reproductive output). Therefore, studying whether inbreeding depression is occurring is of paramount importance to recovery of the species. Mr. Mitcham's proposed work will contribute to a better understanding of the genetic diversity of the species and potentially help expand the species range. No adverse effects on individual SCLTS or SCLTS populations are expected.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Mr. Mitcham as the Principal Investigator, to carry out the proposed activities. The researchers are also required to have a valid federal recovery permit for SCLTS and a Scientific Collecting Permit to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected amphibian species after 30 days' notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected amphibians, it would issue the MOU on or after November 30, 2020, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, [Laura.Patterson@wildlife.ca.gov](mailto:Laura.Patterson@wildlife.ca.gov), 916-373-6633.

**DEPARTMENT OF  
FISH AND WILDLIFE**

**CESA CONSISTENCY  
DETERMINATION REQUEST FOR  
Castlerock Family Farms Cannabis  
Outdoor Cultivation Project  
2080-2020-008-05  
Santa Barbara County**

The California Department of Fish and Wildlife (CDFW) received a notice on October 12, 2020 that Castlerock Family Farms II, LLC proposes to rely on a federal consultation to carry out a project that may

adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the planting of cannabis in three separate field areas. Proposed activities will include, but are not limited to, installation of drip irrigation, soil tilling, placement of plastic sheeting, soil fertilizations, and planting of cannabis plants. The proposed project will occur at 2200 W. Highway 246, Buellton, CA

The U.S. Fish and Wildlife Service (Service) issued a federal incidental take permit (Permit Number: TE78196D-1) (ITP) under the General Conservation Plan (GCP) for Cultivation Activities in Santa Barbara County to Castlerock Family Farms II, LLC on September 16, 2020 which considered the effects of the proposed project on state threatened and federally endangered Santa Barbara County distinct population segment of California tiger salamander (*Ambystoma californiense*).

Pursuant to California Fish and Game Code section 2080.1, Castlerock Family Farms II, LLC is requesting a determination that the ITP under the associated GCP is consistent with CESA for purposes of the proposed project. If CDFW determines the ITP under the associated GCP is consistent with CESA for the proposed project, Castlerock Family Farms II, LLC 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**

CESA CONSISTENCY  
DETERMINATION REQUEST FOR  
Sierra Pacific Land and Timber Company  
Habitat Conservation Plan for  
Northern and California Spotted Owl  
2080-2020-009-00  
Statewide

The California Department of Fish and Wildlife (CDFW) received a notice on October 16, 2020 that Sierra Pacific Land and Timber Company doing business as Sierra Pacific Industries (SPI) proposes to rely on a federal consultation to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the management of forest lands for the growth and harvest of timber. Proposed activities will include, but are not limited to, growing, harvesting, and transporting timber; timber stand regeneration and improvements; road and landing construction and maintenance; fuel break construction and maintenance; and monitoring and research (e.g. for spotted owls). The proposed project will occur on

approximately 1,565,707 acres of commercial timberlands that are owned by SPI in California's Klamath Mountains, Southern Cascades, and Sierra Nevada ecological subregions.

The U.S. Fish and Wildlife Service (Service) issued a federal incidental take permit (Permit Number: TE84089D-0) to Sierra Pacific Land and Timber Company on September 30, 2020, which considered the effects of the proposed project on state and federally threatened northern spotted owl (*Strix occidentalis caurina*).

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

**FISH AND GAME COMMISSION**

NOTICE OF FINDINGS

Mohave Desert Tortoise  
(*Gopherus agassizii*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its October 14, 2020 meeting, accepted for consideration the petition submitted to change the status of the Mohave desert tortoise (also known as Agassiz's desert tortoise) (*Gopherus agassizii*) from threatened to endangered under the California Endangered Species Act.

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

Based on that finding and the acceptance of the petition, the Commission is also providing notice that the Mohave desert tortoise is a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action



is warranted. Copies of the petition, as well as minutes of the October 14, 2020 Commission meeting, are on file and available for public review from Melissa Miller-Henson, Executive Director, California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, California 95814, phone (916) 653-4899.

Written comments or data related to the petitioned action should be directed to the California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA 94244-2090, Attn: Daniel Applebee or email [wildlifemgt@wildlife.ca.gov](mailto:wildlifemgt@wildlife.ca.gov) (include "Mohave Desert Tortoise") in the subject line. Submission of information via email is preferred.

**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:

**PLEASE NOTE: In accordance with Executive Order N-29-20, and Executive Order N-33-20, the PHYSICAL meeting location has been cancelled for December.**

**PUBLIC MEETING**

On **December 17, 2020**, at 10:00 a.m. via the following:

- Video-conference at [www.webex.com](http://www.webex.com) (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

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 **December 17, 2020**, at 10:00 a.m. via the following:

- Video-conference at [www.webex.com](http://www.webex.com) (meeting ID 268 984 996)

- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

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

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

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

**RULEMAKING PETITION DECISION**

**DEPARTMENT OF CORRECTIONS AND REHABILITATION**

**NOTICE OF DECISION ON PETITION TO ADOPT OR AMEND REGULATIONS Pursuant to Government Code 11340.7**

**Petitioner**

Christopher E. Garner, former CDCR inmate F69924, exonerated

**Department Contact Person**

Please direct any inquiries regarding this action to Ying Sun, Chief, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.



**Availability of Petition**

The petition to amend regulations is available upon request directed to the Department’s contact person.

**Authority**

Government Code 12838.5

Penal Code Sections: 5055 and 5508

**Provisions of California Code Of Regulations Affected:**

Title 15, Crime Prevention and Corrections

Division 3, Adult Institutions, Programs and Parole

**Summary of Petition and Department Decision:**

**Subsection 3007.05**

**Petitioner’s Request:** The petitioner proposes to meet and confer with the Department to apply the regulations retroactively to “prisoners exonerated of a conviction prior to the signing of Assembly Bill 701.”

**Reason for Request:** Petitioner is a former CDCR inmate who was released on his own recognizance on August 29, 2019, after “successfully getting his Count One Murder conviction overturned, vacated and dismissed.”

**Department’s Response:** Mr. Garner’s request is denied. Assembly Bill 701 was signed by the Governor and filed with the Secretary of State on October 2, 2019. The bill does not state it is emergency legislation with a stated effective date and therefore does not take effect until January 1, 2020. The legislation does not include language stating the provisions will be applied retroactively.

Penal Code section 3 provides: “No part of [the Penal Code] is retroactive, unless expressly so declared.” This means that “[a] new statute is generally presumed to operate prospectively absent an express declaration of retroactivity or a clear and compelling implication that the Legislature intended otherwise.” (People v. Hayes (1989) 49 Cal.3d 1260, 1274.)

The requested action of the petitioner is outside the authority of CDCR and lies with the Legislature to enact new or amend existing statutes.

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE 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.

**California Horse Racing Board**

File # 2020-0518-06

Veterinarian Report

This action amends the requirement that a veterinarian who treats a horse within an inclosure complete a veterinarian report to the official veterinarian electronically online.

Title 04

Amend: 1842

Filed 10/08/2020

Effective 01/01/2021

Agency Contact: Zachary Voss (916) 263-6036

**Commission on Peace Officer Standards and Training**

File # 2020-0910-03

Regulation 1056 — Course Recertification

The Commission on Peace Officer Standards and Training (POST) amended a regulation that addresses recertification of POST-certified training courses. The amendments change from a paper recertification process to using the Electronic Data Interchange (EDI) for electronic course submissions and recertifications and use the EDI to automatically submit courses for POST review and update of course content instead of automatic recertification.

Title 11

Amend: 1056

Filed 10/14/2020

Effective 01/01/2021

Agency Contact: Michelle Weiler (916) 227-4870

**Department of Corrections and Rehabilitation**

File # 2020-0826-01

Release Funds for Exonerated Persons

This action updates inmate release requirements to conform to recent statute regarding amounts due to exonerated inmates, amends the related form for that purpose, and implements the statute by specifying the method of payment.

Title 15

Amend: 3075.2

Filed 10/08/2020

Effective 01/01/2021

Agency Contact: Sarah Pollock (916) 445-2308

**Department of Food and Agriculture**

File # 2020-1009-01

Peach Fruit Fly Eradication Area

This emergency rulemaking by the Department of Food and Agriculture establishes Madera County as a part of the peach fruit fly (*Bactrocera zonata*) eradication area.

Title 03  
Amend: 3591.12  
Filed 10/14/2020  
Effective 10/14/2020  
Agency Contact: Rachel Avila (916) 403-6813

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

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