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

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PROPOSED ACTION ON REGULATIONS

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TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

General Industry Safety Orders,
Article 10.1, Section 3401, Section 3402,
New Sections 3402.1–3402.3,
Sections 3403–3410, New Section 3410.1,
and Section 3411

Fire Fighters’ Personal Protective Clothing and Equipment — AB 2146

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

PLEASE NOTE: In accordance with Executive Order N–29–20 and Executive Order N–33–20, the March Board Meeting will be conducted via teleconference.

The Board will hold a public hearing starting at 10:00 a.m. on **March 18, 2021** via the following:

- Video–conference at 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 this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board’s office. The written comment period commences on **January 29, 2021** and closes

at 5:00 p.m. on **March 18, 2021**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or By e–mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards.

This rulemaking was undertaken in response to Assembly Bill (AB) 2146, Chapter 811, the addition of Section 147.4 to the Labor Code.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

On September 29, 2014, the Governor signed AB 2146: Occupational safety: fire fighters: personal protective equipment. As instructed by the Bill, the Department of Industrial Relations convened advisory committee meetings to evaluate if California’s safety orders pertaining to fire fighters’ personal protective clothing and equipment (PPE) need to be updated. Board staff convened advisory committee meetings to compare California’s existing safety orders to the National Fire Protection Association (NFPA) standards. The advisory committee concluded that the existing Title 8 safety orders for fire fighters’ PPE are largely outdated and need to be updated, and that amending the existing safety orders would provide a greater degree of personal protection.

The proposal updates Article 10.1, Personal Protective Clothing and Equipment, by removing outdated terminology, design and performance criteria and incorporating by reference the most current NFPA standards regarding personal protective clothing and equipment for fire fighters.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement of the federal government and the

Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

Federal OSHA has regulations applicable to private fire brigades (29 CFR 156), but they do not have vertical regulations that apply to state and local fire fighters.

Anticipated Benefit

The proposal provides fire fighters with more advance personal protective clothing and equipment designed to meet the demands of modern fire fighting and changing climate. The PPE prescribed in the proposal requires that they meet NFPA standards, which provides a baseline or a minimum level of safety for all fire fighters in California. The proposal prevents outdated or contaminated PPE from being a hindrance or harming the fire fighters' ability, as they perform their personal best when working.

Article 10.1. Personal Protective Clothing and Equipment for Fire Fighters

Section 3401. Application.

This section pertains to the application of the article and the general requirements pertaining to personal protective clothing and equipment for fire fighters.

The proposed amendments are as follows:

- Amends subsection (a), which outlines the scope of the article. The proposal revises the referenced section numbers to reflect the proposed changes in Article 10.1. The proposal includes proximity fire fighting and clarifies that Sections 3402.1 and 3402.3 through 3409 apply to proximity fire fighting, not just structural fire fighting. Examples of proximity fires include hazardous waste fires, fuel fires, and aircraft fires. In addition, the proposal specifies that Sections 3402.2, 3410 and 3410.1 apply to wildland fire fighting as defined in Section 3402.
- Existing subsection (b)(6) requires the employer to develop and use a written plan to administer the safe use, maintenance, utilization, and replacement of equipment. An informational note is proposed to be added to subsection (b) (6) to refer the reader to proposed new Section 3402.3 and Section 3410, which contain new requirements regarding the selection, inspection and maintenance of protective ensembles for structural and proximity fire fighting, and wildland fire fighting, respectively.
- Deletes existing subsection (c), as the provisions for personal alarms were incorrectly placed in the application section pertaining to PPE. This deletion of subsection (c) allows for better organization of Title 8 and will make it easier for

the reader to find the regulation that applies to personal alert safety systems.

Section 3402. Definitions.

This section contains the definitions of terms that are used in Article 10.1. Since the Article is proposed to be updated, it is necessary to update the definitions to reflect the proposed new content of Article 10.1. The proposal deletes obsolete terminologies and the definitions of the terms that are listed in the NFPA standards that are proposed to be incorporated by reference in Article 10.1. This proposal provides clarity to Title 8 by removing inconsistencies and duplication of terminologies.

The proposed amendments are as follows:

- Deletes the following existing definitions: after flame; after glow; break away device; char length; education; emergency pick up labor; energy, absorption system; face shield; fire fighting, structural; flame resistance; heat resistance; helmet; incipient stage fire; injury; interior structural fire fighting activities (private fire brigades); lining; outer shell; protective clothing; retention system; trousers; turnout clothing; vapor barrier; and winter liner. The deletion of the above definitions allows for the utilization of the definitions as defined in the NFPA documents that are proposed to be incorporated by reference.
- Amends the definition of "fire fighter" by substituting the word "worker" in place of the word "employee" to clarify that the provisions apply to all types of fire fighters including: inmates, volunteers, and career fire fighters. The proposal deletes the reference to emergency pick-up labor or other persons who may perform first-aid fire extinguishment as collateral to their regular duties from the fire fighter definition. This reference is outdated, specifically, the term "emergency pick-up labor" (proposed for deletion in Section 3402) which is defined as "personnel consisting of the National Guard, military forces, forest product workers, farm workers, ranchers, and other persons who may be recruited from time to time to help contain and control wildland fires". When there is a significant wildfire event, the personnel brought in under "mutual aid" or emergency contract to control wildfires are simply called "fire fighters". Therefore, the reference to emergency pick-up labor or other persons will no longer be used in Article 10.1.
- Amends the definition of "harmful exposure" in order to be consistent with Section 5140, which contains definitions pertaining to harmful dusts, fumes, mists, vapors, and gases.
- Adds the following definitions: overhaul, as this term is proposed to be used in Section 3409;

primary eye protection, as this term is proposed to be used in Section 3403; proximity fire fighting, as this term is proposed to apply to Section 3401; structural fire fighting, as this term is proposed to apply to Section 3401; and wildland fire fighting, as this term is proposed to apply to Section 3401. Since the definitions of “proximity fire fighting”, “structural fire fighting”, and “wildland fire fighting” are terms used to determine the application of the various sections in Article 101, it is important these definitions are listed in Section 3402, Definitions.

New Section 3402.1. Purchase Quality Standards for Personal Protective Clothing and Equipment for Structural Fire Fighting and Proximity Fire Fighting.

The proposal creates a new requirement to purchase quality standards for structural and proximity fire fighting to ensure that employers purchase personal protective clothing and equipment (PPE) that are of a certain quality to meet the demands of today’s structural and proximity fire fighting needs. Approved PPE means that the PPE that are listed, labeled, or certified meet specified design, performance, and testing criteria or governmental or nationally recognized standards. Therefore, the purchasing of “approved” PPE will ensure that the PPE purchased are suitable for the adverse conditions the PPE will be subjected to during fire fighting operations. The proposal requires new purchases of structural and proximity fire fighting PPE to meet the following:

- NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2018 Edition. This standard is proposed to be incorporated by reference and provides the specifications for helmets, eye and face protection, hoods, protective garments, hand protection, and protective footwear.
- NFPA 1982, Standard on Personal Alert Safety Systems (PASS), 2018 Edition. This standard is proposed to be incorporated by reference and provides the specifications for personal alert safety systems. Personal alert safety systems notify others in the area when a fire fighter is in distress.
- NFPA 1981, Standard on Open–Circuit Self–Contained Breathing Apparatus (SCBA) for Emergency Services, 2019 Edition. This standard is proposed to be incorporated by reference and provides the specifications for self–contained breathing apparatus. A SCBA is an atmosphere supplying respirator that supplies respirable air atmosphere to the user from a breathing air source that is independent of the ambient environment and designed to be carried by the user.

New Section 3402.2. Purchase Quality Standards for Personal Protective Clothing and Equipment for Wildland Fire Fighting.

The proposal creates a new requirement to purchase quality standards for wildland fire fighting to ensure that employers purchase personal protective clothing and equipment (PPE) that are of a certain quality to meet the demands of today’s wildland fire fighting needs. Approved PPE means that the PPE that are listed, labeled, or certified meet specified design, performance, and testing criteria or governmental or nationally recognized standards. Therefore, the purchasing of “approved” PPE will ensure that the PPE purchased are suitable for the adverse conditions the PPE will be subjected to during fire fighting operations. The proposal requires new purchases of wildland fire fighting PPE to meet the following:

- NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2016 Edition. This standard is proposed for incorporation by reference and provides the specifications for helmets, eye and face protection, hoods, protective garments, hand protection, footwear, chain saw protectors, and load carrying equipment.
- U.S. Department of Agriculture, Forest Service Specification, Shelter, Fire (M–2002), 5100–606C (August 2, 2011). This standard is proposed for incorporation by reference and provides the specifications for fire shelters. Fire shelter is a safety device of last resort used by wildland fire fighters when trapped by wildfires and must shelter in place.

New Section 3402.3. Selection, Inspection, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting.

The proposal creates a new section for selecting, inspecting, and maintaining structural and proximity fire fighting PPE. The selection of the PPE must be based on the hazards and the conditions fire fighters are reasonably expected to encounter. After the PPE is acquired, standards regarding the proper care, inspection, and maintenance are necessary to ensure the PPE’s effectiveness. Cleaning the PPE reduces employee exposure to the harmful substances that contaminate the PPE during the course of work. The reduced exposure helps in lowering the risk to developing cancer and other diseases caused by chemical exposure.

The proposal requires the following:

- New subsection (a) incorporates by reference NFPA 1851, Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2014 Edition. NFPA 1851 is the fire

fighting industry’s standards that contains the requirements for selection, inspection, and maintenance of fire fighting protective ensembles.

- New subsection (a) includes an exception that deviates from the recordkeeping requirements in NFPA 1851, Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2014 Edition, which is proposed to be incorporated by reference. The proposed exception requires the employer to retain the records of the implementation of Section 4.3. Records, for 3 years instead of 1 year. The retention of the records may help the employer assess the performance of their chosen PPE.
- New subsection (b) requires helmets that are not compliant to NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition, which is proposed to be incorporated by reference, to be retired 10 years from the date of manufacture. Retired helmets are proposed to be replaced by new purchases of NFPA compliant helmets as required by proposed new Section 3402.1.
- New subsection (c)(1) provides a one (1) year phase-in time period for the implementation of the requirements of Chapter 5 (Selection), Chapter 6 (Inspection), Chapter 7 (Cleaning and Decontamination), Chapter 8 (Repair), Chapter 9 (Storage), and Chapter 12 (Test Procedures) of NFPA 1851, Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2014 Edition, which is proposed to be incorporated by reference, with the exception of Chapter 10 regarding PPE retirement. The phase-in time period allows employers to work towards full implementation of NFPA 1851. The phase-in time period provides employers time to complete assessments, develop procedures, secure contracts, and conduct training.
- New subsection (c)(2) provides a three (3) year phase-in time period to comply with Chapter 10 (Retirement, Disposition, and Special Incident Procedure) of NFPA 1851, Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2014 Edition, which is proposed to be incorporated by reference. This proposal allows for an orderly transition to NFPA compliant equipment. Retired PPE will be replaced with NFPA compliant PPE.

Section 3403. Head Protection.

The existing section contains the requirements for in-service head protection. The provisions

from existing Section 3404 regarding eye and face protection are proposed to be relocated to Section 3403, with revisions. This proposal combines the requirements of head, eye, and face protection into one section to improve organization and removes outdated requirements for head, eye, and face protection currently in use or in-service.

The proposed amendments are as follows:

- Amends the title of Section 3403 from “Head Protection” to “Head, Eye and Face Protection” to reflect the proposed contents of the section.
 - Deletes the word “General” as this word is unnecessary and in its place includes the words “Head Protection” as a sub-heading in subsection (a). In addition, it is proposed to correct a grammatical error in subsection (a) by including the phrase “provided to each fire fighter” in place of the existing phrase “provided for each fire fighter”.
 - Deletes existing subsection (b) to remove outdated minimum requirements for structural fire fighting helmets. The helmets described in existing subsection (b) refer to NFPA 1972 Structural Fire Fighters’ Helmet, dating back to 1985. These helmets can no longer be purchased and are not likely to be in-service or have deteriorated from use. The manufacturers of NFPA compliant helmets only make helmets that meet the requirements of the current edition, not the prior editions.
- Helmets that were purchased prior to January 1, 1988 that meet the U.S. Department of Commerce, Model Performance Criteria for Structural Fire Fighters’ Helmets, dated August 1977, should no longer be in-service because of age, due to the same reasons as noted above.
- Adds new subsection (b), which contains the relocated and revised provisions for eye and face protection from existing Section 3404.
 - Adds new subsection (b)(1), which requires the employer to provide eye and/or face protection to fire fighters for protection from potential work-related injuries.
 - Adds new subsection (b)(2), which requires in-service eye and face protection to meet the requirements of NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition or American National Standards Institute/International Safety Equipment Association, American National Standard for Occupational and Educational Personal Eye and Face Protection Devices, ANSI/ISEA Z87.1-2015, which are both proposed to be incorporated by reference. The “Z87+” mark

on the glasses allows for easy identification that the eye and face protection meets the ANSI/ Z87 requirements. This proposal is necessary to ensure that the eye and face protection equipment are of a certain quality.

- Adds new subsection (b)(3), which requires the use of primary eye protection, unless the employee is wearing a self-contained breathing apparatus (SCBA) facepiece. This proposed requirement ensures that the employee is afforded eye protection at all times.
- Adds new subsection (b)(3)(A), which requires that the face-mounted regulator to be in use in order for the SCBA facepiece to be considered as providing eye and face protection. If the face-mounted regulator is not in place, there will be an opening; therefore, the face will not be protected.
- Adds new subsection (b)(4), which adds a requirement to clarify that if the fire fighter is not wearing a full-face respirator, eye protection shall be worn.

Section 3404. Eye and Face Protection.

The existing provisions for eye and face protection contained in this section are proposed to be relocated to Section 3403, with revisions. The ear and neck protection provisions from existing Section 3405 are proposed to be relocated to Section 3404, with revisions. This proposal establishes the minimum level of safety for ear and neck protection.

The proposed amendments are as follows:

- Amends the title of Section 3404 from “Eye and Face Protection” to “Ear and Neck Protection and Protective Hood Interface” to reflect the proposed contents of the section.
- Deletes existing subsections (a) and (b) because the provisions regarding eye and face protection are proposed to be revised and relocated to Section 3403(b).
- Adds new subsection (a) regarding the provisions of ear and neck protection. These requirements are revised and relocated from existing Section 3405(a) to require the employer to provide an ear flap attachment to the helmet and/or hood or shroud. The rest of the means of protection listed in existing Section 3405 are no longer standard components.
- Adds new subsection (b), which requires that in-service hood and coat collars be constructed and tested in accordance with NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition, which is proposed to be incorporated

by reference. These provisions are revised and relocated from existing subsection (c).

- Deletes existing subsection (c) as the testing requirements for hood and coat collars are redundant as a result of proposed new subsection (b).
- Adds new subsection (c), which requires the fabric and non-fabric materials for the ear and neck protection to meet the requirements of NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition, which is proposed to be incorporated by reference. These provisions are revised and relocated from existing Section 3405(b) and (c).

Section 3405. Ear and Neck Protection.

The existing provisions for ear and neck protection are proposed to be relocated to Section 3404, with revisions. The proposal establishes the minimum level of quality for in-service body protection and relocates the provisions for body protection from existing Section 3406 to Section 3405 to improve organization.

The proposed amendments are as follows:

- Amends the title of Section 3405 from “Ear and Neck Protection” to “Body Protection” to reflect the proposed contents of the section.
- Deletes existing subsections (a), (b), and (c) because the provisions regarding ear and neck protection are proposed to be revised and relocated to Section 3404.
- Adds new subsection (a), which requires the employers to provide and ensure that body protection is worn by fire fighters when they are fighting structural and proximity fires. This provision is revised and relocated from existing Section 3406(a).
- Adds new subsection (b), which requires the in-service fire fighting protective garments to meet the requirements of NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition, which is proposed to be incorporated by reference.
- Adds new subsection (c), which requires that the body protection for other than structural fires shall be appropriate for the potential hazards. This provision is revised and relocated from existing Section 3406(d).

Section 3406. Body Protection.

The existing provisions for body protection are proposed to be relocated to Section 3405, with revisions. The proposal relocates the provisions for hand and wrist protection from existing Section 3407 to Section 3406, with revisions. The proposal establishes

the minimum level of quality for in-service gloves for hand and wrist protection.

The proposed amendments are as follows:

- Amends the title of Section 3406 from “Body Protection” to “Hand and Wrist Protection” to reflect the proposed contents of the section.
- Deletes existing subsections (a), (b), (c), and (d) because the provisions regarding body protection are proposed to be revised and relocated to Section 3405.
- Adds new subsection (a), which is revised and relocated from existing Section 3407(a). The proposal requires the employers to provide and require the use of protective gloves to structural and proximity fire fighters. The protective gloves shall be properly sized and suitable to the hazards encountered in fire emergencies.
- Adds new subsection (b), which is revised and relocated from existing Section 3407(b). The proposal requires that the protective gloves be made from durable outer material designed to withstand the effects of flame, heat, vapor, liquids, sharp objects and other hazards that are encountered in fire fighting.
- Adds new subsection (c), which is revised and relocated from existing Section 3407(g). This proposal ensures that the in-service gloves are permanently labeled in accordance with NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition, which is proposed to be incorporated by reference, instead of being labeled with the lot number, reference to specified test, and date of successful test.

Section 3407. Hand and Wrist Protection.

The existing provisions for hand and wrist protection are proposed to be relocated to Section 3406, with revisions and relocates the provisions for foot protection from existing Section 3408 to Section 3407, with revisions. The proposal establishes the minimum level of quality for in-service foot protection.

The proposed amendments are as follows:

- Amends the title of Section 3407 from “Hand and Wrist Protection” to “Foot Protection” to reflect the proposed contents of the section.
- Deletes existing subsections (a), (b), (c), (d), (e), (f), and (g) because the provisions regarding hand and wrist protection are proposed to be revised and relocated to Section 3406.
- Adds new subsection (a), which requires foot protection to be provided and worn by structural and proximity fire fighters, not just structural fire fighters. This provision is revised and relocated from existing Section 3408(a).

- Adds new subsection (b), which requires the coordination of the foot protection with the protective clothing system. This provision is relocated verbatim from existing Section 3408(b).
- Adds new subsection (c), which requires that the provisions for in-service foot protection meet the requirements of NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition, which is proposed to be incorporated by reference.

Section 3408. Foot Protection.

The existing requirements for foot protection are proposed to be relocated to Section 3407, with revisions. This section is proposed to contain the provisions for Personal Alert Safety Systems (PASS), which are relocated from existing Section 3401(c), with revisions. The purpose of PASS is to alert other emergency personnel when a fire fighter becomes stationary over a period of time and may be in distress. The proposal would provide fire fighters with reliable personal alert safety systems that meet NFPA 1982 by removing outdated and potentially faulty PASS.

The proposed amendments are as follows:

- Amends the title of Section 3408 from “Foot Protection” to “Personal Alert Safety Systems (PASS)” to reflect the proposed contents of the section.
- Deletes existing subsections (a), (b), (c) (d), and (e), which contains the provisions for foot protection. The provisions of foot protection are proposed to be revised and relocated to Section 3407.
- Adds new subsection (a), which requires that fire fighters be provided and use personal alarms in emergency situations that involve entrapment hazards due to a possible structural collapse of any type or atmospheric hazards such as immediately dangerous to life and health (IDLH) atmospheres. PASS shall also be worn when directed by the incident commander or incident safety officer. The provisions for PASS are revised and relocated from existing Section 3401(c)(1) by deleting the reference to the older edition of the NFPA standard. PASS made to the NFPA editions prior to 2007 were documented to have failed due to water intrusion and high temperatures.
- Adds the heading “In-Service Personal Alarms” in new subsection (b) to describe the proposed contents of this subsection.
 - Adds new subsection (b)(1), which contains the revised and relocated provisions from existing Section 3401(c)(1), which requires the use of PASS when fire fighters are engaged in interior structural fire fighting activities that require the use of self-contained breathing apparatus (SCBA).

The proposal also incorporates by reference NFPA 1982, Standard on Personal Alert Safety Systems, 2007 Edition. PASS made to the NFPA editions prior to 2007 were documented to have failed due to water intrusion and high temperatures.

- Adds new subsection (b)(2), which requires that the PASS be certified to indicate compliance with this section. This requirement is relocated verbatim from existing Section 3401(c)(5).

Section 3409. Respiratory Protection.

This section contains the provisions for respiratory protection to protect fire fighters from airborne contaminants. The proposal links NFPA 1852 to NFPA 1981 to address the selection, maintenance, care and use of self-contained breathing apparatus.

The proposed amendments are as follows:

- Deletes the heading “Permissible Devices” in subsection (a)(2), and replaces this heading with “Self-Contained Breathing Apparatus (SCBA)” in a new subsection (b), to better reflect the proposed contents in this subsection.
- Renumbers existing subsection (a)(2)(A) to subsection (b)(1) as a result of new subsection (b).
- Adds new subsection (b)(2) to require that SCBA be selected, cleaned, inspected, and maintained in accordance with NFPA 1852, Standard on Selection, Care, and Maintenance of Open-Circuit Self-Contained Breathing Apparatus (SCBA), 2019 Edition, which is proposed to be incorporated by reference. NFPA 1852 lists the acceptable editions of NFPA 1981 for in-service SCBA.
- Adds new subsection (b)(2)(A), which requires SCBA facepieces, if available, to be upgraded in accordance with NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, 2013 or 2019 Edition, which are proposed to be incorporated by reference, for better heat and flame resistance. The employer is provided three (3) years to purchase new facepieces.
- Renumbers existing subsection (a)(2)(B) to subsection (b)(3) as result of new subsection (b).
- Adds new subsection (b)(3)(A) to require that the close-circuit SCBA be National Institute of Occupational Safety and Health (NIOSH) certified with a minimum rated service life of at least two (2) hours and shall operate in the positive-pressure mode only to prevent inward leakage. This requirement is consistent with the NIOSH respiratory approval requirements and the NFPA 1500, Standard on Fire Department

Occupational Safety and Health Program, 2007 Edition.

- Renumbers existing subsection (b) to subsection (c), General Requirements, as a result of new subsection (b).
- Renumbers existing subsection (b)(1) to subsection (c)(1) as a result of new subsection (b) and amends subsection (c)(1) to delete outdated references to ANSI standards, specifically, ANSI Z88.2 (1980), Practices for Respiratory Protection and ANSI Z88.5 (1981), Practices for Respiratory Protection for the Fire Services. The reference to the exemption from the prohibition of the use of contact lenses as specified in outdated ANSI references is proposed for deletion. Contact lenses were never prohibited from being used in conjunction with the use of respirators, and therefore; this provision is unnecessary.
- Deletes existing subsection (b)(2), which exempts the cleaning and sanitation of facepieces in emergency conditions. For hygiene purposes, facepieces should be cleaned between uses, especially when the same facepiece is used by other fire fighters.
- Adds new subsection (c)(2), which requires that SCBA shall be worn during overhaul operations. Overhaul is defined in Section 3402 as the final stages of fire extinguishment, after the main body of a fire has been controlled, during which all traces of fire are extinguished, where the potential for harmful exposure still exists. It is necessary to wear SCBA during overhaul operations to protect the respiratory system of fire fighters from respiratory diseases such as asbestosis, mesothelioma, and cancer.
- Deletes existing subsection (b)(4), which contains specifications regarding automatic warning signal of respiratory protective devices because the criteria is outdated. SCBA contain a warning device call an End of Service Time Indicator (EOSTI) that alerts the user that the reserve air supply is being utilized. More current SCBA EOSTIs are built to more protective requirements than what is required in existing subsection (b) (4). For example, SCBA that are built to NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, 2013 Edition, are required to alarm at 33%, +5/-0 percent of full cylinder pressure.
- Renumbers existing subsections (b)(5) to subsection (c)(4) as a result of deleting existing subsection (b)(4).
- Renumbers existing subsection (b)(6) to subsection (c)(5) as a result of deleting existing subsection (b)(4). This proposal deletes the

permissive language that allows air cylinders and the SCBA from different manufacturers to be paired and used. The proposal requires the NIOSH–approved SCBA be used with the approved cylinder from the same manufacturer and that those cylinders that are not labeled as NIOSH–certified cannot be used. This proposal is necessary because the NIOSH approval process certifies the SCBA as a unit from the same manufacturer.

- Under the proposed exception, cylinders with the same pressure rating from different manufacturers may be used only when cylinders from the same manufacturer are not immediately available on the scene. This narrow exception is necessary because the NIOSH approval is based on the SCBA and air cylinders from the same manufacturer, but there may be emergency situations where it is necessary to use an air cylinder from a different manufacturer.
- Renumbers existing subsection (c) to subsection (d), Positive Pressure, as a result of new subsection (b) and corrects the cross–referenced subsection as a result of the proposed renumbering system.

Section 3410. Wildland Fire Fighting Requirements.

The existing standard regarding wildland fire fighting requirements is proposed to be relocated to proposed new Section 3410.1, with revisions. New Section 3410 is proposed to contain the selection, inspection, and maintenance requirements of protective ensembles for wildland fire fighting.

The proposed amendments are as follows:

- Amends the title of Section 3410 from “Wildland Fire Fighting Requirements” to “Selection, Inspection, and Maintenance of Protective Ensembles for Wildland Fire Fighting” to reflect the proposed contents of this section.
- Deletes existing subsections (a), (b), (c), (d), (e), (f) and (g) because the provisions for wildland fire fighting personal protective equipment is proposed to be relocated to new Section 3410.1.
- Adds new subsection (a), which requires the employer to perform a risk assessment prior to the selection of personal protective equipment. The proposal specifies the required contents of the written risk assessment.
 - New subsections (a)(1) through (a)(7) list the criteria to be considered for the selection of PPE.

Risk assessment is necessary in order to characterize the exposure and the hazards associated with the work. The requirement to conduct a risk assessment with defined criterion provides the employer a template to

characterize and study hazards and exposures in order to properly select PPE.

- Adds new subsection (b) regarding the selection of protective ensembles. The selection of PPE is dependent on the results of the risk assessments. These operational requirements will dictate the criteria for the protective ensemble.
 - The employer is required to document how they arrived at their selection by identifying the garment configuration and component of the wildland fire fighting PPE, and specifying the performance criteria for each wildland fire fighter PPE garment and its components, as stated in new subsections (b)(1) and (b)(2).
 - New subsection (b)(2)(A)1. requires the employer when specifying performance criteria for wildland fire fighting PPE to comply with NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference.
 - New subsections (b)(2)(A)2. through 4. require the employer to consider Radiant Protection Performance (RPP), Thermal Health Loss (THL), and Thermal Protective Performance (TPP).
 - New subsection (b)(3) includes other selection factors, such as design features, comfort, compatibility, and sizing.

This proposal is necessary to ensure that the criteria listed are considered in the selection of the protective ensembles for the wildland fire fighters’ operations. Identification of operational criteria facilitates in the selection of PPE.

- Adds new subsection (c) regarding inspection of protective ensembles according to the manufacturer’s recommendation.
 - New subsections (c)(1) and (c)(2) require PPE to be inspected routinely and annually to ensure that the PPE functions as intended.
 - New subsection (c)(3) specifies what to look for during the inspection, such as, but not limited to: contamination and soiling, rips, tears, holes, irregularities, damages, discoloration, etc.
 - New subsection (c)(4) requires that PPE be repaired in accordance to the manufacturer’s specification or be removed from service. This proposal will ensure that repairs are done properly and defective equipment will not be used.

This proposal is necessary to ensure that protective ensembles are adequately inspected so that appropriate maintenance or repair can be done. Inspections of PPE assures fire fighters that their PPE are in good working order.

- Adds new subsection (d) regarding the cleaning of protective ensembles according to the manufacturer’s recommendations, specifically, the frequency of cleaning, the cleaning agents, spot cleaning and machine washing procedures, and drying procedures. Cleaning removes contaminants; therefore, prevents undue exposures from using contaminated protective ensembles.
- Adds new subsection (e), which requires that employees be trained regarding the proper fit or sizing, limitations, proper use, donning and doffing, cleaning procedures, inspection procedures and frequencies, and storage of personal protective equipment. This proposal is necessary to ensure that employees know what they need to do in order to properly use and care for their equipment. Training educates the fire fighters on the use of PPE.
- Adds new subsection (f) regarding the retirement of the PPE.
 - Adds new subsection (f)(1), which requires that PPE be retired 10 years from the date of manufacture. This proposal ensures that outdated equipment are removed from service every 10 years.
 - Adds new subsection (f)(2), which requires PPE that do not meet NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference, be retired by July 1, 2021. This proposal ensures that in–service PPE meets specified quality standards.
 - Adds new subsection (f)(3), which requires that retired PPE be destroyed or disposed of in a manner that it will not be used for any fire fighting. This proposal prevents the use of ineffective or defective PPE.
- Adds new subsection (g), which requires employers to maintain records to document employee PPE training and the retirement of PPE. Recordkeeping of the training and the retirement of PPE aids in evaluating the performance of the PPE. Recordkeeping can reveal the weakness of the PPE, length of time employers should expect the PPE to be in service, and other useful information that can aid the employer in future selection of PPE.

New Section 3410.1. Personal Protective Equipment for Wildland Fire Fighting.

The proposal creates a new Section 3410.1 which contains provisions relocated from existing Section 3410 regarding PPE requirements for wildland fire fighters, with revisions. The proposal provides a complete protective ensemble to updating existing requirements and includes new equipment to complete the protective ensemble.

The proposal contains the requirements for in–service PPE as follows:

- Adds new subsections (a) and (a)(1), which specifies the provisions for head protection. This provision is relocated from existing Section 3410(a)(1), with an editorial revision that head protection shall be provided “to”, instead of provided “for”, fire fighters when exposed to a head injury hazard. The other provisions are relocated verbatim and require that head protection be worn by fire fighters when they are exposed to head injury hazards and that the head protection be maintained in a location readily available to the fire fighter.
- Adds new subsection (a)(2), which requires in–service helmets be suitable for either wildland or structural fire fighting, meaning they are interchangeable. The helmets shall conform to one of the following:
 - Adds new subsection (a)(2)(A), which requires in–service helmets to comply with NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference.
 - Adds new subsection (a)(2)(B), which requires the helmets to meet the requirements for structural fire fighting set forth in Section 3403.
- Adds new subsection (a)(3) regarding the provisions of labeling of helmets. This provision is relocated verbatim from existing Section 3410(a)(6).
- Adds new subsection (b), which specifies the provisions for in–service eye protection. These provisions are relocated from existing Section 3410(b), with revisions, to incorporate by reference either NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition or American National Standard Institute/International Safety Equipment Association, American National Standard for Occupational and Educational Personal Eye and Face Protection Devices, ANSI/ISEA Z87.1–2015. This subsection also requires that protective

- goggles have a means of attachment designed to be used with head protection.
- Adds new subsection (c) regarding the provisions of respiratory protection from wildfire smoke.
 - Adds new subsection (c)(1), which requires fire fighters to use the respirator provided by the employer that are approved and certified in accordance with Section 5144 and NIOSH, under 42 CFR part 84. This provision is revised and relocated from existing Section 3409(a)(1).
 - Adds new subsection (c)(2), which requires the employer to provide air purifying respirators that are in compliance with NFPA 1984, Standard on Respirators for Wildland Fire–Fighting Operations, 2016 Edition, which is proposed to be incorporated by reference. Currently, there are no NFPA 1984 approved respirators; therefore, an exception is provided for market availability. The proposed exception states that employers are given one year to provide NFPA approved respirators to fire fighters after the product is released in the market.
- Adds new subsection (d) regarding the provisions for in–service ear and neck protection. These provisions are revised and relocated from existing Section 3410(c), to suggest the means to protect against burns on the ears and neck. The fabric for ear and neck protection must meet the requirements of NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference.
- Adds new subsection (e), which specified the provisions regarding in–service body protection.
 - Adds new subsection (e)(1) regarding in–service body protection, which is revised and relocated from existing Section 3410(d), to require that employer–provided protective garments meet the requirements of NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference.
 - Adds new subsection (e)(2), which requires the employer to provide in–service chainsaw protectors to protect the legs from accidental contact with a chainsaw. The chainsaw protector chaps must meet the requirements of U.S. Department of Agriculture, Forest Service Specification, Chaps, Chainsaw, 6170–4G, September 6, 2011, which is proposed to be incorporated by reference.
- Adds new subsection (f), which provides the provisions for protective gloves.
 - New subsection (f)(1) is relocated from existing Section 3410(e)(1), with editorial revisions that protective gloves shall be provided “to”, instead of provided “for” wildland fire fighters and to divide the first sentence in existing Section 3410(e)(1) into two separate sentences for clarity as provided in this subsection. The other provisions are relocated verbatim and require the fire fighters to wear protective gloves when exposed to a hazardous environment that may cause injury to the hand or wrist.
 - New subsection (f)(2) requires in–service protective gloves to meet the requirements of NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference.
- Adds new subsection (g), which provides the provisions for foot protection. These provisions for foot protection are revised and relocated from existing Section 3410(f).
 - New subsection (g)(1) requires fire fighters to wear protective footwear while engaged in wildland fire fighting activities. This provision is relocated verbatim from existing Section 3410(f)(1).
 - New subsection (g)(2) requires that protective footwear shall meet the requirements of NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference.
- Adds new subsection (h), which provides the provisions for in–service fire shelters. This provision is relocated from existing Section 3410(g), with revisions, to require that fire shelters meet or exceed the U.S. Department of Agriculture, Forest Service Specification, Shelter, Fire (M–2002), 5100–606C, August 22, 2011, which is proposed to be incorporated by reference.
- Adds new subsection (i), which provides provisions regarding in–service load carrying equipment. This provision requires that employer–provided load carrying equipment meets the requirements of NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition, which is proposed to be incorporated by reference.

Section 3411. Private Fire Brigades.

This section contains the requirements for fire fighters within private fire brigades who do not work for city, county, or state government. Private fire brigades are typically employed by refineries, amusement parks, large aerospace companies, and other private companies whose operations present a need for fire protection.

The proposal revises existing subsection (d) by providing a cross-reference to proposed Sections 3402.1 and 3402.3 through 3409 that pertain to PPE. The new cross-references necessitates the deletion of existing subsections (d)(1) through (d)(6), and (e) to avoid duplication.

The proposal provides consistency throughout Article 10.1, Personal Protective Clothing and Equipment for Fire Fighter, by providing public fire fighter entities and private fire fighter companies the same baseline level of protection when fighting fires.

**DOCUMENTS INCORPORATED
BY REFERENCE**

1. National Fire Protection Association (NFPA) 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2018 Edition.
2. NFPA 1982, Standard on Personal Alert Safety Systems (PASS), 2018 Edition.
3. NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, 2019 Edition.
4. NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2016 Edition.
5. U.S. Department of Agriculture, Forest Service, Specification, Shelter, Fire (M-2002), 5100-606C, August 22, 2011.
6. NFPA 1851, Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2014 Edition.
7. NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition.
8. American National Standard Institute (ANSI)/International Safety Equipment Association (ISEA), American National Standard for Occupational and Educational Personal Eye and Face Protection Devices, ANSI/ISEA Z87.1-2015.
9. NFPA 1982, Standard on Personal Alert Safety Systems (PASS), 2007 Edition.

10. NFPA 1852, Standard on Selection, Care, and Maintenance of Open-Circuit Self-Contained Breathing Apparatus (SCBA), 2019 Edition.
11. NFPA 1981, Standard on Open Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, 2013 Edition.
12. NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting, 2011 Edition.
13. NFPA 1984, Standard on Respirators for Wildland Fire-Fighting Operations, 2016 Edition.
14. U.S. Department of Agriculture, Forest Service, Specification, Chaps, Chainsaw, 6170-4G, September 6, 2011.

These documents are too cumbersome or impractical to publish in Title 8 or may include copyrighted items. Therefore, it is proposed to incorporate the documents by reference. The Standards Board's rulemaking files on the proposed action are open for public inspection BY APPOINTMENT Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California. Appointments can be scheduled via email at oshsb@dir.ca.gov or by calling (916) 274-5721.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

Mandate on Local Agencies or School Districts:

This regulation could result in claims of reimbursable state mandate, which if sustained by the Commission on State Mandates, could result in a General Fund impact.

Cost or Savings to State Agencies:

The estimated initial cost is \$668,000 and the estimated annual on-going cost is \$2.2 million.

Cost to Any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:

The estimated initial compliance cost is \$13.6 million and the estimated annual on-going cost is \$44.3 million. This proposed regulation may result in claims of reimbursable mandate, which if sustained by the Commission on State Mandates, could result in a General Fund impact.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Cost Impact on a Representative Private Person or Business:

The estimated cost per private fire brigade is approximately \$18,462 and the estimated annual on-going cost is \$60,122 per private fire brigade.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The proposal primarily affects local and state fire departments, with minimal impact to the private industry.

Significant Affect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal primarily affects local and state fire departments.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulations will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses. The proposal primarily affects local and state fire departments.

BENEFITS OF THE PROPOSED ACTION

The proposal provides structural and wildland fire fighters with more advanced personal protective equipment designed to meet the demands of modern fire fighting and changing climate. PPE prescribed by the NFPA standard establishes a minimum level of safety for all fire fighters in California.

The proposal is aimed to prevent outdated or contaminated PPE from being a hindrance or harming the fire fighters' ability as they perform their personal best when performing life-saving work. In addition, advanced personal protective clothing and equipment may reduce injuries and mortality, providing fire stations with increased continuity of staff service and productivity. Therefore, the proposal benefits the health and welfare of California residents, worker safety, and the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulations or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed 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 than the proposal described in this Notice.

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

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

TITLE 11. DEPARTMENT OF JUSTICE

**DIVISION 5. FIREARMS REGULATIONS
CHAPTER 1. BUREAU OF
FIREARMS FEES**

The Department of Justice (Department) proposes to amend section 4001 of Title 11, Division 5, Chapter 1 of the California Code of Regulations concerning the Dealer Record of Sale (DROS) Fee.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on March 16, 2021 at 5:00 p.m. Only written comments received by that time will be considered. Submit written comments to:

Kelan Lowney, Associate Governmental Program
Analyst
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
(916) 210-2377
DROSfeeincrease@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Penal Code sections 28233 and 28240.
Reference: Penal Code sections 28220, 28225, 28230, 28235 and 28240.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Existing law generally requires purchases and transfers of firearms to be conducted through a licensed firearms dealer. The firearms dealer must submit the purchaser or transferee's personal information to the Department, via the DROS system, for the purpose of conducting a background check on the purchaser or transferee prior to release of a firearm to that person. If the background check reveals that the person is prohibited by state or federal law from owning a firearm, the purchase or transfer is denied.

Existing law provides that certain fees may be assessed at the time of the application to purchase or transfer a firearm. These fees are paid by the purchaser or transferee, collected by the dealer, and remitted to the Department. One such fee, the DROS Fee, is used to fund various statutorily specified activities, primarily the background check.

Until January 1, 2020, the DROS Fee was set at \$19 per transfer of one or more firearms.

Authority for the DROS Fee was repealed by Assembly Bill (AB) 1669 (Bonta, 2019), effective January 1, 2020. As of that date, Penal Code section 28233 went into effect, authorizing a new fee of \$31.19. This new fee funds the same activities that had been funded by the previous DROS Fee. On December 30, 2019, the Office of Administrative Law approved the Department's emergency rulemaking to set the fee authorized by Penal Code section 28233 at \$31.19. Because the new fee funds the same activities that had been funded by the previous DROS Fee, the Department retained the DROS Fee name.

Effect of the Proposed Rulemaking:

This rulemaking makes permanent the emergency action that implemented the \$31.19 fee authorized by Penal Code section 28233. If adopted, this fee will continue to be charged to a firearm purchaser or transferee at the time of a purchase or transfer of one or more firearms.

Anticipated Benefits of the Proposed Regulations:

This rulemaking protects public safety by providing a consistent revenue stream for the activities of the

Department's Bureau of Firearms. The Department anticipates that this rulemaking would result in revenue of \$31,557,356 in Fiscal Year 2020–21, and then \$22,781,488 for Fiscal Year 2021–22 and each year thereafter. Specifically, those activities related to checking the background of potential firearm purchasers serve to protect public safety by ensuring that a person prohibited by state or federal law does not purchase, or maintain possession of, a firearm. The ownership or possession of a firearm by convicted felons, persons found to be a danger to self or others because of a mental illness, persons addicted to the use of narcotics, and other prohibited persons pose a risk of immediate, serious harm to the people of the state of California.

Other activities funded by the DROS Fee, such as the maintenance of the Automated Firearm System (AFS) and certain aspects of the Armed and Prohibited Persons Section (APPS), are directed toward the investigation and prosecution of firearms-related crimes. Addressing these important public safety issues requires a consistent revenue stream that is directly related to the number of firearms sold and possessed in the state. Penal Code section 28233, which this rulemaking implements, structures the DROS Fee in exactly this manner.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to the proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the setting of the DROS Fee.

Forms Incorporated by Reference:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: By making permanent the fee authorized by Penal Code section 28233, the Department projects revenue of \$31,557,356 for Fiscal Year 2020–21, and then \$22,781,488 for Fiscal Year 2021–22 and each year thereafter.

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

Other non-discretionary costs or savings imposed on local agencies: None.

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

Cost impacts on representative person or business: At the time of an application to purchase or transfer one or more firearms, a purchaser or transferee would pay a \$31.19 DROS Fee. Before January 1, 2020, the equivalent fee was \$19. This is a cost increase to the firearm purchaser of \$12.19.

Because procedures are already established for businesses to collect and remit the DROS Fee, there would be no cost impact on a business to collect or remit the increased DROS Fee.

Significant effect on housing costs: None.

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

Results of the Economic Impact Assessment (EIA):

The Department concludes that it is: (1) unlikely that the proposal will create or eliminate jobs within the state; (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state; and (3) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

Benefits of the proposed action: This rulemaking protects public safety by providing a consistent revenue stream for the activities of the Department's Bureau of Firearms. The Department anticipates that this rulemaking would result in revenue of \$31,557,356 in Fiscal Year 2020–21, and then \$22,781,488 for Fiscal Year 2021–22 and each year thereafter. Specifically, those activities related to checking the background of potential firearm purchasers serve to protect public safety by ensuring that a person prohibited by state or federal law does not purchase, or maintain possession of a firearm. The ownership or possession of a firearm by convicted felons, persons found to be a danger to self or others because of a mental illness, persons addicted to the use of narcotics, and other prohibited persons pose a risk of immediate, serious harm to the people of the state of California.

Other activities funded by the DROS fee, such as the maintenance of AFS and certain aspects of APPS are directed toward the investigation and prosecution of firearms-related crimes. Addressing these important public safety issues requires a consistent revenue stream that is directly related to the number

of firearms sold and possessed in the state. Penal Code section 28233, which this rulemaking implements, structures the DROS fee in exactly this manner.

Business report requirement: None.

Small business determination: The Department has determined that the proposed action affects small businesses.

CONSIDERATION OF ALTERNATIVES

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

The Department has determined that the proposed regulations are the most effective way to implement the DROS fee. Although Penal Code section 28233 grants authority to the Department to require a firearms dealer to charge a \$31.19 fee, the statute is not self-executing. At its discretion, the Department may promulgate regulations to implement the fee. Penal Code section 28233 does not grant the Department the discretion to set the initial fee at any other amount.

The only alternative to implementing a DROS fee of \$31.19 would be to not implement a DROS fee at all. The Department has rejected this alternative because this would remove the primary funding mechanism for the Department's firearms programs. If the fee implemented by the emergency regulation is not made permanent, the Department projects that the subsequent decrease in revenue would result in the insolvency of the Bureau of Firearms, as the operating budget would have a deficit of \$31,544,000 for FY 2020-21, \$32,779,000 for Fiscal Year 2021-22 and \$31,253,000 for each year thereafter.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Kelan Lowney, Associate Governmental Program Analyst
CA Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
(916) 210-2377

Questions regarding procedure, comments, or the substance of the proposed action should be addressed

to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Matthew Mercado, Associate Governmental Program Analyst
CA Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
(916) 210-2607

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of the Proposed Regulations (the "express terms" of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of the Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/firearms/regs>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt the regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department's website

at <https://oag.ca.gov/firearms/regs>. Please refer to the contact information listed above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/firearms/regs>.

**TITLE 13. CALIFORNIA HIGHWAY
PATROL**

DIVISION 2, CHAPTER 6
AMEND ARTICLE 2.5, SECTION 1157.21

**Inhalation Hazards Safe Stops
(CHP-R-2020-06203)**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13 of the California Code of Regulations (CCR), Division 2, Chapter 6, Article 2.5, Section 1157.21, Stops, to update the list of safe stops for commercial vehicles transporting inhalation hazards on highways in the state.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Pursuant to Division 14.3, Transportation of Inhalation Hazards, commencing with Section 32100 of the California Vehicle Code (CVC), the CHP shall adopt regulations specifying routes to be used in the transportation of inhalation hazards. The CVC requires the CHP to keep information current in regulations, with maps clearly indicating designated routes and a list of locations for inspection stops, required inspection stops, and safe stopping places. The proposed amendments will not change any inhalation hazards routes and will only update the information for inspection stops, required inspection stops, and stopping places to be used by carriers of inhalation hazards along the designated inhalation hazards routes.

The CHP's field commands conduct annual surveys on inhalation hazards routes and stops to determine if changes are necessary. After CHP field commands inspected the locations of listed business establishments serving as safe stopping places, business owners have expressed their willingness to provide their business location and service information in the CCR by signing the CHP 114, Designation as Safe Stopping

Place. Proposed changes have received consultation and concurrence from the State Fire Marshal.

This proposed regulatory action will continue to provide a nonmonetary benefit to the protection of the health, safety, and welfare of California's residents, workers, and environment. The changes to the application of the regulation are not substantive and bring the regulation in conformance with existing statute. The proposed changes update and clarify safe stopping places designated for carriers transporting inhalation hazards, and contribute to transportation safety and public health.

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

PUBLIC COMMENT

Any interested person may submit written comments on the proposed action via facsimile at (916) 322-3154, by electronic mail to cvsregulations@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
Attention: Dr. Tian-Ting Shih
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments must be received by March 15, 2021.

PUBLIC HEARINGS

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based, and the proposed regulation text in strikeout and underline format. Requests to review or receive copies of this information should be directed to the CHP either at the above address, by facsimile at (916) 322-3154, or by calling the CHP, CVS, at (916) 843-3400. All requests for information should include the following: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection. Interested parties are advised to call CHP, CVS, for an appointment.

All documents regarding the proposed action are available through the CHP's website at <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on the CHP website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations or the substance of the proposed regulations should be directed to Dr. Tian-Ting Shih or Sergeant Robert Daniels at (916) 843-3400.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL IMPACT AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) will involve no nondiscretionary cost or savings to any local agency, no cost to any local agency or school district for which Government Code (GC) Sections 17500-17630 require reimbursement, no cost or savings to any state agency, nor costs or savings in federal funding to the state; (4) will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Benefits of the Proposed Action: The proposed regulation updating designated routes for carriers transporting inhalation hazards will continue to provide benefits, including the nonmonetary benefit of protecting public health and safety for residents, workers, and the environment by providing a

regulatory basis for enforcement efforts as they relate to safety compliance ratings.

The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

The CHP has determined that the proposed regulatory action will not affect small businesses. The action is intended to clarify and update the designated safe stopping places for commercial vehicles transporting inhalation hazards on highways. As a result, no small business will be affected by the update.

ALTERNATIVES

In accordance with Section 11346.5(a)(13) GC, the CHP must determine that no reasonable alternative considered by the CHP, or otherwise identified and brought to the attention of the CHP, 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 CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Section 32102 CVC.

REFERENCE

This action implements, interprets, or makes specific Sections 32101, 32102, 32103, 32104, and 32105 CVC.

**TITLE 14. SAN FRANCISCO BAY
CONSERVATION AND
DEVELOPMENT COMMISSION**

PUBLIC HEARING

The San Francisco Bay Conservation and Development Commission (“Commission”) will hold a public hearing on the subject of this Notice of Proposed Rulemaking on March 18, 2021 at its regularly scheduled meeting, which will begin at 1:00 p.m., and will be held online and by teleconference due to the COVID-19 public health orders and in accordance with the Governor’s Executive Order No. N-29-20 issued on March 17, 2020. The hearing will concern proposed changes to the Commission’s regulations governing administrative/procedural, permitting, and planning matters that are codified at Title 14 of the California Code of Regulations, Division 5. At the hearing, any person may present comments, arguments, or statements orally or in writing relevant to the proposed action described in the Informative Digest (below). Information regarding how to access the March 18, 2021, Commission meeting online or by teleconference will be provided in a meeting notice and agenda provided to interested parties and posted on the Commission’s website not less than ten days prior to the meeting date.

Following the public hearing, the Commission may adopt the proposal substantially as described below or may modify the proposal. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for at least 15 days prior to its adoption from the person designated in this Notice as the Contact Person. Any proposed modifications will be mailed to those persons who submit written comments, provide oral comments, or have requested notification of any changes to the proposal. Please notify the Commission to receive a meeting notice and any notices of change to the hearing date (see Contact Person, below).

WRITTEN COMMENT PERIOD

Any person or organization may submit written comments on the proposed regulatory action. The written comment period closes at 5 p.m. on March 18, 2021. The Commission will only consider comments received by that time. Please submit written comments to:

Marc Zeppetello, Chief Counsel
San Francisco Bay Conservation and Development
Commission
375 Beale Street, Suite 510
San Francisco, California 94105
Telephone: (415) 352-3655
Email: marc.zeppetello@bcdca.gov

AUTHORITY AND REFERENCE

Authority: Government Code Sections 11400.20, 66632(f), 66651, and 66652; and Public Resources Code Sections 29201(e) and 29521.

References: Government Code Sections 11124.1, 11125, 11125.5, 11125.7, 11430.10, 11430.20, 11430.40, 11430.50, 65943, 65950-65957.1, 66600, 66601, 66602, 66602.1, 66603, 66605, 66605(e), 66610(a), 66610(e), 66630, 66632, 66632(a), 66632(d), 66632(f), 66632.4, 66633(b), 66638, 66641.6, 66651, 66652, 66653, 66654, 66658 and 66679(c); and Public Resources Code Sections 21080.5(d)(2)(C), 21080.5(d)(2)(E), 29202, 29400-29424, 29418, 29501(a), 29502, 29503, 29509, 29509(a), 29520, 29520(a), 29521, 29522, 29523, 29524, 29601, and 29610-29611.

INFORMATIVE DIGEST

The Commission is a State agency that issues permits for: (1) the placement of fill, extraction of materials worth more than \$20, or any substantial change in use of any water, land, or structure located within the area of the Commission’s jurisdiction as established under the McAteer-Petris Act (“MPA”), California Government Code sections 66600 through 66694; and (2) any development within the area of the Commission’s jurisdiction as established under the Suisun Marsh Preservation Act (“SMPA”), California Public Resources Code sections 29000 through 29612. The Commission also considers: (1) requests to amend the San Francisco Bay Plan, including a number of special area plans; the Suisun Marsh Protection Plan; and the Suisun Marsh Local Protection Program; and (2) appeals of any action by certain local government agencies on an application for a marsh development permit under the SMPA.

The Commission has adopted a set of regulations that are codified at Title 14 of the California Code of Regulations, Division 5, sections 10110-11990. The regulations cover a wide range of topics including, but not limited to: (1) general provisions; (2) the Commission, staff, and advisory review boards; (3) major permit procedures; (4) administrative and emergency permits; (5) amendments to permits; (6) special rules; (7) amendments to the San Francisco Bay Plan or other Commission plans; (8) certification of and amendments to the Suisun Marsh Local Protection

Program; and (9) marsh development permits issued by local governments and appeals therefrom.

The Commission is proposing amendments to approximately 50 separate regulations codified at Title 14 of the California Code of Regulations, Division 5 concerning administrative/procedural, permitting, and planning matters. In summary, the proposed amendments will: (1) clarify and revise certain requirements governing Commission meetings and adjudicatory proceedings; (2) clarify and revise the requirements applicable to the Commission's advisory boards; (3) clarify and revise the definitions of certain terms; (4) clarify the requirements for certain permit applications, the issuance of emergency permits, the contents of certain staff reports, and the findings to be made by the Commission in support of certain permitting actions; (5) clarify and revise the descriptions of activities that the Executive Director may authorize by an administrative permit; and (6) repeal certain outdated provisions that are no longer authorized by statute.

Objectives and Anticipated Benefits of the Proposed Amendments

The objectives of the proposed amendments are to improve and update the Commission's administrative procedures, clarify certain permitting and planning requirements, and improve the clarity and consistency of the Commission's regulations. The proposed amendments will not impose any direct or indirect costs on individuals, businesses, local government agencies, or state agencies. The proposed amendments will incrementally reduce the Commission's administrative costs by allowing certain notices and other documents to be provided by electronic mail and posted on the Commission's website, rather than requiring that such notices and documents be mailed via United States mail, and by eliminating the need for a court reporter to attend and prepare full minutes of each Commission meeting.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Commission's regulations are the only state regulations concerning the MPA, SMPA, and Commission permits issued under either of those Acts and Commission plan documents adopted under the MPA. Therefore, the proposed amended regulations are neither inconsistent nor incompatible with existing state regulations.

No Comparable Federal Statutes or Regulations

There are no federal statutes or regulations applicable to the MPA, SMPA, or Commission permits or plan documents. Therefore, neither the Commission's existing regulations nor the proposed amendments differ from an existing comparable federal statute or regulation.

DETERMINATIONS REGARDING THE PROPOSED ACTION

The Commission has made the following determinations or initial determinations:

Mandate imposed on local agencies or school districts by proposed amendments: None.

Cost or savings to any state agency:

The proposed amendments to the Commission's regulations will not impose any direct or indirect costs on state agencies that apply to the Commission for a permit, permit amendment, or amendment to a Commission plan document. By clarifying certain permitting and planning requirements, including clarifying and revising the descriptions of activities that the Executive Director may authorize by an administrative permit, the proposed amendments may reduce incrementally the costs incurred by state agencies to process permit applications (including amendments) and requests to amend Commission plan documents.

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.

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

Cost impacts on a representative private person or business: The proposed amendments will not impose any direct or indirect costs on individuals, businesses, or other private parties that apply to the Commission for a permit, permit amendment, or amendment to a Commission plan document.

Significant effect on housing costs: None.

Results of the Economic Impact Assessment:

The proposed amendments to the Commission's regulations will not create or eliminate jobs within California, create new businesses or eliminate existing businesses within California, or affect the expansion of businesses currently doing business within California. The proposed amendments will not impose any direct or indirect costs on individuals, businesses, local government agencies, or state agencies.

The benefits of the proposed amendments are primarily non-monetary. The benefits will include improved and updated Commission administrative procedures, clarification of certain permitting and planning requirements, and improved clarity and consistency of the Commission's regulations. The proposed amendments will reduce incrementally the Commission's administrative costs by allowing certain notices and other documents to be provided

by electronic mail and posted on the Commission's website, rather than requiring that such notices and documents be mailed via United States mail, and by eliminating the need for a court reporter to attend and prepare full minutes of each Commission meeting. In addition, by clarifying certain permitting and planning requirements, including clarifying and revising the descriptions of activities that the Executive Director may authorize by an administrative permit, the proposed amendments may reduce incrementally the costs incurred by regulated entities to process permit applications (including permit amendments) and requests to amend Commission plan documents.

An analysis of economic and fiscal impacts is contained in the Economic and Fiscal Impact Statement (Form 399), including the supplement thereto.

Significant effect on housing costs: None.

Business reporting requirements: None.

Determination of effect on small business: The proposed amendments may affect small business.

CONSIDERATION OF ALTERNATIVES

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

Alternatives to the proposed regulatory action are described in the accompanying Initial Statement of Reasons. The Commission invites interested persons to present comments on the proposed amendments and alternatives at the scheduled public hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

Marc Zeppetello, Chief Counsel
San Francisco Bay Conservation and Development
Commission
375 Beale Street, Suite 510
San Francisco, CA 94105
Telephone: (415) 352-3655
Email: marc.zeppetello@bcdca.gov

The backup contact person for these inquiries is:

Margie Malan, Legal Secretary
San Francisco Bay Conservation and Development
Commission
375 Beale Street, Suite 510
San Francisco, CA 94105
Telephone: (415) 352-3675
Email: margie.malan@bcdca.gov

AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS TO REGULATIONS AND THE INITIAL STATEMENT OF REASONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the California Regulatory Notice Register, the rulemaking file consists of:

- (1) this Notice;
- (2) the text of the proposed amendments to the regulations, with proposed deletions shown in strikeout and proposed inserts shown in underscore;
- (3) the Initial Statement of Reasons;
- (4) the Economic and Fiscal Impact Statement (Form 399) and supplement thereto;
- (5) Staff Report on Proposed Amendments to Commission Regulations Concerning Administrative/Procedural, Permitting and Planning Matters; Recommendation to Commence the Rulemaking Process to Adopt the Proposed Amendments (December 4, 2020);
- (6) Minutes of December 17, 2020 Virtual Commission Meeting, at 1, 9-25 (agenda item 8).

Copies of these documents may be obtained from the Commission's website at www.bcdca.gov under the link to Latest News. Copies may also be obtained by contacting Marc Zeppetello at the address, telephone number, or email address listed above.

The proposed regulations were prepared pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are non-technical and written to be easily understood by the affected parties.

AVAILABILITY OF CHANGES OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments, the Commission may adopt the proposed regulatory changes substantially

as described in this notice. If the Commission makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as modified. Please send requests for copies of any modified regulations to Marc Zeppetello at the address indicated above. The Commission will accept written comments on the modified text for 15 days after the date on which the modified proposed regulations are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon the Commission’s adoption of the regulations, copies of the Final Statement of Reasons may be obtained by contacting Marc Zeppetello at the above address.

**AVAILABILITY OF THE
DOCUMENTS ON THE INTERNET**

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the proposed amendments to regulations (in strikeout and underlined format), as well as the Final Statement of Reasons once it is completed, can be obtained from the Commission website at www.bcdc.ca.gov.

**TITLE 16. CALIFORNIA BOARD OF
PHARMACY**

**HIV Preexposure and
Postexposure Prophylaxis**

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office by March 15, 2021.

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

The board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 4005, 4052.02, and 4052.03, and to implement, interpret, and make specific BPC sections 4052, 4052.02, and 4052.03, and Health and Safety Code section 120972, the Board proposes to adopt section 1747 of Division 17 of Title 16 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies and pharmacists. The board’s mandate and mission is to protect the public. (Bus. & Prof. Code, § 4001.1.)

On October 7, 2019, Governor Gavin Newsom signed Senate Bill (SB) 159 (Wiener, Statutes of 2019, Chapter 532). SB 159 creates an exception to the general rule that a pharmacist may not furnish a dangerous drug to a patient without a prescription issued by a prescriber. (BPC, §§ 4040, subdivision (a) (2), 4052, subdivision (a)(10)(A)(iv)–(v), & 4059.)

Human immunodeficiency virus (HIV) is a deadly virus spread through specific bodily fluids. However, transmission can be prevented with treatment of the antiretroviral medications of preexposure prophylaxis (PrEP) and postexposure prophylaxis (PEP), based on the type of patient exposure. Under the exception created by SB 159, a pharmacist who completes a training program approved by the board may independently initiate and furnish HIV PrEP (BPC, § 4052.02) and HIV PEP. (BPC, § 4052.03.) These medications may be furnished in specified doses under specific circumstances, as recommended by the federal Centers for Disease Control and Prevention (CDC). Pharmacists may also counsel a patient on the use of those drugs.

BPC sections 4052.02 and 4052.03 authorize a pharmacist to furnish PrEP and PEP, respectively, if certain conditions are met. These conditions require a patient to meet the clinical eligibility criteria for PrEP or PEP specified in these sections and other criteria consistent with specified CDC guidelines.

BPC sections 4052.02(g) and 4052.03(g) direct the board to develop the regulations in consultation with the Medical Board of California (MBC). BPC sections 4052.02(d) and 4052.03(d) require the board to develop a training program in consultation with the MBC and relevant stakeholders, including the Office of AIDS within the State Department of Public Health. The board complied with these consultation requirements.

BPC sections 4052.02(g) and 4052.03(g) required the board to adopt emergency regulations to implement the requirements of each section in accordance with CDC guidelines by July 1, 2020. The board did so, and approved text to be adopted as an emergency regulation at 16 CCR 1747 on January 29, 2020. The Office of Administrative Law (OAL) approved the text on April 30, 2020. The board takes this action to certify its compliance with Government Code section 11346.1(e) to make this regulation permanent, and makes certain revisions to the permanent text.

Section 1747 will permanently establish what criteria a training program must meet to be approved by the board and the recordkeeping requirements for a pharmacist who has completed the training program. The board proposes revisions to the emergency text to permit the training to be provided as part of an equivalent curriculum-based training program completed from a recognized school of pharmacy.

On September 17, 2020, the Board approved a re-adoption of the regulation. The regulation will otherwise expire on October 27, 2020.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

Protection of the public is the board's highest priority in exercising its licensing, regulatory and disciplinary functions. (BPC, §4001.1.) This regulatory proposal will benefit the health and welfare of California residents. Clinical trials have demonstrated PrEP to be safe and effective in reducing the risk of HIV infection if an at-risk individual is adhering to the CDC-recommended PrEP regimen — which includes a daily oral dose of tenofovir disoproxil fumarate with emtricitabine (TDF/FTC, commonly known by the brand name Truvada) — at the time of their exposure to HIV. Data indicates that adherence to a 28-day course of the “preferred” or “alternative” three-drug regimens recommended by the CDC is safe and effective in reducing the risk of infection after exposure to HIV when taken as soon as possible, but no later than 72 hours after exposure.

Creating additional access to CDC-recommended PrEP and PEP consultation and treatment in pharmacies is critical to the health, safety, and general welfare of California residents and will help save lives.

Pharmacists are well-positioned to independently initiate and furnish PrEP and PEP as they are trusted healthcare providers who are highly accessible to patients within their communities. Further, access to pharmacist-initiated PrEP and PEP treatment will enable at-risk individuals seeking PrEP to start the treatment sooner, enabling their body to build maximum protection from HIV infection sooner, and will enable individuals who have been exposed to HIV to start PEP sooner within its 72-hour window of effectiveness post exposure, improving outcomes for those individuals.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: The board does not anticipate the regulations to result in a fiscal impact to the state.

The board already ensures licensees comply with current law and regulations related to continuing education (CE) compliance through inspections. As a result, the board does not anticipate any increase in workload or costs resulting from the proposed regulations.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation defines the training program and record maintenance requirements only for a pharmacist who chooses to furnish these medications. The board determined that existing CE providers and schools of pharmacy may have a minimal expense to develop or update their training programs or curricula to comply with the requirements of the proposed regulation, but only if they choose to do so.

Cost Impact on Representative Private Person or Business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The board determined that existing CE providers and schools of pharmacy may have a minimal expense to develop or update their training programs or curricula to comply with the requirements of the proposed regulation if they choose to offer a program.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The board does not have nor does it maintain data to define if any of its licensees are a “small business” as defined in Government Code section 11342.610. However, the board has determined that the proposed regulation will not affect small businesses. All pharmacists have the option of obtaining the additional training required to independently initiate and furnish PrEP and PEP prophylaxis, whether they work at a small community pharmacy or a large chain pharmacy.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses:

The board concludes that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;
- (3) this proposal will not create new businesses within California;
- (4) this proposal will not eliminate existing businesses within California; and
- (5) this proposal will not expand businesses currently doing business in the State of California.
- (6) this proposal will not impact workers’ safety or the state’s environment.
- (7) this proposal benefits the health and welfare of California residents as the proposed regulation will ensure that pharmacists receive training consistent with CDC guidelines regarding the pharmacology of PrEP and PEP. This training will ensure the pharmacist can provide more complete patient centered care.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered to the regulation or that has

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

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

INITIAL STATEMENT OF REASONS

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Suite 100, Sacramento, California 95833, or from the Board of Pharmacy’s website at <https://www.pharmacy.ca.gov/>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding a hearing, if requested, and considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Ms. Martinez at the address above.

AVAILABILITY AND LOCATION OF FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking

file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name:

Lori Martinez

Address:

2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Phone Number:

(916) 518-3078

Fax Number:

(916) 574-8618

E-Mail Address:

Lori.Martinez@dca.ca.gov

The backup contact person is:

Name:

Debbie Damoth

Address:

2720 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Phone Number:

(916) 518-3090

Fax Number:

(916) 574-8618

E-Mail Address:

Debbie.Damoth@dca.ca.gov

WEBSITE ACCESS

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

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0520-05

ITEM #CalWORKs Program: Child Support in Lieu of CalWORKs Grant

The California Department of Social Services (hereafter known as the Department) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may

make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services
Office of Regulations Development
744 P Street, MS 8-4-192
Sacramento, CA 95814
Tel: (916) 657-2586, Fax: (916) 654-3286
Email: ord@dss.ca.gov

Statements or arguments relating to the proposals may be submitted in writing, e-mail, or by facsimile to the address/number listed above. All comments must be received by March 17, 2021.

Following the public comment period, the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed above. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at CDSS Public Comment Period for Proposed Regulations (<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/regulations-home-page/cdss-regulation-changes-in-process-and-completed-regulations/public-hearing-information>). Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed above. Following the public comment period, copies of the Final Statement of Reasons will be available at the above address

CHAPTERS

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards Manual, Sections 44-102 (Availability of Income), 44-111 (Payments Excluded or Exempt from Consideration as Income), 44-309 (Protective Payments), 44-310 (Exceptions to Protective Payment Requirements), 44-315 (Amount of Aid), 80-310 (Definitions — Forms), 82-504 (Assistance Units Subject to the Provisions of the Child

Support Enforcement Program), 82–506 (Assignment of Support Rights), 82–507 (Child Support in Lieu of CalWORKs Grant Option), 82–820 (Included Persons), and 82–832 (Excluded Persons).

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

These proposed regulations amend specific provisions of CDSS MPP that regulate Applicant, Recipient, and County Welfare Department Responsibility of the CalWORKs Child Support Enforcement Program.

Prior law required most CalWORKs applicants and recipients to assign support rights and cooperate with child support rules in the county and Local Child Support Agency (LCSA). The income of the natural or adoptive parent, the spouse of the natural or adoptive parent, and the sibling of an eligible child living in the same home with an eligible child was required to be available, in addition to the income of an applicant for or recipient of aid under the CalWORKs program, for purposes of eligibility determination and grant computation.

Senate Bill 380 (Chapter 729, Statutes of 2017) changed the law to allow applicants and recipients to receive full child support payments for a stepsibling or half-sibling of an eligible child in the Assistance Unit in lieu of cash aid for the stepsibling/half-sibling and exempts those child support payments from consideration in determining CalWORKs eligibility or grant amounts.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state’s environment are as follows: These regulations will allow an adult in a CalWORKs household to request in writing, the exclusion of a stepsibling or half-sibling of an eligible child for purposes of determining the family’s MAP when the stepsibling or half-sibling is receiving significant child support. A parent or caretaker relative making such a choice would retain the child support for the voluntarily excluded child, and such child support would not count against the grant payment for the remaining aided family members. The monthly child support payments received for the child must be greater than the monthly amount of CalWORKs cash aid that the child would receive. These regulations will have no effect on worker safety or the state’s environment.

The Department considered other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area and therefore, the Department finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting SB 380, as well as with existing state regulations.

INCORPORATION BY REFERENCE

CW 52 — Child Support Payment Option Form (10/20)

COST ESTIMATE

1. **Costs or Savings to State Agencies:** These regulations will not result in cost beyond what is already budgeted. The Budget Act of 2020 includes \$598,000 savings for CalWORKs Child Support (SB 380) in FY 2020–21. Beginning FY 2021–22, the cost is reflected in the base CalWORKs expenditure trends. Please note that federal funds also flow through the counties and estimates can be found in section 4.
2. **Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630:** These regulations will not result in cost beyond what is already budgeted. The Budget Act of 2020 includes \$50,000 savings for CalWORKs Child Support (SB 380) in FY 2020–21. Beginning FY 2021–22, the cost is reflected in the base CalWORKs expenditure trends. Please note that federal and state funds also flow through the counties and estimates can be found in sections 1 and 4.
3. **Nondiscretionary Costs or Savings to Local Agencies:** None.
4. **Federal Funding to State Agencies:** These regulations will not result in cost beyond what is already budgeted. The Budget Act of 2020 includes \$1,135,000 savings for CalWORKs Child Support (SB 380) in FY 2020–21. Beginning FY 2021–22, the cost is reflected in the base CalWORKs expenditure trends.

LOCAL MANDATE STATEMENT

These regulations do constitute a mandate on county welfare departments. There are state mandated local costs that require reimbursement, which is provided in the Budget Act of 2020 to cover any costs that local agencies may incur.

**STATEMENT OF SIGNIFICANT ADVERSE
ECONOMIC IMPACT ON BUSINESS**

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on changes to state law that prohibit a stepsibling or half-sibling

for whom full child support payments are received in the number of needy persons in the same family for purposes of determining the maximum aid payment (MAP) under the CalWORKs program and for no other purpose. Any child support payment received for a child shall not be considered as income to the family for calculating aid for which the family is eligible, and the parent or caretaker relative has requested in writing that the child not be included in the number of needy persons used to calculate the MAP.

**STATEMENT OF POTENTIAL COST IMPACT
ON PRIVATE PERSONS OR BUSINESSES**

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

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that there is no impact on small businesses because of filing these regulations because these regulations are only applicable to state and county agencies.

**STATEMENT OF RESULTS OF ECONOMIC
IMPACT ASSESSMENT**

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: These regulations will allow an adult in a CalWORKs household to request in writing, the exclusion of a stepsibling or half-sibling of an eligible child for purposes of determining the family's MAP when the stepsibling or half-sibling is receiving significant child support. A parent or caretaker relative making such a choice would retain the child support for the voluntarily excluded child, and such child support would not count against the grant payment for the remaining aided family members. The monthly child support payments received for the child must be greater than the monthly amount of CalWORKs cash aid that the child would receive. These regulations will have no effect on worker safety or the state's environment.

**STATEMENT OF EFFECT ON
HOUSING COSTS**

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

**STATEMENT OF
ALTERNATIVES CONSIDERED**

In developing the regulatory action, the Department was not presented with any alternatives for consideration. The statute mandates that the Department adopt these regulations to implement the statutory provisions of law in AB 380.

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

The Department adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Section 11008.14 and 11450.17 of the Welfare and Institutions Code, as adopted by SB 380.

**CDSS REPRESENTATIVE REGARDING THE
RULEMAKING PROCESS OF THE
PROPOSED REGULATION**

Contact Person:
Everardo Vaca (916) 657-2586

Backup:
Oliver Chu (916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code section 11346.4.

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0920-08

ITEM # CalWORKs Program: Repeal of the Consecutive Day Rule in Homeless Assistance

The California Department of Social Services (hereafter known as the Department) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services
Office of Regulations Development
744 P Street, MS 8-4-192
Sacramento, CA 95814
Tel: (916) 657-2586, Fax: (916) 654-3286
Email: ord@dss.ca.gov

Statements or arguments relating to the proposals may be submitted in writing, e-mail, or by facsimile to the address/number listed above. All comments must be received by March 17, 2021.

Following the public comment period, the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed above. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at CDSS Public Comment Period for Proposed Regulations (<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/regulations-home-page/cdss-regulation-changes-in-process-and-completed-regulations-public-hearing-information>). Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed above. Following the public comment period, copies

of the Final Statement of Reasons will be available at the above address

CHAPTERS

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards Manual, Section 44-211 (Special Needs in CalWORKs).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently families receiving California Work Opportunity and Responsibility to Kids (CalWORKs) program benefits and who are experiencing homelessness, may qualify to receive Homeless Assistance (HA) for temporary shelter for a period of 16 consecutive days. These emergency regulations implement the CalWORKs HA provisions of Section 57 of Senate Bill (SB) 80 (Chapter 27, Statutes of 2019). SB 80 removed the provision of law in the CalWORKs HA program that the 16 days of temporary shelter payments must be used on consecutive days and that these benefits are considered exhausted once 16 days has passed since the first day that benefits are issued, regardless of how many of the 16 days were issued. Under this regulatory change, CalWORKs families experiencing homelessness will now be able to use their 16 days of benefits over non-consecutive days, any time within a 12-month period.

The benefits anticipated from this regulatory action will likely include improving the health and welfare of CalWORKs families experiencing homelessness by allowing them more flexibility to use their 16 days of homeless assistance benefits when they need them, rather than only being allowed to use these benefits during one consecutive 16-day period. The repeal of the consecutive day rule, in addition to the recent allowance of shared housing in homeless assistance, will help ensure that these families experiencing homelessness can stretch their 16 days of benefits and use them in the way that is the most beneficial to them.

CDSS considered other possible related regulations in this area, and we found that these are the only regulations dealing in this subject area (CalWORKs homeless assistance). Therefore, CDSS finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting SB 80 as well as with existing state regulations.

COST ESTIMATE

1. Costs or Savings to State Agencies: These regulations will not result in a fiscal impact above what is already budgeted. The Budget Act

of 2020 includes \$6,720,000 for assistance, and \$764,000 for administration totaling \$7,484,000 for the Removal of the Consecutive Day Rule.

2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630: These regulations will not result in a fiscal impact above what is already budgeted. The Budget Act of 2020 includes \$531,000 for the Removal of the Consecutive Day Rule.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: These regulations will not result in a fiscal impact above what is already budgeted. The Budget Act of 2020 includes \$13,979,000 for assistance, \$3,906,000 for administration, and \$806,000 for automation totaling \$18,691,000 for the Removal of the Consecutive Day Rule.

LOCAL MANDATE STATEMENT

These regulations do constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs that require reimbursement, which is provided in the Budget Act to cover any costs that local agencies may incur.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the fact that the changes presented in these regulations simply expand the timeframe in which families may use their 16 days of HA benefits and will not have any impact on businesses or the state economy.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that there is no impact on small businesses because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state’s environment are as follows: These regulations will likely improve the health and welfare of CalWORKs families experiencing homelessness by allowing them more flexibility to use their 16 days of HA benefits when they need them, rather than only being allowed to use these benefits during one consecutive 16–day period. These regulations will have no effect on worker safety or the state’s environment.

STATEMENT OF EFFECT ON HOUSING COSTS

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

STATEMENT OF ALTERNATIVES CONSIDERED

In developing the regulatory action, CDSS was not presented with any alternatives for consideration. The statute mandates that CDSS adopt these regulations to implement the statutory provisions of law in section 57 of SB 80.

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

The Department adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Section 11450 of the Welfare and Institutions Code, as amended by SB 80.

CDSS REPRESENTATIVE REGARDING THE
RULEMAKING PROCESS OF THE
PROPOSED REGULATION

Contact Person:
Everardo Vaca (916) 657-2586

Backup:
Oliver Chu (916) 657-2586

Department of Developmental Services
Community Services Division
1600 Ninth Street, M/S 3-8
Sacramento, CA 95814
Attention: Jonathan Hill

**SUMMARY OF REGULATORY
ACTIONS**

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code section 11346.4.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
DEVELOPMENTAL SERVICES**

RENEWAL OF 1915(c) HOME AND
COMMUNITY BASED SERVICES (HCBS)
SELF-DETERMINATION PROGRAM
WAIVER FOR INDIVIDUALS WITH
DEVELOPMENTAL DISABILITIES

<https://www.dds.ca.gov/initiatives/hcbs/>

The Department of Developmental Services (DDS) is seeking renewal for the 1915(c) HCBS Self-Determination Program Waiver from the Federal Centers for Medicare and Medicaid Services (CMS). DDS intends to renew the Waiver for a five-year period from July 2021 to June 2026. Additionally, the renewal will align the service definition for Technology Services with the definition that appears in the recently approved COVID-19 Appendix K.

This notice is to inform interested parties of the plan to submit the renewal application by March 1, 2021 and allow the opportunity for feedback prior to submission. A copy of the waiver application can be found at: <https://www.dds.ca.gov/initiatives/hcbs/>.

Public comments will be considered through February 28, 2021. Questions or comments concerning this application can be e-mailed to jonathan.hill@dds.ca.gov or in writing to:

**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 # 2020-1207-05
Penalties for Multiple Medication Violations

This action by the California Horsing Racing Board specifies penalties for multiple medication violations and establishes a point system by which enhanced penalties are imposed.

Title 4
Adopt: 1843.4
Amend: 1843.3
Filed 01/14/2021
Effective 04/01/2021
Agency Contact: Rick Pimentel (916) 263-6000

California Tax Credit Allocation Committee
File # 2020-1203-01
CTCAC Regulations Implementing Federal and
State LIHTC Laws

The California Tax Credit Allocation Committee's (CTCAC) request that the Office of Administrative Law (OAL) file with the Secretary of State and print in the California Code of Regulations amendments to the Low-Income Housing Tax Credit Program is granted. Pursuant to Health and Safety Code section 50199.17(a), these amendments are exempt from the rulemaking requirements of the Administrative Procedure Act so long as the CTCAC has complied with Health and Safety Code section 50199.17(b). CTCAC has certified to OAL that it complied with Health and Safety Code section 50199.17(b) in adopting these amendments.

Title 4
Amend: 10310, 10325
Filed 01/19/2021
Effective 11/18/2020
Agency Contact: Gina Ferguson (916) 651-7707

Department of Corrections and Rehabilitation
File # 2020-1221-05
Body-Worn Camera Technology Pilot Program

This action by the Department of Corrections and Rehabilitation adopts section 3999.28 as a pilot program for the body-worn camera technology program. This filing is exempt from chapter 3.5 of part 1 of division 3 of title 2 of the Government Code pursuant to Penal Code section 5058.1 and is not subject to review by the Office of Administrative Law. This action is effective on filing with the Secretary of State pursuant to Penal Code section 5058.1 and remains in effect for two years.

Title 15
Adopt: 3999.28
Filed 01/19/2021
Agency Contact:
Renee Rodriguez (916) 445-2217

Department of Managed Health Care
File # 2021-0112-01
Transfer of Patients

This emergency rulemaking action adopts a regulation allowing for the expeditious transfer of patients (pursuant to state or local emergency public health orders that direct or allow hospitals to transfer patients to other health care facilities) from the most highly impacted hospitals to hospitals with more available capacity and preventing health plan prior authorization requirements for the transfer of enrollees between hospitals from causing unnecessary delays. The regulation requires reimbursement by patients' health plans for transfer costs and reimbursement for receiving hospitals' health care services, as specified, including receiving hospitals that do not have contracts with patients' health plans.

Title 28
Adopt: 1300.67.02
Filed 01/15/2021
Effective 01/15/2021
Agency Contact: Jennifer Willis (916) 324-9014

Department of Social Services
File # 2020-1125-02
Adoption Regulations Revisions

The Department of Social Services filed this rulemaking action to make comprehensive revisions to regulations governing programs for the adoption

of children to implement changes in law. The action includes the adoption of a regulation setting forth requirements for adoption facilitators and adoption facilitator trainees.

Title 22, MPP
Adopt: 35078
Amend: 35000, 35001, 35002, 35003, 35021, 35037, 35045, 35047, 35049, 35050, 35051, 35053, 35055, 35059, 35061, 35063, 35065
Repeal: 35043
Filed 01/13/2021
Effective 04/01/2021
Agency Contact: Everardo Vaca (916) 657-2363

Education Audit Appeals Panel
File # 2020-1230-05
Audits of K-12 LEAs — FY 2020-21

In this rulemaking action, the Education Audit Appeals Panel makes permanent emergency regulatory amendments which it made to the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting, incorporated by reference at Title 5 California Code of Regulations section 19810, for the 2020-2021 fiscal year.

Title 5
Amend: 19810
Filed 01/13/2021
Effective 01/13/2021
Agency Contact: Mary Kelly (916) 445-7745

New Motor Vehicle Board
File # 2020-1202-03
2020-2021 ACP Fees

The New Motor Vehicle Board submits this action without regulatory effect for the annual update of the Arbitration Certification Program (ACP) fee based on the formula established in section 553.70 of title 13 of the California Code of Regulations. The updated ACP fee increases from \$.689 to \$.778 per new motor vehicle sold, leased, or otherwise distributed during calendar year 2019.

Title 13
Amend: 533.70
Filed 01/13/2021
Agency Contact:
Danielle R. Phomsopha (916) 327-3129

Office of Environmental Health Hazard Assessment
File # 2020-1125-01
Prop 65 Clear and Reasonable Warnings

The Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65" or "the Act") requires businesses to provide a clear and reasonable warning related to the exposure to a chemical listed as known to

the state to cause cancer or reproductive toxicity. The Office of Environmental Health Hazard Assessment maintains this Proposition 65 list of chemicals. In this rulemaking action, the Office amends its regulations to clarify the requirements for providing safe harbor warnings for products sold on the internet, in catalogs, and certain provisions specific to warnings related to alcoholic beverages.

Title 27
 Amend: 25602, 25607, 25607.1, 25607.3
 Filed 01/13/2021
 Effective 01/13/2021
 Agency Contact: Monet Vela (916) 323-2517

Public Employment Relations Board
 File # 2020-1207-01
 Electronic filing and other case processing requirements

This rulemaking action implements procedures to allow for the electronic filing and service of case-related documents and to allow for the electronic signature of union authorization cards.

Title 8
 Adopt: 32092, 32093, 32094, 32110, 32111, 32115, 32125, 32143
 Amend: 32090, 32091, 32130, 32132, 32135, 32136, 32140, 32166, 32212, 32360, 32375, 32410, 32450, 32455, 32500, 32635, 32700, 33002, 61080, 61210, 61215, 61350, 61450, 81080, 81210, 81350, 81450, 91080, 91210, 91350, 91450, 93010, 93030, 93070
 Repeal: 32122, 32123, 32124, 32142, 32605, 61020, 81020, 91020
 Filed 01/14/2021
 Effective 02/15/2021
 Agency Contact:
 J. Felix De La Torre (916) 327-8381

State Allocation Board
 File # 2021-0107-01
 Full-Day Kindergarten Facilities Grant Program;
 SB 98, Trailer Bill

Prior to the passage of Senate Bill 98 (Stats. 2020, Chapter 24, effective June 29, 2020), the Full-Day Kindergarten Facilities Grant Program (the "Program") appropriated \$300,000,000 for the 2019-2020 fiscal year from the General Fund to the State Allocation Board (the "Board") to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten classrooms, as specified. Senate Bill 98, commencing with the 2019-20 fiscal year, instead made the Program contingent upon appropriation by the Legislature. In this emergency rulemaking action, the Board is amending Program regulations in response to the passage of Senate Bill 98.

Title 2
 Amend: 1860.2, 1860.3, 1860.4, 1860.5, 1860.6, 1860.15, 1860.16, 1860.20
 Filed 01/19/2021
 Effective 01/19/2021
 Agency Contact: Lisa Jones (916) 376-1753

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

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