



California Regulatory Notice Register

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MARCH 19, 2021

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

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PROPOSED ACTION ON REGULATIONS

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

TITLE 2. STATE PERSONNEL BOARD

Notice is hereby given that the State Personnel Board (SPB or Board) proposes to amend Section 66.1 to clarify the period of limitation for filing an internal merit issue complaint with the particular state agency involved in a challenged hiring decision.

PUBLIC HEARING

A public hearing regarding the proposed regulatory action will be on May 4, 2021, at 10:00 a.m. via WebEx. In order to participate in the public hearing, please see the following options:

- Via Video (Online)

You may click, or copy and paste into your web browser, the following link: <https://spb-meetings.webex.com/webappng/sites/spb-meetings/meeting/download/310fb041bc5645c49b417507e0130a58?siteurl=spb-meetings&MTID=m789f7c41eb0b6a1dd3ba4dfea48872f7>

Then enter the following information to gain access to the hearing:

Meeting Number: **182 390 7139**

Meeting password: **Q3ChvJMgb63**

- Via Telephone

You may also participate by dialing the phone number first and then the participant code listed below:

Phone Number: **+1-408-418-9388**

Participant Code: **1823907139##**

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

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below.

Lori Gillihan, Chief
Policy Division
State Personnel Board
801 Capitol Mall
Email: lori.gillihan@spb.ca.gov

The backup contact person for these inquiries is:

Carlos Gomez, Analyst
Policy Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814
Phone: (916) 651-8350
Email: carlos.gomez@spb.ca.gov

The written comment period closes on May 3, 2021. Only written comments received by that time shall be reviewed and considered by the Board before it adopts, amends, or repeals a regulation.

AUTHORITY AND REFERENCE

The Board proposes to amend Section 66.1 of Title 2, Chapter 1 of the CCR pursuant to the authority vested in it by the California Constitution, article 7, section 3, and Government Code sections 18701. The proposed regulations will implement, interpret, and make specific the provisions of Government Code sections 12940, 18675, 18952, 19701, 19702, 19230, and 19231.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is a constitutional body responsible for enforcing California's civil service statutes. (Cal. Const., art. VII, §§ 1, subd. (b) & 3; Gov. Code, § 18660.) In addition, the Board, by majority vote of all its members, prescribes probationary periods and classifications, adopts other rules authorized by statute, and reviews disciplinary actions imposed against state employees. (*Ibid.*)

Regulations adopted by the Board are exempt from the Administrative Procedure Act (APA), except as expressly specified. (Gov. Code, §§ 18211, 18215, & 18216.) This regulation falls under 18215(a)(2) and therefore, not exempt to APA review.

Existing Board rule, California Code of Regulations, title 2, section 66.1, requires an applicant or employee to first file a merit issue complaint with the state agency responsible for the alleged act or decision. However, section 66.1 fails to provide any limitation period for filing a merit issue complaint with the state agency responsible for the alleged act or decision. The Board's *Appeals Resource Guide* merely states that the state agency's "personnel office should be contacted regarding the time for filing a merit issue complaint." (pg. 39, May, 2019.)

The purpose of this regulatory action is to expressly provide for a one year period for the filing of an internal merit issue complaint with the state agency responsible for the alleged act or decision. This will ensure that all agencies are operating with the same limitation period and the affected employee is provided a reasonable timeframe for bringing such complaints.

Further changes were made to the regulation to improve the organization and general clarity of the regulation.

The benefits of this regulatory change are that it will update the Board's appeal-related regulations to include the timeline for filing a merit issue complaint with the state agency responsible for the alleged act or decision and conserve the fiscal interests of the state by clarifying the Board's merit issue complaint process standards. The Board has determined that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ON PUBLIC AGENCIES

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Cost or savings to any State agency: None, since State agencies are currently required to record and maintain certain documents and files related to personal services contracts.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the State: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

ECONOMIC IMPACT ON BUSINESS

- Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.
- Effect on small business: None, since the regulatory change only impacts the hiring and selection process of state departments, agencies, boards, or commissions.

COST IMPACT ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action since the regulatory change only impacts the hiring and selection process of state departments, agencies, boards, or commissions.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

Adoption of these regulations will not:

1. Create or eliminate jobs within California.
2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Inquiries concerning the proposed regulatory action, including questions regarding procedure, comments, or the substance of the proposal, may be directed to:

Lori Gillihan, Chief
Policy Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814
Phone: (916) 651-1043
Email: lori.gillihan@spb.ca.gov

The backup contact person for these inquiries is:

Carlos Gomez, Analyst
Policy Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814
Phone: (916) 651-8350
Email: carlos.gomez@spb.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Policy Division Chief, Lori Gillihan, at the above address.

AVAILABILITY OF RULEMAKING FILE

The Board is maintaining a rulemaking file for the proposed regulatory action, which as of the date of this notice contains the following:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~ and underline;
2. A copy of this notice and statement of reasons for the proposed adoption; and
3. Any factual information upon which the proposed rulemaking is based.

If written comments, data or other factual information, studies or reports are received, they will be added to the rulemaking file. The file is available for public inspection during normal working hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814. Items 1 through 3 are also available on the Board's website at www.spb.ca.gov under "What's New?" Copies may be obtained by contacting the person via the address, email, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the person at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and ~~strikeout~~ can be accessed on the Board's website at www.spb.ca.gov under "What's New?"

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture (Department) proposes to revise section 3591.12, subsection (a), Title 3 of the California Code of Regulations (CCR) pertaining to the Peach Fruit Fly Eradication Area.

PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulation to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on May 3, 2021. The Department will consider only comments received at the Department offices by that date or postmarked no later than May 3, 2021. Submit comments to:

Erin Lovig
Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Dr, Suite #200
Sacramento, CA 95833
erin.lovig@cdfa.ca.gov
916.654.1017
916.651.2900 (FAX)

In Ms. Lovig's absence, you may contact Karen Olmstead at (916) 403-6879 or karen.olmstead@cdfa.ca.gov.

Unless there are substantial changes to the proposed regulation prior to adoption, the Department of Food and Agriculture may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to amend Title 3 CCR section 3591.12 pursuant to its authority under sections 407 and 5322 of the Food and Agricultural Code (FAC) of California.

REFERENCE

The Department proposes this action to implement, interpret and make specific sections 5761, 5762, 5763, and 5764 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Food and Agriculture (Department) adopted section 3591.12 to provide authority to the State to eradicate infestations of *Bactrocera zonata*, peach fruit fly, from within the declared eradication area by established means and methods. This regulation adds Madera County to the eradication area described in section 3591.12(a). The area was amended on October 14, 2020 on an emergency basis. Adoption of this amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest, which is a mandated statutory goal.

EXISTING LAWS & REGULATIONS

Existing law, FAC Section 401.5, states: “the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.”

Existing law, FAC section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

Existing law, FAC section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in the Secretary’s opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC section 5321.

Existing law, FAC Section 5761, provides that regulations adopted pursuant to FAC Section 5322 may proclaim any portion of the state to be an eradication area with respect to the pest, prescribe the boundaries of such area, and name the pest and the hosts of the pest which are known to exist within the area, together with the means or methods which are to be used in the eradication or control of such pest.

Existing law, FAC Section 5762, provides that any pest with respect to which an eradication area has been proclaimed, and any stages of the pest, its hosts and carriers, and any premises, plants, and things infested or infected or exposed to infestation or infection with such pest or its hosts or carriers, within such area, are public nuisances, which are subject to all laws and remedies which relate to the prevention and abatement of public nuisances.

Existing law, FAC Section 5763, provides that the director, in a summary manner, may disinfect or take such other action, including removal or destruction, with reference to any such public nuisance, which he thinks is necessary.

Existing law, FAC Section 5764, provides that, if an eradication area has been proclaimed with respect to a species of fruit flies and the removal of host plants of such species is involved, the director may enter into an agreement with the owner of such host plants to remove and replace them with suitable nursery stock in lieu of treatment. Any expenditures for the replacement nursery stock shall not exceed an amount which is budgeted for the purpose or approved by the Director of Finance.

Existing Law, Title 3 CCR Section 3591.12, lists the counties within the peach fruit fly eradication area, the plants within this area that are consider public nuisances if infested or exposed to infestation, and the means and methods by which the Department is authorized to carry out eradication.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENTS

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion regarding the establishment and maintenance of regulations to achieve this goal. The adoption of this regulation benefits industries and other host material services (nursery, fruit for domestic use and exports, packing facilities) and the environment (urban landscapes) by allowing the rapid implementation of eradication activities and therefore preventing the artificial spread of peach fruit fly over long distances.

This regulation will benefit the public’s general welfare by providing authority for the State to perform

detection, control, and eradication activities against peach fruit fly in Madera County.

The implementation of this regulation will lower the likelihood of:

- direct damage to the agricultural industry growing host fruits
- indirect damage to the agricultural industry growing host fruits due to the implementation of quarantines by other countries and loss of export markets
- increased production costs to the affected agricultural industries
- increased pesticide usage by the affected agricultural industries
- increased costs to the consumers of host fruits
- increased pesticide usage by homeowners and others
- the need to implement a State interior quarantine
- the need to implement a federal domestic quarantine

The overall California economy benefits by the adoption of this regulation, which is intended to prevent peach fruit fly from becoming generally distributed in California and negatively impacting agriculture, a major state economic sector.

The state, national, and international consumers of California peach fruit fly host materials benefit by having high quality fruit, nuts, vegetables, and seeds available at lower cost. It is assumed that any increases in production costs resulting from damage inflicted by this pest would ultimately be passed on to the consumer.

The amendment of this regulation benefits homeowners who grow fruit, nuts, vegetables, and seeds for consumption and host material that is planted as ornamentals in various rural and urban landscapes. The amendment prevents damage to these hosts and the need for them to be treated to mitigate infestations of peach fruit fly.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department is the only agency which can implement a regulation listing prohibited weed seeds. As required by Government Code Section 11346.5(a)(3) (D), the Department has conducted an evaluation of section 3591.12 and has determined that it is not inconsistent or incompatible with existing state regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Statewide Plant Pest Prevention and Management Program Environmental Impact Report (EIR) was prepared by the Department as the lead agency under the California Environmental Quality Act. The EIR addresses the potential impacts and mitigations when implementing the Statewide Plant Pest Prevention and Management Program activities related to peach fruit fly.

The EIR may be accessed at the following website: <http://www.cdfa.ca.gov/plant/peir/>.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandates on local agencies or school districts: None.

Cost or savings to any state agency: These treatments are part of the Department's general exotic fruit fly treatment program. Compliance activities are currently being performed by existing state staff throughout quarantine areas within the State. The Department has determined that no savings or increased costs to any state agency and no costs or savings in federal funding to the State will result from the amendment of section 3591.12. The adoption of this regulation would have no fiscal impact on the Department.

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

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

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

Cost impacts on a representative private person or business: The amendment of section 3591.12 will provide authority for the Department to conduct eradication activities against peach fruit fly in Madera County and there are no known private sector cost impacts.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The Department does not anticipate that these amendments will affect small businesses. The cost impacts are expected to be minimal as described in the previous section.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department has concluded that this section 3591.12 amendment (1) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or

elimination of businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) is not expected to have a direct effect on the health and welfare if California residents and (5) is not expected to have a direct impact on the state's environment.

Small business determination: The amendment of section 3591.12 will provide authority for the Department to conduct eradication activities against peach fruit fly in Madera County and there are no known private sector cost impacts.

CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present alternatives during the written comment period.

CONTACT PERSONS

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is:

Erin Lovig
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Dr, Suite #200
Sacramento, CA 95833
erin.lovig@cdfa.ca.gov
916.654.1017
916.651.2900 (FAX)

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html). Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through at this website.

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

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications 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. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. 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, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.

TITLE 10. CALSAVERS RETIREMENT SAVINGS BOARD

AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 10, CHAPTER 15, REGARDING THE CALSAVERS RETIREMENT SAVINGS PROGRAM

The CalSavers Retirement Savings Board ("Board") proposes to adopt the regulations amendments described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may be submitted by email to CalSavers@sto.ca.gov, or by mail:

Regular Mail

CalSavers Retirement Savings Board
Re: Rulemaking for the CalSavers Retirement Savings Program
P.O. Box 942809
Sacramento, CA 95815

Courier Delivery

CalSavers Retirement Savings Board
Re: Rulemaking for the CalSavers Retirement Savings Program
915 Capitol Mall, Suite 105
Sacramento, CA 95814

The written comment period will close May 3, 2021. The Board will only consider comments received by that time. All written comments received by the Board are subject to disclosure under the Public Records Act.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or their duly authorized representative, submits a written request for a public hearing to the contact person listed below no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public at <https://www.treasurer.ca.gov/calsavers/regulations/index.asp> for at least 15 days before the Board adopts the regulations as revised. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AUTHORITY AND REFERENCE

Authority: Section 100048 of Government Code provides the CalSavers Retirement Savings Board the authority to adopt regulations to implement Title 21 of the Government Code.

Reference: Sections 100000, 100002, 100004, 100008, 100010, 100012, 100014, 100032, 100033, 100034, 100043, 100046, and 100048, Government Code.

INFORMATIVE DIGEST

Existing law establishes the CalSavers Retirement Savings Program (“Program”) and Board in Title 21 (commencing with Section 100000) of the Government Code. The Program requires eligible employers, as defined in statute and regulation, to make available a payroll deposit retirement savings arrangement so that eligible employees may contribute a portion of their salary or wages to a retirement savings program account in the Program, as specified. Existing law authorizes employees to opt out of participating in the Program, as specified. Existing law grants the Board the power to administer the enforcement of employer compliance, including the power to impose specified penalties on employers who fail to allow eligible employees to participate in the program, subject to an appeals and collections process administered by the Franchise Tax Board, as specified.

On October 31, 2019, the Office of Administrative Law (“OAL”) approved permanent regulations for the Program that implement, interpret, and make specific the rules, policies, and procedures for the Program. Specifically, these regulations accomplish the following:

- a. Define terms used in the regulations and further clarify the meaning of definitions in statute;
- b. Define employer eligibility for the Program and establish the means by which the Program shall determine that eligibility;
- c. Establish the deadlines and processes by which eligible employers are required to register for the Program;
- d. Define the duties for participating employers and the processes by which participating employers are required to comply with the requirements of the Program;
- e. Establish processes for the enrollment of eligible employees into the Program;
- f. Define the default account settings for participants whom do not make an alternative election;
- g. Define the alternative elections available to participants;
- h. Establish the policies for the participation of individuals in the Program outside of an employment relationship with an eligible employer; and
- i. Define the processes and policies for contributions, distributions, and the transfer of savings.

Throughout 2020, the Program filed multiple sets of emergency regulations to achieve several programmatic amendments. The changes made were as follows:

- Due to the COVID–19 pandemic, the Board extended the first employer registration deadline in April 2020 through the emergency rulemaking process. The deadline for employers with more than 100 employees was changed from June 30, 2020, to September 30, 2020.
- On June 29, 2020, Governor Newsom signed AB 102 (Chapter 21, Statutes of 2020), which made a variety of amendments to the Program’s governing statutes. The amendments, among other things, changed the name of the Program’s governing board and the Program trust account. Nonsubstantive changes to existing regulations were filed with the OAL on July 7, 2020, to change the Board and trust account name pursuant to Section 100 of Title 1 of the California Code of Regulations (CCR).
- On July 27, 2020, the Board approved a variety of regulations amendments, some in response to the passage of AB 102. The amendments added a new default investment fund for participants born January 1, 2003, to January 1, 2007, a change that was necessary to make before December 31, 2020; removed a feature in which eligible employees who previously opted out are subjected again to automatic enrollment; clarified the tax–qualified retirement plans that, if offered by an employer, would render them exempt; and made a variety of technical amendments that improve the clarity of the regulations.
- At the December 7, 2020, Board meeting, the Board voted to approve regulations amendments to change the default investment option, clarify processes for enforcing employer compliance, reduce the minimum contribution amounts for non–payroll contributions, clarify the frequency for recurring non–payroll contributions, clarify that rollovers and transfers into a Program account are permissible, and amend the definition of a tax–qualified plan.

The Board is authorized under Government Code Section 100048 to adopt regulations it deems necessary to implement the Program consistent with the Internal Revenue Code and regulations issued pursuant to that code to ensure that the program meets all criteria for federal tax–exempt benefits. Government Code Section 100048 deems the adoption, amendment, repeal, or readoption of those regulations to address an emergency for the purposes of the Administrative Procedure Act and, more specifically, Government Code Sections 11346.1 and 11349.6 and, thereby, exempts

the Board from the requirements of Government Code Section 11346.1(b).

Pre–Rulemaking Activity

These amendments were made through three separate rulemakings in 2020: an extension of the first employer deadline due to the COVID–19 pandemic by emergency rulemaking in the spring, a variety of programmatic changes by emergency rulemaking due to the passage of AB 102 made in the summer, and several changes by emergency rulemaking in the winter.

- On April 15, 2020, the Board approved emergency regulations amendments to the Program to extend the first employer registration deadline from June 30, 2020, to September 30, 2020, in response to the COVID–19 pandemic. Upon approval by the OAL, the amendments went into effect on May 4, 2020.
- On June 29, 2020, Governor Newsom signed AB 102, which made a variety of amendments to the Program’s governing statutes. On July 27, 2020, the Board approved a variety of emergency regulations amendments, some due in part to passage of AB 102. The amendments removed a feature in which eligible employees who previously opted out are subjected again to automatic enrollment; added a new default investment fund for participants born January 1, 2003, to December 31, 2007, a change that was necessary to make before January 1, 2021; clarified the tax–qualified retirement plans that, if offered by an employer, would render them exempt; and made a variety of technical amendments that improve the clarity of the regulations, including the removal of obsolete and repetitive language.
- At the October 19, 2020, Board meeting, the Board voted to authorize the executive director to develop amendments necessary to change the default investment option to one in which contributions are directed to the Capital Preservation Fund (referred to as the Money Market Fund) for the first 30 days of employee participation and, on the 31st day, have all funds directed into a Target Retirement Fund selected based on the participating employee’s age. At the meeting, the executive director also informed the Board it would consider a package of regulations amendments, including the enforcement of employer compliance and reduction of the minimum contribution amount for non–payroll contributions at the subsequent meeting.
- At the December 7, 2020, Board meeting, the Board voted to approve emergency regulations amendments to change the default investment option to one in which contributions are directed to the Capital Preservation Fund (referred to as

the Money Market Fund) for 30 days of employee participation and, on the 31st day, have all funds directed into a Target Retirement Fund selected based on the participating employee's age. Due to delays in technology necessary for the default investment option change, the regulations amendments stipulate the changes will take effect April 8, 2021. The Board also approved emergency regulations amendments to clarify the processes for enforcing employer compliance, reduce the minimum contribution amounts for non-payroll contributions, clarify the frequency for recurring non-payroll contributions, clarify that rollovers and transfers into a Program account, and amend the definition of a tax-qualified plan.

In addition to the public comment periods involved in the rulemaking process and the public comment periods at each Board meeting, the Board also received and considered input from Program employers and participants that have already begun participating in the Program. Through our client services team, our internal outreach team, local chambers of commerce and other business associations, interactive webinars with the public that occur multiple times a week, and our social media platforms, the Board receives regular feedback about facets of the Program, thoughts on how the Program could be improved, as well as general praise and criticism.

Anticipated Benefits of the Proposed Regulations:

About half of working Californians are on track to live at or near poverty upon reaching retirement age. Without the ease and simplicity of regular payroll contributions through a workplace retirement savings arrangement, many simply do not save for retirement. While the problem of retirement insecurity has many causes, including low wages and rising costs of living, research shows access to a retirement savings vehicle makes individuals 15 times more likely to save for retirement. The Program will ensure a majority of California workers have access to a workplace retirement savings vehicle by mandating that employers either sponsor their own plan or register for the Program. The Program and its associated laws were established in an effort to improve retirement security for working Californians. The operation of the program in general is expected to benefit participating employees and individuals by providing a simple pathway to improve their retirement security.

The delay of the first employer deadline from June 30, 2020, to September 30, 2020, benefited participating employers by allowing them more time to respond due to the impacts caused by the COVID-19 pandemic in relation to their compliance with the Program.

The elimination of the open enrollment period lessens the burden on non-participating employees by not making them opt out multiple times if they do not

wish to participate. The regulations amendment also benefits participating employers, who may have had to respond to dissatisfied eligible employees who may not wish to be required to opt out multiple times. Additionally, the amendment may benefit participating employers by removing a feature that would have likely required them to update eligible employee contact information.

The changes to the default investment option encourages participants to invest their funds in a manner that is more likely to accrue meaningful interest more quickly than in the previous default investment option, avoiding loss of funds from the current low-interest environment and allowing the opportunity to potentially grow their savings faster. The changes in non-recurring non-payroll contributions requirements allows participants to be more flexible with their contributions and encourage more frequent savings. The routine addition of more target date funds to the available investment fund list ensures younger eligible employees can participate in the Program according to its default investment option.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Board evaluated whether or not there are any other regulations that may be adversely impacted by the adoption of these proposed regulations. Because these regulations are solely for the purpose of operating the Program, and no other regulations exist in the California Code of Regulations pertaining to the operation of the Program, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Board has made the following determinations regarding fiscal impact:

- Mandate on local agencies and school districts: none.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.
- Cost or savings to any state agency: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.
- Costs or savings in federal funding to the state: none.
- Cost impacts on a representative person or business: For participating employers, the Program requires no direct costs or fees to participate. Although participating employers' role in facilitating the Program requires minimal

activities, employers will be required to perform some duties upon the initial registration and ongoing maintenance to facilitate payroll deductions and assist with the enrollment of new employees. For those duties, the Board estimates approximately \$157 in opportunity costs for the staff time necessary to register and annual ongoing opportunity costs of \$135.

Participation in the Program is completely voluntary for eligible employees. Participating employees will pay an administrative fee taken from their contributions and investment interest. Those fees currently range between 0.82 and 0.95 percent depending on the investment option selected by the participant.

The regulations amendments included in this rulemaking do not materially change the duties of participating employers nor do they impact the administrative fees for participants, and, therefore, cause no changes to the cost impacts on a representative 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.

- Small Business Determination: The regulations amendments included in this rulemaking do not materially change the duties of participating employers nor do they impact the administrative fees for participants, and, therefore, cause no changes to the cost impacts on a representative person or business.
- Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: none.
- Significant effects on housing costs: none.
- The proposed regulations do not require a report to be made.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Program staff analysed the economic impacts caused by a direct result of this rulemaking package. These regulations amendments do not materially change the duties or requirements of participating employers so there is no expected change to those business impacts as a result of this rulemaking. The following list identifies the estimated impacts by each category of potential impacts.

The creation or elimination of jobs within the state: no impact.

The creation of new businesses or the elimination of existing businesses within the state: no impact.

The expansion of businesses currently doing business within the state: no impact.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: see previous section on anticipated benefits.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5 (a)(13), the Board must determine that no reasonable alternative considered by the agency 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 provision of law.

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Eric Lawyer
Director of Policy & Communications
CalSavers Retirement Savings Board
915 Capitol Mall, Suite 105
Sacramento, CA 95814
Telephone: (916) 653-1748
Email: Eric.Lawyer@sto.ca.gov

Please direct any inquiries regarding the regulatory process to Mr. Lawyer at the above address. The designated backup contact person is Jacob Schafer, who can be reached at Jacob.Schafer@sto.ca.gov or by phone at (916) 653-1744.

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

The Board will have the rulemaking file available for inspection online at <https://www.treasurer.ca.gov/calsavers/regulations/index.asp>. To request a physical inspection of the rulemaking file, please contact the contact persons identified above and they will schedule a time and location for the inspection.

As of the date of this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the economic

and fiscal impact analysis, and the initial statement of reasons. Copies may be obtained by contacting Eric Lawyer at the email address or by calling the phone number listed above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

After it is completed, a copy of the Final Statement of Reasons may be obtained by submitting a written request to the contact person identified above.

TITLE 10. DEPARTMENT OF INSURANCE

SEPTEMBER 1, 2021 WORKERS' COMPENSATION INSURANCE RATING RULES FILING

March 3, 2021 **File No. REG–2021–00001**

SUBJECT OF PROPOSED RULEMAKING

Notice is given that a public hearing will be held in response to a filing by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB"), submitted on February 26, 2021. The WCIRB proposes amendments to the Insurance Commissioner's Regulations pertaining to the Classification of Risks, Recording and Reporting of Data, Statistical Reporting and Experience Rating to be effective September 1, 2021, as follows:

- Approval of proposed amendments to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.
- Approval of proposed amendments to the *Miscellaneous Regulations for the Recording and Reporting of Data—1995* as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.
- Approval of proposed amendments to the *California Workers' Compensation Experience Rating Plan—1995* as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

The WCIRB also proposes amendments to the Insurance Commissioner's Regulations pertaining to the Classification of Risks, Recording and Reporting of Data, Statistical Reporting and Experience Rating to be effective September 1, 2022, as follows

- Approval of proposed amendments to the *California Workers' Compensation Uniform*

Statistical Reporting Plan—1995 as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

HEARING

Public Hearing Date and Location

A public hearing will be conducted to permit all interested persons the opportunity to present statements or arguments, verbally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

April 8, 2021 — 10:00 a.m.
California Department of Insurance
TELEPHONIC PARTICIPATION ONLY
Toll-Free Telephone Number: 877–226–8152
Access Code: 1933050

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

Access to Telephonic Conference Call

This hearing will be open to the public. To make it possible for the Department to advise attendees of future rulemaking activity, as well as to aid the Department of Insurance in managing attendance, we request that you voluntarily RSVP as soon as possible, preferably by 5:00 p.m. on Tuesday, April 6th, 2021, by providing your name(s), the name of the organization you represent, and your contact information, including email address of each attendee to brentley.yim@insurance.ca.gov. An RSVP is not required to attend the telephonic conference and all attendees are invited to participate regardless of whether there was an RSVP.

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

WRITTEN COMMENT PERIOD

Presentation of Written or Oral Comments; Contact Persons

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at **5:00 p.m. on Thursday, April 8, 2021**. Please direct all written comments to the following contact person:

Brentley Yim, Attorney
California Department of Insurance
1901 Harrison St., 4th Floor
Oakland, CA 94612
Telephone: (415) 538–4113
brentley.yim@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If he is unavailable, inquiries may be addressed to the following backup contact person:

Yvonne Hauscarriague, Attorney
California Department of Insurance
1901 Harrison St., 6th Floor
Oakland, CA 94612
Telephone: (415) 538–4417
yvonne.hauscarriague@insurance.ca.gov

Please note that under the California Public Records Act (Government Code Section 6250, et seq.), your written and oral comments, and associated contact information (e.g., your address, phone number, e-mail, etc.) become part of the public record and can be released to the public upon request.

Deadline for Written Comments

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, no later than **5:00 p.m. on Thursday, April 8, 2021**. Any written materials received after that time may not be considered.

Comments Transmitted by E-Mail or Facsimile

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: brentley.yim@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Brentley Yim and sent to the following facsimile number: (415) 904–5490. **Comments sent to e-mail addresses or facsimile numbers other than those designated in this notice will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

PROCEEDINGS NOT SUBJECT TO ADMINISTRATIVE PROCEDURE ACT

The regulations contained in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*, the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, and the *California Workers' Compensation Experience Rating Plan—1995* pertain to the establishment of workers' compensation insurance rates. Government Code Section 11340.9(g) states that the Administrative Procedure

Act [Chapter 3.5 of the Government Code] shall not apply to regulations that establish or fix rates, prices, or tariffs, and the Office of Administrative Law has determined that these regulations are excluded from the requirements of the Administrative Procedure Act.

This Notice and any accompanying documents are being offered by the Commissioner to obtain written public comment before the Commissioner determines whether to approve the amendments to these regulations. The Commissioner shall issue an Order regarding his determination pursuant to Insurance Code Section 11734.

AUTHORITY AND REFERENCE

Uniform Plans and Regulations

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. These regulations are promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his statistical agent. As the designated statistical agent, the WCIRB collects insurer data and recommends revisions to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*; the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*; and the *California Workers' Compensation Experience Rating Plan—1995* for approval. Adherence to the regulations contained in the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*, the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, and the *California Workers' Compensation Experience Rating Plan—1995* is mandatory for insurers. However, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* or the standard classification system developed by the WCIRB and approved by the Insurance Commissioner.

The amendments to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*, the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, and the *California Workers' Compensation Experience Rating Plan—1995* are summarized below.

Amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, Title 10, California Code of Regulations, Section 2318.6, Effective September 1, 2021

1. Amend Part 1, *General Provisions*, Section I, *Introduction*, Rule 3, *Effective Date*, to show that the effective date of the amended Uniform Statistical Reporting Plan is 12:01 a.m., September 1, 2021.
2. Amend Part 3, *Standard Classification System*, Section II, *Classification Terminology*, Rule 11, *Interchange of Labor*, for clarity.
3. Amend Part 3, Section III, *General Classification Procedures*, Rule 3, *Multiple Enterprises*, to clarify the rules and definitions applicable to operations that constitute Multiple Enterprises to facilitate consistent outcomes and better align with the objectives of the Standard Classification System.
4. Amend Part 3, Section IV, *Special Industry Classification Procedures*, Rule 7, *Wrecking or Demolition and Building Raising or Moving*, for consistency with other proposed changes.
5. Amend Part 3, Section V, *Payroll — Remuneration*, Rule 1, *Payroll — Remuneration*, Subrule j, *Executive Officers*, Subrule k, *Partners*, Subrule l, *Individual Employers*, and Subrule m, *Members of a Limited Liability Company*, to adjust the minimum and maximum payroll limitations for executive officers, partners, individual employers, and members of a limited liability company to reflect wage inflation since the minimum and maximum payroll limitations were last amended in 2020.
6. Amend Part 3, Section VII, *Standard Classifications*, Rule 2, *Standard Classifications*, as follows:
 - Amend Classification 9016(1), *Amusement or Recreational Facilities — N.O.C. — all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, for consistency with other proposed changes.
 - Amend Classification 9180(1), *Amusement or Recreational Facilities — N.O.C. — operation or maintenance of amusement devices — including ticket collectors connected therewith*, for consistency with other proposed changes.
 - Amend Classification 9181, *Athletic Teams or Athletic Facilities — players, umpires, referees and game officials*, to increase the payroll limitation for players from \$139,100 to \$144,300 per player per season to reflect wage inflation since the payroll limitation was last amended in 2020.
 - Amend Classification 7607(2), *Audio Post-Production*, to increase the annual payroll limitation from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
 - Amend Classification 8803, *Auditing, Accounting or Management Consulting Services*, to increase the annual payroll limitation from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
 - Amend Classification 2576, *Awning, Tarp or Canvas Goods Mfg.*, for consistency with other proposed changes.
 - Amend Classification 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*, to clarify the application.
 - Amend Classification 6834, *Boat Building or Repairing*, for consistency with other proposed changes.
 - Amend Classification 9016(4), *Boat Marina and Boat Rental Operation*, for consistency with other proposed changes.
 - Amend Classification 3726, *Boiler Installation, Service or Repair*, for consistency with other proposed changes.
 - Eliminate Classification 5040(2), *Bridge Building*, as an alternate phraseology to Classification 5040, *Iron or Steel Erection — structural*, and reassign the operations described by this classification to Classification 5040, *Iron or Steel Erection — structural*.
 - Amend Classification 6003(3), *Bridge or Trestle Construction*, for consistency with other proposed changes.
 - Amend Classification 5222(2), *Chimney Construction*, for consistency with other proposed changes.
 - Amend Classification 9060, *Clubs — country or golf*, to clarify the application.
 - Amend Classification 9069, *Clubs — gaming*, to clarify the application and provide direction as to how related operations should be classified.
 - Amend Classification 8859(1), *Computer*

Programming or Software Development, to increase the annual payroll limitation from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.

- Amend Classification 5222(1), *Concrete Construction — in connection with bridges or culverts where clearance exceeds 10 feet at any point or entire distance between terminal abutments exceeds 20 feet*, for consistency with other proposed changes.
- Amend Classification 3060(2), *Door or Window Frame Mfg.*, for consistency with other proposed changes.
- Amend Classifications 6218(1)/6220(1), *Excavation*, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classification 0171, *Field Crops*, which is part of the *Farms Industry Group*, for consistency with existing classification phraseology.
- Eliminate Classification 5102(3), *Floor Installation*, as an alternate phraseology to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection — non-structural*, and reassign the operations described by this classification to Classification 5102, *Iron, Steel, Brass, Bronze or Aluminum Erection — non-structural*.
- Amend Classification 6504, *Food Products Mfg. or Processing*, which is part of the *Food Packaging and Processing Industry Group*, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, to provide direction as to how related operations should be classified.
- Amend Classification 8859(2), *Internet or Web-Based Application Development or Operation*, to increase the annual payroll limitation from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
- Eliminate Classification 5057, *Iron or Steel Erection — N.O.C.*, to clarify the classifications applicable to non-structural iron or steel erection operations and reassign the operations described by this classification to Classification 5102, *Iron, Steel, Brass,*

Bronze or Aluminum Erection — non-structural.

- Eliminate Classification 5059, *Iron or Steel Erection — structural*, to clarify the classifications applicable to structural iron or steel erection operations and reassign the operations described by this classification to Classification 5040, *Iron or Steel Erection — structural*.
- Amend Classification 5040(1), *Iron or Steel Erection — structural and exterior installation*, to apply to all structural iron or steel erection operations and non-structural iron or steel erection operations when performed by the same employer in connection with the structural steel erection at the same job or location and to provide direction as to how related operations should be classified.
- Amend Classification 5102(1), *Iron, Steel, Brass, Bronze or Aluminum Erection*, to apply to the installation or erection of all non-structural iron, steel, brass, bronze or aluminum metal work, including elevated floor installation, and for clarity.
- Amend Classification 9008, *Janitorial Services*, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classification 8820, *Law Firms*, to increase the annual payroll limitation from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
- Amend Classification 8743, *Mortgage Brokers*, to increase the annual payroll limitation from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
- Amend Classification 9610, *Motion Pictures — production*, to increase the annual payroll limitation for actors, musicians, producers and the motion picture director from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
- Amend Classification 4635, *Oxygen or Hydrogen Mfg.*, for consistency with other proposed changes.
- Eliminate Classification 5040(3), *Painting — steel structures or bridges*, as an alternate phraseology to Classification 5040, *Iron or Steel Erection — structural*, and reassign

the operations described by this classification to Classification 5040.

- Amend Classification 7198(1), *Parcel Delivery and Messenger Service Companies*, to clarify the intended application.
- Amend Classification 4299(1), *Printing Operation — all other employees*, which is part of the *Printing, Publishing and Duplicating Industry Group*, to clarify the intended application.
- Amend Classification 7610, *Radio, Television or Commercial Broadcasting Stations*, to increase the annual payroll limitation for on-air personalities, entertainers and musicians from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
- Amend Classification 5146(2), *Sign Installation or Repair*, which is part of the *Sign Industry Group*, for consistency with other proposed changes.
- Amend Classification 1741(1), *Silica Grinding*, to provide direction as to how related operations should be classified.
- Amend Classification 9184, *Ski Resorts*, for consistency with other proposed changes.
- Amend Classifications 5632/5633, *Steel Framing — light gauge*, for consistency with other proposed changes.
- Amend Classification 8046, *Stores — automobile or truck parts or accessories*, which is part of the *Stores Industry Group*, to clarify the intended application.
- Amend Classification 8039, *Stores — department stores*, which is part of the *Stores Industry Group*, to increase the minimum annual payroll from \$1,100,000 to \$1,200,000 to reflect wage inflation since the threshold was last amended in 2019.
- Amend Classification 8010, *Stores — hardware, electrical or plumbing supplies*, which is part of the *Stores Industry Group*, to clarify that it includes the sale of welding supplies and welding or medical gases, as Classification 8110, *Stores — welding supplies*, is being eliminated, and provide direction as to how related operations should be classified.
- Eliminate Classification 8110, *Stores — welding supplies*, which is part of the *Stores Industry Group*, and reassign the operations described by this classification to Classification 8010, *Stores — hardware, electrical or plumbing supplies*, as these employers are

contemplated within the proposed definition of Classification 8010.

- Amend Classification 7365, *Taxicab Operations*, to increase the minimum annual payroll per taxicab from \$38,400 to \$39,700 to reflect wage inflation since the threshold was last amended in 2020.
 - Amend Classification 9531(1), *Telecommunication Antenna Equipment Installation, Service or Repair*, for consistency with other proposed changes.
 - Amend Classification 9529(3), *Tent — erection, removal or repair*, for consistency with other proposed changes.
 - Amend Classification 9156, *Theaters — dance, opera and theater companies*, to increase the annual payroll limitation for performers and directors of performers from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
 - Amend Classification 9151, *Theaters — musical entertainment*, to increase the annual payroll limitation for performers and directors of performers from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
 - Amend Classification 3383(4), *Trophy Mfg.*, to clarify the intended application.
 - Amend Classification 7607(1), *Video Post-Production*, to increase the annual payroll limitation from \$139,100 to \$144,300 per person to reflect wage inflation since the payroll limitation was last amended in 2020.
 - Amend Classification 9521(3), *Window Covering*, for consistency with other proposed changes.
 - Amend Section VIII, *Abbreviated Classifications — Numeric Listing*, for consistency with other proposed changes.
7. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section II, *Definitions*, Rule 12, *Final Premium*, to clarify in the example that premium charges related to Coronavirus 2019 (COVID–19) are included in the reported Final Premium for policies incepting on or after January 1, 2021 with a required date of reporting on or after September 1, 2022.
 8. Amend Appendix I, *Construction and Erection Classifications*, for consistency with other proposed changes.

Amendments to the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, Title 10, California Code of Regulations, Section 2354, Effective September 1, 2021

1. Amend Part 1, *General Provisions*, Section I, *Introduction*, Rule 2, *Effective Date*, to show that the effective date of the amended Miscellaneous Regulations is 12:01 AM, September 1, 2021.
2. Amend Part 2, *Workers' Compensation Forms and Coverage*, Section II, *Conformity with Insurance Code and California Code of Regulations*, to include policy requirements and for clarity and consistency with Insurance Code Section 381.

Amendments to the *California Workers' Compensation Experience Rating Plan—1995*, Title 10, California Code of Regulations, Section 2353.1, Effective January 1, 2021

1. Amend Section I, *General Provisions*, Rule 2, *Effective Date*, to show that the effective date of the amended Experience Rating Plan is 12:01 AM, September 1, 2021.
2. Amend Section II, *Definitions*, to move the Change in Ownership definition to Section IV, *Change in Status and Combination of Entities*, Rule 1, *Change in Status (Ownership, Operations and Employees)*, and include grandmother and grandfather in the definition of Immediate Family for completeness.
3. Amend Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the eligibility threshold from \$9,900 to \$9,500 to reflect wage inflation and the proposed September 1, 2021 expected loss rates.
4. Amend Section IV, *Change in Status and Combination of Entities*, to include the description of when a change in ownership occurs and for clarity.
5. Amend Section IV, Rule 2, *Combination of Entities*, for clarity.
6. Amend Table I, *Expected Loss Rates and D-Ratios*, to reflect the most current data available.
7. Amend Table II, *Primary Thresholds*, to reflect the most current data available.

Amendments to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*, Title 10, California Code of Regulations, Section 2318.6, Effective September 1, 2022

1. Amend Classification 8808, *Banks*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

2. Amend Classification 8801, *Credit Unions*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
3. Amend Classification 8601(1), *Engineers*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
4. Amend Classification 8601(4), *Forest Engineers*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
5. Amend Classification 8822, *Insurance Companies*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
6. Amend Classification 8749, *Mortgage Bankers*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
7. Amend Classification 8601(2), *Oil or Gas Geologists or Scouts*, which is part of the *Petroleum Industry* Group, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
8. Amend Classification 8741, *Real Estate Agencies*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

CONTACT PERSON

The name and telephone number of the agency representative and designated contact person are listed above under "WRITTEN COMMENT PERIOD."

AVAILABILITY STATEMENTS

The Commissioner has prepared an Informative Digest included in this Notice that sets forth a summary and the reasons for the proposed regulations. Upon

request to the contact persons above, the text of the proposed regulations shall be made available for inspection and copying.

The file for this action, which includes a copy of the proposed regulations, the WCIRB's filing, and any supplemental information, is contained in the Rulemaking File: REG-2021-00001 and is available for inspection and copying by prior appointment at 1901 Harrison Street, 4th Floor, Oakland, California 94612, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

The express terms of the proposed regulations as contained in the WCIRB's filing may also be viewed or downloaded from the Regulatory Filings section of the WCIRB website: www.wcirb.com.

INTERNET ACCESS

Documents concerning these proposed regulations are available on the Department's website at the following link: www.insurance.ca.gov/0250-insurers/0500-legal-info/0200-regulations/proposed-regulations.cfm.

APPROVAL OF REGULATIONS

Following the time period to receive written comment, the Insurance Commissioner may approve regulations substantially as described in this Notice and Informative Digest, or he may approve modified regulations or refuse to approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons who have requested notice of the Commissioner's action.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Amend Commission Regulations 1001, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1014, 1015, 1016, 1018, 1051, 1052, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1070, 1080, 1081, 1082, 1083, 1084, 1950, 1953, 1954, 1955, 1956, 1959, 1960, and Commission Procedures D-1, D-3, D-4, D-5, D-6, D-8, D-9, D-13, D-14, G-1 and H-3

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must

receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by May 3, 2021.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Jennifer Hardesty at jennifer.hardesty@post.ca.gov, or by letter to:

Commission on POST
Attention: Jennifer Hardesty
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, Commission on POST Regulations and Procedures reference a document called the POST Administrative Manual (PAM). However, this document is no longer used or referenced. Historically, POST maintained a separate POST Administrative Manual (PAM) which contained Commission Regulations and Commission Procedures relating to POST programs. The PAM was created to house all regulations and procedures in one place and was located on the publications section of the POST website. However, it was discovered the content in this manual was very outdated and often incorrect as it was not being updated when changes were made to regulations and procedures.

Since the PAM was not maintained as often as it needed to be, there was a conflict of information resulting in inaccurate regulations and procedures being utilized by both POST employees and the agencies we serve. To rectify this issue, POST modified its website to link visitors to the appropriate California Code of Regulations (CCR)/WestLaw webpage and is now referencing "Commission Regulations" on the POST website. Commission Procedures were also added in the same location of the directly linked Commission Regulations on the POST website for easy access. This action cleared up the inconsistencies with Commission Regulations.

To keep consistent with current practices and to reduce any confusion, the removal of the definition of “PAM” from Regulation 1001 is necessary to complete this final step of eliminating the out-of-date PAM references from Commission Regulations 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1014, 1015, 1016, 1018, 1051, 1052, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1070, 1080 1081, 1082, 1083, 1084, 1950, 1953, 1954, 1955, 1956, 1959, 1960, and Commission Procedures D-1, D-3, D-4, D-5, D-6, D-8, D-9, D-13, D-14, G-1 and H-3. Additionally, to provide consistency in terminology with existing regulatory language, “Commission Regulations” or “Commission Procedures” will replace “PAM” in all used references.

Changes to the Basic Course Certification process were proposed and approved with an effective date of April 1, 2021. One component of this process was removing the certification requirements from Commission Regulation 1052(f), adopting Commission Regulation 1059, and adding the certification requirements for basic courses to this new section. In doing so, the PSD Basic Course was inadvertently removed from Commission Regulation 1052 and included in the courses certified under Commission Regulation 1059. Although it is considered a basic course, the timeline for completion of the course differs from the peace officer basic courses, it does not fall under the same certification requirements, nor does it have the same online training restrictions as all other basic courses. The proposed change will correct the oversight.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulations will be to reduce confusion and provide consistency across all Commission Regulations and Commission Procedures with the removal of the “POST Administrative Manual (PAM)” definition, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the State’s environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Commission on Peace Officer Standards and Training has determined that these proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern the POST Administrative Manual (PAM) and the Public Safety Dispatchers’ Basic Course certification requirements.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF FISCAL IMPACT

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

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

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500–17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect small businesses, as defined by Government Code section 11342.610, because the Commission sets selection and training standards for law enforcement, which are government entities, and does not have an impact on California businesses, including small businesses.

The regulatory action addresses the following: 1) the removal of the definition of “POST Administrative Manual (PAM)” from Commission Regulation 1001, 2) the elimination of all “POST Administrative Manual (PAM)” references in Commission Regulations and Procedures, and 3) the removal of the PSD Basic Course from Commission Regulation 1059.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

RESULTS OF ECONOMIC IMPACT ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

The adoption of the proposed amendments of regulations 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 proposed amendments of regulations to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State’s environment.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

CONSIDERATION OF ALTERNATIVES

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is 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 than the proposed action.

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Jennifer Hardesty, Commission

on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630 at (916) 227–3917. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227–2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

MINIMUM STANDARDS FOR TRAINING Regulation 1005

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by May 3, 2021.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227–4547, by email to Michelle Weiler at michelle.weiler@post.ca.gov, or by letter to:

Commission on POST
Attention: Rulemaking
860 Stillwater Road, Suite 100
West Sacramento, CA 95605–1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current laws require California peace officers to complete a POST-approved academy prior to entering a POST-approved field training program. The profession of law enforcement is dynamic and ever-changing. As such, the laws, equipment, and policies concerning the use of force and available force options are fluid. There is a need for peace officers to receive continuous training to remain current in best practices and emerging strategies based in relevant case law, legislative mandates, and policies related to the use of de-escalation strategies and other available force options.

Peace officers are expected to be professional and judicious practitioners of force options that can range from command presence and verbal commands to the application of deadly force. There is an expectation that all peace officers maintain the ability for critical decision-making when faced with making split-second decisions in circumstances that are tense, uncertain, and rapidly evolving. Recent regulatory action addressed the updating of minimum topic content and instructional methodology requirements to reflect current terminology and best practices for each of the Perishable Skills Program (PSP) topics of Arrest and Control, Driver Training/Awareness, Tactical Firearms, and Communications.

This proposed regulatory action will address the additional PSP requirement for Use of Force training. Statutory and case law, as well as best practices in de-escalation and other available force options, are always subject to change based on evolving circumstances or interpretations of the law. Current regulations require peace officers to complete PSP training requirements every two years. Including a requirement for UoF training as part of the PSP will ensure that peace officers throughout the State maintain current, modern, and relevant best practices in the use of de-escalation strategies and other available force options.

Anticipated Benefits of the Proposed Regulation:

The benefits of the proposed amendments of regulations to the regulations will increase the efficiency

of the state of California in delivering services to stakeholders. Thus, ensuring the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern the perishable skills and continuing professional training requirements for peace officers in California.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, POST may adopt the proposal substantially as set forth without further notice, or POST may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If POST makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. POST will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

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

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500-17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: POST has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California busi-

nesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: POST has found that the proposed amendments will not affect small business, as defined by Government Code section 11342.610, because the Commission sets selection and training standards for law enforcement, which are government entities, and does not have an impact on California businesses, including small businesses. This only affects individuals associated with participating law enforcement agencies and/or course presenters.

Cost Impacts on Representative Private Persons or Businesses: POST is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: POST has made an initial determination that the proposed regulation would have no effect on housing costs.

RESULTS OF ECONOMIC IMPACT ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

The adoption of the proposed amendments of regulations 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 proposed amendments of regulations to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, ensuring the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

To take this action, POST must determine that no reasonable alternative considered by POST, or otherwise identified and brought to the attention of POST, would be more effective in carrying out the purpose for which the action is 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 than the proposed action.

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Michelle Weiler, Commission on POST, 860 Stillwater Road, Suite 100, West

Sacramento, CA 95605–1630 at (916) 227–4870. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227–2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630. These documents are also located on the POST Website at: <https://post.ca.gov/Regulatory-Actions>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to amend Sections 3076, 3076.1, 3076.2, 3076.3, 3076.4, and 3076.5 into Title 15, Division 3, Chapter 1, regarding the recall of inmate commitments and resentencing of inmates pursuant to Penal Code section 1170(d)(1).

PUBLIC COMMENT PERIOD

The public comment period begins **March 19, 2021** and closes on **May 7, 2021**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

PUBLIC HEARING INFORMATION

Due to the COVID–19 public health emergency, CDCR will utilize teleconference for its hearings, consistent with the Governor's Executive Order N–29–20 and guidelines issued by the California Department of Public Health. Comments provided at this teleconference public hearing will be given the same signif-

icance and weight as written comments submitted during the public comment period. A public hearing will be held on **May 7, 2021**. The teleconference will open to the public from **10:00 a.m. until 11:00 a.m.** If you would like to participate by teleconference: Call 1-844-867-6169 (TTY/TDD: Dial 711). When prompted, enter participant code 1780160. The purpose of the hearing is to receive comments about these proposed regulations. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing.

CONTACT PERSONS

Primary Contact

Josh Jugum
Telephone: (916) 445-2266
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

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

Program Contact

Eric Duesdieker
Telephone: (916) 323-2924
Office of Legal Affairs

AUTHORITY AND REFERENCE

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

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

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the

State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5055 provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code section 1170(d)(1) authorizes the Secretary to recommend to a sentencing court that the sentence and commitment previously imposed on an inmate be recalled and that the court resentence the inmate provided the new sentence is no greater than the initial sentence.

This action will:

Implement regulations in furtherance of Penal Code section 1170(d)(1) by establishing specific criteria for such recommendations under the following circumstances:

- When an inmate demonstrates exceptional conduct: if the inmate's behavior while incarcerated demonstrates sustained compliance with departmental regulations, rules, and requirements as well as prolonged participation in rehabilitative programming.
- When there is the substantial likelihood of a sentencing error: if the inmate's sentence, as reflected in the Abstract of Judgment, contradicts applicable sentencing laws at the time of their sentencing hearing or subsequent decisional law suggesting the substantial likelihood of a sentencing error.
- When there is a change in sentencing law: if the applicable sentencing laws at the time of their sentencing hearing are subsequently changed due to new statutory or case law authority with state-wide application
- When a referral is received from the head of a law enforcement agency, the head of a prosecutorial agency, or a judicial officer asking that the Secretary consider recommending an inmate to a sentencing court pursuant to Penal Code section 1170(d)(1).

DOCUMENTS INCORPORATED
BY REFERENCE

Form CDC 128–B (Rev. 4/74)

SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED REGULATIONS

Currently, CDCR uses the provision under PC Section 1170(d)(1) on a limited basis for the recall and resentencing of inmates who demonstrate exemplary behavior during incarceration. However, the Department’s historical use of the provisions does not make full use of the opportunities provided under the law. The Department proposes to use PC Section 1170(d)(1) to its full potential, which includes requesting the recall and resentencing of commitments for inmates with exceptional conduct and sentencing errors. Such changes would allow the Department to fully apply the law and develop an equitable process for inmates to be considered for recall and resentencing.

Through this process, known internally as the Recall and Resentence Recommendation Program, the Department seeks to make our prisons and communities safer by encouraging and motivating inmates to participate in rehabilitative programs and service opportunities that create skills, employability, and hope. This in turn will lead to improved inmate behavior and a safer prison environment for inmates and staff alike. Public safety is enhanced when inmates choose to pursue and accomplish tangible academic, vocational and personal/behavioral achievements to position themselves for earlier consideration before the Board or for successful transition to society.

EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH EXISTING
LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the recall of inmate commitments and resentencing of inmates pursuant to Penal Code section 1170(d)(1).

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency:
Net cost of \$1,939,054 in fiscal year (FY) 2018–19, \$1,641,729 in FY 2019–20, \$1,069,443 in FY 2020–21, \$785,535 in FY 2021–22, and \$730,492 in FY 2022–23.
- Cost to any local agency or school district that is required to be reimbursed: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESS

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

EFFECT ON SMALL BUSINESSES

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

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have

no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by incentivizing inmates to participate in rehabilitative programs, thereby helping to reduce recidivism. Additionally, these regulations may benefit the health and welfare of California residents by providing opportunities for eligible inmates to contribute to their communities earlier than they might have otherwise.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make

the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

TITLE 16. BOARD OF ACCOUNTANCY

TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY REGARDING ATTEST EXPERIENCE FORM FOR CPA LICENSURE

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**California Board of Accountancy
2450 Venture Oaks Way, Suite 420
Sacramento, CA 95833
May 4, 2021
10:00 a.m.**

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 CBA at its office no later than **May 3, 2021**, or must be received by the CBA at the hearing. The CBA, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as 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 sections 5010 and 5095 of the Business and Professions Code¹ (BPC) and to implement, interpret, or make specific sections 5092, 5093, and 5095 of the BPC, the CBA is consid-

¹ Unless otherwise specified, all sections refer to the Business and Professions Code.

ering changes to Division 1 of Title 16 of the California Code of Regulations² (CCR), as described herein.

INFORMATIVE DIGEST

A. Informative Digest

The CBA is a board within the Department of Consumer Affairs (DCA) responsible for regulation of the public accounting practice in California. The CBA proposes to amend section 12.5 related to attest experience for licensure.

Pursuant to BPC section 5010, the CBA may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of the Accountancy Act. Additionally, BPC section 5095 authorizes the CBA to adopt regulations to implement this section, including, but not limited to, a procedure for applicants under Section 5092 or Section 5093 to qualify under this section.

This proposal seeks to update and improve the Certificate of Attest Experience (CAE) forms (public/non-public) used to document satisfactory completion by applicants for CPA licensure of meeting the requirements of BPC section 5095 and Title 16, California Code of Regulations (CCR), section 12.5.

The CBA has adopted Title 16, CCR, section 12.5 to effectuate the requirements listed in BPC section 5095 and provide for direction on how to satisfactorily qualify for completion of the attest experience requirement, including incorporating two forms by reference.

The CBA currently maintains two types of CAE forms. If the attest experience was obtained at a public accounting firm, the applicant's employer must complete the CAE — Public Accounting Form. If the attest experience was obtained at a private industry company or government agency, the applicant's employer must complete the CAE — Non-Public Accounting Form.

The CBA proposes the following amendments to Form 11A–6 Certificate of Attest Experience (Private Accounting) and Form 11A–6A Certificate of Attest Experience (Public Accounting), which are incorporated by reference in 16 CCR section 12.5:

Additionally, the form will update the section related to Personal Information Collection and Access.

Section V — Qualifying Experience

It is proposed that Section V. should include clarifying language that specifically excludes preparation engagements from qualifying attest experience. Specifically adding “as part of the Audit or other Attest Services? This does not include experience earned through the performance of preparation engagements

in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).”

Section VI — Number of Hours

It is proposed that in order to maintain consistency within the CAE forms, the area of Section VI. that summarizes the hours corresponding with Section V. should also include additional clarifying language. Specifically adding “and in the Preparation of Written Explanations on the Audit or Other Attest Services (IV. above)” and “as part of the Audit or Other Attest Services (V. above)”.

The proposed revisions ensure that the attest experience obtained by applicants and reported on the CAE forms is in compliance with the definition of accounting and auditing practice as presented in CBA Regulations sections 39 and 42.

The CBA also proposes to modify an area of Section VI. of the CAE to combine the reporting field for experience earned as it relates to both preparation of working papers and preparation of written explanations. Section VI. identifies the hours of work performed corresponding with Sections III. and IV., while it was still appropriate to have separate questions regarding the preparation of working papers and the preparation of written explanations, these tasks are often conducted concurrently. As a result, the corresponding hours reported for completing these two tasks would be more appropriately reported as one allotment of hours instead of two.

Personal Information Collection and Access

As part of the proposed revisions to the CAE forms, additional minor and non-substantive changes to the Personal Information and Collection and Access notice, which includes reference to the California Board of Accountancy as the “CBA,” as well as the CBA's new office address, specifically “2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833.”

As the CAE forms are incorporated by reference in CBA Regulations section 12.5, the proposed changes to the forms will necessitate a change to the revision dates, specifically to “Rev 7/17.”

B. Policy Statement Overview/Anticipated Benefits of Proposal

The California Legislature established the California Board of Accountancy (CBA) with the regulation of the accounting profession, with an express purpose to protect consumers. This is reflected in the CBA's mission statement: “To protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.”

Ensuring individuals licensed with the authority to sign reports on attest engagements have met a minimum understanding of the professional standards is in concert with protecting the consumers of Califor-

² Unless otherwise specified, all California Code of Regulations sections refer to title 16.

nia. To ensure only those who are authorized sign reports on attest engagements, it is necessary to prohibit preparation engagement experience from qualifying as attest experience.

C. Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

- Form 11A–6 Rev. 4/20 Certificate of Attest Experience (Private Accounting)
- Form 11A–6A Rev. 4/20 Certificate of Attest Experience (Public Accounting).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The cost is insignificant as the requirement is to provide added clarification and direction on the qualifying hours and services that encompass meeting the attest experience requirement for licensure. Any cost will be absorbable within existing resources.

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 CBA 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.

The following studies/relevant data were relied upon in making the above determination:

- This proposal impacts Certified Public Accountant (CPA) and accountancy firms, including partnerships and corporations. The CBA presently has authority over approximately 108,000 licensees.
- The CBA 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.

- Title 16, CCR section 12.5 contains proposed regulatory requirements that licensees must follow to obtain CPA licensure with the authority to sign reports on attest engagements reporting attest experience.

The proposed regulatory changes are considerably consistent with SSARS 21.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations would not affect small businesses because the impact is on individuals seeking to demonstrate satisfactory completion of an experience requirement for CPA licensure.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the impact is on individuals seeking to demonstrate satisfactory completion of an experience requirement for CPA licensure.

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

This regulatory proposal benefits California residents by clarifying the attest experience requirements in line with the CBA's mission to protect consumers by ensuring only qualified individuals are granted license to practice public accountancy with the attest authority. This proposal allows the CBA to better protect consumers by specifying that applicants must follow regulatory requirements to obtain CPA licensure with the authority to sign reports on attest engagements.

This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.

This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

CONSIDERATION OF ALTERNATIVES

The CBA must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the 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 orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The CBA 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, 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 at the hearing or prior to the hearing upon request from the CBA at 2450 Venture Oaks Way, Suite 300, Sacramento, California 95833.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any 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 that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the contact person named below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

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

which is available for public inspection by contacting the 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: Deanne Pearce
Address: 2450 Venture Oaks Way,
Suite 300
Sacramento, CA 95833
Telephone No.: 916-561-1740
Fax No.: 916-263-3673
E-Mail Address: Deanne.Pearce@cba.ca.gov

The backup contact person is:

Name: Peter Renevitz
Address: 2450 Venture Oaks Way,
Suite 300
Sacramento, CA 95833
Telephone No.: 916-561-1742
Fax No.: 916-263-3673
E-Mail Address: peter.renevitz@cba.ca.gov

Website Access: Materials regarding this proposal can be found at: <https://www.dca.ca.gov/cba/about-cba/laws-and-rules.shtml>.

TITLE 16. BOARD OF ACCOUNTANCY

TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY CONCERNING PRACTICE PRIVILEGE FORM

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

California Board of Accountancy
2450 Venture Oaks Way, Suite 420
Sacramento, CA 95833
May 4, 2021
10:30 a.m.

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 CBA at its office by **Monday, May 3, 2021**, or must be received by the CBA at the hearing. The CBA, upon

its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as 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 sections 5010 and 5096.9 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 5096, 5096.2, 5096.21, and 5096.22 of the BPC, the CBA is considering changes to Division 1 of Title 16, Article 1, Section 19 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

BPC section 5010 authorizes the CBA to adopt regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The regulations are in existence to establish the notification requirements for select current requirements that must be met for examination, licensing, license renewal, and enforcement. These regulations are referenced by CBA staff, stakeholders, licensees, consumers, as well as other government organizations to determine various regulatory requirements regarding the accounting profession in California.

BPC section 5096.9 authorizes the CBA to adopt regulations to implement, interpret, or make specific the provisions of Article 5.1 of the Accountancy Act — Practice Privileges.

BPC section 5096.21 authorizes that if the CBA determines that allowing individuals from a particular state¹ to practice in California pursuant to a practice privilege violates the CBA's duty to protect the public, it shall require individuals licensed from that state to submit a notification form and pay the applicable fees as required by BPC section 5096.22. The CBA is required to make this determination through a majority vote at a regularly scheduled meeting. Additionally, the individual cannot exercise a practice privilege in California prior to submitting the notification form in these instances.

¹ BPC section 5032 defines “state” when not specifically referring to California, “means any state, territory or insular possession of the United States, or the District of Columbia.”

BPC section 5096.22 requires individuals to notify the CBA prior to practicing and the notification shall be on a form in a manner prescribed by the CBA in regulation. Further, it states that a practice privilege subject to notification shall commence when the individual submits a properly completed form (with the CBA receiving the fee within 30 days), and that the CBA shall permit individuals to submit the notification form to the CBA electronically. BPC section 5096.22 allows for two safe harbor provisions related to notification:

1. That the individual files the notification form within five business days of the date practice begins, and
2. That the individual (presumably already practicing in California) submits the notification form within 60 days of the CBA action pursuant to BPC section 5096.21.

The regulatory proposal is as follows:

Amend Title 16, CCR Section 19

Title 16, CCR, Division 1, Article 3 includes regulations to implement, interpret, or make specific the provisions of Article 5.1 of the Accountancy Act — Practice Privileges. Included in Article 3, the CBA adopted Title 16, CCR section 19, which includes various forms that individuals use when they must submit certain notifications to the CBA.

The CBA proposes amending Title 16, CCR section 19 to include a new subsection, specifically subsection (e). This section will require individuals whose principal place of business is in a state subject to action by the CBA pursuant to BPC section 5096.21 to use the Practice Privilege Notification and Agreement Form (PP–16 (11/19)) prior to practicing.

INCORPORATION BY REFERENCE

The form incorporated by reference in Title 16, CCR section 19 would be cumbersome, unduly expensive, and otherwise impractical to publish in the CCRs. This form will be available on the CBA website and from the CBA upon request.

Practice Privilege Notification and Agreement Form (PP–16 (11/19))

The proposed form to be incorporated by reference contains the following five sections: (A) Contact Information, (B) State of Licensure, (C) Safe Harbor, (D) Acknowledgement, and (E) Penalty of Perjury Statement.

Section A: Contact Information

This section includes necessary personal information regarding the individual seeking to notify the CBA. This includes their name, address information for purposes of contacting the individual in writing and for serving any notices or subpoenas as necessary,

telephone and fax number to provide additional options for making contact with individuals, and email.²

Section B: State of Licensure

Individuals using this form are only required to do so if the CBA takes action pursuant to BPC section 5096.21. Requesting that individuals provide the licensure information will allow the CBA to determine if individuals were required to submit the form or if they notified the CBA in error.

Section C: Safe Harbor

BPC section 5096.21 requires individuals to notify the CBA prior to exercising the practice privilege, with the notification to occur in accordance with BPC section 5096.22. This section, in addition to restating that the notification shall occur prior to exercising the practice privilege, provides for two safe harbors:

1. BPC section 5096.22, subdivision (c), provides that individuals do not violate this section solely because individuals practice public accounting in California prior to notifying the CBA provided the notice is given within five business days of the date practice began.
2. BPC section 5096.22, subdivision (d), provides that if notification was the result of action taken by the CBA under BPC section 5096.21, individuals do not violate the notification requirement of this section provided they notify the CBA within 60 days of the date of the CBA's action.

The form will allow individuals to select under what period they are notifying the CBA and for the two safe harbors listed above, the dates they began practice. This will allow the CBA the opportunity to evaluate whether individuals complied with the safe harbor.

The CBA is including a fourth option of “Other” should an individual’s specific circumstances not apply to the other three options. They will need to provide a start date of when the individual began practice and require that the individual attach a written explanation as to why the other options do not apply.

Section D: Acknowledgement

This section provides important information regarding exercising a practice privilege in California. It is included to direct individuals completing the notification form on where to obtain information on the BPC sections or forms referenced in the acknowledgement section.

Section E: Penalty of Perjury Statement

This section requires individuals to ensure that they are providing accurate and complete information to

the CBA. This will allow the CBA to evaluate the form to determine compliance with BPC section 5096.22.

Notice of Personal Information Collection and Access

Per California Civil Code section 1798.17 any form used by a state agency to collect personal information must contain a notice with collecting specified information.

The Notice of Personal Information Collection and Access contains a statement advising the party filling out the form certain information provided may be disclosed to a member of the public upon request under the California Public Records Act.

Collectively, these advisories comply with statutorily-mandated standards and notify parties filling out the form of their rights, the purposes and uses their information may be put to, and the authority under which personal information may be collected, accessed, or disclosed. These advisories promote government transparency and ensure the responsible collection and use of personal information.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The proposed regulatory language will allow the CBA to comply with BPC section 5096.22 to develop a form by which individuals may notify the CBA, if required. Individuals will, therefore, have a consistent form to use when needing to notify the CBA should the CBA ever determine individuals exercising a practice privilege should be required to provide notification.

C. Consistency and Compatibility with Existing State Regulations

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

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The CBA does not have sufficient data to predict the number of Practice Privilege Notification and Agreement Forms to be submitted per year but anticipates the volume to be minimal. The CBA will be posting the form on its website and will be allowing the form to be submitted either electronically or through regular mail. Additionally, the CBA will be installing automated features into the form to prevent submission of an incomplete form. The CBA estimates one-time information technology (IT) costs of \$5,000 to create and maintain the form on its website.

Forms will be submitted and stored digitally and no additional workload or costs are anticipated. Forms

² AB 1521 (Chapter 359 of the Statutes of 2019) requires individuals to provide an email if they have one.

submitted and received through regular mail will need to be filed by an Office Technician with costs of no more than \$5 per form. However, because the CBA expects applicants to submit the form digitally, manual filing costs are not anticipated to materialize in the future.

The CBA notes under this proposal, there is no fee associated with the Practice Privilege Notification and Agreement Form, and therefore no revenues will be collected.

There are no other costs or savings to any other state agency, nor are there any costs or savings in federal funding to the state.

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 CBA 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.

Cost Impact on Representative Private Person or Business:

The CBA 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 CBA notes out-of-state individuals opting to submit the Practice Privilege Notification and Agreement Form may incur minimal costs associated with time to complete the form and postage costs.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations would not affect small businesses. Submission of the form itself can be done via electronic methods or by mail with the only associated costs being postage.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

The Practice Privilege Notification and Agreement Form (PP-16 (11/19)) is the mechanism to allow the CBA to meet its consumer protection mandate related to having individuals from a particular state notify the CBA prior to practicing pursuant to a practice privilege.

CONSIDERATION OF ALTERNATIVES

The CBA must determine no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons that 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 orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The CBA 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 at the hearing or prior to the hearing upon request from the CBA at 2450 Venture Oaks Way, Ste. 300, Sacramento, California, 95833.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the 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.

to the State Fire Marshal's authority and function for state and local agencies or private entities.

CONTACT PERSON

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

Name: Deanne Pearce
Address: 2450 Venture Oaks Way,
Suite 300
Sacramento, CA 95833
Telephone No.: 916-561-1740
Fax No.: 916-263-3675
E-Mail Address: deanne.pearce@cba.ca.gov

The backup contact person is:

Name: Peter Renevitz
Address: 2450 Venture Oaks Way,
Suite 300
Sacramento, CA 95833
Telephone No.: 916-561-1742
Fax No.: 916-263-3678
E-Mail Address: peter.renevitz@cba.ca.gov

Website Access:

Materials regarding this proposal can be found at <http://www.dca.ca.gov/cba/about-cba/laws-and-rules.shtml>.

TITLE 19. OFFICE OF THE STATE FIRE MARSHAL

DEPARTMENT OF FORESTRY & FIRE PROTECTION

TITLE 19. PUBLIC SAFETY Division 1. State Fire Marshal Chapter 1. General Fire and Panic Safety Article 3. General Provisions Section 3.28. Plans and Specifications

NOTICE IS HEREBY GIVEN pursuant to Government Code, §11346.6, that the California Department of Forestry and Fire Protection — Office of the State Fire Marshal ("OSFM") or ("SFM") proposes to take the regulatory action described below in the Informative Digest implementing Title 19, Division 1, Chapter 1, Article 3 of the California Code of Regulations (CCR), related to correlation of existing statutory mandates related to review of building plans and specifications, after considering public comments, objections, or recommendations regarding the proposed action. These proposed amendments provide clarity

WRITTEN COMMENT PERIOD

Any interested person or his/her authorized representative, may submit written comments relevant to the proposed regulatory action. Written comments will be accepted for 45 days beginning **March 19, 2021** and **ending May 3, 2021**. The written comment period **closes at 12:00 a.m. Pacific Daylight Time (PDT) on May 4, 2021**. All written comments received by that time and date will be considered and responded to as part of the compilation of the rulemaking file and are subject to disclosure under the Public Records Act (Gov. Code § 6250, et seq.). Written comments should be directed to:

- **Email:** Diane Arend diane.arend@fire.ca.gov

(Include in the subject line of the email "Comments: Plans and Specifications").
- **Mail to:**

CAL FIRE/Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460
Attn: Diane Arend, Code Development & Analysis
- **Hand delivered between 8:00 a.m. and 5:00 p.m. (PDT) to:**

CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Suite 400
Sacramento, California 95815
Attn: Diane Arend, Code Development & Analysis

Pursuant to Government Code §11346.9, the SFM shall respond to comments submitted during the comment period containing objections and/or recommendations specifically directed at the SFM's proposed action or to the procedures followed by the agency in proposing or adopting the action.

PUBLIC HEARING

The SFM has not scheduled a public hearing on this proposed action. However, the SFM will hold a public hearing to accept comments if a written request is received from any interested party or their authorized representative no later than 15 days prior to the end of the 45-day written comment period, pursuant to Government Code Section 11346.8. Submit requests to the contact person at the address indicated above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the 45–day comment period, the SFM may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes indicated — shall be made available to the public for at least 15 days before the SFM adopts, amends, or repeals the regulations as revised. The SFM will accept written comments on the modified regulations for 15 days after the date on which they are made available. To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modified regulations. Requests should be sent to the contact person at the address indicated above.

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Section 13108. These amendments are necessary to clarify the statutory mandate that the State Fire Marshal enforce building standards adopted by the Building Standards Commission in all state owned, specified state occupied buildings and facilities, state institutions or portions thereof consistently throughout the state.

INFORMATIVE DIGEST — POLICY STATEMENT OVERVIEW

The regulations proposed in this rulemaking action implement, interpret, clarify and/or make specific Health and Safety Code §13108 by making the following changes:

Specifically, this action proposes requirements for submittal of plans and specifications to the State Fire Marshal for review and approval. This rulemaking action proposes the amendment of Sections 3.28(b), (c), (d), (e) and (f) in CCR, Title 19, Division 1, Chapter 1, Article 3.

The broad objective of the proposed action is to better define the regulatory requirements of the Office of the State Fire Marshal (OSFM) Fire and Life Safety Program related to submittal of building plans and specifications for review and approval to ensure compliance with California Code of Regulations, Title 24 in all “state owned, specified state occupied, and state institution” buildings and facilities, or portions thereof.

The regulations proposed in this rulemaking action would specify and define the regulatory requirements of the OSFM Fire and Life Safety Program by making the following changes:

- Edit and renumber California Code of Regulations, Title 19, Section 3.28 without regulatory effect.
- Specify statutory requirements for submittal of building plans and specifications to ensure compliance with California Code of Regulations, Title 24 in all “state owned, specified state occupied, and state institution” buildings and facilities, or portions thereof to the State Fire Marshal for review and approval.
- Provide a reference to the existing statutory authority transferred to Division of the State Architect as referenced in Government Code, Section 14963.
- Update Authority and Reference notations.

Summary of Existing Laws

Health and Safety Code Section 13108(c) requires the State Fire Marshal to enforce regulations adopted in California Code of Regulations relating to fire and panic safety in all state owned, specified state occupied buildings and facilities, and state institutions. The enforcement of this law is accomplished through effective plan review and construction inspection conducted by the Office of the State Fire Marshal, Fire and Life Safety Division.

Summary of Existing Regulations

Existing regulations regarding the proposed changes establish the requirements in California Code of Regulations, Title 19, Division 1, Chapter 1, Section 3.28, Plans and Specifications. The State Fire Marshal is proposing to amend CCR, Title 19, Chapter 1, Section 3.28.

Summary of Effect

These changes will have negligible effect on the State Building system. The largest effect these regulations have are to adjust and update business practices that are already firmly established and in–place in Statute.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Objective and Anticipated Benefits

With the passage of AB 1338 (added by Stats. 1991, Chapter 865, Sec 5) Section 14963 was added to the government Code. This section transferred the duties and functions formerly conducted by the State Fire Marshal that relate to school construction, building plan review, and building construction inspections to the Office of the State Architect. This package will clearly define the authority for submittal of school projects to the Office of the State Architect.

Pursuant to Health and Safety Code, Section 13108, these amendments also define the authority to the Office of the State Fire Marshal for state owned, speci-

fied state occupied buildings and facilities, and state institutions related to construction, building plan review and inspection.

The broad objective of the proposed action is to further define and clarify the statutory authority in the regulations for the SFM fire and life safety program.

The specific benefit anticipated from the regulation is the consistent application and enforcement of regulations and business practices for the State Fire Marshal which benefits the public health and welfare of California residents, worker safety, and the environment by ensuring consistency by clarifying the existing laws throughout the state.

Evaluation of Consistency/Incompatibility with Existing State Regulations

The OSFM determined this proposed regulation is not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect these areas; the OSFM has concluded that these are the only regulations that concern plans and specifications related to state owned, specified state occupied buildings and facilities, state institutions or portions thereof within the Office of the State Fire Marshal for the purposes cited in the Health and Safety Code Section 13108.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the Office of the State Fire Marshal, or to any specific regulation. There are no other matters to identify.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following initial determinations:

1. Mandate on local agencies and school districts: **None.**
2. Cost or savings to any other State agency: **None.**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Sections 17500–17630: **None.**
4. Other non–discretionary cost or savings imposed upon local agencies: **None.**
5. Cost or savings in federal funding to the State: **None.**
6. Significant effect on housing costs: **None.**
7. Significant statewide adverse economic impact directly affecting business, including the ability

of California businesses to compete with businesses in other States: **None.**

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

There is no cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations only clarify both practices and policies already implemented to ensure compliance with existing laws.

DECLARATION OF EVIDENCE

The OSFM has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact.

SMALL BUSINESS DETERMINATION

The State Fire Marshal has made the initial determination that the proposed amendments to these regulations will have no effect on small business and the State Fire Marshal has not identified any alternatives that would lessen any adverse impact, if any, on small business. These changes only clarify existing statutory mandates already implemented by the Office of the State Fire Marshal.

BUSINESS REPORT

This regulatory proposal does not create or mandate any new reporting or recordkeeping requirements beyond the business practice that has already been established by the SFM.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Adoption of these regulations *will not*:

- a) Create or eliminate jobs within California;
- b) Create new businesses or eliminate existing businesses within California; or
- c) Affect the expansion of businesses currently doing business within California.

Benefits to Health and Welfare, Worker Safety, and the Environment.

- d) The State Fire Marshal has assessed that this regulatory proposal *will* benefit the public health and welfare of California residents, worker safety, and the environment by ensuring consistency by clarifying the existing laws throughout the state.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), SFM must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action 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.

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON(S)

Inquiries concerning the proposed regulatory action, or requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations or other information upon which the rulemaking is based may be directed to:

General inquiries:

Diane Arend, Supervising DSFM/Regulations
Coordinator
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Suite 400
Sacramento, CA 95815
Phone: (916) 568-2917
Email: diane.arend@fire.ca.gov

For substantive or technical questions:

Stephen C. Guarino, Chief —Fire & Life Safety
North
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Suite 130
Sacramento, CA 95815
(916) 568-6641
Email: steve.guarino@fire.ca.gov

Sandy Margullis, Supervising DSFM
CAL FIRE/Office of the State Fire Marshal
2251 Harvard Street, Suite 130
Sacramento, CA 95815
(916) 204-3054
Email: sandy.margullis@fire.ca.gov

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

The State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office indicated above. As of the date this notice is published in the Notice Register, the SFM's rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons for the proposed action and an economic impact assessment contained in the initial statement of reasons. Copies may be obtained through the contact person(s) at the address or telephone number listed above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons (FSOR) may be obtained by making a written request to the contact person at the above address or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action (NOPA), the Initial Statement of Reasons (ISOR), the Text of Proposed Regulations (ET) in underline and strikeout, and any other materials or documents incorporated by reference may be accessed through the SFM web site at: <https://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>.

PLAIN ENGLISH DETERMINATION

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 §11342.580 and §11346.2(a)(1). The proposed regulations were written to be easily understood by the parties that will use them.

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0520-04

ITEM #1 — Recreating Case Circumstances for Overpayments

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 May 3, 2021.

Following the public hearing 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 non–substantive, 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 testify or 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

44–000

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Welfare and Institutions Code (WIC) section 11004.1b states a CalWORKs overpayment shall be the difference between the grant amount the Assistance Unit (AU) received and the grant amount the AU

would have received under the semiannual reporting, prospective budgeting system if no county error had occurred and the recipient had timely, completely, and accurately reported as required under semiannual and annual reporting rules.

In 2015, the CDSS released All County Letter (ACL) 15–95 instructing County Welfare Departments (CWDs) to take into consideration unreported decreases in income when recreating case circumstances to determine overpayment amounts. This guidance resulted in monthly calculation of benefits which is contradictory to semiannual and annual reporting rules. Furthermore, this monthly recalculation increased the workload for CWDs and created confusion among CWD eligibility staff.

The anticipated benefits of the proposed regulatory actions are the simplification of the CalWORKs overpayment calculation process and the reduction of the increased workload associated with the monthly calculation of benefits. The proposed regulatory actions would fully align the overpayment regulations in Manual of Policies and Procedures section 44–352.12 with WIC section 11004.1(b) and as such are neither inconsistent nor incompatible with existing state regulations.

COST ESTIMATE

- (a) Costs or Savings to State Agencies: None.
- (b) Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630: None.
- (c) Nondiscretionary Costs or Savings to Local Agencies: None.
- (d) Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no “state–mandated local costs”, pursuant to 17500 et seq., in these regulations because there are no new costs to local agencies.

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 the fact that this regulatory action is only applicable to county governments and only affects current and former recipients of the CalWORKs program.

STATEMENT OF POTENTIAL COST IMPACT
ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a private person or business would necessarily incur in reasonable compliance with the proposed action. This determination was made based on the fact that this regulatory action is only applicable to county governments and only affects current and former recipients of the CalWORKs program.

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that there is no impact on small businesses. This determination was made based on the fact that this regulatory action is only applicable to county governments and only affects current and former recipients of the CalWORKs program.

STATEMENT OF RESULTS OF ECONOMIC
IMPACT ASSESSMENT

The proposed amendments are not expected to have a direct impact on the creation or elimination of jobs, nor result in the elimination or expansion of existing businesses within the State of California. This determination was made based on the fact that this regulatory action is only applicable to county governments and only affects current and former recipients of the CalWORKs program.

STATEMENT OF EFFECT ON
HOUSING COSTS

The proposed regulatory action will have no effect on housing costs. This determination was made based on the fact that this regulatory action is only applicable to county governments and only affects current and former recipients of the CalWORKs program.

STATEMENT OF
ALTERNATIVES CONSIDERED

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.

The Department invites interested persons to submit comments, including any alternatives, with respect to the proposed regulation.

AUTHORITY AND REFERENCE CITATIONS

Welfare and Institutions Code section 11004.1(b)

DEPARTMENT REPRESENTATIVE
REGARDING THE RULEMAKING PROCESS
OF THE PROPOSED REGULATION

Contact Person:

Trevor Morris–Seekins (916) 657–2586

Backup:

Oliver Chu (916) 657–2586

**TITLE 27. OFFICE OF
ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
PROPOSITION 65**

**PROPOSED AMENDMENTS TO ARTICLE 6
CLEAR AND REASONABLE WARNINGS
CANNABIS (MARIJUANA) SMOKE AND
DELTA-9-TETRAHYDROCANNABINOL
(DELTA-9-THC) EXPOSURE WARNINGS
NEW SECTIONS 25607.38–25607.47**

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to add new sections to Article 6 of Title 27 of the California Code of Regulations¹. The Article 6 regulations that were adopted in August 2016 and became operative in August 2018 include tailored safe harbor warning methods and content for several specific types of exposure scenarios. In adopting these warning regulations, OEHHA determined tailored warnings for certain product, chemical and environmental exposure scenarios would help provide certainty to those businesses subject to the warning requirements of the Act and ensure that the public receives consistent warnings about the exposures that can occur from products or facilities. OEHHA has determined tailored safe harbor warnings for cannabis (marijuana) smoke and delta-9-tetrahydrocannabinol (delta-9-THC) exposures would assist affected businesses and consumers of those products.

¹ All further references are to sections of Title 27, Cal. Code of Regs., unless indicated otherwise.

This rulemaking proposes to add new sections to Article 6:

- Sections 25607.38 and 25607.39 — Cannabis (Marijuana) Smoke from Consumer Products Exposure Warnings — Methods of Transmission and Content;
- Sections 25607.40 and 25607.41 — Delta–9–THC in Ingested Products Exposure Warnings — Methods of Transmission and Content;
- Sections 25607.42 and 25607.43 — Delta–9–THC from Vaping or Dabbing Products Exposure Warnings — Methods of Transmission and Content;
- Sections 25607.44 and 25607.45 — Delta–9–THC from Dermally Applied Products Exposure Warnings — Methods of Transmission and Content;
- Sections 25607.46 and 25607.47 — Cannabis (Marijuana) Smoke and Delta–9–THC Inhalation Exposure Warnings (Environmental Exposures) — Methods of Transmission and Content.

PUBLIC PROCEEDINGS

To be considered, **OEHHA must receive comments by May 18, 2021**, the designated close of the written comment period. All comments will be posted on the OEHHA website at the close of the public comment period. Due to the COVID–19 emergency, OEHHA is providing a 60–day comment period rather than the 45 days required under the Administrative Procedure Act. All written comments will be posted on the OEHHA website at the close of the public comment period.

Because of limited in–office staffing during the COVID–19 emergency, OEHHA strongly recommends that the public submit written information electronically, rather than in paper form. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. In the alternative, comments can be mailed to the address below.

Monet Vela
Office of Environmental Health Hazard
Assessment
1001 I Street, 23rd Floor
P.O. Box 4010
Sacramento, California 95812–4010
Telephone: 916–323–2517

OEHHA encourages all commenters to submit their comments in a format compliant with the accessibility requirements of the Americans with Disabilities Act, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e–mail may be available to third parties.

PUBLIC HEARING

A public hearing on these proposed regulatory amendments will only be scheduled upon request. The hearing would be web–based due to the COVID–19 emergency². To request a hearing, send an e–mail to Monet Vela at monet.vela@oehha.ca.gov or to the address listed above at least 15 days before the close of the comment period, that is no later than May 3, 2021. If one is scheduled, OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and instructions for participating in the hearing.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela at (916) 323–2517, or by e–mail to monet.vela@oehha.ca.gov. Ryan Mahoney is a back–up contact person for inquiries concerning processing of this action and is available at (916) 445–4693 or ryan.mahoney@oehha.ca.gov.

AUTHORITY

Health and Safety Code section 25249.12.

REFERENCE

Health and Safety Code sections 25249.6, 25249.10, 25249.11 and 25249.12

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BACKGROUND

OEHHA is the lead agency that implements Proposition 65³ and has the authority to promulgate and amend regulations to further the purposes of the Act. The Act requires businesses to provide a clear and rea-

² Executive Orders N–25–20 and N–29–20.

³ Health and Safety Code sections 25249.5 et seq., the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as “Proposition 65”. Hereafter referred to as “Proposition 65” or “the Act”.

sonable warning before they cause an exposure to a chemical listed as known to the state to cause cancer or reproductive toxicity.⁴ The Act also prohibits the discharge of listed chemicals to sources of drinking water.⁵ The proposed amendments will adopt new safe harbor warning regulations to address the methods of transmission and content of warnings for exposure to cannabis (marijuana) smoke and delta-9-tetrahydrocannabinol (delta-9-THC).

SPECIFIC BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulatory action will facilitate businesses' compliance with the Act by providing guidance concerning the provision of safe harbor warnings under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's ability to understand the warnings they receive for certain consumer products they may choose to purchase or facilities they may frequent.

NO INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING REGULATIONS

OEHHA has conducted an evaluation and has determined that Article 6 is the only regulation concerning Proposition 65 warnings. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with any other existing state regulations. The action does not change the existing mandatory requirements on businesses subject to Proposition 65, state or local agencies and does not address compliance with any other law or regulation.

LOCAL MANDATE/FISCAL IMPACT

Because Proposition 65 by its terms⁶ does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, nor will there be any costs or savings to the state or in federal funding to the state because of the proposed regulatory action.

⁴ Health and Safety Code sections 25249.6.

⁵ Health and Safety Code sections 25249.5.

⁶ See Health and Safety Code section 25249.11(b).

EFFECT ON HOUSING COSTS

OEHHA has initially determined that the proposed regulatory action will have no effect on housing costs because it does not impose any new mandatory requirements on any business.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The proposed regulatory action provides non-mandatory compliance assistance to businesses subject to the Act by providing guidance on the methods of transmitting and the content of safe harbor warnings for cannabis (marijuana) smoke and delta-9-THC exposures. The proposed warnings are optional. Businesses may choose to use a different method or content for required warnings. OEHHA has therefore made an initial determination that the adoption of this 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 ECONOMIC IMPACT ANALYSIS (GOV. CODE SECTION 11346.3(b))

Creation or Elimination of Jobs within the State of California

The proposed regulatory action will not impact the creation or elimination of jobs within California. The action provides non-mandatory guidance by adding methods of transmitting and the content of safe harbor warnings for cannabis (marijuana) smoke and delta-9-THC exposures.

Creation of New Businesses or Elimination of Existing Businesses within the State of California

The proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within California. The action provides guidance on the methods of transmitting and the content of safe harbor warnings for cannabis (marijuana) smoke and delta-9-THC exposures.

The Expansion of Businesses Currently Doing Business within the State

OEHHA does not anticipate any major impact on the expansion of businesses currently doing business within the state. The action provides guidance on the methods of transmitting and the content of safe harbor warnings for cannabis (marijuana) smoke and delta-9-THC exposures.

Benefits of the Proposed Regulation

Affected businesses will likely benefit from the proposed regulatory action because the amendments provide clarifying guidance concerning the safe harbor warnings for cannabis (marijuana) smoke and delta-9-THC exposures under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's understanding of the risks posed by use of certain consumer products they may choose to purchase or facilities they may frequent.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action. The action does not impose any new mandatory requirements upon private persons or businesses.

EFFECT ON SMALL BUSINESSES

The proposed regulatory action will not adversely impact very small businesses because Proposition 65 is limited by its terms to businesses with 10 or more employees.⁷

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA, would be more effective in carrying out the purpose for which Proposition 65 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.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the proposed regulation, all the information upon which

the regulation is based, and the text of the proposed regulation. These documents are available on OEHHA's website at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any proposed regulation that is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the revised proposed regulation and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and anyone who requests notification from OEHHA of the availability of such change. Copies of the notice and the changed regulation will also be available on the OEHHA Web site at www.oehha.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from Monet Vela at the e-mail or telephone number indicated above. The Final Statement of Reasons will also be available on OEHHA's web site at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NO. 2080–2021–002–02

Project: Sutter Bypass Pumping Plant Rehabilitation Project

Location: Sutter County

Applicant: California Department of Water Resources

Background

The California Department of Water Resources (Applicant) proposes to retrofit structures at Pumping Plant 1, Pumping Plant 2, and Pumping Plant 3 along Sutter Bypass.

The Sutter Bypass Pumping Plant Rehabilitation Project (Project) will take place at three pumping plants located along the East Levee of the Sutter

⁷ Health and Safety Code section 25249.11(b).

Bypass in unincorporated Sutter County, California. Pumping Plant 1, Pumping Plant 2, and Pumping Plant 3 are located approximately 9 miles west, 10 miles southwest, and 14 miles south–southwest of Yuba City, respectively.

The Project will occur in two phases. Phase One is focused on the gravity drain system and includes demolition of the abandoned control buildings at Pumping Plant 1 and Pumping Plant 2 to allow access to the gravity drainpipe inlets; extension of the gravity pipes, replacement of the damaged trash rack systems of the gravity drainpipes, weir/stop log structures, and an automated screw gate system at all three pumping plants; and levee reconstruction and partial filling of the old sump basin at Pumping Plant 3. Phase Two is focused on the pumping plant's intake basins and includes construction of new weir/stop log structures at the inlet of each pumping plant to enable future inspections and maintenance of the trash racks and inlet basins.

The Project activities described above are expected to incidentally take¹ giant garter snake (*Thamnophis gigas*) (GGS) where those activities take place within the Project location. In particular, GGS could be incidentally taken as a result of construction, excavation, handling, and crushing/entombing of individuals on the surface and in burrows by vehicles/equipment and sediment deposition. GGS is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(E).)

GGS individuals are documented as present throughout the Project site and there is suitable GGS habitat within and adjacent to the Project site. Because of the proximity of the nearest documented GGS, dispersal patterns of GGS, and the presence of suitable GGS habitat within the Project site, the United States Fish & Wildlife Service (Service) determined that GGS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of GGS.

According to the Service, the Project will result in the temporary loss of 2.08 acres of upland GGS habitat, and 0.77 acres of aquatic GGS habitat, totaling 2.85 acres of temporary habitat loss. Construction of

the Project will also result in the permanent loss of 0.144 acres of aquatic GGS habitat.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the United States Army Corps of Engineers (USACE) consulted with the Service as required by the ESA. On August 13, 2020, the Service issued a biological opinion (Service file No. 08ESMF00–2020–F–2223) (BO) to USACE. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

The ITS also requires the Applicant to implement and adhere to measures contained within the Project's Biological Assessment (BA).

On February 5, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS and its related BO are consistent with CESA for purposes of the Project and GGS. (Cal. Reg. Notice Register 2010, No. 9–Z, p. 225.)

Determination

CDFW has determined that the ITS, along with its accompanying BO and BA, is consistent with CESA as to the Project and GGS because the mitigation measures contained in the ITS and BO, as well as the conditions in the BA, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of GGS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITS, BO, and BA will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of GGS. The mitigation measures in the ITS, BO, and BA include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) Present environmental awareness training for GGS to construction personnel. This training will instruct workers on how to recognize GGS and their habitat, how they can avoid adverse effects on the GGS, and what to do if they encounter a GGS. If a snake is encountered in the action area, the qualified biologist will be contacted and construction activities will cease until the GGS has left the action area or the determination is made that the GGS will not be harmed. Applicant will report any sighting and any incidental take to the Service and CDFW immediately by

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’...means to catch, capture or kill”).

telephone: Service, (916) 414–6541; and CDFW, (916) 358–2900.

- 2) Inspect areas under vehicles and heavy equipment. Maintenance staff members trained in awareness of GGS will inspect under and around all vehicles and heavy equipment for the presence of wildlife and other special-status species before the start of each workday. The awareness training provided by a qualified biologist will emphasize checking equipment to avoid harming wildlife.
- 3) Deposit spoils in areas that do not provide GGS habitat. When feasible, maintenance staff members will deposit spoils in areas that do not provide suitable GGS upland habitat. Such areas include compacted or gravel roadbeds and recently disked farm fields. If spoils disposal cannot occur as described for this measure, the following measure will be implemented.
- 4) Monitor spoils disposal to ensure avoidance of upland GGS habitat. If upland GGS habitat exists in the action area, excavated spoils will be placed to avoid these areas where possible. A qualified biologist trained in GGS identification will monitor all spoils disposal.
- 5) Conduct pre-activity surveys for GGS before grading spoils piles. Immediately before grading of deposited spoils piles, a qualified biologist will survey planned work areas for GGS and underground refugia. Additionally, a qualified biologist will monitor all work as it occurs. Applicant's grading of deposited spoil piles will occur only during periods when GGS are more likely to be active in aquatic habitat. If GGS are observed before or during work, the following conservation measure will be followed.
- 6) Avoid and protect individual GGS found during work. Upon request of the qualified biologist who observed a GGS in the area, or if a GGS is observed inside the action area during the course of construction, maintenance staff members will stop work within 200 feet of the snake and allow the snake to leave on its own volition. Alternatively, individuals who can handle and relocate GGS (individuals who possess appropriate federal and state permits for handling GGS) may capture and relocate the snake. The Service and CDFW will be notified by telephone or email within 24 hours of a GGS observation in the action area. If the GGS does not leave the action area voluntarily and cannot be effectively captured and relocated unharmed (e.g., if the snake retreats into an underground burrow or below the water surface), project activities in the immediate vicinity of the GGS that may affect the snake will stop as needed to prevent harm to the snake, and the Service and CDFW will be consulted.
- 7) Avoid using materials that may entangle snakes. Products with plastic monofilament or cross-joints in the netting that are bound/stitched (such as straw wattles, fiber rolls, or erosion control blankets), which count trap snakes or other wildlife, will not be used.
- 8) Time ground-disturbing work relative to the active season for GGS. Work conducted in potential GGS habitat will occur between May 1 and October 1. Work in the habitat may also occur between October 1 and November 1 or April 1 and April 30 if ambient air temperatures exceed 75 degrees Fahrenheit (°F) during work activities and maximum daily air temperatures have exceeded 75°F for at least 3 consecutive days immediately preceding work. During these periods, GGS are likely to be active in aquatic habitats and use upland habitats somewhat less. Depending on annual conditions, the rice fields surrounding the action area could be dry in early May, reducing the likelihood for GGS to be present in the local area (GGS likely move to areas where there is rice). Beginning in April, maintenance staff will mobilize equipment and material to the site. No vegetation removal or ground disturbance will occur until May and following completion of biological surveys. If work needs to occur outside these periods, Applicant will coordinate with the Service and CDFW to determine if additional conservation measures are necessary.
- 9) Conduct preconstruction surveys for GGS and delineate GGS habitat. A qualified biologist will survey the planned work areas 24 hours before conducting any work in upland habitat that may support GGS. The surveys will target the presence of snakes. Mowing may first be required to increase the detectability of GGS. Mowing height will be no lower than 6 inches.
- 10) Monitor work in aquatic habitat for GGS. As work is conducted, Applicant staff members trained in the awareness of GGS and a qualified biologist will visually scan aquatic habitat in the action area for GGS. If garter snakes are observed, work will stop until the snake has left on its own, or until a staff member with a handling permit moves it to another location.
- 11) Operate excavators to minimize disturbance of GGS in the active season. Before lowering an excavator bucket, maintenance staff members will lightly brush the bucket across the water surface of the canal and any associated floating aquatic vegetation. The excavator bucket will then be slowly lowered into the water until it

encounters the bottom of the canal. Maintenance staff members and a qualified biologist will visually inspect excavated spoils for GGS while the spoils are being deposited. If GGS are observed, avoidance and protection measures will be implemented.

- 12) Dewater habitat. Aquatic habitat in the work area will be dewatered to the extent feasible. Dewatered aquatic habitat should be kept dry for at least 15 consecutive days before excavation or filling activities begin. If 15 consecutive days are not feasible, then the Service and CDFW will be notified and potential GGS prey items (fish and tadpoles) will be removed by a qualified biologist so that GGS and other wildlife are not attracted to the work area.
- 13) Install, inspect, and maintain GGS fencing. Where site conditions allow, maintenance staff members will install fencing along the action area as a way to divert active snakes away from active construction zones. The action area, including the fencing, will be inspected by a qualified biologist daily during project activities.
- 14) Retain a qualified biologist to be present during all initial ground disturbance and to regularly inspect the project area for the presence of GGS. Following the initial ground disturbance, the biological monitor will be on-site daily and available throughout the duration of construction. If a GGS is encountered during construction activities, the biological monitor will stop construction activities until appropriate corrective measures have been completed or until it is determined that the snake will not be harmed. Capture and relocation of trapped or injured individuals will be conducted as described below:
 - a. If free and unharmed: cease activities in the vicinity. Allow the snake to leave the work site on its own volition.
 - b. If trapped or injured: cease activities in the vicinity. Notify the Service and CDFW. The snake may be moved only by a Service– and CDFW–approved biologist with agency permission.
 - c. Report all sightings to the Sacramento Service and CDFW. The biological monitor must submit all sightings to the California Natural Diversity Database using a field survey form and provide copies to the Service and CDFW. Incidental take must be reported immediately by phone to the Service and CDFW and in writing within one working day.
15. Purchase of 0.267 acres of conservation credits from a CDFW and USFWS approved giant garter

snake conservation bank. Using the applicable methodology, the purchase of 0.267 acres will offset the projected permanent aquatic impacts totaling 0.144 acres resulting from the Project.

Monitoring and Reporting Measures

- 1) In order to monitor whether the amount or extent of incidental take anticipated from implementation of the proposed project is approached or exceeded, the USACE shall adhere to the following reporting requirements. Should this anticipated amount or extent of incidental take be exceeded, the USACE must immediately reinstate formal consultation, as per 50 CFR § 402.16.
 - a. For those components of the action that will result in habitat degradation or modification whereby incidental take in the form of harm is anticipated, the USACE via Applicant shall provide a precise accounting of the total acreage of habitat affected annually to the Service. This report shall also include any information about changes in project implementation that result in habitat disturbance not described in the *Description of the Action* and not analyzed in the biological opinion.
 - b. The USACE or Applicant shall immediately contact the Service’s Sacramento Fish and Wildlife Office (SFWO) at (916) 414–6541 to report direct encounters between listed species, project workers, and their equipment whereby incidental take in the form of harassment, harm, injury, or death occurs. If the encounter occurs after normal working hours, the USACE or Applicant shall contact the SFWO at the earliest possible opportunity the next working day. When injured or killed individuals of the listed species are found, the USACE or Applicant shall follow the steps outlined in the Salvage and Disposition of Individuals section of the BO.

Although not a condition of the BO, CDFW requests a copy of the monitoring reports as well. The reports should include dates construction occurred and the restoration activities performed.

Financial Assurances

- 1) Applicant has provided financial assurances consistent with CESA, in the form of a completed purchase of 0.27 acres of conservation credits from Sutter Basin Conservation Bank as documented by a November 3, 2020, Bill of Sale provided to CDFW.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of GGS, provided the

Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITS, BO, and the BA. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the ITS, BO, or the BA, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)).

CDFW's determination that the Service ITS and BO are consistent with CESA is limited to GGS.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

CHEMICALS LISTED EFFECTIVE MARCH 19, 2021 AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER: MOLYBDENUM TRIOXIDE AND INDIUM TIN OXIDE

Effective March 19, 2021, the Office of Environmental Health Hazard Assessment (OEHHA) is adding molybdenum trioxide (CAS No. 1313–27–5) and indium tin oxide (CAS No. 50926–11–9) to the list of chemicals known to the State of California to cause cancer for purposes of Proposition 65¹. The listing of these chemicals is pursuant to the “Labor Code” listing mechanism².

The basis for the listings was described in a public notice published in the October 9, 2020, issue of the California Regulatory Notice Register (Register 2020, No. 41–Z). The title of the notice was “Notice of Intent to List Chemicals by the Labor Code Mechanism: Molybdenum Trioxide and Indium Tin Oxide.” The publication of the notice initiated a 45–day public comment period³. We received one comment on mo-

lybdenum trioxide. The comment and OEHHA's response are posted with the Notice of Intent to List.

A complete, updated Proposition 65 chemical list is available on the OEHHA website.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE OF INTENT TO LIST CHEMICAL BY THE AUTHORITATIVE BODIES MECHANISM: PERFLUOROCTANOIC ACID

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list *perfluorooctanoic acid* (PFOA) (CAS RN 335–67–1) as known to the state to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65¹). This action is being proposed pursuant to the “Authoritative Bodies” listing mechanism². According to the National Toxicology Program (NTP 2020), PFOA was widely used in manufacturing of a variety of consumer products that included many nonstick applications, such as for clothing and cookware. PFOA is no longer produced in the US and its production and use worldwide was significantly curtailed with the 2019 ban of the compound under the Stockholm Convention on Persistent Organic Pollutants³. However, its persistence in the environment and breakdown of certain other per- and polyfluoroalkyl substances result in continued PFOA exposure.

Background on listing by the Authoritative Bodies mechanism: A chemical must be listed under the Proposition 65 regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing cancer (Section 25306(d)⁴).

¹ Health and Safety Code sections 25249.5 et seq.

² Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.

³ The new POPs under the Stockholm Convention. <http://www.pops.int/TheConvention/ThePOPs/TheNewPOPs/tabid/2511/Default.aspx> (Accessed on 2/18/2021); Text of the Convention. <http://chm.pops.int/Convention/ConventionText/tabid/2232/Default.aspx> (Accessed on 2/18/2021).

⁴ All referenced sections are from Title 27 of the Cal. Code of Regulations.

¹ The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code sections 25249.5, et seq.

² Health and Safety Code section 25249.8(a) and Title 27 Cal. Code of Regs. sections 25904.

³ The comment period was extended an additional 15 days due to the COVID–19 Emergency.

- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(e)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(f)).

NTP is one of several institutions designated as authoritative for the identification of chemicals as causing cancer (Section 25306(m)).

OEHHA is the lead agency for Proposition 65 implementation. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA's determination: *PFOA* meets the criteria for listing as known to the state to cause cancer under Proposition 65, based on findings of the NTP (2020).

Formal identification and sufficiency of evidence for PFOA: In 2020, NTP published a report, entitled *NTP Technical Report on the Toxicology and Carcinogenesis Studies of Perfluorooctanoic Acid (CASRN 335–67–1) Administered in Feed to Sprague Dawley (Hsd:Sprague Dawley® SD®) Rats*, that concludes that the chemical causes cancer (NTP, 2020). This report satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the NTP's discussion of data and conclusions in the report that *PFOA* causes cancer. NTP (2020) states in the Conclusion section of the report's Abstract (page xviii):

“Under the conditions of these 2-year feed studies, there was *clear evidence of carcinogenic activity*...of *PFOA* in male Hsd:Sprague Dawley® SD® rats based on the increased incidence of hepatocellular neoplasms (predominately hepatocellular adenomas) and increased incidence of acinar cell neoplasms (predominately acinar cell adenomas) of the pancreas. The additional effect of perinatal exposure in combination with postnatal exposure was uncertain and limited to the observation of hepatocellular carcinomas.” (Emphasis in original)

The NTP (2020) report states in the main body of the report (pages 88 and 89, respectively):

“In males, the incidences of hepatocellular adenomas were increased in the 40 and 80 ppm groups with and without perinatal exposure and exceeded the historical control range. In addition, hepatocellular carcinomas, a rare neoplasm

(0/340 historical control), occurred in the 300/80 group.”

“Increased incidences of pancreatic acinar cell adenomas and adenocarcinomas were observed in exposed males, as was the combined incidence of these neoplasms. Significantly increased incidences of adenomas in all postweaning exposed groups (36–64%) were higher than the historical control range for adenomas in males (45/340 historical control; range 0–28%) and the occurrence of rare adenocarcinomas (2/340 historical control; range 0–2%) were observed in all postweaning exposure groups (20, 40, and 80 ppm).”

Thus, NTP (2020) found that *PFOA* causes increased incidences of combined malignant and benign tumors at two sites (liver and pancreas) and increased the incidences of rare malignant tumors (hepatocellular carcinoma and pancreatic acinar cell adenocarcinoma) in male rats⁵.

Request for comments: OEHHA is requesting comments as to whether *PFOA* meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings. In order to be considered, **OEHHA must receive comments by May 3, 2021.** This comment period has been extended an additional by 15 days due to the COVID–19 Emergency.

Because of limited in-office staffing during the COVID–19 emergency, OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments>, rather than in paper form.

Comments submitted in paper form may still be mailed or delivered in person to the address below. Please be aware that the CalEPA and OEHHA employees are working remotely due to the COVID–19 emergency, so receipt of materials that are mailed or delivered in person will be delayed.

All non-electronic submissions should be directed to:

⁵ The hepatocellular adenomas observed in male rats in NTP (2020) are also rare in NTP historical controls (2/340; range 0–2%) (NTP 2019a) and (2/489; range 0–2%) (NTP 2019b).

Tyler Saechao
Office of Environmental Health Hazard
Assessment
1001 I Street
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Telephone: 916–445–6900

Comments received during the public comment period will be posted on the OEHHA website after the close of the comment period.

OEHHA encourages all commenters to submit their comments in a format compliant with the accessibility requirements of the Americans with Disabilities Act, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

If you have any questions, please contact Tyler Saechao at Tyler.Saechao@OEHHA.ca.gov or at (916) 445–6900.

References

National Toxicology Program (NTP 2019a). NTP Historical Controls Report, All Routes and Vehicles, Harlan Sprague–Dawley Rats. Version April 2019. US Department of Health and Human Services, NTP, Research Triangle Park, NC. Available from: https://ntp.niehs.nih.gov/ntp/historical_controls/ntp2000_2019/r_hcrpt_allrte20190400.pdf.

National Toxicology Program (NTP 2019b). NTP Historical Controls Report, All Routes and Vehicles, Harlan Sprague–Dawley Rats. Version November 2019. US Department of Health and Human Services, NTP, Research Triangle Park, NC. Available from: https://ntp.niehs.nih.gov/ntp/historical_controls/ntp2000_2019/r_hcrpt_allrte20191100.pdf.

National Toxicology Program (NTP 2020). NTP Technical Report on the Toxicology and Carcinogenesis Studies of Perfluorooctanoic Acid (CASRN 335–67–1) Administered in Feed to Sprague Dawley (Hsd:Sprague Dawley® SD®) Rats. Technical Report Series No. 598. US Department of Health and Human Services, NTP, Research Triangle Park, NC. Available from URL: https://ntp.niehs.nih.gov/ntp/htdocs/lt_rpts/tr598_508.pdf.

DECISION NOT TO PROCEED

VETERINARY MEDICAL BOARD

NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code section 11347

Veterinary Medical Board

Re: Notice of Proposed Rulemaking concerning
Duties of a Supervising Veterinarian

Pursuant to Government Code Section 11347, the Veterinary Medical Board (Board) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register (CRNR) on *June 19, 2020, Register 2020, No. 25–Z*. The proposed rulemaking concerned *Duties of a Supervising Veterinarian*. (OAL Notice Z2020–0609–02.)

Any interested person with questions concerning this rulemaking should contact *Justin Sotelo* at either 916–282–6911 or by e-mail at: Justin.Sotelo@dca.ca.gov. The Board will also post this Notice of Decision Not to Proceed on its website.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

Bureau of Real Estate Appraisers
File # 2021–0114–02
AB 2113

BPC section 135.4, effective January 1, 2021 reads:

(a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States

Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110–181, under Public Law 109–163, or under Section 602(b) of Title VI of Division F of Public Law 111–8.

(b) Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.

(c) A board may adopt regulations necessary to administer this section.

Title 10

Amend: 3561, 3569, 3570, 3602, 3603

Filed 03/08/2021

Agency Contact: Kyle Muteff (916) 341–6126

California Architects Board

File # 2021–0125–01

Delegation of Certain Functions

This action without regulatory effect repeals the regulatory delegation of certain board functions to the board’s executive director where that delegation has been superseded by the adoption of Business and Professions Code section 5620.2.

Title 16

Repeal: 2603

Filed 03/09/2021

Agency Contact: Stacy Townsend (916) 575–7235

Department of Toxic Substances Control

File # 2020–1117–02

Amendment to the P075 Listing for Nicotine

This action without substantive effect removes nicotine patches, gums, and lozenges that are FDA–approved over–the–counter nicotine replacement therapies from the list of hazardous wastes when discarded.

Title 22

Amend: 66261.33

Filed 03/09/2021

Agency Contact: Jackie Buttle (916) 255–3730

Fish and Game Commission

File # 2021–0226–02

2021 Recreational Clam, Sand Crab, and Shrimp Gear Emergency Rule

This action by the Fish and Game Commission prohibits the use of hydraulic pumps for the recreational harvest of clams, sand crabs, and shrimp.

Title 14

Amend: 29.20, 29.80

Filed 03/08/2021

Effective 03/08/2021

Agency Contact: David Thesell (916) 653–4899

State Mining and Geology Board

File # 2021–0126–01

Reclamation Plan Appeals

In this regular rulemaking, the State Mining and Geology Board (the “Board”) is amending regulations for appeals to the Board concerning the denial of approval of a reclamation plan pursuant to Public Resources Code section 2770.

Title 14

Amend: 3650, 3651, 3652, 3653, 3654, 3655, 3656, 3657, 3658, 3659

Filed 03/10/2021

Effective 07/01/2021

Agency Contact: Matthew Livers (916) 214–2066

**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.