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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 3. DEPARTMENT OF
FOOD AND AGRICULTURE**

The Department of Food and Agriculture (Department) proposes to revise title 3 of the California Code of Regulations (CCR) Section 3700, subsection (b) pertaining to Oak Mortality Disease Control (Sudden Oak Death or “SOD”).

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 24, 2021. The Department will consider only comments received at the Department offices by that date or postmarked no later than May 24, 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
916.403.6682
916.651.2900 (FAX)

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 of Food and Agriculture, 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 Section 3700 pursuant to the authority vested by Sections 407 and 5321 and 5322 of the Food and Agricultural Code (FAC) of California.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 24.5, 5321 and 5322 of the FAC.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The California Department of Food and Agriculture (Department) adopted Section 3700 to provide authority for the State to mitigate the effects of SOD on the agricultural industry and native tree stands, by establishing a program to arrest the artificial spread of the disease to unregulated areas, and thereby protect California’s agricultural industry and environment. Subsection (b) lists the counties within the state of California that are regulated against the pest, its hosts, and possible carriers. This regulation amends the list in Section 3700 (b) to add Del Norte county to the list of regulated areas. The list was amended on November 3, 2020 on an emergency basis.

EXISTING LAWS AND 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.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest, which is a mandated statutory goal.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENTS

Preventing the artificial spread of the SOD economically benefits all Californians and businesses involved in the production or sale of host material located outside the infested regulated area. Tourism in the unregulated area isn't negatively impacted by restrictions on access to parks and forests that would be necessary either to prevent disease spread or to ensure protection from hazardous trees, or due to loss of the host trees that would affect parks' and forests' visual aesthetic. Local governments do not face unexpected costs when they must remove infected dead or hazardous trees in parks, parkways, along roadsides or adjacent to public buildings. Homeowners do not have to use protective sprays to protect their specimen oaks or face costs for the removal of hazardous trees and loss of their property values.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department is the only agency which can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation 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 environmental impacts and mitigation when implementing the Statewide Plant

Pest Prevention and Management Program activities related to SOD.

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: None.

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: The Department's operational program costs for the implementation of the entire control program for fiscal year 2020/2021 is \$1,505,591. These funds comprise federal funding obtained by the Department under contract with the USDA in the Department's continued effort to prevent the artificial spread of the disease. The Department's program costs, including that which is related to staff time and laboratory supplies, is derived from this source of funding. Additionally, the remaining federal funding is then dispersed by the Department to participating California county agricultural commissioners through cooperative agreements with each county. This money funds the commissioners to conduct required surveys and certification activities. No State General Fund money, other than staff costs dedicated to the adoption of any regulatory change, is used to sustain this program. If the Department fails to permanently adopt this regulation, the funds supplied to the state from the USDA contract to prevent artificial spread of SOD within the state would likely be lost, as the USDA would likely regulate the entire State. However, the Department and counties would still be obligated to provide certification for host material moving interstate or internationally, and thus, the Department's and counties' workloads would increase. Rather than having to provide certification for interstate and international shippers located in the 16 current regulated counties, certification would be necessary throughout the State and would lack reimbursement through federal funds.

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

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

The Department does not anticipate that these amendments will affect small businesses. Businesses, such as nurseries, that are in an infected area are subjected to federal rules under the federal domestic quarantine for *Phytophthora ramorum*. The proposed amendment is a parallel State regulation for the intrastate movement of associated articles and host material. Its implementation will avoid disruption to small business activities in the quarantine area. Any associated costs are expected to be minimal.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department has concluded that this Section 3700 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, and (3) will have no impact on the expansion of businesses within the State of California. As stated above under ‘Anticipated Benefits of the Proposed Amendments,’ the prevention of the artificial spread of the SOD would economically benefit the health and welfare of California residents and the state’s environment by protecting trees in public parks and on private property. Public parks would avoid the loss of the host trees that would affect parks’ and forests’ visual aesthetic and potentially harm tourism. Homeowners would avoid the costs of protective sprays to protect their specimen oaks or the costs for the removal of hazardous trees and loss of their property values.

Small business determination: The amendment of Section 3700 will provide authority for the Department to regulate against the pest causing SOD in Del Norte 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 effect 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 statements or 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 Drive, Suite #200
 Sacramento, CA 95833
erin.lovig@cdfa.ca.gov
 916.654.1017
 916.651.2900 (FAX)

In her absence, you may contact Karen Olmstead at (916) 403-6879. Questions regarding the substance of the proposed regulation should be directed to Erin Lovig.

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 at this website.

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

The Department 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 (contact) 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 (contact) named herein.

**TITLE 3. DEPARTMENT OF
FOOD AND AGRICULTURE**

The Department of Food and Agriculture proposes to repeal Sections 3800.1, 3800.2, 3802, 3803, 3804, 3806, 3808, 3810, 3811, 3815, 3816, 3820, 3821, 3821.1, 3822, 3823, 3823.1, 3824, 3825, 3826, 3826.1, and 3830 of Title 3 of the California Code of Regulations (CCR) pertaining to the San Joaquin Valley Quality Cotton District.

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 regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on May 24, 2021. The Department will consider only comments received at the Department offices by that time or postmarked no later than May 24, 2021. Submit comments to:

Erin Lovig, Senior Environmental Scientist
Supervisor
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Drive, Suite #200
Sacramento, CA 95833
Erin.lovig@cdfa.ca.gov
916.403.6650
916.651.2900 (FAX)

Unless there are substantial changes to the proposed regulations prior to repeal, 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 no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Existing law also provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which she is directed or authorized to administer or enforce. (FAC Sections 401, 407).

Anticipated Benefits from This Regulatory Action

Assembly Bill 1389, Chapter 383 (2) was approved by the Governor and filed with the Secretary of State on September 27, 2013. This Bill made provisions relating to the San Joaquin Valley Quality Cotton District and related regulations inoperative on January 1, 2014, except for certified and color cotton. The Department no longer has authority to enforce the listed regulations and is proposing that they be repealed.

It is the Department's responsibility to repeal regulations that the Department no longer has authority to enforce.

REPEALED TEXT

The effect of the repeal of this regulation is to remove the following regulations.

- Sections 3800.1. Acala and Pima Quality Standards.
- 3800.2. Referendum.
- 3802. Performance Testing of Nonapproved Cottons Developed Outside the San Joaquin Valley Quality Cotton District.
- 3803. Exemption.
- 3804. Seed Distribution.
- 3806. Ginning.
- 3808. Marketing.
- 3810. Nonapproved Cotton Breeding Programs.
- 3811. Nonapproved Cotton Performance Testing.
- 3815. Public Agency Nonapproved Cotton Agronomic Research.
- 3816. Private Agronomic Research on Nonapproved Cotton.
- 3820. Board Review and Comment.

- 3821. Cottonseed Arriving from Outside the District.
- 3821.1. Hold Used Cotton Machinery for Inspection in San Joaquin Valley Quality Cotton District.
- 3822. Planting and Harvesting Notification.
- 3823. Nonapproved White Cotton Ginning, Including California Upland and California Pima Cotton.
- 3823.1. Nonapproved Colored Cotton Ginning.
- 3824. Nonapproved Cotton Lint Storage and Identification, Including California Upland, California Pima, and California Naturally Colored Cotton.
- 3825. Nonapproved Cottonseed Disposal.
- 3826. Nonapproved White Cottonseed Delinting, Including California Upland and California Pima Cotton.
- 3826.1. Nonapproved Colored Cottonseed Delinting. [Renumbered]
- 3830. Refusal of Applications.

- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California

The Department is not aware of any specific benefits the amendment of these regulations will have on worker safety. The proposed repeal of these regulations ensures the responsibility to repeal regulations that the Department no longer has authority to enforce.

ALTERNATIVES CONSIDERED

The Department must determine that no reasonable alternative it considered to the regulations or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice. Alternative approaches would not be authorized under the Food and Agricultural Code. It is the Department’s responsibility to repeal regulations that the Department no longer has authority to enforce.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

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

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

Small Business Determination

The Department has determined that the proposed regulations should not affect small businesses because the repeal of these regulations removes all regulatory requirements and there are no costs associated with compliance.

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;

AUTHORITY

The Department proposes to repeal CCR Sections 3800.1, 3800.2, 3802, 3803, 3804, 3806, 3808, 3810, 3811, 3815, 3816, 3820, 3821, 3821.1, 3822, 3823, 3823.1, 3824, 3825, 3826, 3826.1, and 3830 pursuant to the authority vested by Sections 401 and 407 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 52851–52993 of the Food and Agricultural Code.

CONTACT

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 to is:

Erin Lovig, Senior Environmental Scientist
Supervisor
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Drive, Suite #200
Sacramento, CA 95833
Erin.Lovig@cdfa.ca.gov
916.403.6650
916.651.2900 (FAX)

In her absence, you may contact Rachel Avila at (916) 403-6813. Questions regarding the substance of the proposed regulations should be directed to Rachel Avila.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its website (www.cdfa.ca.gov/plant/Regulations.html).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has made 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, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations repealed by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 4. HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND AND ADD RULE 1588, HORSE INELIGIBLE TO START IN A RACE RULE 1866.3, INTRA-ARTICULAR INJECTIONS RESTRICTED

The California Horse Racing Board (Board) proposes to amend the regulation described below

after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1588, Horse Ineligible to Start in a Race, to modify subsection 1588(a)(13) to state that a horse is ineligible to start in a race if it has received an intra-articular injection within fourteen days prior to the scheduled post-time for a race in which it is entered.

Additionally, the Board proposes to add Board Rule 1866.3, Intra-articular Injections Restricted, to establish timelines for prohibiting horses from completing various activities after being administered either intra-articular joint injections or a corticosteroid intra-articular joint injection into a fetlock joint. No horse will be permitted to race if it has received an intra-articular joint injection within fourteen (14) days of race day. Furthermore, if a horse has received a corticosteroid intra-articular joint injection into a fetlock joint, that horse will not be permitted to race for thirty (30) days nor complete a timed workout for ten (10) days.

The addition of Board Rule 1866.3 also provides that the official veterinarian shall place any horse receiving an intra-articular injection treatment on the Veterinarian's List, and that any person in violation of Board Rule 1866.3 shall be considered to have committed a prohibited veterinary practice and is subject to a Category A penalty, pursuant to Board Rule 1843.3, Penalties for Medication Violations.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes **on May 24, 2021**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

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

AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19562 and 19580, Business and Professions Code (BPC). Reference: Sections 19440, 19562 and 19580, BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19440 states the Board shall have all powers necessary and proper to enable it to carry out the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing pari-mutuel wagering. BPC section 19562 provides the Board may prescribe rules, regulations, and conditions under which all horse races with wagering on their results shall be conducted in the State of California. BPC section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state.

Board Rule 1581, Racing Secretary to Establish Conditions, provides that the racing secretary may establish the conditions for any race, including any conditions necessary to provide and conduct the racing association's race meeting. Furthermore, Board Rule 1581 provides that any conditions that are based on a participating horse's use or non-use of a drug substance or medication, or the presence or lack of presence of a drug substance or medication in a biological test sample taken from a participating horse, shall be agreed to in advance in writing by the acknowledged horsemen's organization.

Every racing association in California, with the approval of every appropriate horsemen's organization, has agreed, pursuant to Board Rule 1581, to provide that no horse shall be permitted to race if it has received an intra-articular joint injection within fourteen days of race day. Every racing association, with the approval of every appropriate horsemen's organization, has also agreed to provide that no horse shall be permitted to race if it has received a corticosteroid intra-articular joint injection into a fetlock joint, including both the metacarpophalangeal joints and the metatarsophalangeal joints, within thirty

days of race day, nor shall that horse be permitted to complete a timed workout for ten days after injection.

These agreements, pursuant to Board Rule 1581, have become standard industry practice to restrict intra-articular injections at race meetings. The Board currently has no regulation restricting intra-articular joint injections in the manner of the agreements pursuant to Board Rule 1581. The proposed rulemaking aims to codify the proposed restrictions to intra-articular joint injections, already an industry practice, in Board regulations.

New Rule 1866.3 implements temporary prohibitions from racing for horses treated with intra-articular joint injections and implements temporary prohibitions from racing or completing timed workouts for horses treated with corticosteroid intra-articular joint injections into a fetlock joint. New subsection 1866.3(a) provides that no horse shall be permitted to race if it has received an intra-articular joint injection within fourteen days of race day. New subsection 1866.3(b) provides that no horse shall be permitted to race if it has received a corticosteroid intra-articular joint injection into a fetlock joint within thirty days of race day. New subsection 1866.3(b)(1) defines fetlock joint, providing that the fetlock joint includes both the metacarpophalangeal joints and the metatarsophalangeal joints. New subsection 1866.3(b)(2) provides that no horse shall be permitted to complete a timed workout if it has received a corticosteroid intra-articular injection into the fetlock joint within the last ten days. New subsection 1866.3(c) provides that the official veterinarian shall place any horse receiving intra-articular injection treatment on the Veterinarian's List, pursuant to Board Rule 1866, Veterinarian's List, consistent with this regulation. Lastly, new subsection 1866.3(d) provides that any person in violation of this rule shall be considered to have committed a prohibited veterinary practice and is subject to a Category A penalty pursuant to Board Rule 1843.3, Penalties for Medication Violations. Category A penalties carry a minimum one-year suspension and \$10,000 fine.

The proposed amendment to Board Rule 1588 modifies subsection 1588(a)(13) to provide that in addition to any other valid ground or reason, a horse is ineligible to start in any race when such horse has received an intra-articular injection within the previous fourteen days prior to the scheduled post-time for the race in which it is entered. The subsection was modified to be consistent with the new provisions of Board Rule 1866.3.

FORMS INCORPORATED BY REFERENCE

None.

**POLICY STATEMENT OVERVIEW OF
ANTICIPATED BENEFITS OF PROPOSAL**

The proposed amendment to Board Rule 1588 and the proposed addition of Board Rule 1866.3 implement temporary prohibitions from racing and timed workouts for horses treated with intra-articular joint injections, including intra-articular joint injections into the fetlock joint. Furthermore, the rulemaking provides a definition for the fetlock joint, and provides that horses treated with intra-articular joint injections be placed on the Veterinarian's List. Lastly, the rulemaking provides that persons violating the provisions of Board Rule 1866.3 will be subject to a Category A penalty pursuant to Board Rule 1843.3.

The Board anticipates that the proposed rulemaking will have the benefit of safeguarding the health and welfare of California racehorses and their riders. Intra-articular joint injections are used to treat musculoskeletal injuries in racehorses. These types of injuries are common among equine athletes because racing and training require horses to move at high speeds and exert large pressures on joints, tendons, and suspensory apparatus. Musculoskeletal injuries may disrupt racing and training, often necessitating prolonged periods of rest or, in severe cases, retirement or euthanasia.

Musculoskeletal injuries in the fetlock joints are particularly worrying. Injuries in the fetlock joint are associated with increased rates of catastrophic breakdowns in racehorses. Therefore, it is necessary for the health, safety and wellbeing of racehorses that the Board ensure that horses being treated for these types of injuries have sufficient time to rest and heal without the extreme strain placed on them during racing and timed workouts. Board Rule 1866.3 and Board Rule 1588 ensure that horses treated for these injuries with intra-articular joint injections have adequate time to recover before resuming racing and timed workouts. This has the benefit of minimizing the risk of catastrophic breakdown or further injury to the racehorse which would endanger the life of the horse and the rider. Therefore, Board Rule 1588 and Board Rule 1866.3 promote safety and welfare in California racing.

CONSISTENCY EVALUATION

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

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed amendment to Board Rule 1588 and the addition of Board Rule 1866.3 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

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

Significant effect on housing costs: none.

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT**

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

The proposed amendment to Board Rule 1588 and the proposed addition of Board Rule 1866.3 implement temporary prohibitions from racing and timed workouts for horses treated with intra-articular joint injections, including intra-articular joint injections into the fetlock joint. Furthermore, the rulemaking provides a definition for the fetlock joint, and provides that horses treated with intra-articular joint injections be placed on the Veterinarian's List. Lastly, the rulemaking provides that persons violating the provisions of Board Rule 1866.3 will be subject to a Category A penalty pursuant to Board Rule 1843.3.

The proposed regulation will impact a limited number of Board-licensed trainers, assistant trainers, and veterinarians. The regulation's effect will be limited in scale, and the effect will be temporary. The net economic effect of the proposed regulation will be minimal because few licensees will be affected by the regulation at any one time, the effects will be short-lived, and compliance with the regulation will have no cost savings or incursions.

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

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

Significant effect on housing costs: none

The adoption of the proposed amendment to Board Rule 1588 and the addition of Rule 1866.3 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed amendment to Board Rule 1588 and the proposed addition of Board Rule 1866.3 is a benefit to the health and welfare of California residents because it promotes the safety and health of racehorses and their riders in California.

Effect on small businesses: none. The proposal to amend Board Rule 1588 and add Board Rule 1866.3 does not affect small businesses because horse racing is not a small business under GC section 11342.610.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

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

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

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

Amanda Drummond,
Policy, Regulations, and Administrative Hearings
Manager
California Horse Racing Board
Telephone (916) 263-6033
E-mail: amdrummond@chrb.ca.gov

AVAILABILITY OF FINAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

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

AVAILABILITY OF MODIFIED TEXT

After holding a hearing, if requested, and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Zachary Voss at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

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

BOARD WEB ACCESS

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

**TITLE 9. DEPARTMENT OF
STATE HOSPITALS**

CHANGES IN THE REGULATIONS OF
THE CALIFORNIA DEPARTMENT OF
STATE HOSPITALS

Contraband Search and Confiscation Regulations

The Department of State Hospitals (Department) proposes the adoption of the regulations described in this document. A public hearing is not currently scheduled. No later than 15 days prior to the close of the public comment period, any interested person, or their duly authorized representative, may make a written request for a public hearing pursuant to Section 11346.8 of the Government Code, and a public hearing will be held. Requests for a public hearing should be sent to the address or number below. If a request for public hearing is received, the date, time, and means by which the public hearing will be conducted will be provided in a separate notice.

Any interested person or their representative may provide comments relevant to the proposed regulatory action to the Department in writing, email, or facsimile to the address or number listed below. The public comment period for this regulatory action will begin on April 9, 2021.

For any written comment to be considered, it must be received by the Department no later than the close of the 45-day comment period, which is May 24, 2021. Comments sent to persons or addresses other than those specified in this document or received after the date and time specified may be included in the record of this proposed regulatory action, but may not be summarized or responded to. For consideration, written comments shall be submitted to:

California Department of State Hospitals
Regulations and Policy Unit
Contraband Search and Confiscation
1600 9th Street, Room 410
Sacramento, CA 95814
Tel: (916) 654-2478, Fax: (916) 651-3090
Email: DSH.Regulations@dsh.ca.gov

AUTHORITY AND REFERENCE

Welfare and Institutions Code sections 4005.1, 4011, 4027, 4101, 4109, 4139, 4312, and 7295; Penal Code sections 830.3, 830.38, and 830.5.

INFORMATIVE DIGEST AND
POLICY OVERVIEW

Existing laws prohibit patients in a state hospital from possessing various items identified either in law, regulations, or on a contraband list developed by the Department except as authorized by law or the Department.

These proposed regulations, to assist in the enforcement of these laws and ensure contraband is identified and secured as expeditiously as possible, would establish the ability for identified Department personnel who are not peace officers to monitor and perform searches in various areas of the facility as well as perform pat-down searches if there is a reasonable belief that the patient is in possession of contraband or there is a threat to the safety and security of the patients, hospital staff, or the facility. Patients committed to the Department are primarily observed by non-peace officer staff. As such, non-peace officers are often the first to observe and identify contraband in the possession of a patient. These regulations provide needed assistance for Department police officers by identifying the contraband early and securing the contraband.

Existing laws also prohibit people from delivering, or attempting to deliver, various items identified either directly in law, on the statewide contraband list developed by the Department, or on the contraband list developed by each Department facility unless otherwise authorized by law or the Department.

While Department police officers have the authority to perform searches for contraband and other items as necessary in the performance of their duties, these regulations clarify this authority as it relates to searches for contraband on the grounds of a Department facility and are not intended to limit or expand any existing authority for peace officers to search for and either secure or confiscate contraband. These regulations detail the types of searches permitted by Department police officers and the conditions under which certain types of searches are performed.

These proposed regulations also define the types of searches all persons entering a Department facility are subject to. These searches may be performed, as determined to be necessary, on the person seeking to enter the Department facility as well as the property of that person. Items identified as contraband are prohibited from entry, and the person with the contraband may be asked to remove the contraband from facility grounds. Items which are illegal and in violation of state or federal laws are subject to confiscation and the person with the item subject to criminal prosecution.

These regulations will assist in reducing the amount of contrabands entering facility grounds as well as increasing the detection and confiscation or securing of contrabands in the possession of patients. The increased detection of contrabands will increase the safety and security of the patients, Department staff, and the public.

ANTICIPATED BENEFITS

These proposed regulations would increase the ability of Department personnel to identify and secure contrabands within the facility in the possession of a patient. These proposed regulations also enhance the ability for the Department to detect and prevent the entry of contrabands into the facility by clarifying the types of searches people seeking entry into the facility are subject to. The combination of defined search methods, increased public awareness of the types of searches performed, and the ability of select Department staff to monitor and search for contrabands is anticipated to reduce the amount of contrabands found in and around Department facility grounds, increasing the safety and security of the patients, Department staff, and the public.

EVALUATIONS AND DETERMINATION

Mandate on local agencies and school districts: None.

Cost to any local agency or school district which 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.

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

Significant effect on housing costs: None.

Effect on small business: The proposed regulations do not affect small businesses because the proposed regulations will only affect patients and state hospital facilities.

Cost impacts to a representative private person or business: None.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

During the development of this proposed regulatory action, the Department reviewed any existing regulations on this topic and concluded that the proposed regulation is neither inconsistent nor incompatible with existing state regulations or statutes. In arriving at this conclusion, the Department reviewed the Welfare and Institutions Code, Penal Code, and its own regulations in title 9 of the California Code of Regulations.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS AND INDIVIDUALS

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

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESS

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.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed 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 proposed regulations benefit the health and welfare of California residents, worker safety, and the state's environment.

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 statements or arguments with respect to alternatives to the proposed regulation during the comment period

CONTACT PERSONS

The primary contact for this regulatory action is Tarik Allen, and the backup contact is Sylvester Okeke. They can be reached by contacting the Regulations and Policy Unit phone number at (916) 654-2478.

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

Department staff has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic impacts of the proposal and all the information upon which the proposal is based, including an ISOR for the proposed regulatory action and the proposed text (the “express terms”) of the regulation.

Copies of the proposed regulation text and the ISOR may be accessed on the Department’s website, listed below, or may be obtained from the Department using the contact information provided in this document.

Further, interested persons may direct non-substantive inquiries concerning the proposed regulatory action to Tarik Allen, Regulations Coordinator, at (916) 654-2478. The Department has compiled a record of this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After the Department holds a public hearing and considers all timely and relevant comments, it 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, except for grammatical changes, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Department adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of the contact persons indicated above. The Department will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**AVAILABILITY OF THE
FINAL STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons (FSOR) shall be available and copies may be requested from the contact persons in this notice or may be

accessed on the Department’s Internet website listed below.

**AVAILABILITY OF
DOCUMENTS ON THE INTERNET**

This notice, the ISOR, the proposed regulation text, and all subsequent regulatory documents, including the FSOR, when completed, are available on the Department’s website at <https://www.dsh.ca.gov/Publications/Regulations.html>.

**TITLE 11. COMMISSION ON PEACE
OFFICER STANDARDS AND TRAINING**

**MINIMUM TRAINING STANDARDS
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 24, 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 Julie Gorwood at julie.gorwood@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

The proposed revision to Commission Regulation 1005 would designate Basic Course Waiver form POST 2–267 specifically for Regular Basic Course Waiver applicants and add a new Specialized Investigators’ Basic Course Waiver form POST 2–353.

Currently the same form, POST 2–267, is used to meet the waiver requirements for individuals desiring to use out-of-state training and experience to meet the California basic training requirements. Individuals can apply for either the Regular Basic Course Waiver or the Specialized Investigators’ Basic Course Waiver; however, the requirements outlined on the current form are only applicable to the Regular Basic Course applicants. To correct this oversight, staff proposed the adoption of the Specialized Investigators’ Basic Course Waiver Application, POST 2–353, which outlines the requirements specific to investigative applicants. By designating two separate Basic Course Waiver forms, it will clarify eligibility requirements for each waiver, avoid confusion regarding proper document submission, training requirements, and simplify which basic course the waiver will satisfy.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulations will be clarification of eligibility and training requirements for out-of-state or federal law enforcement applicants who wish to apply for a Regular Basic Course Waiver or Specialized Investigators’ Basic Course Waiver, 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 Basic Course Waiver application.

BENEFITS ANTICIPATED

The benefits of proposed amendments to the regulation will be to 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.

FORMS INCORPORATED BY REFERENCE

The following forms are incorporated by reference:

- Regular Basic Course Waiver form POST 2–267 (10/2021)
- Specialized Investigators’ Basic Course Waiver form POST 2–353 (10/2021)

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 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 require 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 language will not affect small business because the amended language creates two separate Basic Course Waiver forms to clarify eligibility and

training requirements needed to apply for each waiver. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training 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: 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 to the regulations will be to 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.

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 Julie Gorwood, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-3915. 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.

**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 16. BUREAU OF
AUTOMOTIVE REPAIR**

DISCIPLINARY GUIDELINES AMENDMENTS

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs, Bureau of Automotive Repair (hereinafter "Bureau" or "BAR") is proposing to take the actions described in the Informative Digest.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, to be considered by the Bureau must be received by the Bureau at its office no later than **5:00 p.m. on Tuesday, May 25, 2021**, or must be received by the Bureau at the above-referenced hearing, if a hearing is held.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 480, 9882, 9884.2, 9884.7, 9884.12, 9889.1, 9889.2, 9889.3, and 9889.4, of the Business and Professions Code, Section 11400.20 of the Government Code, and Section 44072.1 of the Health and Safety Code to implement, interpret, or make specific Sections 480, 9884.2, 9884.7, 9884.12, 9889.1, 9889.2, 9889.3, and 9889.4 of the Business and Professions Code, Sections 11400.20 and 11425.50(e) of the Government Code, and Section 44072.1 of the Health and Safety Code, the Bureau is proposing to amend section 3395.4 of Article 12 of Chapter 1, Division 33, Title 16, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau is proposing to amend section 3395.4 of Title 16 of the California Code of Regulations and the incorporated by reference *Guidelines for Disciplinary Penalties and Terms of Probation*, dated January 2020 (“Disciplinary Guidelines”), replacing the previous revision date, March 2016. This proposal amends the Disciplinary Guidelines to clarify training and add a rehabilitative option for respondents who have demonstrated an insufficient understanding of either the laws and regulations protecting consumers in repair transactions, or the technical aspects of automotive repair. Specifically, administrative law judges (ALJs) and the Bureau would have the option to require, as a condition of probation, training in compliance with specified parts of the Automotive Repair Act or technical training.

Respondents who are required to complete training in compliance with laws and regulations would obtain this training that meets the requirements specified in the *Disciplinary Guidelines*. The requirements of this section will help ensure respondents receive training in how to achieve and maintain compliance with the laws and regulations that is relative to the operation of their automotive repair business and that is consistent with the terms or conditions of probation.

This proposal also amends the Disciplinary Guidelines’ listing of factors in mitigation that should be considered to clarify the Bureau’s role in dispute resolution from existing language stating the Bureau ‘suggests’ a resolution to a consumer complaint to language stating the Bureau ‘mediates’ a resolution to a consumer complaint. While actively involved in the resolution of consumer complaints, the Bureau’s role is not to prescribe a resolution. Rather, representatives work with consumers and respondents to satisfactorily resolve each complaint. Thus, amending the current statement is necessary to ensure the Disciplinary

Guidelines accurately reflect the consumer complaint process.

This proposal also amends the Disciplinary Guidelines to clarify the factors listed as mitigation in disciplinary matters are not required to be the only source of circumstances relied upon to influence whether to issue a disciplinary order nor in determining the terms of a disciplinary action being issued. This will provide clarity for interested parties by emphasizing the enumerated mitigation factors are not intended to be limiting in nature.

This proposal also amends the Disciplinary Guidelines by replacing existing model disciplinary order language. The revised model language will maintain consistency and clarity throughout the Guidelines by clearly identifying which language should be used in which type of administrative disciplinary action.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

Benefits of the Regulation to the Health and Welfare of California Residents:

BAR has made an initial determination that the proposed regulatory action will have a positive impact on the health and welfare of California citizens to the extent it promotes compliance with laws and regulations that protect consumers.

Benefits of the Regulation to the State’s Environment:

BAR has made an initial determination the proposed regulatory action will benefit the State’s environment because those licensees who have gone through the disciplinary process and received the acceptable laws and regulations training will be better able to assist consumers and perform better inspections and repairs thereby reducing harmful smog-forming pollutants.

Benefits of the regulation to worker safety:

BAR has determined the proposed regulatory action will not affect worker safety.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

After reviewing existing state regulations relating to or affecting this regulatory proposal, BAR has determined that this proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

Guidelines for Disciplinary Orders and Terms of Probation [Rev. January 2020]

DISCLOSURES REGARDING THE
PROPOSED ACTION

Mandated by Federal Law or Regulations:

None.

Local Mandate:

None.

FISCAL IMPACT ESTIMATES

Costs to any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None.

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

This proposal does not change the fine amounts for violations but provides a more accurate overview of BAR's processes in formal disciplinary actions, which will provide greater clarity to licensees, consumers, the Office of Attorney General, and ALJs by outlining relevant and transparent standards directly related to violations outlined in law.

BAR does not anticipate any additional workload or costs resulting from the proposed regulations.

Because the proposal does not change fine amounts no additional revenues from fines are anticipated.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Effect on Housing:

None.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

The Bureau of Automotive Repair has made an initial determination that this action will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, and will not have any 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 regulatory proposal updates and clarifies various provisions of the *Disciplinary Guidelines* and clarifies standards for training in compliance with laws and regulations as directed to licensees and registrants who have been instructed under the terms or conditions of probation in a disciplinary order to take a course that meets the proposed Bureau-prescribed standards. These standards are California-specific.

For more on benefits of the regulatory proposal, see above in this notice.

Cost Impact on Representative Private Person or Business:

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

Any costs to develop curricula for a course on BAR laws and regulations may be passed on to the individual respondent completing training; however, because the Bureau does not regulate tuition or course fees, the actual costs, if any, are indeterminate. It is important to note that course fees are typically based on the competitive marketplace.

BUSINESS REPORTING REQUIREMENTS

None.

EFFECT ON SMALL BUSINESS

The Bureau of Automotive Repair has made an initial determination that this action will not have any significant, statewide adverse economic impact directly affecting small businesses, including the ability of California businesses to compete with businesses in other states, because the regulatory proposal updates and clarifies various provisions of the *Disciplinary Guidelines* and clarifies standards for training in compliance with laws and regulations as directed to licensees and registrants who have been instructed under the terms or conditions of probation in a disciplinary order to take a course that meets the proposed Bureau prescribed standards. Licensees and registrants required to complete a course in compliance with laws and regulations training will likely incur expenses similar to disciplinary orders made under the existing terms, which differ in that they require respondents to exercise their own discretion in determining whether the training being sought is both relevant to the adjudicated violation and acceptable to the Bureau.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Bureau must determine that no reasonable alternative that it considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation 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 in writing relevant to the above determinations.

CONTACT PERSON

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

Lucy Sarkisyan
Bureau of Automotive Repair
10949 N. Mather Boulevard
Rancho Cordova, CA 95670
Telephone: (916) 403-8560
E-mail: Lusine.Sarkisyan@dca.ca.gov

The backup contact person is:

Holly O'Connor
Bureau of Automotive Repair
10949 N. Mather Boulevard
Rancho Cordova, CA 95670
Telephone: (916) 403-8627
E-mail: Holly.OConnor@dca.ca.gov

INITIAL STATEMENT OF
REASONS AND INFORMATION

BAR has prepared an Initial Statement of Reasons of 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, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding any requested hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau 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 Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Lucy Sarkisyan at the address indicated above. The Bureau 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
RULEMAKING FILE AND THE FINAL
STATEMENT OF REASONS

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 above.

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 above, or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR's website at https://bar.ca.gov/About_BAR/Regulatory_Actions.aspx.

**TITLE 16. DENTAL HYGIENE
BOARD OF CALIFORNIA**

DEFINITIONS, SECTION 1103

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice must be received by the Board at its office on **Monday, May 24, 2021**.

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

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 1905 and 1906 of the Business and Professions Code (BPC), and to implement, interpret or make specific section 1905 of the BPC, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

BPC sections 1905 and 1906 authorize the Board to adopt, amend, and revoke regulations to implement the statutory requirements of Article 9 of Chapter 4, BPC sections 1900 through 1966.6, regarding dental hygienists. The Board, a constituent agency within the Department of Consumer Affairs (DCA), regulates registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions (collectively RDHs). The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The Board's core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH educational programs, and monitoring licensees placed on disciplinary probation by the Board.

This proposal would amend the language for definitions applicable to educational programs for RDHs. The proposal is as follows:

- **Amend Section 1103 to Title 16 of the California Code of Regulations.**

Existing law sets forth the criteria for the Board's approval of educational programs for RDHs. Section 1103 provides definitions applicable to areas of instruction within RDH educational programs.

The Board proposes to amend section 1103 to: (1) adequately define areas of instruction within RDH educational programs, and (2) replace the term "Committee" with "Board" as the Board is now the Dental Hygiene Board of California as a result of Senate Bill 1482 (Hill, Chapter 858, Statutes of 2018).

Anticipated Benefits of the Proposed Amended Regulation:

The proposed amendments to section 1103 will benefit licensees and the public by clarifying the definitions contained therein by updating inconsistent language and providing additional descriptive language to further define certain terms. These clarifying changes will help ensure that RDH educational programs adhere to acceptable clinical treatment processes when working with live patients.

Determination of Inconsistency and Incompatibility with Existing State Regulations:

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board indicates any workload and costs to ensure compliance will be minor and 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 through 17630 Require Reimbursement: None.

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

There is no business impact because the proposed amendments to the regulation clarify the title of the Board and provide consistency of language within the regulation.

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

Significant Effect on Housing Costs: None.

Business Reporting Requirement

The regulatory action does not require businesses to file a report with the Board. The change in regulatory language will only affect definitions applicable to educational requirements that RDH educational programs and courses maintain as a part of their approval by the Board.

Results of the Economic Impact Analysis/Assessment

Impact on Jobs/Businesses: The Board has determined that this regulatory action will not create or eliminate jobs, will not create new business or

eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California because the proposed amendments to the regulation clarify the title of the Board and provide consistency of language within the regulation applicable to RDH educational programs.

Benefits of the Proposed Action: This regulatory proposal benefits the health and welfare of California residents because it would clarify definitions for RDH educational programs, ensuring that RDH educational programs adhere to acceptable clinical treatment processes when working with live patients.

The Board anticipates that this regulatory action will not have any monetary effect because the proposed amendments to the regulation clarify the title of the Board and provide consistency of language within the regulation.

This regulatory proposal does not affect worker safety because it does not involve worker safety, and does not affect the State's environment because it does not involve environmental issues.

Effect on Small Business: The Board has determined that this regulatory action would not affect small businesses because the proposed amendments to the regulation clarify the title of the Board and provide consistency of language within the regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board 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 or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

CONTACT PERSONS

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California
Attention: Adina A. Pineschi-Petty, DDS
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
Phone: (916) 576-5002
Email: adina.petty@dca.ca.gov

Backup Contact Person:

Attention: Anthony Lum
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
Phone: (916) 576-5002
Email: anthony.lum@dca.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 Dr. Pineschi-Petty at the above address. In her absence, please contact the designated back-up contact person.

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

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting Dr. Pineschi-Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi-Petty at the address above or by accessing the website listed below.

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the ISOR, and all of the information on which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2005 Evergreen Street, Suite 2050, Sacramento, California 95815, or by accessing the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

TITLE 16. PHYSICIAN ASSISTANT BOARD

IMPLICIT BIAS REQUIREMENT IN CONTINUING EDUCATION

The Physician Assistant Board (Board) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request, addressed to the individuals listed under "Contact Person" in this notice, for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by mail, facsimile (FAX), or e-mail to the addresses listed under "Contact Persons" in this Notice. The written comment period closes at **5:00 p.m. on Tuesday, May 25, 2021**. The Board will consider only comments received at the hearing (if one occurs) or at the Board's office by that time.

AUTHORITY AND REFERENCE

Business and Professions Code sections 3510 and 3524.5 authorize the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific section 3524.5 of the Business and Professions Code (BPC), and the Board is considering amending section 1399.616 of article 8 of division 13.8 of title 16 of the California Code of Regulations (CCR)¹.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board licenses physician assistants, who are health care practitioners that provide medical services under the supervision of a licensed physician and surgeon (BPC section 3502). Existing law (BPC section 3524.5) presently authorizes the Board to require a licensee to complete not more than 50 hours of continuing education (CE) every two years as a condition of license renewal. Consistent with that authority, Assembly Bill (AB) 241 (Kamlager–Dove, Chapter 417, Statutes of 2019) requires the Board to adopt regulations to require, beginning January 1, 2022, all CE courses for physician assistants that contain a direct patient care component include curriculum that includes instruction in the understanding of implicit bias and the promotion of bias-reducing strategies. It also requires CE providers to ensure compliance beginning January 1, 2023 and requires the Board to audit CE providers at least once every five years to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation. Since the Board has a "deemed approved" program, which means that the programs are deemed approved if they are offered by one of the sponsors and are designated as a Category 1 (Pre-approved) provider as indicated in CCR 1399.616, the Board will develop a CE provider audit at a later date.

Anticipated Benefits of the Proposed Regulation:

The proposed text brings the Board's regulations into compliance with AB 241 by adding a new provision to existing subsection (a) requiring programs to meet the new implicit bias curriculum requirements in AB 241 to be considered approved by the Board. AB 241 requires the Board to adopt regulations for compliance with the bill by January 1, 2022. Therefore, this new subdivision requires all approved CE courses for physician assistants that contain a direct patient care component to contain curriculum that includes specified instruction in the understanding of implicit bias in medical treatment. The bill would require, by

¹All references are to 16 CCR unless otherwise noted.

January 1, 2023, that CE providers that offer these CE courses ensure compliance with these provisions.

The proposed text would also add to CCR 1399.616 a new subdivision (b) that states: “Beginning January 1, 2022, any continuing medical education course that includes a direct patient care component shall include curriculum that includes an understanding of implicit bias pursuant to 3524.5 of the Code.”

Instruction in understanding implicit bias will increase awareness among physician assistants about issues that can unconsciously influence the care they provide and will help them adjust their practices to better serve their communities. This measure offers a potentially promising step toward addressing costly inequities in healthcare treatment, reducing health disparities among California’s diverse population, and aiding in creating a professional environment that provides equal treatment to everyone.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

Significant effect on housing costs: None.

Business Impact:

The Board is unaware of any significant statewide adverse economic impact directly affecting businesses caused by this regulatory proposal, including the ability to compete. The proposed regulations are not anticipated to result in an economic impact to the state.

The Board accepts Continuing Medical Education (CME) certificates from five agencies as well as certificates that are recognized by one of those

agencies. These agencies would incur a cost to change their syllabuses and instruction for courses that include a direct patient care component that do not presently include instruction on implicit bias to conform to current law. The Board does not have any data on how many classes this would affect or the cost these agencies would incur.

Fiscal Impact:

The Board does not anticipate any increase in workload or costs to the state as a result of amending 16 CCR section 1399.616 as described in this proposal.

Effect on Small Business:

The Board has determined that the proposed regulation would not affect small businesses because the proposal only clarifies the statutorily mandated requirement that to obtain Board approval, by January 1, 2022, all CME programs that have a direct patient care component must have curriculum that includes instruction on implicit bias pursuant to BPC section 3524.5.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

This regulatory proposal will not create new businesses, eliminate existing businesses, or create or eliminate jobs, and will not affect the expansion of businesses currently doing business within the State of California because the proposal only clarifies the statutorily mandated requirement that to obtain Board approval, by January 1, 2022, all CME programs that have a direct patient care component must have curriculum that includes instruction on implicit bias pursuant to BPC section 3524.5.

This regulatory proposal will benefit the health and welfare of California residents because instruction in understanding implicit bias will result in improved decisionmaking by better educated physician assistants, which will in turn benefit the public by providing better health care to minorities and stereotyped groups. By adopting this regulation, the Board seeks to support physician assistants who serve an increasingly more diverse public, and to uphold the Board’s highest priority, which is to protect an increasingly more diverse public.

This regulatory proposal may have a positive impact on worker safety if reducing implicit biases towards minority and stereotyped patients and providing strategies to address unintended biases also reduces biased decision-making in the workplace, contributing to better worker safety and health.

This regulatory proposal will not affect the State’s environment because it does not involve environmental issues. The proposal only clarifies the statutorily mandated requirement that to obtain Board approval, by January 1, 2022, all CME programs that have a

direct patient care component must have curriculum that includes instruction on implicit bias pursuant to BPC section 3524.5.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board 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 regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Name:
Jasmine Dhillon
Address:
2005 Evergreen Street, Suite 2250
Sacramento, CA 95815-3893
Telephone Number:
(279) 666-2838
Fax Number:
(916) 263-2671
E-Mail Address:
jasmine.dhillon@mbc.ca.gov

The backup contact person is:

Name:
Kristy Voong
Address:
2005 Evergreen Street, Suite 2250
Sacramento, CA 95815-3893
Telephone Number:
(916) 561-8787
Fax Number:
(916) 263-2671
E-Mail Address:
kristy.voong@mbc.ca.gov

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, and other information which the rulemaking is based, including the Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's April 29, 2019 meeting, Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's August 9, 2019 meeting, Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's November 4, 2019 meeting, and Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's January 13, 2020 meeting.

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 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 public comment on the modifications for at least 15 days. Please send requests for copies of any modified regulations to the attention of the Contact Person designated above at the address indicated above. The Board will accept written comments on the modified regulation for 15 days after the date on which the modified text is 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 Contact Person at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at: https://www.pab.ca.gov/about_us/lawsregs/regulations.shtml.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

**CALIFORNIA ENDANGERED SPECIES
ACT CONSISTENCY DETERMINATION
NUMBER 2080–2021–003–01**

Project:

Dr. Fine Bridge Replacement Project

Location:

Post Miles 35.8 and 36.5, United States
Highway 101, Del Norte County

Applicant:

The California Department of Transportation
(Caltrans)

Background

Caltrans (Applicant) proposes to replace Smith River Bridge (Caltrans Bridge #01–0020), known as the Dr. Ernest Fine Memorial Bridge located on U.S. Highway 101, approximately 10 miles north of Crescent City. The Dr. Fine Bridge Replacement Project (Project) includes construction of a temporary detour bridge immediately downstream of the existing bridge. After construction of the temporary bridge, the Applicant will demolish the existing bridge and construct the new bridge. The Applicant expects the Project to be completed in four work seasons, including three seasons with instream work beginning in in 2022.

Specific Project components include: construction of temporary roads and staging areas on both sides of the river, construction of a temporary trestle and temporary gravel work pads in the Smith River, isolation of temporary gravel work pads by dewatering and diversion of a portion of the wetted channel, vibratory and impact pile driving for the temporary trestle, construction of the detour bridge including two 60–inch Cast in Drilled Hole (CIDH) piles that will be constructed within cofferdams made from sheet piles installed by vibratory techniques, demolition of the old bridge, construction of the new bridge foundation including CIDH piles drilled into bedrock constructed within a cofferdam to contain work materials, construction of the new bridge superstructure within forms supported by falsework, vibratory and impact pile driving to construct falsework and trestle piles for the new bridge, and construction of the bridge deck and removal of falsework.

The Project activities described above are expected to incidentally take¹ coho salmon (*Oncorhynchus kisutch*), of the Southern Oregon–Northern California Coast evolutionary significant unit (SONCC coho salmon) where those activities take place within the Smith River. In particular, SONCC coho salmon could be incidentally taken as a result of the capture and relocation efforts prior to containment of gravel work pad locations, during pile driving for installation of piles, and during installation of cofferdams. SONCC coho salmon are designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(2)(D).)

SONCC coho salmon individuals are documented as present at the Project site and there is SONCC coho salmon habitat within and adjacent to the Project site. Because of the possible occurrences of all life stages of SONCC coho salmon at the Project site, the known dispersal patterns of SONCC coho salmon, and the presence of suitable SONCC coho salmon habitat within the Project site during the Project’s work period, the National Marine Fisheries Service (Service) has determined that SONCC coho salmon is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of SONCC coho salmon

According to the Service, the temporary gravel work pads will cover an area of 1.1 acres in the first season, 0.9 acres in the second season, and 0.3 acres in the third season. This temporary impact will not cover SONCC coho salmon rearing habitat units. However, covering this area may impact SONCC coho salmon development to adulthood due to loss of food resources in the form of aquatic macroinvertebrates. According to the Service, this temporary impact is unlikely to result in measurable impacts to food resources for SONCC coho salmon.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the Applicant, as a Federal Highway Administration (FHWA) agent, consulted with the Service as required by the ESA. On March 19, 2021, the Service issued a Biological Opinion (Service file Number WCRO–2020–00584) (BO) to Caltrans. 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.

¹Pursuant 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”).

The ITS also requires the Applicant to implement and adhere to measures contained within the December 10, 2020 and January 14, 2021 Project Biological Assessment Addendum Letters, which are incorporated by reference in the BO by the February 1, 2021 Biological Opinion Amendment Letter.

On March 2, 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 SONCC coho salmon for the Project. (Cal. Reg. Notice Register 2021, Number 13–Z, p. 335.)

Determination

CDFW has determined that the ITS, along with the related BO and subsequent Addendum and Amendment Letters, are consistent with CESA as to the Project and SONCC coho salmon because the mitigation measures contained in the ITS and BO, as well as the Addendum and Amendment Letters, 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 SONCC coho salmon will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO and ITS and the Addendum and Amendment Letters 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 SONCC coho salmon. The mitigation measures in the ITS, BO, and the Addendum and Amendment Letters include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) The Applicant shall ensure that all biologists working on the project are qualified to conduct fish relocation in a manner which minimizes all potential risks to salmonids. The Applicant or their contractor performing fish relocation shall first use a seine to herd fish out of the work site, if practicable, before using electrofishing techniques. Herding or hazing fish by using an electrofisher shall not be attempted.
- 2) Salmonids shall be handled with extreme care and kept in water to the maximum extent possible during rescue activities, and must be kept in cool, shaded, and aerated water protected from excessive noise, jostling, or overcrowding or potential predators. Captured salmonids will be relocated as soon as possible to an instream location in which suitable habitat conditions

are present to allow for adequate survival for transported fish and fish already present.

- 3) Partial mitigation for incidental take of SONCC coho salmon pursuant to CESA shall be attained by the Applicant’s successful completion of the Dominie Creek mitigation project. This project is currently fully funded, in construction, and scheduled to be complete by January 2022. To ensure this portion of the mitigation is complete prior to any construction activities that may impact SONCC coho salmon associated with the Project, the Applicant shall provide a Notice of Completion with images of the completed Dominie Creek mitigation site to CDFW and facilitate a site visit if deemed necessary by CDFW, to confirm that that portion of the mitigation is complete prior to initiation of work on the Project.
- 4) The remainder of mitigation for incidental take of SONCC coho salmon pursuant to CESA shall be attained by the Applicant’s contribution of funds towards the Rowdy Creek Restoration Project, proposed by the Tolowa Dee–ni’ Nation (Tribe). The Applicant shall not initiate any construction activities that may impact SONCC coho salmon associated with the Project until the Applicant has a mutually approved contract with the Tribe. The approved contract shall include a budget that funds at least 20% of the construction implementation specific to the remediation of fish passage barriers associated with the Rowdy Creek Restoration Project. The Applicant shall submit to CDFW written evidence of the approved contract and the secured funding with the Tribe as evidence of financial assurances prior to the initiation of any construction activities that may impact SONCC coho salmon associated with the Project.

Monitoring and Reporting Measures

- 1) The Applicant shall provide a written report to the Service by January 15 of the year following construction of the project summarizing construction related activities and fish relocation efforts. Although not a condition of the BO, CDFW requests a copy of the monitoring reports.

Financial Assurances

- 1) The Applicant shall not initiate any Project construction activities that may impact SONCC coho salmon until the Applicant has provided to CDFW a Notice of Completion with images of the completed Dominie Creek mitigation site and facilitated a site visit if deemed necessary by CDFW, to confirm that that portion of the mitigation is complete prior to initiation of work on the Project.

2) The Applicant shall not initiate any Project construction activities that may impact SONCC coho salmon until the Applicant has a mutually approved contract with the Tribe. The approved contract shall include a budget that funds at least 20% of the construction implementation specific to the remediation of fish passage barriers associated with the Rowdy Creek Restoration Project. The Applicant shall submit written evidence of the approved contract and the secured funding with the Tribe as evidence of financial assurances to CDFW prior to the initiation of any construction activities that may impact SONCC coho salmon associated with the Project.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of SONCC coho salmon provided the Applicant implements the Project as described in the ITS and associated BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITS, BO, and the Addendum and Amendment Letters. 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 Addendum and Amendment Letters, 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 & Game Code, §§2080.1, 2081, subdivisions (b) and (c)).

CDFW’s determination that the Service BO and ITS are consistent with CESA is limited to SONCC coho salmon.

**DEPARTMENT OF HEALTH
CARE SERVICES**

ABBREVIATED NOTICE OF GENERAL
PUBLIC INTEREST
PROPOSED SECTION 1115
DEMONSTRATION AMENDMENT AND
RENEWAL APPLICATION

This abbreviated public notice provides information of public interest regarding a proposed amendment and renewal request to the federal Centers for Medicare & Medicaid Services (CMS) for the Medi-Cal 2020 Section 1115 demonstration by the

California Department of Health Care Services (DHCS), to be renamed the California Advancing & Innovating Medi-Cal (CalAIM) Section 1115 demonstration. DHCS is seeking this demonstration approval to implement key provisions of its CalAIM initiative. DHCS will also concurrently seek from CMS an amendment and renewal of the existing Specialty Mental Health Services (SMHS) Section 1915(b) waiver to consolidate Medi-Cal managed care, dental managed care, SMHS, and Drug Medi-Cal Organized Delivery System (DMC-ODS) under a single authority.

The CalAIM Section 1115 demonstration will amend and renew the Medi-Cal 2020 demonstration, currently in effect through December 31, 2021. The effective term of the proposed amendment and renewal for the CalAIM Section 1115 demonstration is January 1, 2022, to December 31, 2026. All proposed requests are subject to approval by CMS.

A copy of the proposed CalAIM Section 1115 demonstration and initial notice of public interest, both posted on April 6, 2021, is available on the DHCS website at <https://www.dhcs.ca.gov/provgovpart/Pages/CalAIM-1115-and-1915b-Waiver-Renewals.aspx>.

The CalAIM proposal is posted on the DHCS website at <https://www.dhcs.ca.gov/calaim>.

Following are the elements of the Medi-Cal 2020 Section 1115 demonstration that are proposed to continue under the CalAIM Section 1115 demonstration:

- Global Payment Program (GPP)
- Expenditure Authority for Residential Treatment for Substance Use Disorder (SUD) in Institutions for Mental Diseases (IMDs)
- Low-Income Pregnant Women (109 percent–138 percent of the federal poverty level (FPL))
- Out-of-State Former Foster Care Youth
- Community-Based Adult Services (CBAS)
- DMC-ODS Certified Public Expenditure (CPE) Protocols
- Designated State Health Care Programs (DSHP)

Following are the elements of the CalAIM initiative that are proposed for inclusion under the CalAIM Section 1115 demonstration:

- Waiver of Statewideness and Comparability for Peer Support Specialist Services in Drug Medi-Cal Counties That Opt In

- Services for Justice–Involved Populations 30 Days Pre–Release
- Providing Access and Transforming Health (PATH) Supports
- DMC–ODS Traditional Healers and Natural Helpers

Following are the elements of the Medi–Cal 2020 Section 1115 demonstration that DHCS proposes to authorize via an alternate authority:

- Medi–Cal Managed Care, including the Coordinated Care Initiative (CCI), Program of All–Inclusive Care for the Elderly (PACE) as an Alternative Delivery System in Select County–Organized Health Systems (COHS), and managed care for Seniors with Disabilities (SPDs). Medi–Cal Managed Care as transitioned to the 1915(b) waiver includes other proposed changes which are described in greater detail in the 1915(b) overview.
- Dental Managed Care
- DMC–ODS (except the services that will remain in the 1115 demonstration)

Following are the elements of the Medi–Cal 2020 Section 1115 demonstration that will or have sunset and are not included for renewal under the CalAIM Section 1115 demonstration. Key elements of these programs will be incorporated into either the Medi–Cal State Plan or the consolidated 1915(b) waiver that DHCS is seeking.

- Dental Transformation Initiative (DTI)
- Health Homes Program (HHP)
- Tribal Uncompensated Care (UCC)
- Rady California Children’s Services (CCS) Pilot
- Whole Person Care (WPC) Pilots
- Public Hospital Redesign and Incentives in Medi–Cal (PRIME)

PUBLIC REVIEW AND COMMENTS

DHCS will host the following public hearings to solicit stakeholder comments. The public hearings will be held electronically to promote social distancing and mitigate the spread of COVID–19. The meetings will have online video streaming and telephonic conference capabilities to ensure statewide accessibility.

- Monday, April 26, 2021 — First Public Hearing
 - 1:00–2:30 p.m. PT
 - Register for Zoom conference link: https://manatt.zoom.us/webinar/register/WN_csWzNuSFQiiY46ZinTufLg
 - Please register in advance to receive your unique login details and link to add to calendar

- Call–in information (669) 900–6833 or (888) 788–0099 (Toll Free)

- Webinar ID: 944 4865 1547

- Passcode: 042621

- Callers do not need an email address to use the phone option and do not need to register in advance

- Monday, May 3, 2021 — Second Public Hearing

- 2:00–3:30 p.m. PT

- Register for Zoom conference: https://manatt.zoom.us/webinar/register/WN_dj9UAypdQ76aOtCXafuhSA

- Please register in advance to receive your unique login details and link to add to calendar

- Call–in information (669) 900–6833 or (888) 788–0099 (Toll Free)

- Webinar ID: 994 3157 8945

- Passcode: 050321

- Callers do not need an email address to use the phone option and do not need to register in advance

Written comments may be sent to the following address; please indicate “CalAIM Section 1115 & 1915(b) Waiver” in the written message:

Department of Health Care Services
Director’s Office
Attn: Angeli Lee and Amanda Font
P.O. Box 997413, MS 0000
Sacramento, California 95899–7413

Comments may also be emailed to CalAIMWaiver@dhcs.ca.gov. Please indicate “CalAIM Section 1115 & 1915(b) Waiver” in the subject line of the email message.

To be assured consideration prior to submission of the CalAIM Section 1115 demonstration application and Section 1915(b) waiver application to CMS, comments must be received no later than 11:59 p.m. (Pacific Time) on Thursday, May 6, 2021. Please note that comments will continue to be accepted after May 6, 2021, but DHCS may not be able to consider those comments prior to the initial submission of the CalAIM waiver applications to CMS.

**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 for Private Postsecondary Education
File # 2020-1014-01
Intensive English Language Programs

The Bureau for Private Postsecondary Education (Bureau) is amending the definition of education offered for personal entertainment, pleasure or enjoyment to clarify that Intensive English Language Programs that meet certain requirements are exempt from the Bureau's oversight. These requirements include not providing financial aid or loans to students as well as not offering any degree-granting programs.

Title 05
Amend: 70000
Filed 03/30/2021
Effective 07/01/2021
Agency Contact: Yvette Johnson (916) 574-8901

Department of Corrections and Rehabilitation
File # 2020-1020-04
Registration Notification

This rulemaking action by the Department of Corrections and Rehabilitation repeals regulations that require individuals convicted of specified controlled substances offenses to register with local law enforcement for the narcotics registry.

Title 15
Amend: 3650
Repeal: 3654
Filed 03/29/2021
Effective 07/01/2021
Agency Contact: Renee Rodriguez (916) 445-2217

Department of Real Estate
File # 2021-0211-02
Criteria for Substantial Relationship

In this rulemaking action, the Department amends its regulations for substantial relationship criteria and

rehabilitation criteria for crimes, professional misconduct, or acts considered substantially related to the qualifications, functions, or duties of a licensee. The Department also adopts a new section related to the denial of a license or registration on basis of a financial crime conviction. The regulatory changes align the regulations with Assembly Bill 2138 (Stats. 2018, Ch. 995).

Title 10
Adopt: 2910.5
Amend: 2910
Filed 03/26/2021
Effective 03/26/2021
Agency Contact: Daniel Kehew (916) 263-8681

Department of State Hospitals
File # 2021-0317-01
Enhanced Treatment Program

The Department of State Hospitals submitted this emergency readoption action to establish criteria and procedures for treating patients who are at high risk of most dangerous behavior in a pilot enhanced treatment program when safe treatment is not possible in a standard treatment environment, pursuant to Welfare and Institutions Code section 4144.

Title 09
Adopt: 4800, 4900, 4901, 4902, 4903, 4904, 4905, 5000, 5100, 5200
Filed 03/29/2021
Effective 03/29/2021
Agency Contact: Tarik Allen (916) 654-2478

Division of Workers' Compensation
File # 2021-0218-01
Workers' Compensation Medical-Legal Fee Schedule

The Division of Worker's Compensation requested that the Office of Administrative Law file with the Secretary of State and print in the California Code of Regulations amendments to the Medical-Legal Fee Schedule. These amendments increase the relative value of payments made under the fee schedule, implement a new system based on flat fees for services provided, and eliminate the use of complexity factors and the majority of hourly billing under the Medical-Legal Fee Schedule. This action is exempt from the Administrative Procedure Act under Government Code 11340.9(g).

Title 08
Amend: 9793, 9794, 9795
Filed 03/30/2021
Effective 04/01/2021
Agency Contact: Winslow West (510) 286-7108

Office of the State Fire Marshal
File # 2021-0216-02
Fire Service Training & Certification — Burn Boss

This action adopts a training program for fire burn boss training and certification with related application, fees, and required coursework pursuant to Senate Bill 1260 (Jackson, 2018).

Title 19
Amend: 1990.00, 1990.01, 1990.12
Filed 03/29/2021
Effective 03/29/2021
Agency Contact: Diane Arend (916) 568-2917

Professional Fiduciaries Bureau
File # 2020-1211-02
Expedited Licensure

This action by the Professional Fiduciaries Bureau adds provisions for expedited review of applications pursuant to Business and Professions Code sections 115.4, 115.5, and 135.4.

Title 16
Amend: 4422
Filed 03/29/2021
Agency Contact: Angela Cuadra (916) 574-7341

State Allocation Board
File # 2021-0209-02
Executive Officer's Emergency Powers; States of
Emergency

This certificate of compliance action by the State Allocation Board makes permanent emergency regulations that authorize the extension of deadlines for programs under the authority of the board during the periods of emergency proclaimed by the Governor.

Title 02
Amend: 1580
Filed 03/24/2021
Effective 03/24/2021
Agency Contact: Lisa Jones (916) 376-1753

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

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