



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 3. DEPARTMENT OF
PESTICIDE REGULATION**

**CITRUS/BEE PROTECTION AREAS
DPR REGULATION NUMBER 21-001**

The Department of Pesticide Regulation (DPR) proposes to amend Title 3, California Code of Regulations (3 CCR) sections 6650, 6651, 6652, 6654, 6655; 6656, and renumber those sections to 6980, 6981, 6982, 6983, 6984, and 6985; and make section 6985 inoperative. In summary, the proposed action will update notification procedures for apiary operators who wish to receive advance notification of pesticide applications and for pesticide applicators who intend to apply pesticides labeled toxic to bees. The proposed action will also make the notification service and fees in the counties of Butte, Glenn, and Tehama inoperative. Additionally, this proposed action updates requirements during the citrus bloom period within a citrus/bee protection area.

SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on June 2, 2021. Comments regarding this proposed action may also be transmitted via e-mail to dpr21001@cdpr.ca.gov or by facsimile at 916-324-1491.

A public hearing is not scheduled. However, one will be scheduled if any interested person submits a written request to DPR no later than 15 days prior to the close of the written comment period.¹

EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

DPR protects human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. DPR's oversight includes product evaluation and registration; statewide licensing of commercial and private applicators, pest control businesses, dealers, and advisers; environmental monitoring; and residue testing of fresh produce. This statutory scheme is set forth primarily in Food and Agricultural Code (FAC) Divisions 6 and 7. DPR is charged by FAC section 11501 to protect public health and safety while providing for the proper, safe, and efficient use of pesticides for the production of food and fiber, and to protect the environment from harmful pesticides by regulating and ensuring proper stewardship of those pesticides.

Bees and pesticides both have essential roles in the success of California agriculture. Over 90 crops grown in the United States require bees for successful pollination of edible crops. Certain pesticides, applied when bees are actively foraging for nectar from blossoms on or near a treated crop, are toxic to bees. To protect bees from pesticide exposure, DPR adopted regulations in the late 1970's and last updated them in 2002. These regulations are currently located in 3 CCR sections 6650 through 6656.

Section 6650 defines pesticides toxic to bees and residual toxicity, and establishes when bees are considered inactive. Section 6651 provides an exemption for local vector control agencies making certain pesticide applications. Section 6652 requires beekeepers who wish to receive notification of pesticide applications toxic to bees to follow specific procedures and be available to receive those notifications during a certain time period. Section 6654 specifies notification procedures for a person intending to apply a pesticide labeled as toxic to bees to a blossoming plant, requiring them to inquire of the county agricultural commissioner (CAC) if any beekeeper with apiaries located within one mile of the intended application site has requested notification. If so, the pesticide applicator is required to notify those beekeepers of specific application information at least 48 hours in advance. Section 6655 establishes the counties of Butte, Glenn, and Tehama as a notification region for beekeepers and pest control operators, and specifies fees for participation in the notification service. The last section of the article, section 6656, defines a citrus/bee protection area (any citrus planting of one acre or more in the counties of Fresno, Kern, or Tulare) and establishes requirements for those areas during the March 15 through May 31 citrus bloom period each year. This section requires the CAC to declare the beginning and ending of bloom, specifies when

¹If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

growers/applicators are required to notify beekeepers of applications, and requires beekeepers to file a notice of apiary locations with the CAC and be available for notification during a specified time period. Additionally, the section specifies when a notice of intent shall be filed with the CAC if a pesticide toxic to bees is applied to citrus during a citrus bloom period, specifies pesticide applications toxic to bees that are exempt from beekeeper notification requirements depending on the timing or other application and/or site specific factors, and specifies pesticides applications to citrus that are prohibited. Lastly, the section specifies an exception that allows pesticides toxic to bees to be applied during the citrus bloom period to control lepidoptera larvae or citrus thrips if the need for control has been established by a representative of the University of California, Agricultural Extension Service, or a licensed agricultural pest control adviser.

The U.S. Environmental Protection Agency (U.S. EPA) has also supported multi-faceted efforts to protect pollinators, including a systematic identification of pesticide active ingredients toxic to bees. Since 2013, U.S. EPA has required augmented pollinator protection label language for pesticide products that contain active ingredients toxic to bees. Pesticides, including their product labeling, must be approved and registered with U.S. EPA before they are registered in California. All labels must bear a misuse statement (40 CFR section 156.10(i)(2)(ii)), which explains that the label is the law. In addition, FAC section 12973 states in part that the use of any pesticide shall not conflict with the registered labeling.

The technology farmers, apiary operators, pesticide applicators, and regulatory officials use to access, collect, exchange, and store information has changed significantly since the last revisions to the bee protection regulations in 2002. There are now Web sites, such as BeeWhere, that allow beekeepers and pesticide applicators electronic options to comply with FAC Division 13 (Bee Management and Honey Production) and its associated regulations. Technological advancements have resulted in a web-based mapping system called BeeWhere that will allow pesticide applicators to electronically self-check potential application sites, and receive apiary operator contact information and ability for contact, so they can notify the apiary operator of the application. This BeeWhere software program was implemented in 2019 and supports many services including the 48-hour notification to apiary operators for pesticide applications involving pesticides labeled as toxic to bees when applied to a blossoming plant or to sites in bloom (3 CCR section 6654). Additionally, sections within FAC Division 13 were revised when Assembly Bill (AB) 2468 (Chapter 320, Statutes of 2018) was passed, changing the term “beekeepers” to “apiary

operator(s), or their designated representative” and revising FAC section 29070 to require apiary operators to notify the destination CAC of bees first coming into that county or leaving it within 72 hours of the movement. AB 450 (Chapter 300, Statutes of 2019) also revised FAC section 29070.5, requiring apiary operators to notify the CAC within 72 hours when bees are being relocated within that same county.

To reflect federal labeling changes, conform with U.S. EPA’s pollinator protection policy and amended FAC statutes, eliminate duplicative language, improve organization, and add flexibility for timely notification of beekeepers using the modern technology, DPR is proposing to amend California’s bee regulations. The section numbers of these regulations will be renumbered from sections 6650, 6651, 6652, 6654, 6655, and 6656 to 6980, 6981, 6982, 6983, 6985, and 6984, respectively.

The proposed regulatory action will make clarifying edits to the definition of pesticides toxic to bees and delete the definition for residual toxicity, which is specified on pesticide product labeling. It will also decrease the temperature that establishes when bees are considered inactive from 55 to 50 degrees Fahrenheit, which would affect the timing of pesticide applications, but will be more protective of both managed bees in the area of those applications and native pollinators that do not forage in as wide a range as managed honey bees. Additionally, in section 6652 (renumbered to section 6982), this action will delete the archaic beekeeper availability requirements and add a requirement for an apiary operator, or their designated representative, to inform the commissioner of their desire to receive notification of pesticide applications toxic to bees when registering their apiaries with the county. In section 6654 (renumbered to section 6983), this action will change the term “beekeeper” to “apiary operator [or their designated representative]” to conform with FAC, reword and reformat the section, and delete language that has been incorporated into section 6656 (renumbered to section 6984). With respect to a request received from the commissioners of Butte, Glenn, and Tehama counties, this action will make the tri-county notification region established in section 6655 (renumbered to section 6985) inoperative. In section 6656 (renumbered to section 6984), this action will remove redundant language and change the term “beekeeper” to “apiary operator, or their designated representative” to conform with FAC. The action will also amend requirements for areas designated as citrus/bee protection areas by requiring apiary operators to provide notice to the CAC of apiaries moving within or out of a county within 72 hours, consistent with FAC sections 29070 and 29070.5. DPR also proposes to remove the archaic requirement for beekeeper availability for notification,

add a requirement for apiary operators to inform the CAC if they desire advance notification of pesticide applications of products labeled toxic to bees, and clarify exemptions from the citrus/bee protection area requirements for certain pesticide applications by deleting pesticides that are no longer registered for use and redundant language, and by adding an exemption allowing pesticides toxic to bees to be applied during the citrus bloom period for control of California Department of Food and Agriculture declared quarantine pests. Lastly, DPR proposes to require the written recommendation for the need for control of lepidoptera larvae or citrus thrips to state that the citrus planting does not meet the citrus bloom period criteria *and* why alternatives less hazardous to bees would not be effective, rather than state one or the other.

The proposed regulatory requirements will bring California Bee protection regulations into alignment with the 2013–2018 revised pollinator protection related federal pesticide labeling. It will also provide a clearer description of compliance options, required communication between the beekeepers, county agricultural commissioners, and pesticide applicators, and how to reduce risks associated with honey bee exposure to toxic pesticides by pesticide applicators. These regulations will have long-term benefits to commercially managed bees as apiary operators will be able to receive timely notification of pesticide applications toxic to bees, allowing them to be able to protect their hives. It will also provide a secondary benefit to wild bees in the environment who are also susceptible to exposure effects of pesticides labeled toxic to bees and active during similar temperature ranges and time of day as commercially managed bees.

During the process of developing these proposed regulations, DPR conducted a search of any similar regulations on this topic and has concluded that these proposed regulations are neither inconsistent nor incompatible with existing state regulations. Although DPR and the California Department of Food and Agriculture have regulatory mandates to protect bees, DPR’s statutory authority is to enforce pesticide laws and regulations when pesticides are used.

**IMPACT ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

DPR determined that the proposed regulatory action does not impose a mandate on local agencies or school districts. DPR also determined that there are no costs to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq. DPR has determined that some nondiscretionary costs or savings imposed

upon local agencies may result from the proposed regulatory action. In the counties of Glenn, Butte, and Tehama where the Tri Counties Bee Notification is located, Glenn County will no longer be collecting the \$10–100 fee from apiary operators and the \$75 fee from pest control operators specified in section 6655 (renumbered to 6985). However, each county will no longer need to pay administrative fees of \$1200 to Glenn County since there will no longer be a program to administer. DPR estimates a loss of \$6,125 in revenue. However, since these funds were primarily used to administer the notification program, with no notification program to administer, the loss of funds should not be a burden to Glenn County.

COSTS OR SAVINGS TO STATE AGENCIES

DPR determined that no savings or increased costs to any state agency will result from the proposed regulatory action.

**EFFECT ON FEDERAL
FUNDING TO THE STATE**

DPR determined that no costs or savings in federal funding to the state will result from the proposed action.

EFFECT ON HOUSING COSTS

DPR made an initial determination that the proposed action will have no effect on housing costs.

**SIGNIFICANT STATEWIDE
ADVERSE ECONOMIC IMPACT
DIRECTLY AFFECTING BUSINESSES**

DPR made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES**

In reasonable compliance with the proposed action, businesses in the counties of Kern, Fresno, or Tulare who use pesticides labeled as toxic to bees when the temperature is between 50 and 55 degrees Fahrenheit during citrus bloom may be impacted if they choose to continue making pesticide applications during that time period. Applications of pesticides labeled toxic to bees made during this time period will now require notification to beekeepers and a Notice of Intent to the CAC. It is expected that some businesses will move their applications to a different time of day to avoid

notification. The impacts will affect growers in the counties of Kern, Fresno, and Tulare who continue making applications of pesticides labeled as toxic to bees when the temperature is between 50 and 55 degrees Fahrenheit during citrus bloom. The initial costs to growers is estimated to be \$49.60–\$495.50, with recurrent annual cost impacts of \$49.60–\$495.50 in subsequent years.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact on the Creation, Elimination, or Expansion of Jobs/Businesses: DPR has determined that the proposed action would not create or eliminate jobs in California; create new businesses or eliminate existing businesses within California; or result in the expansion of businesses within California because the proposed action is designed to align with federal pesticide product labeling, state laws, and current communication methods and practices required for pesticide handlers and apiary operators.

The Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The proposed regulatory requirements will bring California Bee protection regulations into alignment with the 2013–2018 revised pollinator protection related federal labeling. It will also provide a clearer description of compliance options, required communication between the beekeepers, agricultural commissioners, and pesticide applicators, and how to reduce risks associated with honey bee exposure to toxic pesticides by pesticide applicators. These regulations will have long-term benefits to commercially managed bees as apiary operators will be able to receive timely notification of pesticide applications toxic to bees, allowing them to be able to protect their hives. It will also provide a secondary benefit to wild bees in the environment who are also susceptible to exposure effects of pesticides labeled toxic to bees and active during similar temperature ranges and time of day as commercially managed bees.

CONSIDERATION OF ALTERNATIVES

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

AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11456, 29080, 29081, 29082, and 29102.

REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 29080, 29081, 29082, 29100, 29101, and 29102.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR prepared an Initial Statement of Reasons and is making available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make substantial changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, and the proposed text of the regulation; and inquiries regarding the rulemaking file may be directed to:

Lauren Otani, Senior Environmental Scientist
(Specialist)
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812–4015
916–445–5781

Note: In the event the contact person is unavailable, questions on the substance of the proposed regulatory

action may be directed to the following back-up person at the same address as noted below:

Peggy Byerly, Senior Environmental Scientist
(Specialist)
Enforcement Branch
916-603-7750

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <http://www.cdpr.ca.gov>. Upon request, the documents can be made available in another language, or an alternate form as a disability-related accommodation.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <http://www.cdpr.ca.gov>.

TITLE 4. HORSE RACING BOARD

**ARTICLE 15. VETERINARY PRACTICES
RULE 1845. AUTHORIZED
BLEEDER MEDICATION**

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1845, Authorized Bleeder Medication, to eliminate the provision prohibiting a horse removed from the authorized bleeder medication list from returning to the list for 60 days unless determined medically necessary by the official veterinarian; eliminate the provision prohibiting a horse removed from the authorized bleeder medication list a second time in a 365-day period from returning to the list for 90 days; and prohibit the administration of furosemide to a horse registered on the authorized bleeder medication list when entered in a race where furosemide is prohibited under race conditions approved by the Board.

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 **June 1, 2021**. The Board must receive all comments by that time. Submit comments to:

Rick Pimentel, Policy and Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 274-6043
Fax: (916) 263-6042
Email: repimentel@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19562, Business and Professions Code (BPC). Reference: Sections 19580, 19581, and 19582, BPC.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

BPC section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Horse Racing Law. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and control of horse racing and parimutuel wagering. BPC section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of Horse Racing Law, under which all horse races with wagering on their results shall be conducted in California.

Board Rule 1845 governs the requirements for the administration of furosemide. In part, it prohibits a horse removed from the authorized bleeder medication list from being placed back on the list for 60 calendar days unless the official veterinarian determines it is medically necessary. If the horse is removed from the list a second time within 365 days, it may not be placed back on the list for 90 days.

The proposed amendment to Board Rule 1845 will eliminate the provisions that prevent a horse removed from the authorized bleeder medication list from immediately returning to the list. This will allow a horse to run in a graded stakes race where furosemide is prohibited and, immediately thereafter, return to the list to run in non-graded stakes races that allow

furosemide. Additionally, the proposed amendment will prohibit the administration of furosemide to a horse registered on the authorized bleeder medication list when entered in a race where furosemide is prohibited under race conditions approved by the Board, which will eliminate confusion as to whether a horse's registration on the authorized bleeder medication list takes precedence over Board-approved race conditions that ban furosemide.

ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

The proposed amendment to Board Rule 1845 will benefit jockeys, trainers, and horse owners by helping to ensure their horses are not unduly prohibited from returning to the authorized bleeder medication list, which will allow them to run in various races that allow furosemide, thereby protecting potential income. The proposed amendment will eliminate the provisions prohibiting a horse removed from the authorized bleeder medication list from returning to the list for 60 days or, if removed from the list a second time in a 365-day period, 90 days. This will allow said horses to run in graded stakes races where furosemide is banned and then immediately return to the list to run, while on furosemide, in non-graded stakes races where furosemide is allowed. The proposed amendment will also prohibit the administration of furosemide to a horse registered on the authorized bleeder medication list when entered in a race where furosemide is prohibited under race conditions approved by the Board, which will provide clarity and prevent inadvertent violations of race conditions.

CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the amendment, the Board conducted a search for any similar regulation on this topic and has concluded that Board Rule 1845 is the only regulation that governs the requirements for the administration of furosemide. Therefore, the proposed regulation is 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 (GC) 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 1845 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed amendment will eliminate the provisions prohibiting a horse removed from the authorized bleeder medication list from returning to the list for 60 days or, if removed from the list a second time in a 365-day period, 90 days. This will allow said horses to run, without furosemide, in graded stakes races then immediately return to the list to run, while on furosemide, in non-graded stakes races where furosemide is allowed. The proposed amendment will also prohibit the administration of furosemide to a horse registered on the authorized bleeder medication list when entered in a race where furosemide is prohibited under race conditions approved by the Board, which will provide clarity and prevent inadvertent violations of race conditions.

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

Cost impact on representative private persons or businesses: none. 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 THE ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendment to Board Rule 1845 will not (1) create or eliminate jobs within the state; (2) create new businesses or eliminate existing businesses within the state; (3) result in the expansion of businesses currently doing business with the state; or (4) benefit worker safety or the state's environment. The proposed amendment to Board Rule 1845 will benefit the health and welfare of California residents by helping to ensure that horses are not unduly prohibited from returning to the authorized bleeder medication list, which will allow said horses to run in certain races that allow furosemide, thereby protecting potential income for jockeys, trainers, and horse owners. The proposed amendment will eliminate the provisions prohibiting a horse removed from the authorized bleeder medication list from returning to the list for 60 days or, if removed from the list a second time in a 365-day period, 90 days. This will allow said horses to run in graded stakes races where furosemide is banned, and then immediately return to the list to run, while on furosemide, in non-graded stakes

aces where furosemide is allowed. The proposed amendment will also prohibit the administration of furosemide to a horse registered on the authorized bleeder medication list when entered in a race where furosemide is prohibited under race conditions approved by the Board, which will provide clarity and prevent inadvertent violations of race conditions.

Effect on small business: none. The proposal to amend Board Rule 1845 does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation. The proposed regulation will eliminate the provisions prohibiting a horse removed from the authorized bleeder medication list from returning to the list for 60 days or, if removed from the list a second time in a 365-day period, 90 days. The proposed amendment will also prohibit the administration of furosemide to a horse registered on the authorized bleeder medication list when entered in a race where furosemide is prohibited under race conditions approved by the Board.

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, would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective 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 PERSONS

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:

Rick Pimentel, Policy and Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 274-6043
Fax: (916) 263-6042
E-mail: repimentel@chr.ca.gov

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

Amanda Drummond, Manager
Policy, Regulations, and Administrative Hearings
Telephone: (916) 263-6033
Email: amdummond@chr.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Rick Pimentel or the alternative contact person at the address, phone number, or email address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing 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 that 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 regulation should be sent to the attention of Rick Pimentel 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 Rick Pimentel 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 this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is www.chrb.ca.gov.

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

§ 962. DEFINITIONS

§ 962.1 NOTIFICATION OF PARTICIPATION IN AN EXTERNSHIP PROGRAM

§ 962.2 LAMINATED SCHOOL IDENTIFICATION

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (Board) is proposing to amend California Code of Regulations (CCR), Title 16, Division 9, Sections 962, 962.1, and 962.2, as described in the Informative Digest.

PUBLIC HEARING

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

WRITTEN COMMENTS

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 offices not later than **Wednesday, June 2, 2021**, or must be received by the Board at the hearing, if requested.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the

full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 7312, and to implement, interpret or make specific BPC sections 7395.1 and 7395.2, the Board is considering changes to Division 9 of Title 16 of the CCR as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board enforces the Barbering and Cosmetology Act and oversees licensed barbers, cosmetologists, estheticians, manicurists, and electrologists in California. BPC section 7312 authorizes the Board to make rules and regulations in aid or furtherance of the Act. Under existing law, students who are enrolled in approved courses of instruction in cosmetology schools may, upon completion of a minimum of 60 percent of the clock hours required for graduation in the course, work as externs in establishments participating in the educational program of the school. (Bus. & Prof. Code, § 7395.1, subdivision (a).)

In 2018, the Governor signed Assembly Bill (AB) 2134 (Chapter 387, Statutes of 2018), which became law on Sept. 14, 2018. The bill created BPC section 7395.2, which mandates that students in barber schools also be allowed to work as externs. The proposed amendments to 16 CCR sections 962, 962.1 and 962.2 will include the requirements of BPC section 7395.2 and make them consistent with the regulations already applicable to cosmetology students. Barbering students, like cosmetology students, will now have the opportunity to improve their skills with real-world, hands-on experience in their field.

Existing section 962 sets forth the definitions applicable to externships for cosmetology students. BPC section 7395.2 contains identical requirements at subdivisions (c) and (g) as those contained in section 7395.1, which applies to cosmetology student externships. This proposal will expand the existing definitions in section 962 of 16 CCR to apply equally to barbering externships.

Existing section 962.1 sets forth reporting requirements for each participating school to ensure that establishments and licensees participating in externship programs remain in good standing. This proposal will expand the requirements to apply

equally to schools and establishments participating in barbering externships.

Existing section 962.2 sets forth requirements relating to the identification card students participating in an externship must possess. This proposal will expand those requirements to apply to cosmetology and barbering school externships.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

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

The Board indicates any enforcement-related workload and costs related to barbering externship programs are already being incurred as a result of current law. Additionally, the Board does not require participants to register or collect fee revenues related to externship programs. As a result, no fiscal impact is anticipated.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no economic impact affecting business, including the ability of California businesses to compete with businesses in other states. BPC Section 7395.2, like BPC Section 7395.1, places strict limits on how many externs may work in a shop and their hours. Moreover, the section also stipulates that no “regularly employed licensee shall be displaced or have his or her work reduced or altered” to accommodate an extern.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. This is because BPC Section 7395.2, like BPC Section 7395.1 covers cosmetology externships, places strict limits on how many externs may work in a shop and their hours and stipulates that no “regularly employed licensee shall be displaced or have his or her work reduced or altered” to accommodate an extern. Finally, no school or business is under any obligation to participate in an extern program.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit barbering students who will have the opportunity to improve their skills with real-world, hands-on experience in their field, making it easier to gain employment upon receiving their license. It will also enable barbering students to become familiar with hazards that may arise during actual employment, which will enhance worker safety. This regulatory proposal will benefit the health and welfare of California residents as barbering students will be better trained by having worked in an actual establishment and Californians will have greater access to professional barbers. The regulatory proposal will not benefit the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF
REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained on request from the Contact Person named below.

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

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

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

CONTACT PERSON

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

Name:
Allison Lee
Address:
2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone Number:
(916) 575-7100
Fax Number:
(916) 928-6810
E-Mail Address: Allison.Lee@dca.ca.gov

The backup contact person is:

Name:
Patricia Garcia
Address:
2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone Number:
(916) 575-7100
Fax Number:
(916) 928-6810
E-Mail Address:
Patricia.Garcia@dca.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml.

**TITLE 16. ARCHITECTS BOARD/
LANDSCAPE ARCHITECTS
TECHNICAL COMMITTEE**

**PUBLIC PRESENTMENTS AND
ADVERTISING REQUIREMENTS, § 2671**

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action described in the Informative Digest below.

PUBLIC HEARING

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

COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than **Wednesday, June 2, 2021**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

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

Authority and Reference: Pursuant to the authority vested by section 5630 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 137, the Board is considering

amending section 2671 of article 1 of division 26 of title 16 of the California Code of Regulations¹ (CCR).

INFORMATIVE DIGEST

BPC section 5630 authorizes the Board to adopt, amend, or repeal such rules and regulations as are reasonably necessary to govern the examinations of license applicants, establish criteria for approving schools of landscape architecture, establish rules or professional conduct that are not inconsistent with state or federal law, and carry out the provisions of the Landscape Architects Practice Act. BPC section 137 authorizes the Board to promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public. CCR section 2671 sets forth the requirements to be followed by licensees when making presentments and advertisements to the public.

However, landscape architect license numbers are not currently required to be provided to the public on public advertisements and presentments. This omission may result in unlicensed individuals contracting with consumers for landscape architecture services that the individual is not professionally qualified or licensed to perform. In addition, consumers are unable to check before consulting or contracting with a licensed landscape architect the license number of the landscape architect to determine if the landscape architect has been disciplined. To address these issues, the Landscape Architects Technical Committee (LATC), under the jurisdiction of the Board, included in its 2019–2021 Strategic Plan an objective to “Research the feasibility of requiring a license number on all correspondence and advertisement platforms to inform and protect consumers.” At the LATC’s May 29, 2019 meeting, proposed language to amend CCR section 2671 to require licensees include their license number in all advertisements and public presentments was presented. At that meeting, the LATC recommended to the Board to approve the proposed amendments. At its June 12, 2019 meeting, the Board approved the proposal to require licensees to include their license number in all public presentments and advertisements.

In response to the directives given by both the LATC and the Board, the LATC is pursuing this regulatory proposal to expand the advertising and public presentment requirements of licensed landscape architects to also include their license number.

The Board is proposing the following changes:

Amend Section 2671 of Article 1 of Division 26 of Title 16 of the CCR — Public Presentments and Advertising Requirements

- Amend CCR section 2671, subdivision (a), to require landscape architects to include, along with their name and the words “landscape architect,” their license numbers in all forms of advertisements or presentments made to the public in connection with the rendition of landscape architectural services.
- Amend CCR section 2671, subdivision (b), to require landscape architect group practices containing or employing a landscape architect who is a partner, principal officer, or employee of the group practice which are already required by this section to include the name of the landscape architect and the words “landscape architect” in all forms of advertisements or presentments made to the public in connection with the rendition of landscape architectural services to now also include the landscape architects’ license number. The proposal would also make a minor/technical change to the existing subdivision.

POLICY STATEMENT OVERVIEW/
ANTICIPATED BENEFITS OF PROPOSAL

Protection of the public is the Board’s highest priority in exercising its licensing, regulatory, and disciplinary functions. The proposal would better protect the public by requiring a landscape architect licensee, or a licensee of the group practice, to include their license number in all public presentments and advertisements to ensure the public is engaging the services of qualified, licensed, landscape architects. With the license number information, consumers will be better informed of who is and who is not a licensed landscape architect. Additionally, the Board anticipates that the minor and technical revision in the rulemaking will make the public presentments and advertising requirements easier for licensees to understand.

CONSISTENCY AND COMPATIBILITY
WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal

¹ All CCR references are to title 16 unless otherwise noted.

Funding to the State: The proposed regulations do not result in additional costs to the state.

The Board acknowledges it may receive inquiries (by phone or email) from licensees regarding compliance, but the Board already maintains staffing resources to address them. As a result, no additional costs are anticipated.

The Board further acknowledges, it may receive a consumer complaint (by phone or email) related to non-compliance. However, in these circumstances the Board would likely contact the licensee (by phone or email) to remind and educate the licensee of the requirements, in lieu of formal discipline. Because the Board already maintains staffing resources for these purposes, no additional costs are anticipated.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed regulations should not impact advertising budgets enough to affect businesses. This regulation does not mandate printing of business cards, but merely requires that if business cards are printed, they must contain the licensee’s license number. Such a requirement is common for other professionals, such as contractors and realtors. The proposed regulations should not cost licensees enough money to have an effect on creating or eliminating businesses.

Cost Impact on Representative Private Person or Business: While the exact costs are unknown, the Board is aware there may be minor costs a representative private person or business would incur in reasonable compliance with the proposed action to reprint their presentments and advertising materials with the landscape architect license number.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation may affect small businesses as there may be a minor cost for group practices to reprint presentments and advertising materials to include the landscape architects’ license number.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any 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 printing the license number has no impact on obtaining a license prior to employment.

Benefits of Regulation:

The LATC has determined that this regulatory proposal will benefit the health, safety, and welfare of California consumers. By providing consumers with landscape architect license numbers in all public advertising and presentments, consumers will be able to use the license number to search the Consumer Affairs Systems database through the Board’s website or contact the LATC to confirm whether the advertising individual is the individual associated with the license number. The proposal would also benefit landscape architect licensees by making a minor/technical change to the existing regulation. The proposal does not affect worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

Set forth below is the alternative that was considered and the reason this alternative was rejected:

An alternative option is to keep the status quo, but if the Board does not adopt the proposed amendments, transparency would be insufficient between California consumers and landscape architects in that a licensee’s license number would not be readily available.

Another alternative option was to adopt the proposed regulations with a delayed implementation date so landscape architects could to use up their existing advertising materials before such materials are required to include their license number. This alternative was rejected because licensees can opt to employ a “no cost” solution to compliance by employing a common writing instrument to add their

license number to their current stockpile of advertising materials.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2420 Del Paso Road, Suite 105, Sacramento, California 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the California Architects Board, Landscape Architects Technical Committee at 2420 Del Paso Road, Suite 105, Sacramento, California 95834 or by telephoning the Contact Person listed below.

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

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

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

CONTACT PERSON

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

Name:
Stacy Townsend
Address:
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number:
(916) 575-7235
Fax Number:
(916) 575-7283
E-Mail Address:
stacy.townsend@dca.ca.gov

The backup contact person is:

Name:
Trish Rodriguez
Address:
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number:
(916) 575-7231
Fax Number:
(916) 575-7283
E-Mail Address:
latc@dca.ca.gov

Website Access: Materials regarding this proposal can be found at LATC pending regulations.

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

DATE: April 16, 2021
ACTION: Notice of Rulemaking Action
Title 28, California Code of Regulations
SUBJECT: Adoption of Regulation, Title 28,
California Code of Regulations, Section
1300.67.01, COVID-19 Diagnostic
Testing, Control Number 2020-COV.

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Department) proposes to make final the emergency regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), Title 28, California Code of Regulations (CCR), section 1300.67.01. This regulation was initially adopted as an emergency regulation and approved by the Office of Administrative Law (OAL) and effective on July 16, 2020. Changes made to the text during the emergency period are noted in underline. The Department is incorporating by reference the above mentioned emergency filing approved by OAL, File Number 2020-0716-01-E.

Before undertaking this action, the Director of the Department (Director) will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative,

may submit a written request for a public hearing pursuant to Section 11346.8(a) of the Government Code. The written request for hearing must be received by the Department's contact person, designated below, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office of Legal Services, **by midnight, on June 2, 2021**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email or via the Department's website:

Website: <http://wpsso.dmhc.ca.gov/regulations/#1>

Email: regulations@dmhc.ca.gov

Mail:

Department of Managed Health Care
Office of Legal Services
Attention: Regulations Coordinator
980 9th Street, Suite 500
Sacramento, CA 95814

Fax: (916) 322-3968

Please note: if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author's name and a U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Please identify the action by using the Department's rulemaking title and control number, **COVID-19 Diagnostic Testing, Control Number 2020-COV** in any of the above inquiries.

CONTACTS

Inquiries concerning the proposed adoption of these regulations may be directed to:

Jennifer Willis

Senior Counsel
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 324-9014
(916) 322-3968 fax
jennifer.willis@dmhc.ca.gov

OR

Kim Bollenbach

Legal Analyst
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 414-0790
(916) 322-3968 fax
kim.bollenbach@dmhc.ca.gov

AVAILABILITY OF DOCUMENTS

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulation is based (rulemaking file). This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Sacramento, CA 95814, Attention: Regulations Coordinator.

The Notice of Proposed Rulemaking Action, the proposed text of the regulation, and the Initial Statement of Reasons are also available on the Department's website at <http://wpsso.dmhc.ca.gov/regulations/#1>, under the heading "Open Pending Regulations."

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the Regulation Coordinator named above.

AVAILABILITY OF MODIFIED TEXT

The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days before the date the Department adopts the regulation. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Director will accept

comments via the Department’s website, mail, fax or email on the modified regulation(s) for 15 days after the date on which the modified text is made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth without further notice.

AUTHORITY AND REFERENCE

Pursuant to Health and Safety Code section 1341, the Department is vested with all duties, powers, purposes, responsibilities and jurisdiction as they pertain to health care service plans (health plans) and the health care service plan business. This includes ensuring that health plans provide enrollees with access to quality health care services and protect and promote the interests of enrollees.

Health and Safety Code section 1343 defines the term “health plan” and “specialized health plan and lists those entities not subject to the jurisdiction of the Department and the Knox–Keene Act.

Health and Safety Code section 1344 grants the Director authority to adopt, amend, and rescind regulations as necessary to carry out the provisions of the Knox–Keene Act, including rules governing applications and reports, and defining any terms as are necessary to carry out the provisions of the Knox–Keene Act.

Health and Safety Code section 1367 states requirements that each health plan must meet for compliance with the Knox–Keene Act. This section requires a health plan to furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice and to ensure it has the organizational and administrative capacity to fulfill its duties to enrollees. Health and Safety Code section 1367 also requires health plans to make all services readily available at reasonable times to each enrollee consistent with good professional practice and, to the extent feasible, to make all services readily accessible to all enrollees consistent with Health and Safety Code section 1367.03 (regarding timely access to needed health care services).

Health and Safety Code section 1367.03 requires that health plans provide enrollees with access to health care services in a timely manner.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Knox–Keene Act

Existing law, under the Knox–Keene Act, provides for the licensure and regulation of health plans by the Department. The Knox–Keene Act also requires

a health plan’s provider network to be adequate enough to provide necessary care in a reasonable and timely manner to the health plan’s enrollees. Health plans must ensure health care services are provided in a readily accessible manner in accordance with good professional practice. Further, a health plan is responsible for providing health care services in a manner that provides and ensures continuity of care for enrollees and provides referrals of patients to other providers as necessary in accordance with good professional practice.

A health care service plan must employ and utilize allied manpower for the furnishing of health care services to the extent permitted by law and consistent with good professional practice. Existing law also requires a health plan to have sufficient organization and administrative capacity to assure the delivery of health care services to its enrollees.

The FFCRA and the CARES Act

The federal Families First Coronavirus Response Act (FFCRA) was enacted on March 18, 2020. Section 6001 of the FFCRA generally requires group health plans and health insurance issuers offering group or individual health insurance coverage to provide benefits for certain items and services related to diagnostic testing for the detection of SARS–CoV–2 or the diagnosis of COVID–19 (referred to in this document as COVID–19) when those items or services are provided on or after March 18, 2020, and during the applicable federal emergency period. Under the FFCRA, health plans shall provide this coverage without imposing any cost–sharing requirements (including deductibles, copayments, and coinsurance) or prior authorization or other medical management requirements.

The federal Coronavirus Aid, Relief and Economic Security Act (CARES Act) was enacted on March 27, 2020. Section 3201 of the CARES Act amended section 6001 of the FFCRA to include a broader range of diagnostic items and services that health plans shall cover without any cost–sharing requirements or prior authorization or other medical management requirements. Additionally, section 3202 of the CARES Act generally requires health plans providing coverage for these items and services to reimburse any provider of COVID–19 diagnostic testing an amount that equals the negotiated rate or, if the plan or issuer does not have a negotiated rate with the provider, the cash price for such service that is listed by the provider on a public website. (The health plan or issuer may negotiate a rate with the provider that is lower than the cash price.)

On February 26, 2021, the federal Centers for Medicare & Medicaid Services (CMS), in conjunction with the Department of Labor and the Department of the Treasury, issued new guidance making it easier

for enrollees to obtain diagnostic COVID-19 testing and clarifying when plans must cover such testing for their enrollees. The new guidance clarifies that health plans must cover COVID-19 diagnostic tests for asymptomatic enrollees who have no known or suspected exposure to COVID-19 when a licensed or authorized health care provider administers or has referred the enrollee for such a test. Health plans must cover such testing without cost-sharing, prior authorization, medical screening criteria, or other medical management requirements imposed by the plan.

**COMPARABLE FEDERAL LAW
(Govt. Code § 1346.5(a)(3)(B))**

The proposed regulation is consistent with and facilitates state implementation of federal law enacted pursuant to the FFCRA and the CARES Act to address the COVID-19 pandemic.

**POLICY STATEMENT OVERVIEW
BROAD OBJECTIVES AND BENEFITS OF
THE PROPOSED REGULATION
(Govt. Code § 1346.5(a)(3)(c))**

Pursuant to Government Code section 11346.5(a)(3)(C), the broad objectives and benefits of this proposed regulation are to increase diagnostic testing in order to slow the spread of COVID-19, and to provide health plans, consumers, providers and other stakeholders clear direction on requirements for coverage of COVID-19 diagnostic testing and claims reimbursement. The United States Centers for Disease Control and Prevention (CDC) advised that COVID-19 seems to be spreading easily and sustainably in many communities. Given the public health implications of an increasing number of cases, it is essential that questions about coverage and cost-sharing not create a barrier to enrollee access to testing for COVID-19.

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The CDC has declared COVID-19 a worldwide pandemic due to its global effect. On March 13, 2020, former President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak.

On March 4, 2020, Governor Gavin Newsom declared an emergency in the state of California in response to the outbreak of respiratory illness due to the novel coronavirus known as COVID-19. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, a stay-at-home order to protect Californians and slow

the "rapid spread" of COVID-19. The order mandates all residents heed current public health directives, fundamentally ordering all but the most essential workers to stay home. While some stay-at-home directions were subsequently modified, as recently as July 13, 2020, Governor Newsom announced reinstatement of some restrictions in order to slow the spread and address the spike in new COVID-19 cases.

As of April 5, 2021, California has 3,582,463 cases of COVID-19 and 58,534 deaths resulting from COVID-19. The current and ongoing public health emergency related to COVID-19 necessitates the adoption of the proposed regulation to avoid serious harm to public health and safety.

Reports suggest an asymptomatic infected person may unknowingly spread the virus to dozens of other individuals. The Department is aware of Californians' varying experiences obtaining coverage for COVID-19 diagnostic tests, and the confusion among health plans regarding requirements for them to cover COVID-19 diagnostic testing. Health officials continue to research and evaluate the crisis, but robust testing is necessary to stop the spread of COVID-19 and recover from the ongoing public health emergency.

This regulation specifies, during the relevant state of emergency, COVID-19 diagnostic testing is a medically necessary basic health care services for all essential workers, as defined, and prevents delays in testing and claims payment related to such individuals. The regulation will have the benefit of enabling the testing of more Californians who have broad contact with the public or with vulnerable populations, or whose work environment does not allow social distancing. Increased testing of such individuals, including asymptomatic individuals with no proven exposure to COVID-19, will result in prompt identification of new COVID-19 cases. This will allow the affected individuals to take appropriate action to limit exposure of others to the virus and stop the spread of COVID-19.

The proposed regulation is necessary to ensure appropriate coverage of and payment for diagnostic testing to address the rapid spread of COVID-19 and take appropriate responsive measures. This regulation will ensure that health plans understand their responsibility to provide coverage for health plan enrollees to obtain diagnostic testing necessary to diagnose COVID-19. This regulation also ensure that health plan properly reimburse providers who are on the frontline testing and diagnosing enrollees with COVID-19.

**CONSISTENCY AND COMPATIBILITY
WITH STATE REGULATIONS
(Govt. Code § 11346.5(a)(3)(D))**

The Department compared the proposed regulation to existing state regulations. The proposed regulation is neither inconsistent nor incompatible with existing state regulations. The Department evaluated the proposed amendments to the regulations for any related regulations in this area and found that these are the only regulations that deal with COVID-19 diagnostic testing under the Knox-Keene Act.

COMPARABLE FEDERAL LAW

The federal FFCRA was enacted on March 18, 2020. Section 6001 of the FFCRA generally requires group health plans and health insurance issuers offering group or individual health insurance coverage to provide benefits for certain items and services related to diagnostic testing for the detection of SARS-CoV-2 or the diagnosis of COVID-19 when those items or services are provided on or after March 18, 2020, and during the applicable federal emergency period. Under the FFCRA, health plans shall provide this coverage without imposing any cost-sharing requirements (including deductibles, copayments, and coinsurance) or prior authorization or other medical management requirements.

The federal CARES Act was enacted on March 27, 2020. Section 3201 of the CARES Act amended section 6001 of the FFCRA to include a broader range of diagnostic items and services that health plans shall cover without any cost-sharing requirements or prior authorization or other medical management requirements. Additionally, section 3202 of the CARES Act generally requires health plans providing coverage for these items and services to reimburse any provider of COVID-19 diagnostic testing an amount that equals the negotiated rate or, if the plan or issuer does not have a negotiated rate with the provider, the cash price for such service that is listed by the provider on a public website.

PURPOSE OF THE REGULATIONS

The Department is proposing to make permanent the adoption of Rule 1300.67.01. This is necessary to interpret, implement and make specific the requirements for health plan coverage for the testing and diagnosis of COVID-19.

LOCAL MANDATE

The Department has determined the regulations will not impose a mandate on local agencies or school districts, nor are there any costs requiring

reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ALTERNATIVES CONSIDERED

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

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

REPORTING REQUIREMENT

There is no reporting requirements resulting from the proposed regulation.

SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None. However, the State's efforts to seek reimbursement from private health insurance may assist the State in seeking COVID-19-related funding from the Federal Emergency Management Agency (FEMA).
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Costs to private persons or businesses directly affected: 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.
- Effect on Housing Costs: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.

DETERMINATIONS

The Department has made the following initial determinations:

The Department has determined the regulation will not impose a mandate on local agencies or

school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code. As specified in Section 6 of AB 2179, no reimbursement is required.

The Department has determined the regulation will have no significant effect on housing costs.

The Department has determined the regulation does not affect small businesses. Health care service plans are not considered a small business under Government Code Section 11342.610(b) and (c).

The Department has determined the regulation will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined the regulation will not significantly affect the creation of new businesses or the elimination of existing businesses within the State of California.

The Department has determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that this regulation will have no cost or savings in federal funding to the state. However, the State's efforts to seek reimbursement from private health insurance may assist the State in seeking COVID-19-related funding from the FEMA.

**RESULTS OF THE
ECONOMIC IMPACT ANALYSIS
(Government Code § 11346.3(b))**

A. Creation or Elimination of Jobs Within the State of California

The proposed regulation is identical to the recently enacted emergency regulations amending title 28 of the California Code of Regulations regarding COVID-19 testing with the exception of two non-substantive edits. This regulation details the requirements of health plans related to COVID-19 diagnostic testing and reimbursement of providers as already required by federal law under the FFCRA and the CARES Act. Given the nature of the proposed regulation and the non-substantive changes it makes to the existing law, the regulation will not create or eliminate jobs within the State of California.

B. Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

This proposed regulation will neither create new businesses nor eliminate existing businesses.

This regulation details the requirements of health plans related to COVID-19 diagnostic testing and reimbursement of providers as already required by federal law under the FFCRA and the CARES Act. This regulation does not impose any requirements that do not already exist under state and federal law. Therefore, the regulation creates no additional requirements that would affect the creation of new or elimination of existing businesses in California.

C. Expansion of Businesses Currently Doing Business Within the State of California

This regulation is intended to clarify state law for health plans under the Knox-Keene Act, consistent with the requirements of federal law, the FFCRA and the CARES Act. This regulation does not create any new requirements and only updates the existing law and provides further clarification. The Knox-Keene licensed plans are subject to federal law under the FFCRA and the CARES Act. Therefore, the Department determined this regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

D. Benefits of the Regulation to the Health and Welfare of California residents, worker safety, and the State's Environment

The proposed regulatory action will provide health plans with their obligations to enrollees during the pandemic for providing diagnostic testing for COVID-19, consistent with state and federal law and benefits the health and welfare of California residents during the pandemic. This regulation details the requirements of health plans related to the reimbursement of providers for diagnostic testing of health plan enrollees as already required by federal law under the FFCRA and the CARES Act. The Department does not anticipate this regulatory action will have any impact on worker safety, or the state's environment.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

**PUBLIC NOTICE REQUIREMENT
FOR ISSUANCE OF TREATED WOOD
WASTE VARIANCES**

The week of March 15, 2021, the Department of Toxic Substances Control (DTSC) issued variances for the management of treated wood waste. The variances were issued pursuant to Health and Safety Code sec-

tion 25143(b)(1) and California Code of Regulations, title 22, section 66260.210.

The variances authorize the recipients to manage treated wood waste, that is a California hazardous waste, in accordance with a set of alternative management standards. The variances are effective for six months and may be extended once for an additional six months.

The variance recipients are listed by variance type, and the information provided includes the variance identification number, recipient name, and recipient location.

Recipients of Disposal Facility Variances

- TWW-2021-DF-00086, Recology Hay Road Landfill, 6426 Hay Road, Vacaville, CA 95687
- TWW-2021-DF-00103, El Sobrante Landfill, 10910 Dawson Canyon Road, Corona, CA 92883
- TWW-2021-DF-00115, McKittrick Waste Treatment Site, 56533 Hwy 58 West, McKittrick, CA 93251
- TWW-2021-DF-00136, Lamb Canyon Sanitary Landfill, 16411 Lamb Canyon Road, Beaumont, CA 92223
- TWW-2021-DF-00137, Badlands Sanitary Landfill, 31125 Ironwood Avenue, Moreno Valley, CA 92555
- TWW-2021-DF-00143, Tajiguas Sanitary Landfill, 14470 Calle Real, Santa Barbara, CA 93117
- TWW-2021-DF-00157, Antelope Valley Landfill, 1200 W. City Ranch Road, Palmdale, CA 93551
- TWW-2021-DF-00162, Lancaster Landfill, 600 E. Avenue F, Lancaster, CA 93535

Recipients of Handler/Transporter Variances

- TWW-2021-HT-00074, Marin Resource and Recovery, 565 Jacoby Street, San Rafael, CA 94901
- TWW-2021-HT-00082, Santa Maria Area Recycling Terminal, LLC, 2220 F Street, Santa Maria, CA 93455
- TWW-2021-HT-00116, ACES Waste Services, Inc., 19801 Berry Street, Pine Grove, CA 95665; 6500 Buena Vista Road, Ione, CA 95640
- TWW-2021-HT-00124, North SLO County Recycling and Transfer Station Facility #40-AA-0039, 3360 La Cruz Way, Templeton, CA 93465
- TWW-2021-HT-00130, Pleasanton Garbage Transfer Station, 3110 Busch Road, Pleasanton, CA 94556

- TWW-2021-HT-00132, Recology Eel River, Conservation Camp Road, Redway, CA 95560; 965 Riverwalk Drive, Fortuna, CA 95540
- TWW-2021-HT-00135, County of Yolo, 44090 County Road 28H, Woodland, CA 95776
- TWW-2021-HT-00142, Kroeker, Inc., 4627 South Chestnut Avenue, Fresno, CA 93725
- TWW-2021-HT-00150, Recology Davis, 2727 2nd Street, Davis, CA 95618
- TWW-2021-HT-00151, Recology Vallejo, 2021 Broadway Street, Vallejo, CA 94589
- TWW-2021-HT-00154, Recology San Francisco, 501 Tunnel Avenue, San Francisco, CA 94134
- TWW-2021-HT-00161, Waste Management of Nevada County, 14741 Wolf Mountain Road, Grass Valley, CA 95949

Recipients of Large Quantity Generator / Self-transporter Variances

- TWW-2021-LG-00128, Certified Blue Recycling, Inc., 2075 Williams Street, San Leandro, CA 94577
- TWW-2021-LG-00131, OC405 Partners JV, Post Mile 9.3 to Post Mile 24.2 (I-405 between SR-73 & I-605)
- TWW-2021-LG-00144, Redwood Residential Fence Company, 4170 Santa Rosa Avenue, Santa Rosa, CA 95407
- TWW-2021-LG-00146, Stella-Jones Corporation, 4526 50th Street, McClellan, CA 95652; 4248 N Weber Avenue, CA 93722

Recipients of Small Quantity Generator/Self-transporter Variances

- TWW-2021-SG-00111, Coastal Evergreen, 150 El Pueblo Road, Scotts Valley, CA 95066
- TWW-2021-SG-00133, Beronio Lumber Company, 2525 Marin Street, San Francisco, CA 94124

Recipients of Transporter Variances

- TWW-2021-TR-00080, All Clean Hazardous Waste Removal, Inc., 21 Great Oaks Boulevard, San Jose, CA 95119
- TWW-2021-TR-00126, Recology Sonoma-Marin, 3400 Standish Avenue, Santa Rosa, CA 95407
- TWW-2021-TR-00127, Recology Del Norte, 2675 Lake Earl Drive, Crescent City, CA 95531
- TWW-2021-TR-00129, Recology Humboldt County, 555 Vance Avenue, Samoa, CA 95564
- TWW-2021-TR-00134, Three D Service Company, Inc. 1551 E. Mission Boulevard, Pomona, CA 91766

- TWW-2021-TR-00141, USA Waste of California, Inc., 9081 Tujunga Avenue, Los Angeles, CA 91352
- TWW-2021-TR-00145, Recology Mariposa, 4705 State Hwy 49, Mariposa, CA 95338
- TWW-2021-TR-00147, Recology Vacaville-Solano, 1 Town Square Place, Suite 200, Vacaville, CA 95688
- TWW-2021-TR-00148, Recology Dixon, 1 Town Square Place, Suite 200, Vacaville, CA 95688
- TWW-2021-TR-00149, Cobalt Construction Company, 434 N Morrison Avenue, San Jose, CA 95126
- TWW-2021-TR-00152, Recology American Canyon, 2021 Broadway Street, Vallejo, CA 94589
- TWW-2021-TR-00153, M.E. Morrison, 751 Laurel Street #333, San Carlos, CA 94070
- TWW-2021-TR-00159, Patriot Environmental Services, 255 Parr Boulevard, Richmond, CA 94801
- TWW-2021-TR-00160, Recology Arcata, P.O. Box 188, Samoa, CA 95564

For additional information, contact Ryan Batty of the Department of Toxic Substances Control at (916) 823-7617 or by e-mail at Ryan.Batty@dtsc.ca.gov.

OFFICE OF ADMINISTRATIVE LAW

UNDERGROUND REGULATIONS:
AMENDMENT OF
SECTIONS 250, 260, 270, AND 280

NOTICE OF CHANGE OF DATE OF
REGULATORY HEARING AND EXTENSION
OF WRITTEN COMMENT PERIOD

NOTICE IS HEREBY GIVEN that the Office of Administrative Law (OAL) is rescheduling the hearing and extending the comment period noticed in its March 26, 2021, Notice of Proposed Rulemaking.

RESCHEDULED PUBLIC HEARING

The virtual public hearing originally scheduled on May 12, 2021, at 9:00 a.m., is **rescheduled to May 26, 2021, at 9:00 a.m.** Call-in details in the Notice of Proposed Rulemaking remain the same and are included below for your convenience. If you have already requested an online invitation to the virtual hearing you will also receive an update by e-mail.

Attendees may participate via Microsoft Teams online meeting platform or telephone conferencing. To participate via Microsoft Teams online meeting platform please email amy.gowan@oal.ca.gov by 4:30 p.m. on May 25, 2021, to request a link to the meeting. A link to the meeting will also be posted under the Announcements heading on the front page of the OAL website, no later than 8:00 a.m. the morning of the hearing. To participate by telephone, call 1-916-282-3524 and enter Conference ID: 439 922 79#.

As a reasonable ADA accommodation, limited in person seating may be available at the hearing in the OAL Training Room, 300 Capitol Mall, Suite 1210, Sacramento, CA 95814. Attendees must comply with all COVID-19 safety protocols. Please contact Amy Gowan at amy.gowan@oal.ca.gov or (916) 323-6225 by 4:30 p.m. on May 25, 2021, if an accommodation is necessary.

Participants will be given instructions on how to provide oral comment once they have accessed the hearing. The hearing will continue on the date noted above until all testimony is submitted, or until 12:00 p.m., whichever is later. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. OAL requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony via email.

EXTENSION OF WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Office of Administrative Law
Attention: Amy Gowan
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 323-6826 or by e-mail to amy.gowan@oal.ca.gov. **The written comment period closes on May 26, 2021.** To ensure OAL will consider your comment it must be received by May 26, 2021. When commenting, please indicate the proposed rulemaking action to which your comment refers.

CONTACT PERSONS

Inquiries concerning the proposed rulemaking action may be directed to:

Amy Gowan
Office of Administrative Law
300 Capitol Mall, Suite 1250,
Sacramento, CA 95814
Phone: (916) 323-6225
Email: amy.gowan@oal.ca.gov

The backup contact person for these inquiries is:

Thanh Huynh
Office of Administrative Law
300 Capitol Mall, Suite 1250,
Sacramento, CA 95814
Phone: (916) 323-6225
Email: thanh.huynh@oal.ca.gov

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, can be accessed via OAL's website at www.oal.ca.gov.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
NOTICE OF MODIFICATION OF TEXT
PROPOSED AMENDMENTS TO
ARTICLE 5 SECTION 25505
EXPOSURES TO LISTED CHEMICALS IN
COOKED OR HEAT PROCESSED FOODS**

Pursuant to the requirements of Government Code section 11346.8(c) and Title 1, section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes made to the proposed regulations on exposures to Proposition 65 chemicals formed when food is cooked or heat processed, Title 27, California Code of Regulations, section 25505. The Notice of Proposed Rulemaking was published on August 7, 2020. Written comments were received during the public comment period that was extended from the original date of October 6 to October 21, 2020.

After reviewing the comments received on this proposed regulation, OEHHA has modified the language as follows.

- The last sentence in subsection (a) was removed to clarify that a business is not required to make any further showing of feasibility or compliance with good manufacturing practices to rely on the levels established in subsection (d).
- The change to subsection (b) would replace the phrase “in the course of doing business,” with the phrase “otherwise responsible for an exposure to a listed chemical in a food” for clarity.
- Also, in subsection (b) the phrase “that is different from the concentrations provided in subdivision (d)” is added for purposes of clarity.
- In subsection (d)(1) the reference to roasted almond butter and prune juice were removed for further review and possible inclusion in a future rulemaking.

OEHHA is requesting comments on the modifications to the regulatory text, shown below. To be considered, **OEHHA must receive comments by May 7, 2021, which is the designated close of the comment period.** The comment period was extended from 15 days to 21 days due to the COVID-19 emergency. All comments will be posted on the OEHHA website at the close of the public comment period.

Because of limited in-office staffing during the COVID-19 emergency, OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form may still be mailed but delays may occur if staff are unable to timely access them.

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

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

Modification to Proposed Amendment to 27 CCR § 25505

The modifications to the proposed regulation are provided in underline and strikethrough format below.

27 CCR § 25505

§ 25505. Exposures to Listed Chemicals in Cooked or Heat Processed Foods.

95812-4010, (916) 323-2517, Monet.Vela@oehha.ca.gov for a copy of this Table.

- (a) A person otherwise responsible for an exposure to a listed chemical in a food does not “expose” an individual within the meaning of Section 25249.6 of the Act, to the extent the chemical was created by cooking or other heat processing if the producer, manufacturer, distributor, or holder of the food has utilized quality control measures that reduce the chemical to the lowest level currently feasible. ~~If a person does not reduce the level of the chemical in a food to the lowest level currently feasible, the resulting exposure must be calculated without regard to the levels set out in subsection (d).~~
- (b) Nothing in this section shall preclude a person ~~in the course of doing business otherwise responsible for an exposure to a listed chemical in a food~~ from using evidence, standards, risk assessment methodologies, principles, assumptions, or levels described in Articles 7 and 8 to establish an alternative concentration for a listed chemical in a food that is created by cooking or other heat processing that is different from the concentrations provided in subdivision (d).
- (c) Nothing in this section shall apply to parties to an existing court-ordered settlement or final judgment to the extent that such settlement or judgment establishes a concentration of the chemical in a specific product covered in the settlement or judgment.
- (d) The concentration levels for chemicals in foods in this subsection are deemed to comply with subsection (a). In this subsection, ‘average concentration’ refers to the average of concentrations measured in multiple items or individual packaging units of the specific food product in the form the product is sold to California consumers. The unit concentration is the concentration measured in a single food item or individual packaging unit of the specific food product in the form the product is sold to California consumers.

(1) Acrylamide

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.6, Health and Safety Code.

The Table of Food/Food Groups and Different Concentration Levels is not printable in the Notice Register. Please contact Monet Vela, Office of Environmental Health Hazard Assessment, 1001 I Street, 23rd floor, P.O. Box 4010, Sacramento, CA

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.

Board of Education
File # 2021-0329-02
CAASPP and ELPAC

In this emergency rulemaking action the State Board of Education adopts two sections to extend the testing window for the California Assessment of Student Performance and Progress (CAASPP) and the English Language Proficiency Assessment for California (ELPAC).

Title 05
Adopt: 855.1, 11518.1
Filed 04/07/2021
Effective 04/07/2021
Agency Contact: Lorie Adame (916) 647-2171

Board of Governors, California Community Colleges
File # 2021-0401-01
Correspondence Education

The Board of Governors of the California Community Colleges submitted this action dealing with correspondence education to OAL as a print only file. Pursuant to Education Code section 70901.5, this action was filed with the Secretary of State by the Board on April 1, 2021, is exempt from the Administrative Procedure Act and OAL review, and was submitted to OAL only for the purpose of publishing the regulations in the California Code of Regulations.

Title 05
Adopt: 55260, 55261, 55262, 55263, 55264, 55265, 55266
Filed 04/01/2021
Effective 05/01/2021
Agency Contact: Tanya Bosch (916) 445-1997

Board of Governors, California Community Colleges
 File # 2021-0401-02
 CollegeBuys

The Board of Governors of the California Community Colleges submitted this action dealing with CollegeBuys to OAL as a print only file. Pursuant to Education Code section 70901.5, this action was filed with the Secretary of State by the Board on April 1, 2021, is exempt from the Administrative Procedure Act and OAL review, and was submitted to OAL only for the purpose of publishing the regulations in the California Code of Regulations.

Title 05
 Adopt: 59130, 59131, 59132
 Filed 04/01/2021
 Effective 05/01/2021
 Agency Contact: Tanya Bosch (916) 445-1997

Board of Governors, California Community Colleges
 File # 2021-0401-03
 International Baccalaureate and College Level Examination Program

The Board of Governors of the California Community Colleges submitted this action dealing with the International Baccalaureate and College Level Examination Program to OAL as a print only file. Pursuant to Education Code section 70901.5, this action was filed with the Secretary of State by the Board on April 1, 2021, is exempt from the Administrative Procedure Act and OAL review, and was submitted to OAL only for the purpose of publishing the regulations in the California Code of Regulations.

Title 05
 Adopt: 55052.5
 Filed 04/01/2021
 Effective 05/01/2021
 Agency Contact: Tanya Bosch (916) 445-1997

California Debt Limit Allocation Committee
 File # 2021-0326-01
 Readopting Qualified Residential Rental Project (QRRP) Program Definitions

This emergency rulemaking action by the California Debt Limit Allocation Committee readopts amendments to definitions pertaining to the Qualified Residential Rental Project Program originally made in OAL Matter Number 2020-0603-01E.

Title 04
 Amend: 5000, 5033, 5170
 Filed 04/05/2021
 Effective 04/05/2021
 Agency Contact: Isaac Clark III (916) 651-8484

California Department of Tax and Fee Administration
 File # 2020-1215-01
 Wholesale Cost of Tobacco Products — Tobacco Product Manufacturer

The California Department of Tax and Fee Administration submitted this action to amend a regulation that addresses the wholesale cost of tobacco products, which includes electronic cigarettes, as specified, and to adopt a regulation that defines a tobacco product manufacturer. This action is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b).

Title 18
 Adopt: 4077
 Amend: 4076
 Filed 04/06/2021
 Effective 04/06/2021
 Agency Contact: Kim DeArte (916) 309-5227

California Highway Patrol
 File # 2021-0223-01
 CVSA North American Standard Out-of-Service Criteria

This change without regulatory effect filing by the California Highway Patrol incorporates by reference the April 1, 2021 version of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria.

Title 13
 Amend: 1239
 Filed 04/01/2021
 Agency Contact: David Kelly (916) 843-3400

Department of Corrections and Rehabilitation
 File # 2021-0212-01
 Compassionate Release

This change without regulatory effect filing by the Department of Corrections and Rehabilitation updates the requirements to initiate the sentence recall process in order to align with Penal Code section 1170.

Title 15
 Amend: 3076.4
 Filed 04/02/2021
 Agency Contact: Julie Inderkum (916) 691-0697

Department of Managed Health Care
 File # 2021-0303-01
 Conflict-of-Interest Code

This is a conflict-of-interest code filing that has been approved by the Fair Political Practices Commission and is being submitted for filing with Secretary of State and printing only.

Title 28
Amend: 1000
Filed 04/06/2021
Effective 04/06/2021
Agency Contact: Mary Peterson (916) 414-0194

Department of Public Health
File # 2021-0217-01
Three-Year Postponement of Fee Increase for
BabyBIG

This action is a request to file with the Secretary of State and print in the California Code of Regulations an amendment postponing the \$12,000 increase in the treatment fee for Botulism Immune Globulin from January 1, 2021 to January 1, 2024. This action is exempt from the Administrative Procedure Act under Health and Safety Code section 123702(d).

Title 17
Amend: 3030
Filed 04/01/2021
Effective 04/01/2021
Agency Contact: Dawn Basciano (916) 440-7367

Department of Public Health
File # 2021-0224-01
Reportable Disease Changes

This file and print only action by the Department of Public Health amends reportable diseases requirements related to SARS-CoV-2 (coronavirus). This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 120130, subdivisions (a) and (b).

Title 17
Amend: 2505
Filed 04/07/2021
Effective 04/07/2021
Agency Contact:
Hannah Strom-Martin (916) 440-7371

Division of Workers' Compensation
File # 2021-0218-03
Workers' Compensation — Official Medical Fee
Schedule — Outpatient & ASC

The Division of Workers' Compensation, within the Department of Industrial Relations, submitted this action to update the Workers' Compensation Official Medical Fee Schedule: Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule. These changes were submitted to OAL for filing and printing only, exempt from the APA pursuant to Labor Code section 5307.1(g)(2).

Title 08
Amend: 9789.38, 9789.39
Filed 04/01/2021
Effective 03/01/2021
Agency Contact: Karen Pak (510) 932-9286

Fish and Game Commission
File # 2021-0122-05
Recreational Take of Sea Urchin

In this certificate of compliance, the Commission makes permanent its amendment to remove the daily bag limit for purple sea urchin (PSU) in Caspar Cove, Mendocino County, so long as they are taken by hand or with manually operated hand-held tools. This regulatory amendment will sunset on April 1, 2024.

Title 14
Amend: 29.06
Filed 04/01/2021
Effective 04/01/2021
Agency Contact: David Thesell (916) 653-4899

Fish and Game Commission
File # 2021-0219-01
Mammal Hunting 2021

This action provides certain big game hunting tag holders with a mechanism to apply for reinstatement of preference points and refund of tag fees if they were unable to hunt in September 2020 because the designated area was closed due to wildfires.

Title 14
Adopt: 708.19
Amend: 360, 363
Filed 04/06/2021
Effective 04/06/2021
Agency Contact: Jon Snellstrom (916) 654-9868

Office of Emergency Services
File # 2021-0322-02
Community Isolation Outages

This emergency rulemaking by the Governor's Office of Emergency Services readopts regulations originally adopted in OAL Matter Number 2020-0616-02E to implement Government Code section 53122 relating to the reporting of community isolation outages.

Title 19
Adopt: 2480.1, 2480.2, 2480.3
Filed 04/01/2021
Effective 04/01/2021
Agency Contact: Beth Abdallah (916) 952-9449

**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.