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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 2. STATE ALLOCATION BOARD

THE STATE ALLOCATION BOARD
PROPOSES TO AMEND REGULATION
SECTION 1700, CALIFORNIA CODE OF
REGULATIONS, RELATING TO SURPLUS
SCHOOL PROPERTY; USE OF PROCEEDS;
RETURN OF MONEYS FROM A STATE
SCHOOL FACILITIES FUND PROGRAM

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation section contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation section under the authority provided by Sections 17462, 17462.3 and 17463.7, Education Code and Section 15490 of the Government Code. The proposal interprets and makes specific Sections 17462, 17462.3, 17463.7 and 17463.8 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The SAB, at its meeting on September 30, 2020, adopted proposed regulatory amendments on an emergency basis relating to the use of site sale property proceeds. Senate Bill (SB) 98, Chapter 24, Statutes of

2020 [Education finance: omnibus budget trailer bill] was chaptered June 29, 2020 and provided school districts with the resources and flexibilities necessary to provide quality education during the COVID-19 pandemic. SB 820, Chapter 110, Statutes of 2020, [Education Finance: Education Omnibus Budget Trailer Bill] was chaptered September 18, 2020 and amended SB 98 by adding clarifying changes and flexibility to the School Facility Program (SFP).

Attached to this Notice is the specific regulatory language of the proposed regulation. The proposed regulation is accessible and can be reviewed on OPSC's website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to the heading entitled "Use of School Property Proceeds," and click on the 45-day Public Notice, Initial Statement of Reasons and the regulation text. Copies of the proposed regulation will be mailed to any person requesting this information by using OPSC's contact information set forth below in this Notice. The proposed regulation implements Education Code Section 17463.7 provisions into the existing Use of Surplus School Property Site Sale Proceeds regulations.

Background and Problem Being Resolved

In March 2020, Governor Newsom issued Executive Order N-25-20, which proclaimed a State of Emergency existed in California as a result of the threat of COVID-19. Since March, the threat of COVID-19 is still present. Counties are opening slowly based on the State's tier system, which allows those school districts in those counties to open slowly and/or continue with online distance-learning. However, there continues to be an impact on the public school system to maintain normal operations. School districts are running into issues, such as not having enough computer equipment to furnish students who are needing to attend school through online distance-learning. School districts are in need of additional financial resources in order to meet the needs to ensure a quality education for their students.

OPSC, on behalf of the SAB, administers the Unused Site Program. As required by law, all school districts are required to report any unused school sites to the SAB annually. The school districts self-certify requests for waivers and reduction of fees based on certain criteria outlined in Education Code Section 17219. In addition, school districts are required to report any newly acquired, recently sold, or closed school sites.

School districts' governing boards that want to sell, or lease, for a term not exceeding 99 years, any real property belonging to the district can under existing law. Additionally, existing law specifies the conduct of these sales and leases, and the purposes for which

funds derived from these transactions may be used. SB 98, Chapter 24, Statutes of 2020, as amended by SB 820, Chapter 110, Statutes of 2020, added Education Code Section 17463.7 (until July 1, 2024) to expand the purposes for which funds from those transactions may be used by authorizing a school district to deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property, purchased with nonstate funds, into the general fund of the school district and to use those proceeds for any one-time general fund purpose. Education Code Section 17463.7 also requires a school district to take certain actions. Prior to transferring the proceeds into a school district's general fund account, school districts must submit specific documents to the SAB for approval.

OPSC performed a search on whether the proposed regulation was consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that both statutes (SB 98, Chapter 24 and SB 820, Chapter 110, Statutes of 2020) were created to add Education Code Section 17463.7 and to clarify provisions in order to provide additional flexibilities to school districts under the SFP. There are no other programs or regulations in existence that address the circumstances. Therefore, the proposed regulatory amendments are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulation will expand flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

Anticipated Benefits of the Proposed Regulations

The proposed regulation adds Education Code Section 17463.7 to the existing regulations for this Program for purposes of providing clarifying definitions of "one-time expenditures" and "on-going expenditures." This is an added benefit to school districts by allowing them to expand the purposes for which funds from the sale or lease of any real property belonging to the school district and the conduct of these sales and leases for which the funds derived from these transactions can be used. School districts are authorized to deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property and purchased with nonstate funds, into the general fund of the school district and to use the proceeds for any one-time general fund purpose.

The proposed regulation is therefore determined to be consistent and compatible with existing State laws and regulations. As stated above, OPSC performed a search on whether the proposed regulation was consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on

behalf of the SAB, determined that there are no other programs or regulations in existence that address the circumstances. Therefore, the proposed regulation is determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulation expands flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

The proposed regulation does not impact California businesses and does not impact the creation of jobs. The proposed regulation affords school districts expanded resources and flexibilities under the SFP in order to help them make financially sound decisions regarding one-time general fund purposes. It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

Summary of the Proposed Regulation

A summary of the proposed regulation is as follows:

Existing Regulation Section 1700 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments add Education Code Section 17463.7 to the introduction of the definitions section because these definitions also apply to Section 17463.7. In addition, this same section has been added to the authority and reference citations.

There were no changes to existing Regulation Sections 1701 and 1702.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area and, therefore, the proposed regulation is neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulation is within the SAB's authority to enact regulations for the existing Use of Surplus School Property Site Sale Proceeds regulations.

Statutory Authority and Implementation

Education Code Section 17070.35 states in part: "(a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter..."

Education Code Section 17463.7 states in part: "(a) Notwithstanding any other law, a school district may deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property, purchased with nonstate funds, into the general fund of the school district and may use the proceeds for any one-time general fund purpose..."

- ...
- (c) Before a school district exercises the authority granted pursuant to this section, the governing board of the school district shall first submit to the State Allocation Board documents certifying both of the following:
- (1) the sale of real property pursuant to this section does not violate the provisions of a local bond act.
 - (2) the real property is not suitable to meet projected school construction needs for the next 10 years.
- ..."

Determination of Inconsistency or Incompatibility with Existing State Regulations

Previously, Education Code Section 17463.7 existed in law from July 28, 2009 until January 1, 2016 when it was repealed. The law authorized the use of surplus real estate sale proceeds for one-time general fund purposes as long as the costs were not related to a school district's ongoing operations. School districts were required to present a plan to its local governing board regarding the use of one-time expenditures and explain why these expenditures would not result in ongoing fiscal obligations for the school district. School districts were ineligible for hardship funding under the State School Deferred Maintenance Program for a period of five years after the proceeds were deposited into the general fund. In addition, a school district's SFP facility and financial hardship assistance was reduced by an amount equal to that of the school district's one-time expenditure(s). School districts were required to certify the following:

- That it had no major deferred maintenance needs;
- That the site sale did not violate local bond restrictions; and
- That the real property was not suitable to meet projected school construction needs for the next ten years.

Education Code Section 17462 currently authorizes school districts to deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property, into the general fund of the school district and to use the proceeds for any one-time general fund purpose. The regulations for this Program already exist. The information below provides a comparison governing the use of surplus site sale proceeds deposited into a school district's governing fund based on the two Education Code Sections; 17462 and 17463.7:

- Under Education Code Section 17462
 - Source of Site Funding: Site can be purchased with state and/or local funds.
 - School Facility Program Funding:
 1. Prohibited from participating in the SFP for five years.

2. Unable to apply for Facility Hardship and Financial Hardship funding.
 - Use of Funding: One-time Expenditures.
 - School Board Resolution Requirements:
 1. No anticipated need for additional sites or construction for 10 years.
 2. No major deferred maintenance requirements.
 3. The sale does not violate local bond act provisions.
- Under Education Code Section 17463.7
 - Source of Site Funding: Site must have been purchased with nonstate funds.
 - School Facility Program Funding:
 1. Not prohibited from participating in the SFP.
 2. Unable to apply for Financial Hardship grant funding.
 - Use of Funding: One-time Expenditures.
 - School Board Resolution Requirements:
 1. The site is not suitable to meet projected school construction needs for 10 years.
 2. The sale does not violate local bond act provisions.

School districts must take specific actions if they want to make use of Education Code Section 17463.7 provisions such as the submission of the following:

- A letter to the Executive Officer of the SAB and the OPSC requesting authorization from the SAB to transfer site sale proceeds into the school district's general fund account for a one-time general fund purpose;
- A school board resolution that includes specific criteria;
- A copy of the original site purchase agreement that details the original purchase price, the number of acres on the site, and the sources of funds used to purchase the site;
- Documentation of the number of acres being sold from the site.

The school district's request must be presented to the SAB for approval prior to the funds being transferred by the school district. Education Code Section 17463.7(g) provides that the proceeds from the sale or lease of surplus property that were initiated before June 30, 2024 may also be deposited in accordance with statute.

OPSC performed a search on whether the proposed regulation was consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that that both statutes (SB 98, Chapter 24 and SB 820, Chapter 110, Statutes of 2020) were created to

add Education Code Section 17463.7 and to clarify provisions in order to provide additional flexibilities to school districts under the SFP. There are no other programs or regulations in existence that address the circumstances. Therefore, the proposed regulation is determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulation will expand flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulatory amendments do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulation.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulation creates no costs to any local agency or school district requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulation creates no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulation does not impact California businesses and does not impact the creation of jobs. The proposed regulation adds Education Code Section 17463.7 into the existing Use of Surplus School Property Site Sale Proceeds regulations, specifically the introduction of the definitions section because these definitions also apply to Section 17463.7. In addition, this same section has been added to the authority and reference citations.

It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment

- Executive Order N-25-20, issued by Governor Newsom in March 2020, proclaimed a State of Emergency existed in California as a result of the threat of COVID-19. Since that time, the threat of COVID-19 is still present. Counties are opening slowly based on the State's tier system, which allows those school districts in those counties to open slowly and/or continue with online distance-learning. However, there continues to be an impact on the public school system to maintain normal operations. School districts are running into issues, such as not having enough computer equipment to furnish students who are needing to attend school through online distance-learning. The proposed regulation promotes fairness and social equity to school districts by providing clarification to the definitions of "one-time expenditures" and "on-going expenditures" so that school districts have additional financial resources in order to ensure a quality education for their students. It also affords school districts expanded resources and flexibilities under the SFP in order to help them make financially sound decisions regarding one-time general fund purposes.
- The proposed regulation also promotes transparency because statute requires OPSC to submit an interim and a final report to the SAB, and the budget, education policy, and fiscal committees of the Legislature that identifies the school districts that exercised the authority granted by Education Code Section 17463.7, the amount of proceeds involved, and the purposes for which those proceeds were used. The reports are due June 1, 2022 and January 1, 2026, respectively.

- There is no impact to the State’s environment from the proposed regulation.

The SAB finds the proposed regulation fully consistent with the stated purposes and benefits.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulation will not have an impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The proposed regulation adds Education Code Section 17463.7 into the existing Use of Surplus School Property Site Sale Proceeds regulations, specifically the introduction of the definitions section because these definitions also apply to Section 17463.7. It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, email or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, email or fax must be received at OPSC no later than June 14, 2021, end of day. The express terms of the proposed regulation as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, email or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator
 Mailing Address:
 Office of Public School Construction
 707 Third Street, 6th Floor
 West Sacramento, CA 95605
 E-mail Address:
Lisa.Jones@dgs.ca.gov
 Fax Number:
 (916) 375–6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 376–1753. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376–1646.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulation.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency’s regulation coordinator identified above. The SAB will accept written comments on the modified regulation during the 15–day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulation with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulation for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC’s Internet Website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to the heading entitled “Use of School Property Proceeds,” and click on one of the linked documents, such as the 45–day Public Notice,

the Initial Statement of Reasons and/or the proposed regulatory text.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB 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. Both statutes (SB 98, Chapter 24 and SB 820, Chapter 110, Statutes of 2020) were created to add Education Code Section 17463.7 and to clarify provisions in order to provide additional flexibilities to school districts under the SFP. There are no other programs or regulations in existence that address the circumstances. Proceeding with the implementation of the proposed regulation will expand flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency’s regulation coordinator named in this notice or may be accessed on the website listed above.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

“FIRE RISK REDUCTION COMMUNITIES, 2021”

**DIVISION 1.5, CHAPTER 7
SUBCHAPTER 2, ARTICLES 1-5**

NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed

regulatory action to the Board. The written comment period ends on June 15, 2021.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attention: Claire McCoy
Wildfire Planning Specialist
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand-delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

PublicComments@BOF.ca.gov

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 before the close of the written comment period. Any request should be made to the contact information provided above.

AUTHORITY AND REFERENCE

(pursuant to GOV § 11346.5(a)(2), 1 CCR § 14, and 14 CCR § 1122)

Authority cited: Section 4290.1, Public Resources Code. Reference: Sections 51177 and 51178, Government Code; Sections 4126, 4127, 4290, 4290.1 and 4124.7, Public Resources Code; Section 39713, Health and Safety Code; Section 6932, Chapter 6.5, Division 1, Title 25 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW
(pursuant to GOV § 11346.5(a)(3)(A)–(D))

California Public Resources Code Section 4290.1, a provision of Assembly Bill 1823 passed in 2019 (Chapter 399), requires the State Board of Forestry and Fire Protection (Board) to develop criteria for and maintain a list of Local Agencies located in a State Responsibility Area (SRA) or Very High Fire Hazard Severity Zone (VHFHSZ) which meet best practices for local fire planning. Public Resources Code Section 4124.7 requires that the Department of Forestry and Fire Protection (Department) prioritize local assistance grant funding applications from Local Agencies based on this Fire Risk Reduction Communities List (List). Public Resources Code 4290.1 requires the Board to consider criteria relating to the Board’s fire safety standards and recommendations as well as community–based plans or programs that demonstrate dedication to fire planning. By qualifying for the List, a Local Agency demonstrates both compliance with the Board’s requirements and dedication to fire planning that exceeds state minimum standards. To promote equity, the regulations include additional avenues for low–income Local Agencies to qualify for the List and therefore receive priority for local assistance grant funding.

The **problem** is that regulations to establish the criteria that will be used to determine whether a Local Agency meets best practices in local fire planning so that they may be prioritized for local assistance grant funding do not exist.

The **purpose** of the proposed action is to develop a transparent, standardized and equitable process for Local Agencies, the Board, and the Department to recognize dedication to fire planning best practices and to prioritize local assistance grant funding accordingly.

The **effect** of the proposed action is to create a process by which Local Agencies that meet fire planning best practices and show dedication to exceeding minimum standards are prioritized for local assistance grant funding to aid in the achievement of their planning goals. The effect of the proposed action will also be to incentivize Local Agencies which do not meet fire planning best practices or exceed the Board’s minimum fire safety requirements to do so. Finally, the rulemaking promotes economic diversity among recipients of local assistance grant funding.

The **primary benefit** of the proposed action is a clear and standardized set of criteria to inform local assistance grant funding prioritization and ultimately incentivize local fire planning, which works to prevent property and life losses in the wildland–urban interface due to fire. This regulatory action will thus

have a positive effect on the protection of public health and safety, worker safety, and the environment.

There is a comparable federal statute. Pursuant to the Department of the Interior and Related Agencies Appropriations Act, 2001, the Department of Agriculture and Department of the Interior published in the Federal Register (66 FR 751) a list of wildland–urban interface “Communities at Risk” in the vicinity of federal lands. This list is compiled from information provided by states and tribes. This list identifies communities at risk from wildfires on federal lands, but does not identify any specific land use planning programs or plans undertaken by the communities. This federal “Communities at Risk” list differs significantly from the Fire Risk Reduction Communities List as the Fire Risk Reduction Community list identifies communities not at risk of fire, but those which take steps to reduce their fire risk.

Board staff conducted an evaluation of whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to wildfire planning at the local government level and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statutes to which the proposed action was compared: Sections 51179(a), 65302.5(b), and 66474.02, Government Code.

Regulations to which the proposed action was compared: Articles 1 and 2, Subchapter 1, Chapter 7, Division 1.5, Title 14, California Code of Regulations; Article 1, Subchapter 2, Chapter 7, Division 1.5, Title 14, California Code of Regulations; Articles 1 and 3, Subchapter 3, Chapter 7, Division 1.5, Title 14, California Code of Regulations; Part 9, Title 24, California Code of Regulations.

MANDATED BY FEDERAL
LAW OR REGULATIONS

The proposed action is not mandated by Federal law or regulations.

The proposed action neither conflicts with, nor duplicates, Federal regulations.

There are no comparable Federal regulations related to wildfire planning best practices by local

governmental agencies, in the LRA VHFHSZ or SRA or otherwise. No existing Federal regulations meeting the same purpose as the proposed action were identified.

OTHER STATUTORY REQUIREMENTS

(pursuant to GOV § 11346.5(a)(4))

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

LOCAL MANDATE

(pursuant to GOV § 11346.5(a)(5))

The proposed action does not impose a mandate on local agencies or school districts.

FISCAL IMPACT

(pursuant to GOV § 11346.5(a)(6))

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will result in the imposition of other non-discretionary costs or savings to local agencies. The proposed action may result in savings to local agencies through any grant funds awarded to the local agency under PRC § 4124.7.

The proposed action will not result in costs or savings in Federal funding to the State.

The proposed action will result in costs to any State agency that are absorbed by existing personnel.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

HOUSING COSTS

(pursuant to GOV § 11346.5(a)(12))

The proposed action does not impact housing costs.

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

(pursuant to GOV §§ 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))

The proposed action 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 (by making it costlier to produce goods or services in California).

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE RELIED UPON TO SUPPORT INITIAL DETERMINATION IN THE NOTICE THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

(pursuant to GOV § 11346.2(b)(5) and GOV § 11346.5(a)(8))

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of experience receiving, reviewing, and making recommendations to adopted ordinances and land use planning materials such as those in the List criteria from Local Agencies and for other fire protection programs the Board implements. Email and teleconference consultation with representatives of various types of impacted Local Agencies in addition to Department of Forestry and Fire Protection staff.

STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)–(D)**. The proposed action:

- Will not create jobs within California (GOV § 11346.3(b)(1)(A)).
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A)).
- Will not create new businesses (GOV § 11346.3(b)(1)(B)).
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B)).
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C)).

- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)). For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the “Introduction Including Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address.”

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS
(pursuant to GOV § 11346.5(a)(9))

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These regulations are based on governmental agency compliance with existing requirements and use of existing planning mechanisms; they do not compel any action on the part of a representative person or business.

BUSINESS REPORT
(pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS
(defined in GOV § 11342.610)

Small businesses, within the meaning of GOV § 11342.610, are not expected to be affected by the proposed action.

Small business, pursuant to 1 CCR § 4(a):

- (1) Is legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May incur a detriment from the enforcement of the regulation if it does not comply with the regulation.

ALTERNATIVES INFORMATION

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in

implementing the statutory policy or other provision of law.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attention: Claire McCoy
Wildfire Planning Specialist
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Ms. McCoy is not available is Edith Hannigan, Land Use Planning Program Manager for the Board of Forestry and Fire Protection. Ms. Hannigan may be contacted at the above address or phone.

AVAILABILITY STATEMENTS
(pursuant to GOV § 11346.5(a) (16), (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal; the problem the Board is addressing; and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text — with the changes clearly indicated — available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received

at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board website at: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>.

TITLE 17. CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

Chapter 5, Section 100005

Date: April 19, 2021

**Deadline for Submission of Written Comment:
June 15, 2021 — 12:00 p.m.**

Public Hearing Date: None Scheduled

SUBJECT MATTER OF PROPOSED REGULATION: CONFLICT-OF-INTEREST POLICY FOR MEMBERS OF ADVISORY TASK FORCES

SUBMITTAL OF COMMENTS

Any interested party may present comments in writing about the proposed regulations to the agency contact person named in this notice. Written comments must be received no later than 12:00 p.m. on June 15, 2021. Comments regarding this proposed action may also be transmitted via e-mail to comments@cirm.ca.gov or by facsimile transmission to (415) 396-9141.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person's representative requests a public hearing, they must do so in writing no later than June 1, 2021.

SECTIONS AFFECTED

The proposed regulatory action adds Section 100005 to Chapter 5 of Title 17 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Institute for Regenerative Medicine (“Institute” or “CIRM”) was established in 2004 after the passage in 2004 of Proposition 71, the California Stem Cell Research and Cures Initiative. The statewide ballot measure established a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities. The Independent Citizens’ Oversight Committee (“ICOC”) is the 35-member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non-profit academic and research institutions, patient advocacy groups, and the biotechnology industry.

Proposition 14 (2020) authorized the state to issue \$5.5 billion worth of bonds to fund CIRM and enable it to continue its operations. It also authorized the Chair and the President to establish Advisory Task Forces to provide expert guidance regarding specific issues within CIRM’s jurisdiction, such as scientific, policy, ethical, financial, and technical matters. Health & Saf. Code, § 125290.76.

For purposes of conflict-of-interest rules, advisory task forces are treated like working groups because they do not exercise decision-making authority. *Id.*, § 125290.76(c). The CIRM Board, the Independent Citizen’s Oversight Committee, receives guidance from three working groups delving into ethical standards, grants review, and facilities funding. *Id.*, § 125290.40(h) & (k). Because the working groups are purely advisory and have no final decision-making authority, members of the working groups shall not be considered public officials, employees, or consultants for purposes of the Political Reform Act (Title 9 (commencing with Section 81000) of the Government Code), Sections 1090 and 19990 of the Government Code, and Sections 10516 and 10517 of the Public Contract Code. *Id.*, § 125290.50(e)(3). Health and Safety Code section 125290.50(e) requires the Board to adopt conflict-of-interest rules to govern members of the working groups. *See* Cal. Code Reg. title 1, §§ 100001-100004. However, unlike members of the working groups, members of the advisory task forces are barred from reviewing, commenting upon, or exercising any jurisdiction over any individual grant or loan approval. *Id.*, § 125290.76(c)(2).

Health and Safety Code section 125290.76(c)(2) provides that members of the Advisory Task Forces be subject to the conflict-of-interest requirements applicable to members of the working groups, provided that the Advisory Task Forces shall not review, comment upon, or have jurisdiction over, any individual grant or loan approval.

Health and Safety Code section 125290.40(m) also authorizes CIRM to adopt interim regulations to take effect immediately and to remain in effect for 270 days unless they are superseded by regulations adopted pursuant to the Administrative Procedure Act prior to this time. The Chair and the President of CIRM have determined to establish a scientific strategy advisory panel to provide CIRM with expert guidance related to its scientific strategic plan. To allow this task force to begin to meet, the Board adopted an interim conflict-of-interest policy for members of Advisory Task Forces on January 28, 2021. This policy is modeled on the policies of the working groups but tailored to task forces, which will not consider individual applications but will instead provide high level direction to the CIRM.

This proposed regulation prohibits members of Advisory Task Forces from receiving a benefit from CIRM funding and requires disclosure and disqualification. They are modeled on working group conflict-of-interest rules.

The proposed regulation prohibits members of Advisory Task Forces from deriving any direct financial benefit through a CIRM award and from acting as a Principal Investigator on a CIRM award. This regulation requires Members of Advisory Task Forces to disclose: (1) income received from nonprofit research institutions located in California and (2) investments in public biotechnology and pharmaceutical companies that are focused primarily on stem cell or genetic research and therapy development. Finally, the Members of Advisory Task Forces are required to disqualify themselves if one of their financial interests is involved in the decision before the task force, unless the CIRM President determines that the need for the member's expertise outweighs any possible bias.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The purpose and intent section of Proposition 14 provides that by “enacting this Initiative, it is the purpose and intent of the people of the State of California to continue to support stem cell research to mitigate and/or cure chronic disease and injury and thereby reduce or mitigate human suffering and the cost of care and improve the health and productivity of Californians” including by “[r]equiring strict

accountability and transparency, including rigorous conflict-of-interest rules that are updated every four years....” Proposition 14, §3D. This regulation will ensure that members of the Advisory Task Forces abide by rigorous conflict-of-interest rules as intended by the voters.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

This proposed regulation is the first regulation concerning advisory task forces, established by Proposition 14 in 2020. *See* Health & Saf. Code, § 125290.76.

The proposed regulation is also consistent with the Political Reform Act and Fair Political Practices Commission's (FPPC) conflict-of-interest regulations. Those regulations generally exempt purely advisory bodies from conflict-of-interest rules unless the body to which they report routinely adopts the advisory body's recommendations without substantive change. In this case, Proposition 14 expressly recognizes that advisory task forces are advisory and hence not subject to the Political Reform Act, so instead, Proposition 14 required CIRM to adopt this proposed regulation.

This proposed regulation is consistent with existing CIRM regulations regarding conflicts of interest. Health and Safety Code section 125290.76(c)(2) provides that members of the advisory task forces be subject to the conflict-of-interest requirements applicable to members of the working groups, provided that the advisory task forces shall not review, comment upon, or have jurisdiction over, any individual grant or loan approval. CIRM previously promulgated regulations on conflict-of-interest rules for members of the working groups. Cal. Code Reg. title 1, §§ 100001–100004. This proposed regulation models these rules; however, unlike members of the working groups, members of the advisory task forces are barred from reviewing, commenting upon, or exercising any jurisdiction over any individual grant or loan approval. Health and Saf. Code § 125290.76(c)(2). Instead, these advisory task forces will provide high-level advice to CIRM.

Therefore, the proposed regulation is not inconsistent nor incompatible with any other existing state regulations.

INCORPORATED BY REFERENCE DOCUMENTS

None.

DISCLOSURES REGARDING THE
PROPOSED AMENDMENTS

CIRM has made the following initial determinations:

Mandate on local agencies and school districts:
None.

Effect on Small Business: CIRM has determined that the proposed regulation will have no impact on small businesses. The regulation proposes conflict-of-interest rules for members of CIRM Advisory Task Forces. As such, the proposed regulation are not expected to adversely impact small business as defined in Government Code Section 11342.610.

Impact on Local Agencies or School Districts: CIRM has determined that the proposed regulation does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed regulation does not constitute a “new program or higher level of service of an existing program” within the meaning of Section 6 of Article XIII of the California Constitution. CIRM has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulation.

Costs or Savings to State Agencies: CIRM has determined that no savings or increased costs to any agency will result from the proposed regulation.

Effect on Federal Funding to the State: CIRM has determined that no costs or savings in federal funding to the state will result from the proposed regulation.

Effect on Housing Costs: CIRM has determined that the proposed regulation will have no effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses: CIRM has made an initial determination that the proposed 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: CIRM has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. CIRM is not aware of any cost impacts that a representative private person or business would incur in reasonable compliance with the regulation.

RESULTS OF ECONOMIC
IMPACT ANALYSIS

CIRM does not anticipate that this proposed regulation will have any economic impact, including

on the creation or elimination of jobs or businesses within the State of California or any impact on the expansion of business in the State of California, nor any impact on the health and welfare of California residents, worker safety, or the state’s environment. This analysis is based on that fact that the proposed regulation does not impose new requirements on existing business operations or functions of other agencies or individuals but implements a conflict-of-interest policy for members of Advisory Task Forces. Although, this proposed regulation will ensure that members of the Advisory Task Forces abide by rigorous conflict-of-interest rules as intended by the voters.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATIONS

CIRM has prepared an Initial Statement of Reasons and has available the express terms of the proposed regulation 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 CIRM 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 considering all timely and relevant comments, CIRM may adopt the proposed regulation substantially as described in this notice. If CIRM makes modifications that are sufficiently related to the originally proposed text of the amendments, it will make the modified text (with the changes clearly

indicated) available to the public for at least 15 days before it adopts the regulations as amended. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM 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 Statements of Reasons, the proposed text of the amendments; and inquiries regarding the rulemaking file, and questions on the substance of the proposed regulatory action may be directed to:

James C. Harrison
**Counsel for the California Institute for
 Regenerative Medicine**
jharrison@olsonremcho.com
 510-346-6203

Ben Gevercer
**Counsel for the California Institute for
 Regenerative Medicine**
bgevercer@olsonremcho.com
 916-752-4603

The Notice of Proposed Regulatory Amendment, the Initial Statement of Reasons and any attachments, and the proposed text of the amendments and existing regulation are also available on CIRM’s website, www.cirm.ca.gov.

AVAILABILITY OF FINAL STATEMENT
 OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9, subdivision (a), may be obtained from the contact person named above.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
 WILDLIFE**

**HABITAT RESTORATION AND
 ENHANCEMENT ACT
 CONSISTENCY DETERMINATION
 NO. 1653-2021-069-001-R1**

Project: Ten Mile River Mainstem Enhancement Phase 1

Location: Mendocino County

Applicant: David Wright, The Nature Conservancy

Notifier: Peter van de Burgt, Prunuske Chatham, Inc

Background

Project Location: The Ten Mile River Mainstem Enhancement Phase 1 (Project) is located on the mainstem of the Ten Mile River, approximately 3.5 miles upstream from the confluence of South Fork Ten Mile Estuary. The Project is located at 28800 Camp 2 Ten Mile Road, Fort Bragg, CA 95437, and the property is owned by the Parker Family Trust, Assessor Parcel Number (APN) 01514075 and 01514079. The Ten Mile River supports populations of North Coast steelhead trout, Central California Coast Coho Salmon, and California Coastal Chinook Salmon.

Project Description: The Nature Conservancy (Applicant) proposes to enhance and restore habitat within the Ten Mile River to provide a net conservation benefit for Coho Salmon. The goal of this project is to improve winter rearing habitat for juvenile Coho Salmon by increasing off-channel habitat and floodplain connectivity, increasing instream habitat complexity, and reestablishing geomorphic processes. The Project includes a collection of habitat enhancements including the creation of one large off-channel, seasonally flooded wetland, six engineered log jams, four off-channel alcoves, and four inlet large wood structures. It also includes bank softening using explosives to encourage channel widening, large wood recruitment, long-term aggradation of the channel bed, and eventual floodplain reconnection.

The Project was funded by the Fisheries Restoration Grant Program and The Nature Conservancy. Detailed Project plans, discussion of proposed work, species protection measures, site photos and maps are on file with California Department of Fish and Wildlife’s Habitat Conservation Planning Branch (HCPB). The bank softening explosive technique will be performed by the CDFW Northern Region’s Fish and Wildlife Habitat Program.

Project Size: The total area of ground disturbance associated with the Project is approximately 3.99 acres and 500 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1)

Douglas Fir logs, (2) materials associated with large wood anchoring, dewatering activities, and erosion control measures

Project Timeframes:

Start date: July 2021

Completion date: October 12, 2021

Work window: June 1–October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 7.5 miles of spawning and rearing habitat, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1B21011WNME, Electronic Content Management Identification (ECM PIN) Number CW-871967) for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to native fish, plants, and wildlife, water, and cultural resources.

Receiving Water: Ten Mile River, tributary to the Pacific Ocean.

Filled or Excavated Area:

Permanent area impacted: None.

Temporary area impacted: 1.28 acres

Length temporarily impacted: 300 linear feet of habitat enhancements; 100 feet bank softening

Length permanently impacted: None

Dredge Volume: 10,929 cubic yards to create off channel habitat features

Discharge Volume: The total volume of proposed logs required to construct wood structures, which includes 52 logs, 16 rootwads, and 59 vertical log anchors, is approximately 338 cubic yards.

Project Location: Latitude 39.556851° N and Longitude -123.723451° W

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On March 19, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures

are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on March 19, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice Register 14-Z) on April 2, 2021. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) the Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Native Plants and Plant Communities Protections; (2) Native Fish and Aquatic Species Protections; (3) Wildlife Protections; (4) Procedures for Explosives Work, (5) Water Quality Protections, and (7) Cultural and Tribal Resources Protections. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Attachment 5 — Mainstem Ten Mile River Habitat Enhancement Project Measures to Protect Fish, Wildlife, Water, and Cultural Resources, prepared by the Prunuske Chatham, Inc. for The Nature Conservancy*

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Attachment 6 — Monitoring Plan Ten Mile River Mainstem Enhancement January 2021, prepared by the Prunuske Chatham, Inc. for The Nature Conservancy*

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant’s NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: sarah.gallagher@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW’s approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subd. (c).)

with U.S. Bureau of Reclamation (USBR) requesting authorization to conduct research capturing Lost River Sucker (*Deltistes luxatus*) and Shortnose Sucker (*Chasmistes brevirostris*), Fully Protected Fishes, to conduct surveys and research, and ultimately improve survival of these fish, consistent with the protection and recovery of the species.

The applicant and the associated parties have valid United States Fish and Wildlife Service (Service) Section 10 recovery permits (TE-007907-18, TE-108507-3, Sub-permit FWSKFFWO-11) and/or a Biological Opinion (2019 U.S. Fish and Wildlife Biological Opinion for the Klamath Project) for research on Lost River Sucker and Shortnose Sucker, Fully Protected Species. The proposed research is being conducted by the Service, USBR, and USGS in support of the ongoing study for the recovery of the endangered suckers in the Klamath Basin.

The Service proposes the use of trammel nets, fyke nets, seines, electrofishing, long-handled dip nets, plankton drift nets, and minnow traps for developing an age-0 sucker rearing program and the use of fyke nets for monitoring. USGS proposes the use of trammel nets for adult monitoring and fyke nets for juvenile monitoring. USBR proposes the use of trammel nets, seines, long-handled dip nets, and electrofishers to evaluate survival and population contribution of suckers and the use of trammel nets (adults), fyke nets (juveniles), and plankton drift nets (larvae) to quantify entrapment.

Adult and juvenile suckers will be identified, measured, enumerated and scanned for Passive Integrated Transponder (PIT) tags. If no PIT tag is present, one will be implanted so that recruitment into the adult spawning population can be monitored in future years. External radio tags may also be used. Tissue samples may be collected for genetic analysis and juvenile specimens may be collected for laboratory identification, water quality, and pathology activities. Suckers may be reared for studying the effects of water quality, and studies on reproduction and pathology.

Only experienced personnel will conduct sampling. Detailed prescriptions for sampling and handling suckers will be included in the applicant’s Fully Protected Species MOU, if issued. Additional locations and/or methods may be authorized by the Department for future projects.

Pursuant to California Fish and Game Code (FGC) Section 5515(a)(1), the Department may authorize take of Fully Protected Fish after 30 days’ notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5515 for take of Fully Protected Fish, it would issue the authorization in the form of a MOU on or after June 15, 2021 for

DEPARTMENT OF FISH AND WILDLIFE

**PROPOSED RESEARCH ON FULLY PROTECTED SPECIES
Lost River Sucker and Shortnose Sucker in
Siskiyou and Modoc Counties**

The Department of Fish and Wildlife (Department) received a project proposal from Josh Rasmussen of U.S. Fish and Wildlife Service (Service) in cooperation

an initial term through December 31, 2022. This MOU may be renewed as long as the Federal Section 10 permit(s) is renewed and the State research MOU permit is current.

Contact: Fisheries Branch, P.O. Box 944209, Sacramento, CA 94244-2090, Attention: Carmen Tull.

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

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

The week of March 22, 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 section 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-00165, Chiquita Canyon Landfill, 29021 Henry Mayo Drive, Castaic, CA 91384
- TWW-2021-DF-00168, Potrero Hills Landfill, Inc., 3675 Potrero Hills Lane, Suisun, CA 94585
- TWW-2021-DF-00179, Santa Maria Regional Landfill, 2065 E. Mail Street, Santa Maria, CA 93454
- TWW-2021-DF-00180, Frank R. Bowerman Landfill, 11002 Bee Canyon Access Road, Irvine, CA 92602
- TWW-2021-DF-00201, Victorville Sanitary Landfill, 18600 Stoddard Wells Road, Victorville, CA 92392
- TWW-2021-DF-00208, Cold Canyon Landfill, 2268 Carpenter Canyon Road, San Luis Obispo, CA 93401

Recipients of Handler/Transporter Variances

- TWW-2021-HT-00171, Merced County Regional Waste Management Authority, 17173 South Billy Wright Road, Los Banos, CA 93635

- TWW-2021-HT-00171, Merced County Regional Waste Management Authority, 17173 South Billy Wright Road, Los Banos, CA 93635
- TWW-2021-HT-00177, Santa Barbara County Resource Recovery Waste Management, San Emido Dr, Maricopa, CA 93252; CA-166, New Cuyama, CA 93254; 4430 Calle Real, Santa Barbara, CA 93110; 4004 Foxen Canyon Rd, Los Olivos, CA 93441
- TWW-2021-HT-00178, SANCO Resource Recovery, 6700 Federal Blvd, Lemon Grove, CA 91945
- TWW-2021-HT-00185, Recology San Bruno, 101 Tanforan, San Bruno, CA 94066
- TWW-2021-HT-00187, Recology South Bay, 1675 Rogers Avenue, San Jose, CA 95112
- TWW-2021-HT-00188, NAPA Recycling & Waste Services, 600 Tower Road, American Canyon, CA 94503; 820 Levitin Way, American Canyon, CA 94503; 820 Levitin Way, American Canyon, CA 94503; 44090 County Road 28H, Woodland, CA 95776; 889 Devlin Road, American Canyon, CA 94503; 820 Levitin Way, American Canyon, CA 94503
- TWW-2021-HT-00189, Valley Garbage and Rubbish Company, Inc., 1850 W. Betteravia Road, Santa Maria, CA 93455
- TWW-2021-HT-00197, BDC Special Waste Services and Enviroserv, 10633 Ruchti Road, South Gate, CA 90280; 1211 Gladstone St, Azusa, CA 91702
- TWW-2021-HT-00204, Recology South Valley, 14070 Llagas Ave, San Martin, CA 95046
- TWW-2021-HT-00207, City of Berkeley Transfer Station, 1201 Second Street, Berkeley CA 94710
- TWW-2021-HT-00213, Randazzo Enterprises, Inc., 13550 Blackie Rd., Castroville, CA 95012
- TWW-2021-HT-00221, JR Fencing, 16 Hitchcock Road, Salinas, CA 93908

*Recipients of Large Quantity Generator/
Self-transporter Variances*

- TWW-2021-LG-00186, Pina Vineyard Management, 7960 Silverado Trail, Napa, CA 94558
- TWW-2021-LG-00209, Sierra Northern Railway, 1745 Enterprise Blvd., West Sacramento, CA 95691; 551 S. Sierra, Oakdale, CA 95361

*Recipients of Small Quantity Generator/
Self-transporter Variances*

- TWW-2021-SG-00167, Contra Costa Water District, 100 Walnut Boulevard, Brentwood, CA 94513; 3956 Neroly Road, Oakley, CA 94561

- TWW–2021–SG–00170, Santa Clara County Roads and Airports Department, 13600 Murphy Avenue, San Martin, CA 95046; 11030 Doyle Road, San Jose, CA 95129; 1505 Schallenberger Road, San Jose, CA 95131
- TWW–2021–SG–00223, Wayne Shortes, 11651 S. Mendocino Ave, Selma, CA 93662
- TWW–2021–SG–00224, Shasta County Department of Public Works, 4363 Eastside Road, Redding, CA 96001

Recipients of Transporter Variances

- TWW–2021–TR–00156, Republic Services of San Diego, 8364 Clairemont Mesa Boulevard, San Diego, CA 92111
- TWW–2021–TR–00163, Recology Sunset Scavenger, 501 Tunnel Avenue, San Francisco, CA 94134
- TWW–2021–TR–00164, Recology Golden Gate, 501 Tunnel Avenue, San Francisco, CA 94134
- TWW–2021–TR–00166, Best Rate Repair Company Inc., 828 Grand Avenue, Spring Valley, CA 91977
- TWW–2021–TR–00181, G.O. Rodriguez Trucking, Inc., 16155 E. 1st Street, Irwindale, CA 91706
- TWW–2021–TR–00182, Waste Management Collection and Recycling, Inc., 8491 Fruitridge Road, Sacramento, CA 95826
- TWW–2021–TR–00183, Recology San Mateo County, 225 Shoreway Road, San Carlos, CA 94070
- TWW–2021–TR–00184, Recology of the Coast, 2305 Palmetto Ave, Pacifica, CA 94044
- TWW–2021–TR–00193, EnviroTek Restoration, Inc., 63 Bovet Rd #506, San Mateo, CA 94402
- TWW–2021–TR–00194, American Integrated Services, Inc., 1502 E. Opp Street, Wilmington, CA 90744
- TWW–2021–TR–00203, Recology Mountain View, 1675 Rogers Avenue, San Jose, CA 95112
- TWW–2021–TR–00212, Halpin Construction, LLC, 925 Terminal Way, San Carlos, CA 94070
- TWW–2021–TR–00214, Bayview Environmental Services, Inc., 6925 San Leandro Street, Oakland, CA 94621
- TWW–2021–TR–00216, Richard L. Moneymaker Lowbed Service, Inc., 445 Sautner Drive, San Jose, CA 95123
- TWW–2021–TR–00217, Mid State Solid Waste and Recycling, Inc., P O Box 1195, Templeton, CA 93465

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

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING
AND BUSINESS MEETING OF THE
OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING

On **June 17, 2021**, at 10:00 a.m. via the following:

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

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING

On **June 17, 2021**, at 10:00 a.m. via the following:

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

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

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public

hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

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

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

DEPARTMENT OF STATE HOSPITALS

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

**(Pursuant to Title 1, Section 270, of the
California Code of Regulations)**

The Office of Administrative Law has accepted for consideration a petition challenging the Department of State Hospitals Administrative Directive Number 810, titled Unit Security, sections III. A. Patient Rooms, and III. B. Observation Rounds/Wellness Rounds. Among other provisions, the challenged rules are summarized as follows, respectively:

- A. Patients may not have visitors in their rooms, and staff will respect patient privacy by knocking on the door or by announcing their presence before entering whenever possible and appropriate.
- B. Unit staff must make observation/wellness rounds of all areas occupied by the patients (including vestibules and stairwells) at least three times each hour at irregular intervals with time in between rounds not exceeding 20 minutes. Staff may make rounds more frequently based on safety and security needs. Rounds must be documented in the

Day Book. Between scheduled rounds at night, staff must be stationed such that they can visualize hallways where patients reside. At night, staff must conduct one wellness and two observation rounds each hour, and the first round of every hour must be a wellness round, with additional wellness rounds conducted per nursing judgment. The rule sets out a progressive procedure for ensuring that each patient is breathing throughout the night, beginning with visual observation aided by flashlight, if necessary, followed by tapping on the patient's bed and calling his name, followed by drawing the sheets and blankets down far enough to assess for life signs. If a patient is unresponsive, CPR must be initiated. The rule specifies that staff assigned to these rounds will observe patients through windows in the doors of single rooms and dorms, and that a staff member will observe, from the nurse's station, the whereabouts of the staff person conducting rounds. Lastly, the rule requires that two staff members must remain out of shift change to make continuous rounds and be available to patients.

Please send your comments to:

Dale Mentink, Attorney IV
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Vadim S. Miesegaes, #0527333 (unit 25)
Post Office Box 7001
Atascadero, California 93423-7001

Agency contact:

Alice Lee, Assistant Chief Counsel (A)
Department of State Hospitals
1600 9th Street
Sacramento, California 95814

Please note the following timelines:

Publication of Petition in Notice Register:
April 30, 2021
Deadline for Public Comments: June 1, 2021
Deadline for Agency Response: June 14, 2021
Deadline for Petitioner Rebuttal: No later than 15
days after receipt of the agency's response
Deadline for OAL Decision: August 30, 2021

If you would like a copy of the petition, please contact Margaret Molina at (916) 324-6044 or Margaret.Molina@oal.ca.gov.

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.

Dental Hygiene Board of California
 File # 2021-0104-02
 RDH Course in Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)

In this regular rulemaking, the Dental Hygiene Board of California is amending regulations pertaining to a registered dental hygienist course in periodontal soft tissue curettage, local anesthesia, and nitrous oxide-oxygen analgesia.

Title 16
 Amend: 1107
 Filed 04/20/2021
 Effective 07/01/2021
 Agency Contact:
 Adina Pineschi-Petty (916) 516-5537

Department of Motor Vehicles
 File # 2021-0304-03
 Autonomous Vehicles

In this action without regulatory effect the Department of Motor Vehicles is amending several forms to change addresses and cross-references and to place information adopted in regulations into the forms.

Title 13
 Amend: 227.10, 227.20, 227.30, 227.34, 227.38, 227.48, 227.50, 227.52, 228.06
 Filed 04/15/2021
 Agency Contact: Randi Calkins (916) 657-8898

Office of Environmental Health Hazard Assessment
 File # 2021-0319-03
 Chemicals Known to the State to Cause Cancer or Reproductive Toxicity

This file and print request by the Office of Environmental Health Hazard Assessment updates the list of Chemicals Known to the State to Cause Cancer or Reproductive Toxicity to identify indium tin oxide and molybdenum trioxide as chemicals known to the state to cause cancer. This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 25249.8

Title 27
 Amend: 27001
 Filed 04/19/2021
 Effective 03/19/2021
 Agency Contact: Tyler Saechao (916) 327-3015

Office of Spill Prevention and Response
 File # 2021-0309-01
 Administrative Compliance Actions and Civil Penalties

In this action without regulatory effect the Office of Spill Prevention and Response repeals one section related to civil penalties for the discharge of oil.

Title 14
 Repeal: 873.7
 Filed 04/19/2021
 Agency Contact: Christine Kluge (916) 327-0910

State Allocation Board
 File # 2021-0304-01
 Leroy F. Greene School Facilities Act of 1998; CSFP Filing Round

In this resubmitted regulatory action, the Board amends its regulation to change the beginning date of its Charter School Facilities Program (CSFP) application round from 90 days after an election authorizing additional funding to 180 calendar days after an election authorizing additional funding.

Title 02
 Amend: 1859.161
 Filed 04/16/2021
 Effective 07/01/2021
 Agency Contact: Lisa Jones (916) 376-1753

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

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