



California Regulatory Notice Register

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JUNE 4, 2021

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY:

- Santa Cruz–Monterey Merced Managed Medical Care Commission dba Central California Alliance for Health
- Santa Rosa Regional Resources Authority
- Oakdale Joint Unified School District
- Partnership Healthcare Plan of California
- Kings River East Groundwater Sustainability Agency
- El Dorado Irrigation District

STATE AGENCY:

- Board of Equalization

A written comment period has been established commencing on June 4, 2021 and closing on July 19, 2021. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission’s Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest

code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than July 19, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not “costs mandated by the state” as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Daniel Vo, Fair

Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 4. HORSE RACING BOARD

AMEND RULE 1688, USE OF RIDING CROP

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1688, Use of Riding Crop. Board Rule 1688 provides clarity regarding the proper use of the riding crop within the Board's jurisdiction. The proposed amendment provides that in all races where a jockey will not ride with a riding crop, an announcement shall be made over the public address system of such fact, and such fact shall be noted in the official program.

The amendment also provides that during a race, if a jockey rides in a manner contrary to this rule, the stewards shall impose a minimum fine of \$500. Additionally, a greater fine or a minimum of three suspension days, or both, can be imposed, if, in the opinion of the stewards, the violation is egregious or intentional.

The proposed amendment also provides a definition for egregious or intentional violations: "Factors in determining whether a violation is egregious, include but are not limited to: recent history of similar violations; number of uses over the total and consecutive limits described in subsections (b)(7) and (8); and using the crop in the overhand position."

Lastly, the proposed amendment adds new subsection (f) which provides that in trial heats, any suspension shall include the subsequent related stakes race regardless of whether the related stakes race is designated pursuant to Board Rule 1766, Designated Races.

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 July 19, 2021**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing, should one be requested. Submit comments to:

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

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code (BPC). Reference: Sections 19440, 19481 and 19562, BPC.

BPC section 19420 provides that the Board is vested with jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. BPC section 19440 provides the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of BPC Division 8, Chapter 4, Article 2. The Board's responsibilities shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and parimutuel wagering, administration and enforcement of all laws, rules, and regulations affecting horse racing and parimutuel wagering, and delegating the Board's powers and duties to the stewards appointed pursuant to Division 8, Chapter 4, Article 15 of the BPC to carry out fully and effectuate the purposes of Division 8, Chapter 4 of the BPC. BPC section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of BPC Division 8, Chapter 4, under which all horse races with wagering on their results shall be conducted in California. BPC section

19481 provides that, in performing its responsibilities, the Board shall designate a steward at all horse racing meetings to be responsible for enforcing compliance with safety standards.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The riding crop is a tool designed to encourage movement or aid in guidance and control over horses, either through direct contact or as a visual directional cue. In recent years, many horse racing jurisdictions have taken steps toward limiting the use of riding crops, including how many times a rider may strike the horse and where and how the horse may be struck. The Board last amended Board Rule 1688 in 2020 to provide clarity and guidance in response to the California horse racing industry's desire for more humane and restricted use of the riding crop. The 2020 amendment prohibits use of the riding crop during training except when necessary to preserve the safety of the horse and rider, and describes the correct use of the riding crop, including prescribed limits on the number of times the crop may be used during a race. The 2020 amendment also provides penalties for jockeys and exercise riders who use the riding crop in a manner contrary to Board Rule 1688.

However, the 2020 amendment provides that, absent mitigating circumstances, if a jockey or exercise rider rides in a manner contrary to Board Rule 1688, the stewards shall impose a maximum fine of \$1,000 and a minimum suspension of three days.

While significant, the penalty imposed for riding contrary to Board Rule 1688 is not always severe enough to disincentivize violating the Board's rules governing crop use when riding in races that award sizeable purse money. For example, the Breeder's Cup, an annual series of Grade I thoroughbred stakes races held in California, routinely sees collective purse prize moneys exceeding \$20 million. When a single race can carry a purse worth millions of dollars, a maximum fine of \$1,000 and a minimum suspension of three days is not always significant enough to deter use of the riding crop contrary to the requirements of Board Rule 1688.

Therefore, the Board has determined it is necessary to amend Board Rule 1688 to provide the Board stewards with greater flexibility when imposing penalties such that the stewards can impose penalties commensurate with both the severity of the violation, and commensurate with the level of severity necessary to effectively disincentivize anything but strict adherence to the Board's rules governing crop use, even when faced with lucrative stakes races bearing high-value purses.

Consequently, the Board proposes to amend subsection 1688(d) to impose a minimum penalty instead of the current maximum penalty, thereby allowing the stewards a greater range of financial penalties to choose from to ensure that the severity of the penalty is commensurate with the degree of violation and severe enough to disincentivize future violations of Board Rule 1688. Amendments to subsection 1688(d) also define when the stewards shall consider imposing higher than the minimum penalties, and which factors determine whether a violation is egregious or intentional, thereby warranting a more severe penalty.

The proposed amendment also provides clarity regarding how suspensions imposed for violations of Board Rule 1688 apply to races designated pursuant to Board Rule 1766, Designated Races. Board Rule 1766 provides that the board of stewards appointed for a race meeting shall, immediately prior to the commencement of that meeting, designate the stakes, futurities or futurity trials or other races in which a jockey or a driver who is under suspension for ten days or less for a riding or driving infraction will be permitted to compete, notwithstanding the fact that such jockey or driver is technically under suspension at the time the designated race is to be run.

Board Rule 1766 creates a lack of clarity when contrasted with subsection 1688(d) which provides the stewards the ability to suspend jockeys a minimum of three days for riding contrary to Board Rule 1688 when the violation is egregious or intentional. Should a steward assess a suspension penalty for a violation of Board Rule 1688 during a trial heat, it is currently unclear if that suspension applies to races designated pursuant to 1766. Therefore, it is necessary for the Board to clarify that any suspension imposed for violations of Board Rule 1688 imposed during a trial heat do indeed apply to the subsequent related stakes race regardless of whether that stakes race is designated pursuant to Board Rule 1766.

The proposed amendment also corrects a reference to the definition of "showing or waiving the crop or tapping the horse on the shoulder" mentioned in current subsection 1688(b)(8). Current subsection 1688(b)(8) provides that, although the use of a riding crop is not required, any jockey or exercise rider who uses a riding crop during a race or training is prohibited from using a riding crop on a horse more than six times during a race, excluding showing or waiving the crop or tapping the horse on the shoulder as defined in subsection (d). However, the definition of "showing or waiving the crop or tapping the horse on the shoulder" is outlined in subsection 1688(c), not in subsection 1688(d). Therefore, it is necessary to update subsection 1688(b)(8) such that it uses the correct reference to subsection 1688(c).

Lastly, the proposed amendment provides further transparency to the wagering public about which jockeys will not ride with a riding crop during a race. The proposed amendment modifies subsection 1688(a) to include that in all races where a jockey will not ride with a riding crop, such fact shall be noted in the official program in addition to being announced over the public address system. The Board is committed to transparency and ensuring that the wagering public can make informed decisions about races in California. Therefore, the Board has determined that it is necessary to increase the wagering public's access to information about which jockeys will not ride with a riding crop during a race.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Board Rule 1688 provides clarity regarding the proper use of the riding crop in the Board's jurisdiction. The proposed amendment specifies the penalties for riding contrary to Board Rule 1688, including when and in which types of races the penalties apply, and the severity of the penalties for violations of Board Rule 1688. The proposed amendment also provides for further transparency with the wagering public regarding which jockeys will not ride with a riding crop in a race.

The proposed amendment has the benefit of increasing transparency for the wagering public. The proposed amendment modifies subsection 1688(a) to provide that in all races where a jockey will not ride with a riding crop, an announcement shall be made over the public address system of such fact, and such fact shall be noted in the official program. The inclusion of information that makes the wagering public aware of whether a jockey is riding without a riding crop, not just via an announcement over the public address system, but also as a note in the official program, increases the avenues with which the wagering public can be made aware of information that may impact their behavior toward and perception of a race. Increased information about which jockeys will ride without a riding crop has the benefit of helping the wagering public make more informed decisions about a race.

The proposed amendment also has the benefit of promoting racehorse safety and welfare by discouraging the use of the riding crop in a manner contrary to the Board's rules. The proposed amendment modifies the penalties for riding contrary to Board Rule 1688 from "a maximum fine of \$1,000 and a minimum suspension of three days" to "a minimum fine of \$500. A greater fine or a minimum of three suspension days, or both, can be imposed, if, in the opinion of the stewards, the violation is egregious or intentional". The amended

penalties provide a greater disincentive against riding contrary to Board Rule 1688 because a minimum fine of \$500 can, if the stewards determine that the violation is egregious or intentional, reach much greater heights than a maximum \$1,000 fine which can never exceed \$1,000. By modifying the penalty from a maximum to a minimum fine, the potential to incur much more severe financial sanctions from riding contrary to Board Rule 1688 better discourages violations by threat of larger penalties for said violations. Improper use of the riding crop is dangerous for the horse and rider, therefore, further discouraging improper use of the riding crop benefits racehorse safety and welfare.

Furthermore, the proposed amendment has the benefit of providing clarity to licensees regarding proper use of the riding crop. The proposed amendment defines egregious violations by outlining "Factors determining whether a violation is egregious", including but not limited to, a recent history of similar violations, the number of crop uses over the total and consecutive limits described in subsections 1688(b)(7) and 1688(b)(8), and the use of the riding crop in the overhanded position. A clear definition of what constitutes an egregious violation provides jockeys and exercise riders with clarity such that they can better avoid heightened financial sanctions and better safeguard the wellbeing of the racehorses that they ride.

Lastly, the proposed amendment has the benefit of providing clarity regarding how suspensions imposed as a result of violating Board Rule 1688 apply to designated races. Board Rule 1766 provides that the Board of Stewards appointed for a race meeting shall, immediately prior to the commencement of that meeting, designate the stakes, futurities or futurity trials or other races in which a jockey or a driver who is under suspension for ten days or less for a riding or driving infraction will be permitted to compete, notwithstanding the fact that such jockey or driver is technically under suspension at the time the designated race is to be run. However, the proposed amendment to Board Rule 1688 clarifies that, in trial heats, any suspension shall include the subsequent related stakes race regardless of whether the related stakes race is designated pursuant to Board Rule 1766. The proposed amendment, therefore, has the benefit of clarifying for licensees how a potential suspension may impact their ability to participate in designated races while under suspension for violating Board Rule 1688.

CONSISTENCY EVALUATION

During the process of developing the amendment to Board Rule 1688, the Board has conducted a search of any similar regulations on this topic and has

concluded that the 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 cost 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 1688 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

ECONOMIC IMPACT ASSESSMENT

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

The adoption of the proposed amendment to Board Rule 1688 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The proposed amendment to Board Rule 1688 provides clarification regarding the proper use of the riding crop, the penalties for violating the Board's rules regarding the use of the riding crop, when and how the penalties imposed for violating the Board's riding crop rules apply, and when and how the wagering public is to be made aware of jockeys who will not be using a riding crop during a race.

The proposed amendment to Board Rule 1688 will impact Board-licensed jockeys, exercise riders, and racing associations responsible for printing the official program for race meetings. However, the net economic effect of the proposed regulation will be negligible. The proposed regulation imposes no compliance costs, only penalties for violations of Board Rule 1688. Therefore, 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.

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

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

Significant effect on housing costs: none.

Effect on small businesses: none. The proposal to amend Board Rule 1688 does not affect small businesses because horse racing is not a small business under GC section 11342.610.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

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

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

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

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

AVAILABILITY OF INITIAL
STATEMENT OF REASONS AND
TEXT OF PROPOSED REGULATION

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

AVAILABILITY OF MODIFIED TEXT

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

AVAILABILITY OF FINAL
STATEMENT OF REASONS

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

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. 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 11. COMMISSION ON PEACE
OFFICER STANDARDS AND TRAINING**

AMEND MINIMUM STANDARDS FOR
LEGISLATIVELY MANDATED COURSES
REGULATION 1081

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

Public Comments Due by July 19, 2021.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Law Enforcement Consultant Rob Patton at rob.patton@post.ca.gov, or by letter to:

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

AUTHORITY AND REFERENCE

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

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Commission Regulation 1081's minimum standards for legislatively mandated courses covers a variety of topics, one of which is Human Trafficking training. According to Regulation 1081, 'Human Trafficking Training' subsection (7) reads as follows: "Participating in the Human Trafficking Training course or courses by peace officers or the agencies employing them is voluntary."

Currently, California Penal Code 13519.14(e) states “every law enforcement officer who is assigned to field or investigative duties shall complete a minimum of two hours of training in a course or courses of instruction pertaining to the handling of Human Trafficking complaints as described in subdivision (a) by July 1, 2014, or within six months of being assigned to that position, whichever is later.”

Currently, in Commission Regulation 1081, Human Trafficking training verbiage does not coincide with California Penal Code 13519.14(e). The proposed changes to Commission Regulation 1081 would eliminate confusion. Specifically, changing ‘voluntary’ to ‘required.’

The proposed change to Regulation 1081 is necessary for clarity purposes and will resolve the inconsistency and align the Regulation with statute.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulations will be to resolve the inconsistency and align Regulation 1081 with statute, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the State’s environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Commission on Peace Officer Standards and Training has determined that these proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern minimum standards for legislatively mandated courses.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons

who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

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

Small Business Determination: The Commission on Peace Officer Standards and Training has found that the proposed language will not affect small business because the amended language addresses solely the minimum standards for legislatively mandated courses. The proposed amendment does not require any additional training, nor does it eliminate the time and work needed to develop any course documents. Additionally, the Commission’s main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

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

RESULTS OF ECONOMIC
IMPACT ASSESSMENT
per Gov. Code section 11346.3(b)

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

The benefits of the proposed amendments of regulations to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving

peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Law Enforcement Consultant Rob Patton, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-4829. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

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

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

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

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

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED REVISIONS TO THE ON-BOARD DIAGNOSTIC SYSTEM REQUIREMENTS AND ASSOCIATED ENFORCEMENT PROVISIONS FOR PASSENGER CARS, LIGHT-DUTY TRUCKS, MEDIUM-DUTY VEHICLES AND ENGINES, AND HEAVY-DUTY ENGINES

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption the proposed amendments to California's On-Board Diagnostic System Requirements for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II) and Heavy-Duty Engine On-Board Diagnostic System Requirements (HD OBD).

Date: July 22, 2021

Time: 9:00 a.m.

Please see the public agenda which will be posted ten days before the July 22, 2021, Board Meeting for any appropriate direction regarding a possible remote-only Board Meeting. If the meeting is to be held in person, it will be held at the California Air Resources Board, Byron Sher Auditorium, 1001 I Street, Sacramento, California 95814.

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., July 22, 2021, and may continue at 8:30 a.m., on July 23, 2021. Please consult the agenda for the hearing, which will be available at least ten days before July 22, 2021, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing during the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on June 4, 2021. Written comments not submitted during the hearing must be submitted on or after June 4, 2021, and received **no later than July 19, 2021**. Comments

submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal:

<https://www.arb.ca.gov/lispub/comm/bclist.php>

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

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 38501, 38505, 38510, 39010, 39600, 39601, 39602.5, 43000.5, 43013, 43018, 43100, 43101, 43104, 43105, 43105.5, 43106, 43154, 43211, and 43212; and *Engine Manufacturers Association v. California Air Resources Board* (2014) 231 Cal.App.4th 1022. This action is proposed to implement, interpret, and make specific sections 38501, 38505, 38510, 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600, 39601, 39602.5, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211 and 43212 of the Health and Safety Code.

INFORMATIVE DIGEST OF
PROPOSED ACTION AND
POLICY STATEMENT OVERVIEW
(Gov. Code, § 11346.5, subdivision (a)(3))

Sections Affected: Proposed amendments to California Code of Regulations, title 13, sections 1968.2, 1968.5, 1971.1, and 1971.5.

DOCUMENTS INCORPORATED
BY REFERENCE
(Cal. Code Regs., title 1, § 20, subdivision (c)(3))

The following documents would be incorporated in the regulation by reference as specified by section:

- SAE International (SAE) J1979-DA, “Digital Annex of E/E Diagnostic Test Modes,” April 2021, sections 1968.2(g)(1.4.1) and 1971.1(h)(1.4.1)
- SAE J1979-2 — “E/E Diagnostic Test Modes: OBDOnUDS,” April 2021, sections 1968.2(g)(1.4.2) and 1971.1(h)(1.4.2)
- Data Record Reporting Procedures for Over-the-Air Reprogrammed Vehicles and Engines Using SAE J1979-2, June 1, 2021; sections 1968.2(g)(8.1.1) and 1971.1(h)(6.1.1)

BACKGROUND AND EFFECT OF THE
PROPOSED REGULATORY ACTION

On-Board Diagnostic (OBD) systems serve an important role in helping to ensure that on-road vehicles and engines maintain low emissions throughout their full lives. OBD systems monitor virtually all emission controls on engines and vehicles, including catalysts, particulate matter (PM) filters, exhaust gas recirculation systems, oxygen sensors, evaporative systems, fuel systems, electronic powertrain components, and other components and systems that can affect emissions when malfunctioning. The systems also provide specific diagnostic information in a standardized format through a serial data link on-board each vehicle. The use and operation of OBD systems also ensure reductions of in-use motor vehicle and motor vehicle engine emissions through the incentive they create for manufacturers to improve emission system durability and performance.

The Board originally adopted comprehensive OBD regulations in 1990, requiring all 1996 and newer model year passenger cars, light-duty trucks, and medium-duty vehicles and engines to have OBD II systems. The Board subsequently updated the OBD requirements in 2002 with the adoption of California Code of Regulations, title 13, sections 1968.2 and 1968.5, which established OBD II requirements (Cal. Code Regs.,

title 13, § 1968.2) and enforcement requirements (Cal. Code Regs., title 13, § 1968.5) for 2004 and subsequent model year vehicles. The Board has modified the OBD II regulation in several updates since initial adoption to address manufacturers' implementation concerns and, where needed, to strengthen specific monitoring requirements. In 2005, CARB adopted California Code of Regulations, title 13, section 1971.1, which established comprehensive OBD requirements for 2010 and subsequent model year heavy-duty engines and vehicles (i.e., vehicles with a gross vehicle weight rating greater than 14,000 pounds), referred to as HD OBD. The Board subsequently updated the HD OBD regulation in 2009 and adopted HD OBD-specific enforcement requirements (Cal. Code Regs., title 13, § 1971.5). The Board last adopted updates to the OBD II and HD OBD regulations in 2018.

Since then, CARB staff has identified a number of new proposed amendments to the OBD II and HD OBD regulations that it believes are warranted. The majority of the proposed amendments are related to the new proposed requirement for manufacturers to implement Unified Diagnostic Services (UDS) features on vehicles and engines using the International Organization for Standardization (ISO) 15765-4 communication protocol. The use of UDS for OBD communications would significantly increase the number of available fault codes for manufacturers to use, provide more information related to emissions-related malfunctions that are detected by OBD systems, improve the usefulness of the generic scan tool to repair vehicles, and provide needed information on in-use monitoring performance. UDS implementation would be required for all 2027 and subsequent model year light- and medium-duty vehicles and engines, as well as heavy-duty vehicles and engines that use the ISO 15765-4 protocol. Notwithstanding, manufacturers would be permitted to implement UDS as early as the 2023 model year. The proposed amendments related to the use of UDS include:

- Increasing the amount of information required to be provided by each supported fault code
- Increasing the number of freeze frames, readiness status, and in-use monitor performance ratio (IUMPR) data required to be supported
- Adding new data parameters that are required to be tracked and reported for the purposes of evaluating in-use monitoring activity
- Adding necessary SAE International document references to complement these new UDS requirements

Staff has also identified other proposed amendments to the OBD II regulation that it believes are warranted and necessary. The proposed amendments would address manufacturers' implementation concerns,

enhance some existing requirements, and provide clarification on other requirements. The proposed amendments to the OBD II regulation include:

- Revising the monitoring requirements for cold start emission reduction strategies (CSERS) to include more details on which features of the emission control system need to be monitored and under which conditions, and requiring new data to be tracked and reported related to CSERS activity
- Adding new monitoring requirements to detect engine stalls on gasoline vehicles/engines to ensure the idle speed system monitor covers stall malfunctions on virtually all engine starts
- Requiring more stringent emission malfunction thresholds for the PM filter monitor in conjunction with relaxing the IUMPR requirements
- Revising the non-methane hydrocarbon (NMHC) catalyst and catalyzed PM filter monitoring requirements for feedgas generation performance to provide clarity and to make compliance easier to achieve
- Updating the supporting data requirements for the diesel oxides of nitrogen (NOx) sensor diagnostic to better ensure the robustness of monitoring strategies that rely on sensor readings
- Specifying the data manufacturers are required to submit to support the diesel catalyst/adsorber laboratory aging protocols and catalyst/adsorber monitor malfunction criteria and the associated acceptance criteria
- Requiring the ability of vehicles to seal the evaporative system when commanded by a generic scan tool to aid service technicians in finding and fixing detected evaporative system leaks
- Revising the durability demonstration testing requirements to allow for alternate methods to conduct retesting
- Revising the production vehicle evaluation testing requirements to decrease the number of tests required for verification of monitoring requirements and to collect more data from in-use vehicles

Staff is also proposing similar amendments to the HD OBD regulation, section 1971.1, where necessary to harmonize the requirements with regard to the UDS-related amendments, the CSERS monitor and tracking data amendments, the engine stall monitor amendments, the NOx sensor monitoring amendments, and the diesel catalyst/adsorber monitor malfunction criteria amendments. Lastly, staff is proposing amendments to correct regulatory language regarding diesel misfire monitoring.

A number of minor amendments are also proposed as part of this rulemaking. Staff is proposing amendments to the OBD II enforcement regulation (section 1968.5) to align with the proposed changes to the OBD II regulation, specifically to account for the proposed amendments related to the UDS features and to add nonconformance criteria for the proposed IUMPRs applicable to the PM filter monitor. Staff is also proposing amendments to the HD OBD enforcement regulation (section 1971.5) to align with the proposed amendments related to the UDS features in the HD OBD regulation. Lastly, additional amendments are being proposed to correct section reference errors, typographical errors, and other minor errors in the regulations.

CARB may also consider other changes to the sections affected, as listed on page two of this notice, during the course of this rulemaking process.

OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

The proposed amendments to the OBD II and HD OBD regulations will provide manufacturers with greater compliance flexibility, and will strengthen and clarify the requirements they are expected to meet in designing and developing robust OBD systems. These amendments will further ensure that OBD systems will be effective in detecting emission-related malfunctions during in-use driving and providing more timely identification and repair of malfunctions, therefore minimizing excess in-use emissions. Manufacturers will also be further encouraged to design and build more durable engines and emission-related components, all of which will help ensure that forecasted emission reduction benefits from adopted light-, medium-, and heavy-duty vehicle and engine emission control programs are achieved in-use. Ultimately, the proposed action will further the goal of CARB, which is to promote and protect public health, welfare and ecological resources through the effective and efficient reduction of air pollutants, and provide safe, clean air to Californians. No quantifiable benefit to worker safety is expected.

CARB carried out an extensive public process. CARB began the OBD regulatory update process at the end of 2016, when CARB staff had meetings with industry to discuss UDS-related amendments to the OBD regulation. CARB staff then began meetings with SAE committee members in 2017 to help develop the specifications related to the proposed UDS-related requirements in the SAE standards. CARB held a public workshop in El Monte on February 27, 2020, to discuss the proposal and to seek comments. Interested stakeholders participated in the workshop in person or via webinar. The workshop notice and workshop

presentation were posted on the OBD Program website prior to the workshop. CARB staff also presented and sought comments regarding elements of the upcoming proposed amendments to the OBD regulations during SAE OBD symposiums held in September 2019 (Garden Grove, California), September 2020 (virtual symposium) and March 2021 (virtual symposium). These symposiums were attended by vehicle and engine manufacturers, scan tool manufacturers, and individuals involved in various other aspects of the automotive industry. CARB also presented and sought comments about the proposal during a Truck and Engine Manufacturers Association (EMA) compliance workshop in April 2020. Additionally, CARB staff held numerous teleconferences with the Alliance for Automotive Innovation and EMA, which represents the vast majority of stakeholders affected by the proposed rulemaking, as well as numerous meetings and correspondences (comprising of teleconferences, in-person meetings, and e-mail correspondences) with individual manufacturers. The proposal was developed in close collaboration with these stakeholders. As a result of the comments received throughout the regulatory process, staff made significant changes to the proposed amendments to the OBD II and HD OBD regulations, which are reflected in the final proposal.

COMPARABLE FEDERAL REGULATIONS

In February 1993, the United States Environmental Protection Agency (U.S. EPA) promulgated OBD requirements for federally certified light-duty vehicles and trucks. (40 Code of Federal Regulations (CFR) Part 86, §§ 86.094-2, 86.094-17, 86.094-18(a), 86.094-21(h), 86.094-25(d), 86.094-30(f), 86.094-35(l), 86.095-30(f), 86.095-35(l); see 58 Fed.Reg. 9468-9488 (February 19, 1993).) These requirements were later amended to require OBD systems on medium-duty vehicles by the 2008 model year. The final rule with the latest modifications of the requirements was published on February 24, 2009. A central part of the federal regulation is that, for federal certification of vehicles, U.S. EPA will deem California-certified OBD II systems to comply with the federal regulations.

In Health and Safety Code sections 43013, 43018, and 43101, the Legislature directed CARB to adopt emission standards for new motor vehicles that are necessary and technologically feasible and to endeavor to achieve the maximum emission reduction possible from vehicular and other mobile sources to accomplish the attainment of the State standards at the earliest practicable date. CARB initially adopted the OBD II regulations to meet those legislative directives. The OBD II regulation was first adopted in 1990. On

October 11, 1996, the U.S. EPA granted California's request for a waiver regarding the OBD II regulation, as last amended in December 1994,¹ recognizing that the OBD II regulation is at least as stringent in protecting public health and welfare as the federal regulation, and that unique circumstances exist in California necessitating the need for the State's own motor vehicle regulations program.

In 2014, the U.S. EPA adopted Tier 3 regulations that include provisions (40 CFR 86.1806-17) that generally align federal OBD requirements for 2017 and subsequent model year light duty vehicles, light-duty trucks, medium-duty passenger vehicles, and complete heavy-duty vehicles between 8,501 and 14,000 pounds gross vehicle weight rating with CARB's California OBD II regulation, as last amended in 2013. The federal requirements differ from the corresponding California OBD requirements in several aspects. For example, the malfunction thresholds for the emission threshold monitors may differ based on the emission standard the vehicle is certified to, especially in cases involving vehicles certified to Tier 3 standards that have no corresponding Low Emission Vehicle standard. Additionally, the federal OBD requirements do not incorporate the anti-tampering provisions of the OBD II regulation (that prevent unauthorized modifications of the computer-coded engine operating parameters of the on-board computer). Further, while the federal regulation does not incorporate the specific deficiency provisions of the California OBD II regulation, it contains its own deficiency provisions that contain differences from the deficiency provisions in the OBD II regulation. Specifically, the federal requirements do not assign fines for deficiencies while California's OBD II regulation would require manufacturers to pay fines if their OBD system is certified with three or more deficiencies. Additionally, the California OBD II regulation allows for deficiencies that are applied after certification of the OBD system (i.e., retroactive deficiencies), while the federal OBD regulation does not contain such provisions. Further, the federal requirements specifically do not allow deficiencies for complete lack of major monitors. Further, considering California updated the OBD II regulation with more stringent requirements after 2013, including the requirement for the vehicle to track and report certain data parameters to characterize the vehicle's NOx control performance as well as the greenhouse gas emissions in the real world, California's OBD II regulation establishes more comprehensive and stringent requirements than the federal regulation.

¹California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision, 61 Fed. Reg. 53371 (October 11, 1996).

CARB initially adopted the HD OBD regulation in 2005. A waiver for the regulation was granted by U.S. EPA in 2008.² CARB amended the regulation in 2010, and was granted another waiver action by U.S. EPA in 2012.³ On November 7, 2016, the U.S. EPA formally granted California's request for a waiver regarding the HD OBD regulation, as last amended on June 26, 2013,⁴ recognizing that the HD OBD regulation is at least as stringent in protecting public health and welfare as the federal regulation, and that unique circumstances exist in California necessitating the need for the State's own motor vehicle regulations program. The U.S. EPA has also adopted OBD requirements for vehicles and engines above 14,000 pounds, which is the weight range for California's "heavy-duty" class. The federal regulation (40 CFR 86.010-18) was published on February 24, 2009, and subsequently amended on September 15, 2011, and June 17, 2013.

The federal regulation is consistent with CARB's California regulation in the most important aspects. However, the California HD OBD regulation in general still establishes more comprehensive and stringent requirements than the federal OBD regulation. For example, the HD OBD regulation generally requires California OBD systems on diesel engines to detect malfunctions before emissions exceed more stringent thresholds than those required by the federal HD OBD regulation. Further, the federal regulation does not require the OBD system to detect diesel oxidation catalyst malfunctions before a specific emission threshold is exceeded like the California OBD regulations—it is only required to detect a failure if the catalyst completely lacks NMHC conversion capability. As another example, under the federal HD OBD regulation, the malfunction thresholds for the emission threshold monitors are not required to be adjusted to account for emissions due to infrequent regeneration events.

The proposed 2021 amendments would continue California's efforts to require more comprehensive and robust monitoring of emission related systems and components than required by federal OBD regulations. Historically, virtually every light- and medium-duty

²California State Motor Vehicle Pollution Control Standards; Notice of Waiver of Clean Air Act Preemption; California's 2010 Model Year Heavy-Duty Vehicle and Engine On-Board Diagnostic Standards, 73 Fed. Reg. 52042 (September 8, 2008).

³California State Motor Vehicle Pollution Control Standards; Notice of Waiver of Clean Air Act Preemption; California's 2010 Model Year Heavy-Duty Vehicle and Engine On-Board Diagnostic Standards, 77 Fed. Reg. 73459 (December 10, 2012).

⁴California State Motor Vehicle Pollution Control Standards; Malfunction and Diagnostic System Requirements for 2010 and Subsequent Model Year Heavy-Duty Engines; Notice of Decision, 81 Fed. Reg. 78149 (November 7, 2016).

vehicle sold in the U.S. is designed and certified to California’s OBD II requirements in lieu of the federal OBD requirements, and virtually all heavy-duty engine manufacturers have also certified to California’s HD OBD regulation, since U.S. EPA’s regulation directly allows acceptance of systems that have been certified to California’s regulations. While this process is expected to continue, this may not be the case for some future heavy-duty engines that will be certified to the lower emission standards recently proposed as part of CARB’s Heavy-Duty Omnibus rulemaking update⁵. This rulemaking, which will result in California regulations having different emission standards than the federal regulation, may result in heavy-duty engine manufacturers producing federal-only engines that do not meet California’s regulations. Therefore, it is expected that heavy-duty engine manufacturers will need to design different OBD systems, one meeting the California OBD regulation and the other meeting the federal OBD regulation, for a portion of their future product lines. However, if U.S. EPA adopts emission standards in the future that align with CARB’s lower emission standards, it is expected that heavy-duty manufacturers will continue to design one OBD system to meet both the California and federal OBD requirements.

AN EVALUATION OF INCONSISTENCY
OR INCOMPATIBILITY WITH
EXISTING STATE REGULATIONS
(Gov. Code, § 11346.5, subdivision (a)(3)(D))

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

⁵ Staff Report: Initial Statement of Reasons for Rulemaking: Proposed Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments: Proposed Amendments to the Exhaust Emissions Standards and Test Procedures for 2024 and Subsequent Model Year Heavy-Duty Engines and Vehicles, Heavy-Duty On-Board Diagnostic System Requirements, Heavy-Duty In-Use Testing Program, Emissions Warranty Period and Useful Life Requirements, Emissions Warranty Information and Reporting Requirements, and Corrective Action Procedures, In-Use Emissions Data Reporting Requirements, and Phase 2 Heavy-Duty Greenhouse Gas Regulations, and Powertrain Test Procedures, June 23, 2020. (<https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/isor.pdf>)

DISCLOSURES REGARDING THE
PROPOSED REGULATION

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subdivisions (a)(5)&(6)):

The determinations of the Board’s Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would create costs or savings to any State agency, would not create costs or savings in federal funding to the State, would create costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Cost to any Local Agency or School District Requiring Reimbursement under section 17500 et seq.:

The proposed amendments are estimated to have a cumulative \$491,655 in cost and \$528,885 in revenue over the regulatory lifetime through 2034 for local agencies and school districts. The cost accounts for the incremental costs associated with the new vehicles purchased by local agencies during the regulatory lifetime, while the revenue accounts for the share of State sales tax revenue the local government will receive for all affected new vehicles sold in California during the regulatory lifetime. More details about the costs can be found in Chapter VIII.E. of the Staff Report: Initial Statement of Reasons (ISOR).

Any cost to local government is not reimbursable by the State, pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500) because the additional costs associated with the proposed amendments apply generally to all entities that purchase affected engines and vehicles, private fleets and owners as well as State and local agencies. The proposed amendments do not mandate a new program or higher level of service on any local government.

Cost or Savings for State Agencies:

The proposed amendments are estimated to have a cumulative \$180,062 in cost and \$458,135 in revenue over the regulatory lifetime through 2034 for State agencies. The cost accounts for the incremental costs associated with the new vehicles purchased by State agencies during the regulatory lifetime and the estimated costs incurred by the Bureau of Automotive Repair for software and database updates needed to

accommodate the proposed UDS features in the Smog Check program. The revenue results from the share the State government will receive from the State sales tax revenue associated with the incremental costs for all affected new vehicles sold in California during the regulatory lifetime. More details about the costs can be found in Chapter VIII.E. of the ISOR.

The proposed amendments may require a small amount of additional time for CARB staff to review new OBD II and HD OBD requirements in manufacturer applications. However, clarifications in the proposed amendments would streamline other parts of the review process for CARB staff, since it will be easier to determine compliance with the requirements. Any additional staff time required as part of the proposed amendments are anticipated to be offset by a reduction in staff time from the proposed clarifications.

Other Non-Discretionary Costs or Savings on Local Agencies:

No other non-discretionary costs or savings to local agencies are expected.

Cost or Savings in Federal Funding to the State:

No costs or savings in federal funding is anticipated.

HOUSING COSTS

(Gov. Code, § 11346.5, subdivision (a)(12))

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

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

(Gov. Code, §§ 11346.3, subdivision (a), 11346.5, subdivision (a)(7), 11346.5, subdivision (a)(8))

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Support for this determination is set forth in the Initial Statement of Reasons (ISOR).

**RESULTS OF THE ECONOMIC
IMPACT ANALYSIS/ASSESSMENT**

(Gov. Code, § 11346.5, subdivision (a)(10))

Non-Major Regulation: Statement of the Results of the Economic Impact Assessment (EIA):

(A) The creation or elimination of jobs within the State of California.

The proposed amendments are not expected to cause a noticeable change in California employment because California accounts for only a small share of motor vehicle, heavy-duty engine, and parts manufacturing employment, and the minimal additional work done by engine and vehicle manufacturers can be done with existing staff; for example, some engineering jobs may be reassigned to design and calibrate OBD II and HD OBD systems.

(B) The creation of new business or the elimination of existing businesses within the State of California.

The proposed amendments are not expected to affect business creation or elimination within California.

(C) The expansion of businesses currently doing business within the State of California.

The proposed amendments are not expected to affect the expansion of existing business currently within the State of California.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed amendments are not expected to result in direct emission benefits, but rather increase the certainty that emission benefits projected for the light-, medium-, and heavy-duty vehicle programs are realized in practice. Although not quantified, the proposed amendments are expected to result in cleaner vehicles than those currently produced and improve the reliability of emissions controls and the efficiency of repair. As a result, Californians will benefit from more durable vehicles and more efficient diagnosis and repair of malfunctioning vehicles. No quantifiable benefit to worker safety is expected.

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to strengthen the OBD II and HD OBD requirements, provide manufacturers to greater compliance flexibility, and clarify the performance requirements manufacturers are expected to meet in designing and

developing robust OBD II and HD OBD systems. These amendments will further ensure that OBD systems will be effective in detecting emission-related malfunctions during in-use driving and providing more timely identification and repair of malfunctions, therefore minimizing excess in-use emissions. This will encourage manufacturers to design and build more durable engines and emission-related components, all of which will help ensure that forecasted emission reduction benefits from adopted light-, medium-, and heavy-duty vehicle and engine emission control programs are achieved in-use.

A summary of these benefits is provided; please refer to “Objectives and Benefits”, under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code section 11346.5, subdivision (a)(3) discussion on page five.

BUSINESS REPORT

(Gov. Code, §§ 11346.5, subdivision (a)(11);
11346.3, subdivision (d))

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

(Gov. Code, § 11346.5, subdivision (a)(9))

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. Based on the cost analysis, staff estimated that a representative private person or business would incur an impact of \$0.67 to \$7.37 per light-duty and medium-duty vehicle and \$14.34 to \$25.87 per heavy-duty vehicle to comply with the proposed amendments. The cost impacts depend on the number of new vehicles the private person or business purchases during the lifetime of the regulatory proposal.

EFFECT ON SMALL BUSINESS

(Cal. Code Regs., title 1, § 4,
subdivisions (a) and (b))

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. There is no light-duty, medium-duty, or heavy-duty vehicle/engine manufacturer that is a “small business” in California. However, any vehicle owner in California that purchases a new vehicle will

be impacted by a price increase of \$0.67 to \$7.37 per light-duty and medium-duty vehicle and \$14.34 to \$25.87 per heavy-duty vehicle. For example, a small heavy-duty vehicle fleet could incur costs ranging from \$0 to \$51.74 for a fleet purchasing 0 to 2 heavy-duty diesel vehicles. Vehicle/engine repair shops in California will be impacted by an incremental cost of \$8 per shop owner associated with upgrading scan tools for diagnostics and repairs of vehicles.

CONSIDERATION OF ALTERNATIVES

(Gov. Code, § 11346.5, subdivision (a)(13))

Before taking final action on the proposed regulatory action, 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 to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

STATE IMPLEMENTATION PLAN REVISION

If adopted by CARB, CARB plans to submit the proposed regulatory action to the U.S. EPA for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it amends regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the proposed amendments, has concluded that this action is exempt from the California Environmental Quality Act (CEQA), as described in CEQA Guidelines § 15061, because the action is both an Action Taken by Regulatory Agencies for Protection of the Environment (as described in CEQA Guidelines § 15308 for “class 8” exemptions); and it is also exempt as described in CEQA Guidelines § 15306 (“class 6” exemption for the purposes of data collection) because it can be seen with certainty that there is no possibility that the proposed action may result in a significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter VI of the ISOR.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerks' Office at cotb@arb.ca.gov or (916) 322-5594 as soon as possible, but no later than ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al cotb@arb.ca.gov o (916) 322-5594 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Jason Wong, Manager, On-Board Diagnostics Program Development Section, at (626) 575-6838 or Jason.Wong@arb.ca.gov, or (designated back-up contact) Adriane Chiu, Air Resources Engineer, On-Board Diagnostics Program Development Section, at (626) 350-6453 or Adriane.Chiu@arb.ca.gov. If you are unable to reach the preceding designated contacts, please contact Chris Hopkins, Regulations Coordinator, at Chris.Hopkins@arb.ca.gov or (916) 445-9564.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal.

The report is entitled: Public Hearing to Consider Proposed Revisions to the On-Board Diagnostic System Requirements and Associated Enforcement Provisions for Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles and Engines, and Heavy-Duty Engines.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, on June 1, 2021. Please contact Chris Hopkins, Regulations Coordinator, at Chris.Hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, (916) 445-9564. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors

and Environmental Services Center, First Floor, Sacramento, California, 95814.

FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2021/obd2021>.

TITLE 13. NEW MOTOR VEHICLE BOARD

NOTICE IS HEREBY GIVEN that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050 proposes to adopt the proposed regulations as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

PROPOSED REGULATORY ACTION

The Board proposes to amend section 556 of Title 13 of the California Code of Regulations and add section 586.5 to Title 13 of the California Code of Regulations pertaining to protests and petitions.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered the proposed regulations at a noticed General Meeting held on December 2, 2019. Eighteen (18) days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to all individuals and entities on the Board's Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board's website.

Comments by the public were received at the December 2, 2019, General Meeting in relation to the proposed regulations and the Board took those comments into consideration.

The Board subsequently considered the proposed regulations at a noticed General Meeting held on March 5, 2020. Fourteen (14) days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to all

individuals and entities on the Board's Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board's website.

No comments by the public were received at the March 5, 2020, General Meeting and no further public discussion was held prior to publication of the notice. At this meeting, the Board voted to move forward with final version of the regulatory amendments.

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 before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board by e-mail at danielle.phomsopha@nmvb.ca.gov or nmvb@nmvb.ca.gov or by facsimile (FAX) at (916) 323-1632. The written comment period closes at midnight on July 20, 2021. The Board will only consider comments received at the Board's offices by that time. Submit comments to:

Danielle R. Phomsopha, Senior Staff Counsel
 New Motor Vehicle Board
 P.O. Box 188680
 Sacramento, CA 95818-8680
 (916) 327-3129 direct line
 (916) 445-1888 main line
 (916) 323-1632 fax
danielle.phomsopha@nmvb.ca.gov

AUTHORITY AND REFERENCE

Vehicle Code section 3050, subdivision (a), authorizes the Board to amend the proposed regulations. The proposed regulations implement, interpret, and make specific Vehicle Code sections 3050 and 3065.3.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The adopted mission of the Board is to: "...enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner." The adopted vision statement provides that the Board "demonstrate professionalism, integrity,

and accountability in securing fair resolutions to motor vehicle industry disputes.”

The Board proposes to amend Section 556 and add Section 586.5 to include the information necessary to conform the regulations with statute due to recently enacted legislation and provide clarity for those wishing to file protests and petitions before the Board.

A new type of protest was created by legislation effective January 1, 2020, where a franchisee can file a protest with the Board to determine whether a franchisor has complied with the Vehicle Code requirements that “[n]o franchisor shall establish or maintain a performance standard, sales objective, or program for measuring a dealer’s sales, service or customer service performance that is inconsistent with the standards set forth in subdivision (g) of Section 11713.13 [of the Vehicle Code]” (“performance standard protest”).

Section 556 describes the form and filing of a petition. Additional information is being added to describe what shall be included in the petition. Specifically, a petition shall include facts, legal authority and relief sought and include declarations or other evidence and documentation to support the petition. The additional language clarifying what is required in filing a petition provides clarity to those who wish to have a petition heard by the Board while also providing the Board with the information it needs to hear a petition before it.

Section 586.5 is being added to provide the information needed to file a new type of protest created by recently enacted legislation. The language of the proposed regulation is nearly identical to language already describing protests filed pursuant to other related statutes (see 13 CCR sections 585 and 586).

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The broad objective of the regulations is to clarify for litigants that appear before the Board the information necessary to effectively represent themselves or their clients.

The specific benefit anticipated from the regulations is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Board conducted an evaluation of the proposed regulations’ potential inconsistency or incompatibility with existing state regulations and has found that they are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business:
The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant, statewide adverse economic impact directly affecting businesses, including the ability of California business to compete with businesses in other states: None.
- Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board concludes that the proposed regulations will not (1) create any jobs within the State of California, (2) eliminate any jobs within the State of California, (3) create any new businesses within the State of California, (4) eliminate any existing businesses within the State of California, or (5) cause the expansion of businesses currently doing business within the State of California.

BENEFITS OF THE REGULATION

The proposed regulations will promote the expeditious and economical resolution of disputes between

new motor vehicle dealers and their manufacturers or distributors.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulations will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulations, are legally required to enforce the regulations, or derive a benefit from or incur an obligation from the enforcement of the regulations. The proposed regulations merely clarify case management for franchised new motor vehicle dealers and their franchisors (new vehicle manufacturers or distributors) who choose to file a protest or petition with the Board.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to 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 to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present comments, statements or arguments with respect to alternatives to the proposed regulation, during the written comment period or at the public hearing, if one is requested.

CONTACT PERSONS

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Phomsopha at the following address:

Danielle R. Phomsopha, Senior Staff Counsel
New Motor Vehicle Board
P.O. Box 188680
Sacramento, CA 95818–8680
(916) 327–3129 direct line
(916) 445–1888 main line
(916) 323–1632 fax
danielle.phomsopha@nmvb.ca.gov

The backup contact person for these inquiries is:

Robin P. Parker, Chief Counsel
New Motor Vehicle Board
P.O. Box 188680
Sacramento, CA 95818–8680
(916) 323–1536 direct line
(916) 445–1888 main line
(916) 323–1632 fax
robin.parker@nmvb.ca.gov

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices by appointment. Please contact the contact persons listed above should you wish to make an appointment for in-office inspection and copying. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications 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. Requests for copies of any modified regulations should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Ms. Phomsopha or Ms. Parker at the above address.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout font can be accessed through the Board's website at www.nmvb.ca.gov.

**TITLE 13. NEW MOTOR VEHICLE
BOARD**

NOTICE IS HEREBY GIVEN that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050 proposes to adopt the proposed regulations as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

PROPOSED REGULATORY ACTION

The Board proposes to amend sections 550, 551.8, 551.12, 553.40, 558, 586 and 590 of Title 13 of the California Code of Regulations pertaining to case management.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered and adopted the proposed regulations at a noticed General Meeting held on December 2, 2019. Eighteen (18) days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to all individuals and entities on the Board's Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board's website.

No comments by the public were received at the December 2, 2019, General Meeting in relation to the regulations in this notice, and no further public discussion was held prior to publication of the notice.

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 before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board by e-mail at danielle.phomsopha@nmvb.ca.gov or nmvb@nmvb.ca.gov or by facsimile (FAX) at (916) 323-1632.

The written comment period closes at midnight on July 20, 2021. The Board will only consider comments received at the Board's offices by that time. Submit comments to:

Danielle R. Phomsopha, Senior Staff Counsel
New Motor Vehicle Board
P.O. Box 188680
Sacramento, CA 95818-8680
(916) 327-3129 direct line
(916) 445-1888 main line
(916) 323-1632 fax
danielle.phomsopha@nmvb.ca.gov

AUTHORITY AND REFERENCE

Vehicle Code section 3050, subdivision (a), authorizes the Board to amend the proposed regulations. The proposed regulations implement, interpret, and make specific Business and Professions Code section 472.5, Code of Civil Procedure sections 2015.5 and 2016.020, Government Code section 11425.40, Vehicle Code sections 1504, 3050, 3050.7, 3060, 3062, 3064, 3065, 3065.1, 3065.3, 3065.4, 3066, 3070, 3072, 3074, 3075, 3076, 3080, 3085 and 3085.2.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The adopted mission of the Board is to: "... enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner." The adopted vision statement provides that the Board "... demonstrate professionalism, integrity, and accountability in securing fair resolutions to motor vehicle industry disputes."

The Board proposes to amend Sections 550, 551.8, 551.12, 553.40, 558, 586 and 590 to include the information necessary to conform the regulations with statute due to recently enacted legislation. Several new types of protests were created by recently enacted legislation including, a protest where an association primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interest of dealers can be filed challenging an export or sale-for-resale prohibition policy of a manufacturer or distributor ("association protests"); a protest where a franchisee may file a protest with the Board for a declaration of its retail labor rate or retail parts rate when such rates are in dispute or the franchisor fails to comply with the requirements in statute ("warranty reimbursement protest"); and a franchisee can file a protest with the Board to determine whether a franchisor has complied with the Vehicle Code requirements that "[n]

o franchisor shall establish or maintain a performance standard, sales objective, or program for measuring a dealer’s sales, service or customer service performance that is inconsistent with the standards set forth in subdivision (g) of Section 11713.13 [of the Vehicle Code]” (“performance standard protest”).

Section 550 defines a “Protest” and “Protestant.” “Protest” is being amended to include the new types of protests created in statute. “Protestant” is being amended to include the new type of Protestant that can file a protest: an association primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interest of dealers. The new statutes are also being added to the Reference section of the regulation.

Section 551.8 describes the dismissals of petitions or protests. This regulation is being amended to add that an order of dismissal of an association protest shall be a final order. The statutory section regarding association protests is also being added to the Reference section.

Section 551.12 describes who may file a peremptory challenge and the mechanism for doing so. Language is being added to this Section to conform with the amendments made in statute. In addition, reference to the new association protest is being added to the regulation language to clarify that the regulation does not limit the provisions of the statute. The new association protest is being added to the Reference section as well.

Section 553.40 relates to the Board’s filing fees upon receipt of a new protest. The new protest statutes are being added to the Reference section so the Board may be able to collect filings fees, as it does for all protests.

Section 558 clarifies how a Respondent may submit information as exhibits to its answer. In addition, a subsection is removed from the Reference section for clarity.

Section 586 relates to warranty reimbursement filings and protests. This Section is being amended to remove all references to a requirement that has been removed from statute. In addition, the new warranty reimbursement protest is being referenced as needed in this Section. The new protest is also being added to the Reference section, as well as the removal of specific subsections for clarity.

Section 590 relates to hearings by the Board and is being amended to add the new protest rights added in statute. Further, the appropriate Vehicle Code sections are being added to the Reference section, as well as specific subsections are being removed for clarity.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The broad objective of the regulations is to clarify for litigants that appear before the Board the information necessary to effectively represent themselves or their clients.

The specific benefit anticipated from the regulations is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Board conducted an evaluation of the proposed regulations’ potential inconsistency or incompatibility with existing state regulations and has found that they are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business:

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

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

**RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT**

The Board concludes that the proposed regulations will not (1) create any jobs within the State of California, (2) eliminate any jobs within the State of California, (3) create any new businesses within the State of California, (4) eliminate any existing businesses within the State of California, or (5) cause the expansion of businesses currently doing business within the State of California.

BENEFITS OF THE REGULATION

The proposed regulations will promote the expeditious and economical resolution of disputes between new motor vehicle dealers and their manufacturers or distributors.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulations will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulations, are legally required to enforce the regulations, or derive a benefit from or incur an obligation from the enforcement of the regulations. The proposed regulations merely clarify case management for franchised new motor vehicle dealers and their franchisors (new vehicle manufacturers or distributors) who choose to file a protest or petition with the Board.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to 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 to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present comments, statements or arguments with respect to alternatives to the proposed regulation, during the written comment period or at the public hearing, if one is requested.

CONTACT PERSONS

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regu-

lations, if any, or other information upon which the rulemaking is based to Ms. Phomsopha at the following address:

Danielle R. Phomsopha, Senior Staff Counsel
New Motor Vehicle Board
P.O. Box 188680
Sacramento, CA 95818–8680
(916) 327–3129 direct line
(916) 445–1888 main line
(916) 323–1632 fax
danielle.phomsopha@nmvb.ca.gov

The backup contact person for these inquiries is:

Robin P. Parker, Chief Counsel
New Motor Vehicle Board
P.O. Box 188680
Sacramento, CA 95818–8680
(916) 323–1536 direct line
(916) 445–1888 main line
(916) 323–1632 fax
robin.parker@nmvb.ca.gov

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices by appointment. Please contact the contact persons listed above should you wish to make an appointment for in-office inspection and copying. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications 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. Requests for copies of any modified regulations should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified

regulations for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Ms. Phomsopha or Ms. Parker at the above address.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout font can be accessed through the Board's website at www.nmvb.ca.gov.

**TITLE 15. PRISON INDUSTRY
AUTHORITY**

NOTICE IS HEREBY GIVEN that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2800, 2802, 2807, 2808, and 2809 in order to implement, interpret and make specific Penal Code 2808, propose to amend Sections 8000, 8004.1 and 8004.2, in the California Code of Regulations (CCR), Title 15, concerning requirements for inmate educational achievements.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed regulatory action. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than July 4, 2021, 15 days before the close of public notice.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided, including any of the following:

- An interpreter to be available at a hearing.
- Documents made available in an alternate format or another language.
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact Roxanna Leffel at CALPIA at (916) 358-1721 or Roxanna.Leffel@calpia.ca.gov as soon as possible, but no later than 10 business days before a scheduled hearing.

Para solicitador estas adaptaciones especiales o servicios de idioma, puede contactar a CALPIA at

(916) 358-1721 or Roxanna.Leffel@calpia.ca.gov lo más pronto posible y a más tardar 10 días hábiles antes de la fecha de la audiencia de la Junta (Board).

PUBLIC COMMENT PERIOD

The public comment period will close on **July 21, 2021**. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVER

Regulatory Manager
CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX
(916) 358-2709

E-MAIL
PIAregs@calpia.ca.gov

Due to limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by CALPIA. Therefore, emails larger than 15 MB should be submitted in several separate emails or another form of delivery should be used.

CALPIA requests but does not require that reports or articles in excess of 25 pages submitted with any comments include a summary of the reports or articles. This summary should include a concise overview of the report or article, describe the reason for submitting the report and describe the relevance of the reports or articles to the proposed regulation. Please note that under the California Public Records Act (Gov. Code Section 6250, *et. seq.*, your written and oral comments, attachments, and associated contact information (*e.g.*, your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

CONTACT PERSONS

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action, or for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to:

M. Doherty, Regulatory Manager
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

In the event the contact person is unavailable, inquiries should be directed to:

C. Pesce, Executive Assistant
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

Penal Code Section 2800: In 1982, the California Legislature restructured the Department of Corrections' industries and vocational training program for inmates, abolishing the Correctional Industries Commission and replacing it with the newly created Prison Industry Authority (PIA) (subsequently renamed CALPIA) under the direction of the Prison Industry Board.

Penal Code Section 2807(a): Section 2807(a) provides that CALPIA is authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. By giving CALPIA these duties and power by statute, rulemaking authority is implicitly delegated to adopt those rules and regulations necessary for the due and efficient exercise of a duty or power expressly granted.

Penal Code Section 2802: Section 2802 provides for the existence of a Prison Industry Board (PIB).

Penal Code Section 2808: Section 2808 provides the PIB, in the exercise of its duties, all of the powers and do all of the things that the board of directors of a private corporation would do.

State Departments have been given "Quasi-Legislative" powers to adopt rules (regulations) that are consistent with state law so that they can run the programs that they are responsible for. One court opinion described this as the power to "fill in the details" of the state statute(s) that empower a department to operate a program. *Helene Curtis, Inc. v. Assessment Appeals Bd.* (1999) 76 Cal.App.4th 124. By the implied terms of Penal Code Sections 2808, 2802, 2807, 2800, CALPIA has the authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of these statutes.

INFORMATIVE DIGEST

The proposed regulatory action is necessary to provide revisions to inmate educational requirements for CALPIA inmate assignments. The identified need for this regulation is the following. The Prison Law Office believes that the educational focus on a High School Diploma (HSD) or Graduate Equivalence

Degree also known as General Education Diploma (GED), discriminates against DDP inmates who are unable to earn an HSD or GED. The proposed regulatory amendment is to accept a Certificate of Attendance and Participation (CAP), known as a Certificate of Participation, alternative for these individuals.

Existing regulations require that to participate in CALPIA assignments, within two years of the inmate's initial CALPIA assignment, an inmate must complete a General Education Diploma (GED) or high school diploma (HSD). This regulatory action permits a third option for DDP participants as they may earn a Certificate of Attendance and Participation (CAP) rather than obtaining a GED or HSD. The CAP validates that the inmate has satisfactorily completed a prescribed high school alternative course of study for employment applications, Department of Rehabilitation (DOR) services, and graduation participation. This option for students with severe cognitive disabilities is consistent with the practice in public education, and therefore, adding this option to CALPIA's regulations, affords nondiscriminatory access to CALPIA assignments. CDCR enters the CAP into the Certificates/Diplomas Awarded section in the Strategic Offender Management System (SOMS). The inmate is then eligible to participate in a CDCR graduation ceremony and, with this regulatory action, will meet the requirements for ongoing CALPIA assignments.

CALPIA does not discriminate in employment or the admission and access to its programs or activities. Inmates with physical or developmental disabilities, or inmates who participate in CDCR's Mental Health Services Delivery System, and who otherwise meet the hiring requirements, are not excluded from CALPIA job or training positions. CALPIA affords inmates reasonable accommodation to access programs as required by the Americans with Disabilities Act (ADA), the California Fair Employment and Housing Act (FEHA), and applicable nondiscrimination laws.

POLICY STATEMENT OVERVIEW

The purpose and the necessity of this regulatory action are to eliminate potential discrimination against Developmentally Disabled Program (DDP) inmates with severe cognitive disabilities who have earned a Certificate of Attendance and Participation (CAP) referred to as a Certificate of Completion, from engaging in CALPIA assignments.

Anticipated Benefits of the Proposed Regulation:

The proposed regulatory action will provide the following benefits:

- Eliminate the possibility of the appearance of disability discrimination in CALPIA inmate assignments.
- Provide revisions to inmate educational requirements for CALPIA inmate assignments.
- Meet the concerns of the Prison Law Office, which represents CDCR inmates on issues of discrimination.
- Support CALPIA's goal that inmates with physical or developmental disabilities, or inmates who participate in CDCR's Mental Health Services Delivery System, and who otherwise meet the hiring requirements, are not excluded from CALPIA job or training positions.

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

CALPIA evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations and has determined that no other state regulations address the same subject matter and that the proposed regulations are consistent and compatible with other existing state regulations.

During the process of developing this regulation, CALPIA has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing laws and regulations. After conducting a review for regulations that would relate to or affect this area, CALPIA has concluded that these are the only CALPIA regulations that concern this exact processes and procedures for the adoption, amendment, and repeal of regulations by California state agencies.

Mandated by Federal Law or Regulations:

The proposed regulations are not federally mandated.

DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandates:

Mandate on local agencies and school districts: None. This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 17630.

Fiscal Impact Statement:

Cost or savings to any state agency: None.

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

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

Cost or savings in federal funding to the State: None

Cost impact on a representative private person or business: None.

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

Significant Statewide Adverse Economic Impact on Business:

CALPIA has initially determined that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by the internal management of CALPIA employees.

Effect on Housing Costs:

CALPIA has determined that the proposed action will have no significant effect on housing costs.

Results of the Economic Impact Analysis/Assessment:

CALPIA concludes that it is unlikely that the proposed regulations will: (1) create or eliminate any jobs; (2) create or eliminate any businesses; or (3) result in the expansion of businesses currently doing business within the state.

In accordance with the Government Code Section 11346.3(b), the CALPIA has made the following assessments regarding the proposed regulation.

Benefits of Proposed Action:

As stated above under the Informative Digest and Policy Statement Overview, the benefits of the regulatory action include that the proposed regulatory action will provide the following benefits:

- Eliminate the possibility of the appearance of disability discrimination in CALPIA inmate assignments.
- Provide revisions to inmate educational requirements for CALPIA inmate assignments.
- Meet the concerns of the Prison Law Office, which represents CDCR inmates on issues of discrimination.
- Support CALPIA's goal that inmates with physical or developmental disabilities, or inmates who participate in CDCR's Mental Health Services Delivery System, and who otherwise meet the hiring requirements, are not excluded from CALPIA job or training positions.

Creation or Elimination of Jobs within the State of California:

CALPIA has determined that these regulatory changes will have no impact on the creation or elimination of existing jobs within California because those jobs are not affected by the internal management of CALPIA employees.

Creation, Expansion, or Elimination of Existing Businesses (Small or Large) within the State of California:

This action will not create or eliminate existing jobs within the State of California. It is determined that this action has no significant adverse economic impact on jobs within the State of California because these jobs are not affected by CALPIA's proposed regulatory changes any differently than exists presently or there is no impact on existing jobs and therefore there is no impact with the adoption of this section.

Reports Relied Upon:

None.

Cost Impacts on Representative Private Persons or Businesses:

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

Effect on Small Businesses:

CALPIA has determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of CALPIA inmate workers.

Consideration of Alternatives:

In accordance with Government Code section 11346.5, subdivision (a)(13), CALPIA 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 person 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.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulations to the aforementioned contact persons.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING DOCUMENTS, AND OTHER INFORMATION UPON WHICH THE RULEMAKING IS BASED

CALPIA will have the rulemaking file available for inspection and copying throughout the rulemaking process through its aforementioned contact persons at the office location identified above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons,

and all rulemaking documents (includes Form 399 and Form 400, special notice requests.)

As noted above, the Proposed Text, Initial Statement of Reasons, *and all the information upon which this proposal is based* have been placed in the rulemaking record, which is available to the public upon request directed to the CALPIA's contact person. The documents will also be made available on the CALPIA website: www.calpia.ca.gov.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA 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 PIB reviews and approves the regulations as revised. CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting CALPIA's website: www.calpia.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from CALPIA's contact person or by visiting the CALPIA website: www.calpia.ca.gov.

AVAILABILITY OF THE DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, other information upon which the rulemaking is based and the text of the regulations in underline and strikeout can be accessed through the website at www.calpia.ca.gov.

TITLE 16. BOARD OF PHARMACY

REPORTING DRUG LOSS

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (Board) proposes taking the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written

comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office by July 19, 2021.

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

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

Authority and Reference: Section 4005 of the Business and Professions Code (BPC) authorizes the Board to adopt this regulation. The proposed regulation implements, interprets, and makes specific sections 4081, 4104, and 4332 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, hospital pharmacies, clinics, wholesalers, third-party logistics providers, and outsourcing facilities. The Board's mandate and its mission is to protect the public (BPC section 4001.1).

Existing pharmacy law requires the owner of a licensed facility to report any loss of controlled substances to the Board within 30 days of the discovery of the loss. The report must include the amount and strengths of the loss (16 CCR 1715.6). Additionally, existing federal law requires that registrants notify the Drug Enforcement Agency (DEA), in writing, of the theft or significant loss of any controlled substances within one business day of discovery of such loss or theft (21 Code of Federal Regulation (CFR) 1301.76(b)).

As existing state law requires that any loss of controlled substance be reported to the Board, licensed facilities are required to report losses of all sizes, including single dose losses. For example, if one tablet falls on the floor while counting out the tablets to fill a prescription, that tablet must be disposed of and is considered a loss. Therefore, the licensed facility would have to report the loss of one tablet. This

creates an administrative burden for both the licensee and the Board to prepare, review, and document the reported loss. This type of minimal loss reporting is not required by the DEA.

This proposal seeks to eliminate this excessive reporting and more closely align the Board's regulation with the federal regulation by providing increased clarity and consistency with respect to the quantities of controlled substance losses that must be reported to the Board. While the DEA requires the reporting of any "significant" loss, the Board determined that establishing a minimum reporting threshold will eliminate the ambiguity of the term "significant" and ensure clarity for the regulated public. The proposal does permit additional reporting of losses the pharmacist-in-charge deems "significant" in their professional judgment.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

This proposal will increase clarity for the regulated public by establishing a minimum drug loss reporting threshold within regulation. Establishing a minimum threshold will also eliminate the need for single tablet loss reporting, which will reduce some of the administrative burden on licensees with respect to drug loss reporting. As indicated below, the reduction in drug loss reporting will also result in a cost savings to the State by eliminating the review of minor drug loss reports. Additionally, this proposal will more closely align the Board's regulation with the federal drug loss reporting requirement for consistency.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

While developing these regulations and amendments, the Board conducted a search of similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations. As noted above, these amendments make state law more consistent with federal law.

FISCAL IMPACT AND RELATED ESTIMATES

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations will reduce the number of licensed facilities reporting a drug loss from approximately 10,000 reports per year to 6,667 per year. According to the Board, an Associate Governmental Program Analyst (AGPA) typically takes five minutes to process each report at a cost of approximately \$3 per report.

As a result, the anticipated decrease of 3,333 reports received and processed by the Board each year is anticipated to result in cost savings of approximately \$10,000 per year.

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 determined that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting businesses and/or employees. This initial determination is based on the absence of testimony to that effect during the development of the proposed regulation, which occurred over several months in numerous Board and committee meetings. Additionally, licensed facilities are already required to report drug losses by existing law. The Board has determined that this proposal will reduce the number of drug loss reports being submitted by eliminating the requirement to report “all” drug losses, as the proposed regulation establishes a minimum threshold that is not currently specified in regulation.

Cost Impact on Representative Private Person or Business:

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

The proposed regulations are estimated to result in a reduction of 3,333 reports completed and generally submitted by fax per year. According the Board, a typical report takes approximately 10 minutes to complete at an average cost savings of \$11 per report (based on \$66 average hourly Pharmacist’s salary), which would result in total annual costs savings of \$36,663 per year and up to \$366,630 over a ten-year period.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

While the Board does not have nor does it maintain data to determine if any of its licensees (pharmacies and clinics) are a “small business,” as defined in Government Code section 11342.610, the Board has made an initial determination that the proposed regulatory action will not have a significant adverse economic impact directly affecting small businesses. Although the proposed regulation will directly affect businesses statewide, which may include small businesses, the Board does not anticipate any adverse economic impact, including the ability of California

businesses to compete with businesses in other states. And, the time savings noted above will most likely have a positive financial effect upon smaller pharmacy businesses, as they have less staff available to complete forms currently necessary to report insignificant drug losses to the Board.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses:

The Board concludes that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;
- (3) this proposal will not create new businesses within California;
- (4) this proposal will not eliminate existing businesses within California;
- (5) this proposal will not expand businesses currently doing business in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will not impact the health and welfare of California residents, worker safety, or the state’s environment. The proposal establishes a minimum threshold for reporting drug losses not currently specified in regulation. This will eliminate the requirement to report “all” drug losses. This will reduce the quantity of drug loss reports that licensed facilities are currently required to submit, as they will no longer be required to report single dose losses.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF
REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

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

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: Lori Martinez
Address: 2720 Gateway Oaks Drive,
Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3078
Fax Number: (916) 574-8618
E-Mail Address: Lori.Martinez@dca.ca.gov

The backup contact person is:

Name: Debbie Damoth
Address: 2720 Gateway Oaks Drive,
Suite. 100
Sacramento, CA 95833
Phone Number: (916) 518-3090
Fax Number: (916) 574-8618
E-Mail Address: Debbie.Damoth@dca.ca.gov

WEBSITE ACCESS

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

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

**ABANDONMENT OF
APPLICATION, § 2611
RETENTION OF CANDIDATE
FILES, § 2611.5
APPLICATION FOR LICENSURE
FOLLOWING EXAMINATION, § 2616**

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action 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 their 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 **5:00 p.m. on Tuesday, July 20, 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 section 12274 of the Government Code, the Board is considering amending article 1 of division 26 of title 16 of the California Code of Regulations (CCR).¹ This regulatory proposal will interpret and make specific the language in BPC sections 5650, 5651, and 5652 concerning submitting an application to take the examination for a license to practice landscape architecture, examinations, and the issuance of a certificate.

INFORMATIVE DIGEST

BPC section 5630 authorizes the Board to adopt, amend, or repeal such rules and regulations as are reasonably necessary to carry out the provisions of the Landscape Architects Practice Act. The Board here seeks to define the criteria of determining the abandonment of an application submitted to the Landscape Architects Technical Committee (LATC), to clarify the criteria for an application for initial licensure following examination, and to provide transparent criteria for the retention of candidate files that have been deemed abandoned or inactive.

CCR section 2611 provides that an incomplete application for initial licensure shall be considered abandoned by the applicant if all required documents, data and information are not submitted within one year of being notified the application was incomplete. CCR section 2611 also provides that an incomplete application for the California Supplemental Examination (CSE) shall be considered abandoned if the applicant does not take the CSE within three years of being notified of their eligibility.

CCR section 2616 provides the criteria for applying for initial licensure following examination in that a candidate must apply for initial licensure within five years of being mailed examination results. This section also provides the requirements for a candidate if they fail to apply for initial licensure within five years, in that, if no circumstance or condition exists justifying the denial of a license, the candidate pays all required fees for first time licensure, and the candidate takes and passes all required examination unless subject to a waiver of the examination, then a license will be issued.

In response to the directives given by the Board, the LATC is pursuing this regulatory proposal to define the abandonment of an application and provide transparency in retention and purging of candidate files.

The Board is proposing the following changes:

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

Amend Title 16 CCR Section 2611 — Abandonment of Application

CCR section 2611 is being amended to define the abandonment of an application and to provide additional clarifying language. This section is also being amended to provide for the abandonment of an eligibility application for the Landscape Architects Registration Examination (LARE) due to this type of application being inadvertently excluded from the current language of the section.

Adopt Title 16 CCR Section 2611.5 — Retention of Candidate Files

This proposal would adopt CCR section 2611.5 to provide LATC with authority for the retention and purging of candidate files. This section would include language defining “candidate file,” “examination,” and “inactive.” It would also provide for the procedure of retaining and purging candidate files.

Amend Title 16 CCR Section 2616 — Application for Licensure Following Examination

CCR section 2616 is being amended to provide for the abandonment of a candidate’s application for initial licensure. This proposal would also include additional clarifying language.

POLICY STATEMENT OVERVIEW/ ANTICIPATED BENEFITS OF PROPOSAL

The Board seeks to: add language defining abandonment of an application and providing for the abandonment of a LARE eligibility application by revising its provisions for abandonment of applications; adopting language providing authority for the retention and purging of candidate files; and adding language providing for the abandonment of an application for initial licensure following examination. The Board anticipates that examination and license applicants will benefit from the clarifying language and the requirements that determine when their applications are considered abandoned and how their candidate files are retained and purged. Additionally, the Board anticipates that the various minor and technical revisions in the rulemaking will make the abandonment of application, and application for initial licensure following examination regulations, easier for candidates to understand and provide a clear guide for candidates to determine when their applications are deemed to be abandoned.

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 Funding to the State: None.

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 it only affects applicants who have been deemed to have abandoned their application and the retention of their candidate files.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impact 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 regulation would not have a significant adverse impact on small businesses because it only affects applicants who have been deemed to have abandoned their application and the retention of their candidate files.

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 it only affects applicants who have been deemed to have abandoned their application and the retention of their candidate files.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health, safety, and welfare of California residents by clarifying the abandonment of an application and adopting guidelines for the retention and purging of candidate files. This proposal will also provide for the abandonment of an application for

initial licensure when considering the requirements for reapplication for an initial license following the abandonment of an application for initial licensure. Reducing candidate confusion will enable candidates to either focus more energetically on obtaining licensure or realize they should cease their pursuit of licensure and investigate other career options. The public will also benefit from greater transparency of LATC processes of handling candidate files, abandoned applications and re-licensure.

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:

The Board considered keeping the status quo; however, this alternative was rejected because the revisions made to the abandonment of application and application for initial licensure following examination will clarify to the applicants when their applications are deemed to be abandoned. Also, the adopted language regarding retention and purging of candidate files will clarify to candidates when, and how, their files shall be purged.

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The 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 on LATC's website under *Proposed Regulation* (www.latc.ca.gov/general_information/publications/).

TITLE 16. MEDICAL BOARD

APPROVED CERTIFYING ORGANIZATIONS
Amend Sections 1366.3,
1366.31, and 1379.07

NOTICE IS HEREBY GIVEN that the Medical Board of California (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

Public Hearing

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or their

authorized representative, no later than 15 days 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

Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this notice, must be **received by the Board at its office no later than 5:00 p.m. on Tuesday, July 20, 2021**, or at the hearing, if applicable.

Availability of Modifications

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 Section 2018 of the Business and Professions Code (BPC), and to implement, interpret, or make specific sections 2069, 2070, 2071, and 2516.5 of said Code, the Board is proposing amendments to Sections 1366.3, 1366.31, and 1379.07 of Division 13 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST

BPC section 2018 authorizes the Board to adopt, amend, or repeal regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of medicine. The Board is proposing the following changes in this rulemaking:

Amend 16 CCR section 1366.3 (Administration of Training)

Existing law under 16 CCR section 1366.3 provides the pathways for training medical assistants.

This rulemaking proposes to amend this section by updating the language to make it consistent with the Education Code and current law, and to specify that medical assistant education programs must comply with the applicable statutes as well as all regulations adopted pursuant to those statutes.

This rulemaking also proposes to update the name of the Bureau for Private Postsecondary Education by striking "and Vocational" from the name, and to

replace “division” with “Board” to update the reference to the Board with current language.

Amend 16 CCR section 1366.31 (Approved Certifying Organizations)

Existing law under 16 CCR section 1366.31 sets forth the requirements for an organization seeking to be a Board–approved organization for certifying medical assistants.

This proposal amends this section by replacing “division” with “Board” to update the reference to the Board with current language. It also strikes the requirement for an applicant to provide a social security number.

Further, this proposal seeks to clarify the requirement under subdivision (a)(4) by requiring documentation establishing that the applicant is accredited by the National Commission for Certifying Agencies (NCCA), and deleting the requirement for the applicant to provide the name, address and telephone number of the accrediting organization that accredited the applicant.

This proposal also eliminates the requirement for the applicant to be a non–profit, tax exempt organization.

Additionally, this proposal clarifies the requirements for certifying a medical assistant by providing reference to the training requirements under 16 CCR section 1366.3(a)(2) and deleting extraneous language.

This proposal further amends this section to require a medical assistant certifying organization approved by the Board prior to the requirement for NCCA accreditation to reapply for and demonstrate compliance with all of the requirements of this section by January 1, 2027, or its approval will be terminated.

This proposed rulemaking also deletes old language that is no longer applicable, and makes clarifying, non–substantive changes to improve readability and to update the subdivision lettering and numbering.

Amend 16 CCR section 1379.07 — Approved Certifying Organizations

Existing law under 16 CCR section 1379.07 sets forth the requirements for an organization seeking to be a Board–approved organization for certifying midwife assistants.

This proposed rulemaking amends this section to clarify that the applicant must be accredited by the National Commission for Certifying Agencies, and deletes the extraneous language, “or an accrediting organization that is equivalent thereto.”

This proposal also eliminates the requirement for the applicant to be a non–profit, tax exempt organization and updates the numbering within the section.

Policy Statement Overview/Anticipated Benefits of Proposal

On November 9, 2018, the Board received a petition for rulemaking pursuant to Government Code section

11340.6 to remove the requirement that medical assistant certifying organizations be nonprofit, tax–exempt organizations and to require accreditation from the NCCA, which is the accrediting body of the Institute for Credentialing Excellence. The Board authorized staff to move forward with the proposed rulemaking on August 9, 2019.

This proposal will update the regulations for consistency with current statutes and terminology and will allow for–profit medical and midwife assistant certifying organizations to be eligible for Board approval if they are accredited by the NCCA and meet the other existing requirements for applicants. Eliminating the requirement that the certifying organization be non–profit may result in an increase in medical and midwife assistant certifying organizations, which could increase the options for medical and midwife assistants to choose an approved certifying organization that meets their needs. Further, this proposal seeks to ensure that certifying organizations approved by the Board meet accepted standards by requiring accreditation by the NCCA. Consequently, this proposed rulemaking will improve accessibility and credibility of the certifying agencies approved by the Board, while removing a barrier to qualify for Board approval.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search for 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 proposed regulations do not result in a fiscal impact to the state. Because the Board already approves and certifies medical or midwife assistant organizations, as specified, and because the regulations better align the Board’s regulations with current law, there is no fiscal impact.

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 will have no significant statewide adverse economic impact directly affecting businesses, including the ability of

California businesses to compete with businesses in other states.

This initial determination is based on the fact that the proposed amendments will eliminate the requirement that an approved certifying organization be non-profit, and thus will potentially provide more opportunity for medical and midwife assistant certifying organizations to qualify for Board approval.

While this proposal does require certifying organizations to be accredited by the NCCA, accreditation is already required, and this is an accepted national standard that certifying organizations already seek.

Cost Impact on Representative Private Person or Business: The proposed regulations do not result in additional costs to individuals or business.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that this rulemaking proposal will not likely have an effect on small businesses, except that more certifying organizations may be eligible for Board approval with the elimination of the requirement that that the certifying agency be non-profit and tax exempt.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has made an initial determination that this regulatory proposal may have a minor positive impact on the creation of jobs or new businesses, but will not likely have an impact on the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

The Board has made this initial determination because the proposed amendments will eliminate the requirement that an approved certifying organization be non-profit, and thus will potentially provide more opportunity for medical and midwife assistant certifying organizations to qualify for Board approval.

Benefits of Regulation:

This proposal will eliminate the requirement that an approved certifying organization be non-profit, and thus will potentially provide more opportunity for medical and midwife assistant certifying organizations accredited by the NCCA to qualify for Board approval. With more certifying organizations qualifying for Board approval, medical and midwife assistants will have additional options to choose from for a certifying organization that meets their needs.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the person designated in the Notice under Contact Person, below, or by accessing the Board's website at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

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: Alexandria Schembra
 Address: Medical Board of California
 2005 Evergreen St,
 Suite 1200
 Sacramento, CA 95815
 Telephone Number: (916) 263-2389
 Fax Number: (916) 263-2387
 E-Mail Address: regulations@mbc.ca.gov

and entering access code 881128420# or via Teams at https://teams.microsoft.com/l/meetupjoin/19%3a-meeting_MDMxNDczODQtZmNkYy00NWl4LWI4ZDQOTFmMzBjZWlYXWM0%40thread.v2/0?context=%7b%22Tid%22%3a%22eb-f268ae-3036-4714-9f69-c9fd0e9dc6b9%22%2c%22Oid%22%3a%220be35b13-7cf6-49f7-ad08-4b91703a6a16%22%7d.

The backup contact person is:

Name: Kerrie Webb
 Address: Medical Board of California
 2005 Evergreen Street,
 Suite 1200
 Sacramento, CA 95815
 Telephone Number: (916) 263-2389
 Fax Number: (916) 263-2387
 E-Mail Address: regulations@mbc.ca.gov

Written Comment Period

Any written comments concerning this proposed regulatory action, regardless of the form or method of transmission, must be received by Cal OES no later than July 19, 2021, the designated close of the written comment period. Due to possible delays caused by the COVID-19 emergency, Cal OES strongly recommends that written comments be submitted electronically, rather than in paper form, to the emails listed below. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below, but delays may occur if staff are unable to timely access them.

Website Access: Materials regarding this proposal can be found at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

All submissions should be directed to:

TITLE 19. GOVERNOR'S OFFICE OF EMERGENCY SERVICES

Jeff Meston
 Deputy Fire Chief
 Fire/Rescue Division
 Governor's Office of Emergency Services
 3650 Schriever Ave
 Mather, CA 95655

PROPOSED ADOPTION OF
 NEW CHAPTER AND SECTION

Email: Jeff.meston@caloes.ca.gov
 FAX 916-845-8396

TITLE 19. PUBLIC SAFETY
 DIVISION 2. CALIFORNIA GOVERNOR'S
 OFFICE OF EMERGENCY SERVICES
 CHAPTER 1.1. PRIVATE FIRE
 PREVENTION RESOURCES

Cal OES 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.

NOTICE IS HEREBY GIVEN that the Governor's Office of Emergency Services (Cal OES) propose to add Chapter 1.1, Private Fire Prevention Resources, sections 2470.1, 2470.2 and 2470.3, to Title 19, Division 2, of the California Code of Regulations. If adopted, this proposal would establish regulations for private fire prevention resources operating during an active fire incident and for equipment used by private resource operators during an active fire incident.

CONTACT

PUBLIC PROCEEDINGS

Please direct inquiries concerning the proposed regulatory action described in this notice to Deputy Chief Jeff Meston at 916-214-3238, or by email at Jeff.meston@caloes.ca.gov. Deputy Chief Lori Lopez is the back-up contact person for inquiries concerning this action and is available at 916-845-8722, or by e-mail at lori.lopez@caloes.ca.gov.

Public Hearing

A public hearing will be held on July 19, 2021, at which time any person may present statements or arguments, orally or in writing, relevant to the action described in this notice. Due to the COVID-19 emergency, the hearing will be conducted virtually. The public hearing will commence at 3 p.m. Pacific Daylight Time and can be accessed by dialing 415-906-4037

AUTHORITY

Health and Safety Code sections 14867(a) and 14868(a).

REFERENCE

Health and Safety Code sections 14865 through 14868; Penal Code section 409.5; and Public Resources Code section § 4165.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Health and Safety Code sections 14867(a) and 14868(a) require the Governor’s Office of Emergency Services (Cal OES), in collaboration with the Department of Forestry and Fire Protection (Cal FIRE) and the Board of Directors of the FIRESCOPE Program (FIRESCOPE Board), to develop standards and regulations for private fire prevention resources operating during an active fire incident and for equipment used by private resource operators during an active fire incident. Pursuant to these requirements, and after consultation with Cal FIRE and the FIRESCOPE Board, Cal OES is proposing to add Chapter 1.1, Private Fire Prevention Resources, sections 2470.1, 2470.2 and 2470.3, to Title 19, Division 2, of the California Code of Regulations.

If adopted, these new sections would establish standards regarding where private resources are permitted to operate, how they interact with the Incident Command, the appearance and use of their equipment, and the activities upon which they should focus.

Anticipated Benefits of the Proposed Regulation

The proposed regulation will accomplish the goals of the authorizing statute by limiting confusion caused by private fire resources operating during active fire incidents and strengthening emergency response efforts that protect the lives and property of Californians. The provisions that establish standards for the appearance and use of the private resources’ equipment will improve public safety during an active incident by limiting any confusion between private resource operators and the public fire and emergency personnel operating in an active incident area. Additionally, by establishing standards regarding where private resources are permitted to operate and how they interact and communicate with Incident Command during an active fire incident, the proposed regulations will improve incident management, coordination and response efforts during these dangerous and unpredictable fire incidents.

No Inconsistency or Incompatibility with Existing Regulations

Cal OES has determined that no other state regulations concern the use of privately contracted private fire prevention resources or the use of private fire resource equipment. The proposed regulatory

action is therefore neither inconsistent nor incompatible with any other existing state regulations.

LOCAL MANDATE/FISCAL IMPACT

Cal OES has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. Cal OES has also determined that the proposed regulation would not impose any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, that no other nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, and that there will be no costs or savings to any state agency because of the proposed regulatory action. There are also no costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

Cal OES has determined that the proposed regulatory action will have no effect on housing costs.

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

Cal OES has made an initial determination that the adoption of these regulations 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 proposed regulations establish standards for privately contracted fire prevention resources operating during active fire incidents within California. These regulations will allow for improved awareness and control of private resources within existing Incident Command structures, through better communication with and identification of the private resources. Cal OES has determined that compliance is achievable by following existing Incident Command procedures and other currently feasible practices at little to no additional costs to California businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS
(Gov. Code section 11346.3(b))

Creation or Elimination of Jobs within the State of California

The proposed regulatory action will not significantly impact the creation or elimination of jobs within the State of California because there is a limited client base that uses private fire prevention resources and compliance is achievable by following existing

Incident Command procedures and other currently feasible practices at little to no additional costs. Most Californians utilize the public firefighting resources provided by Federal, State and Local Governments.

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

For the reasons noted above, this proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within the State of California.

The Expansion of Businesses Currently Doing Business within the State

For the reasons noted above, this proposed regulatory action will not impact the expansion of businesses within the State of California.

Benefits of the Proposed Regulation

This proposed regulatory action will benefit the welfare of California residents, worker safety and the state's environment by limiting confusion during active fire incidents and strengthening emergency response efforts that protect the lives and property of Californians.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

Some privately contracted fire prevention resources may incur additional costs to comply with these proposed regulations as a result of upgrading and modifying equipment. However, Cal OES has determined that any additional costs will be minimal since compliance is achievable by following existing Incident Command procedures, best practices and other currently feasible practices at little to no additional costs.

EFFECT ON SMALL BUSINESSES

To the extent a private fire prevention resource is a small business, it may incur additional costs as noted above. However, the proposed regulatory action is unlikely to have a significant adverse impact on small businesses in California because compliance is achievable by following existing Incident Command procedures, best practices and other currently feasible practices at little to no additional costs.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), Cal OES must determine that no reasonable alternative considered by Cal OES, or that has otherwise been identified and brought to

the attention of Cal OES, 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.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

Cal OES has prepared and has available for public review an Initial Statement of Reasons for the proposed regulation, all the information upon which the regulation is based, and the text of the proposed regulation. These documents are available at <https://www.caloes.ca.gov/Cal-OES-Divisions/Fire-Rescue> or upon request to the Cal OES contacts identified in this Notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, at <https://www.caloes.ca.gov/Cal-OES-Divisions/Fire-Rescue> or upon request to the Cal OES contacts identified in this Notice.

**RULEMAKING PETITION
DECISIONS**

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

**NOTICE OF DECISION ON PETITION TO
AMEND REGULATIONS
DIVISION 3, ADULT INSTITUTIONS,
PROGRAMS AND PAROLE**

PETITIONER:

Griselda C. Moore
1201 Fulton Ave #22
Sacramento, CA 95825

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

The Petitioner is petitioning to amend California Code of Regulations (CCR), Title 15, Section 3250, Inmate Publications. The Petitioner claims the publications would serve the information needs of the inmate population and provide training and experience for authors, artists, editors, and other staff. The Petitioner states, inmate publications are rare or abbreviated because of cost of printing and distribution. The Petitioner also states the publications could be published and distributed to inmates electronically to reduce the cost and administrator overhead that would result in more inmate publications with more content.

The Petitioner goes on to state, California Department of Corrections and Rehabilitations (CDCR) recently signed a six (6) year contract with Global Tel Link (GTL) to provide tablets and tablet-based services to all inmates. The Petitioner claims under the terms of the contract, CDCR can make an unlimited number of department or institution documents available to inmates on the tablets. Therefore, making inmate publications available on the tablet, can increase the number of publications and the quantity of content, thereby providing more experience to artists, authors, and editors and serving the information needs of more inmates.

The Petitioner is requesting, CCR Section 3250 should be amended to require inmate publications to be made available to inmates on their tablets.

DEPARTMENT DECISION

The Department denies the petition to amend CCR, Title 15, Section 3250, Inmate Publications. The petition is in regards to inmates having access to inmate publications on the GTL tablets. The Petitioner claims the publications would serve the informational needs of the inmate population and provide training and experience for authors, artists, editors, and other staff. The Petitioner states, inmate publications are rare or abbreviated because of cost of printing and distribution. The Petitioner also states the publications could be published and distributed to inmate electronically to reduce the cost and administrator overhead that would result in more inmate publications with more content.

Although the Petitioner considers providing the inmate publications on the tablets a cost savings with low administrator overhead. There is no data to support this claim. While adding the inmate publications to the

tablets, it will come with an added cost. The Petitioner indicates there could be more inmates that would author writings and editorials for inmate viewing. The writings and editorials will have to be monitored, reviewed, and edited for content. Which there has been no criteria for the content that can be submitted. Also there has been no determination on who will monitor the publications and would be the frequency of the release of said publications. Enterprise Information Services (EIS) is currently developing a process by which third party applications will be submitted to EIS. This material will be reviewed by the appropriate program/division, and approved/disapproved. While policies are still being established for use and content on the tablet, the Department will ultimately determine what information will be accessible and available to the inmates.

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

**NOTICE OF DECISION ON
PETITION TO AMEND REGULATIONS
PURSUANT TO GOVERNMENT
CODE 11340.7**

PETITIONER:

Griselda C. Moore
1201 Fulton Ave #22
Sacramento, CA 95825

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary

of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

The Petitioner is petitioning to amend California Code of Regulations (CCR), Title 15, Division 3, Section 3190, Allowable Personal Property. The Petitioner titled this section incorrectly, the correct title for Section 3190, is "General Policy". The Petitioner submitted the request due to the Department's website FAQ indicating inmates who possess tablets from the Pilot Program will have to mail them home. This is in reference to the Network-Capable JPay tablets purchased or provided by the vendor at no-cost to the offender, as part of the Enterprise Inmate Communication (EIC) Pilot Program, which the Petitioner feels makes sense due to the JPay network, which is required for the tablets to function, will no longer be available.

In regard to recent regulations, the Petitioner states, current regulations and property schedules differentiate between Network-Capable Tablets and Non-Network Capable tablets. Non-Network Capable tablets refer to the tablets inmates purchase from Union Supply and Walkenhorst. Unlike the JPay tablet, the Union Supply and Walkenhorst do not require a network to function. The Petitioner goes on to state, the FAQ is silent about whether these Non-Network Capable tablets will continue to be sold and whether inmates will be allowed to retain the ones they have purchased or were provided by the vendor at no-cost to the offender.

The Petitioner further states, it is almost certain that if no definitive policy is established and enforced, inmates at some facilities will be forced to send their Non-Network Capable tablets home while inmates at other facilities will be allowed to keep theirs.

The Petitioner suggests, it is preferable that a "definitive" regulation be enacted so that headquarters can evaluate the question and inmates can be treated similarly. Because the tablets constitute a significant investment (in addition to the price of the tablets, some inmates have invested hundreds of dollars in media)

and will continue to function properly after Global Tel Link (GTL) tablets are issued, inmates should be allowed to keep these tablets as long as they continue to function. Such a regulation would be consistent with other policies that allowed inmates to retain property (such as non-clear appliances and appliances with speakers) purchased before they were removed from the Authorized Personal Property Schedule (APPS).

The Petitioner is requesting Section 3190 and/or the various APPS should be amended to clarify inmates may retain Non-Network Capable tablets such as those purchased from Union Supply and Walkenhorsts.

DEPARTMENT DECISION

The Department denies the petition to amend CCR, Title 15, Division 3, Section 3190, General Policy. The current APPS allows for inmates to have one (1) tablet in their possession.

The petition was in regards to the EIC/JPay Pilot Program operated under the authority of Penal Code Section 5058.1. The pilot program was implemented at five (5) designated institutions for up to 24 months. The pilot program was implemented at Level I and Level II facilities, and inmates assigned to Conservation Camps, based on their privilege group and disciplinary behavior. Inmates were provided the opportunity to purchase one of two tablets (4.3 inch and 7 inch). Utilizing a vendor account, inmates are allowed to take their purchased tablet to the installed kiosk to order various services. The EIC/JPay Pilot Program tablets and kiosks are considered a privilege with the primary purpose to allow inmates access to more opportunities to assist in their rehabilitation, education, and communication during their time incarcerated. The current APPS only allows for one tablet per inmate.

The current APPS states as follows:

“TABLETS — NON-NETWORK CAPABLE (Levels I and II and inmates assigned to Conservation Camps only), Must have the capability to store and download content such as music and books based on the device capabilities. Must be clear-case technology, internal rechargeable battery, shall not have any wired or wireless communication capabilities, WI-FI, Bluetooth, cellular signal. If the tablet requires a micro SD card, inmates are limited to possess two approved micro SD cards. No external speakers and have headphone jack. Must have tamper-resistant security screws or something similar to prevent access to internal components. Tablet screen cannot exceed seven inches.”

The APPS is clear in that inmates can have one non-network capable tablet as an entertainment device. The EIC/JPay Pilot Program provided an exemption to the inmates at the five designated institutions,

which allowed them to have a JPay tablet. The intent was for the inmates to have one tablet. When the pilot program was implemented, inmates were informed that it was only a pilot program and it could possibly be discontinued. The purchase of the tablet and the accessories were purchased at their own risk.

With the EIC/JPay Pilot Program being discontinued, the Department is in the process of updating the APPS to incorporate the implementation of Network-Capable tablets statewide, and the intent will remain the same. Eligible inmates are allowed to possess one tablet as an entertainment device. Inmates that currently have a Union Supply or Walkenhorst tablet may keep their tablet in lieu of accepting the GTL loaner tablet.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS DIVISION 3, ADULT INSTITUTIONS, PROGRAMS AND PAROLE

PETITIONER:

Griselda C. Moore
1201 Fulton Ave #22
Sacramento, CA 95825

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

The Petitioner is petitioning to amend Board of Parole Hearings (BPH) access to tablet and service data. The Petitioner is concerned on whether and to what extent BPH has access to the data. The Petitioner indicated, California Department of Corrections and Rehabilitation (CDCR) recently signed a six (6) year contract with Global Tel Link (GTL) to provide tablets and tablet-based services to all inmates. The tablets and services are constantly recording everything an inmate does on his tablet. In addition to permanently storing all email, photos, video games, and video visits. GTL also records which books are read and for how long, what songs are listened to and how often, which games are played, and which movies are watched and more.

The Petitioner is concerned that making this data available to parole board is a double edge sword. On one hand, there is a very great danger that the board members would be tempted to read too much into information such as books, music, movies, or games an inmate prefers or her choice of words in an email. The Petitioner is also concerned that education and rehabilitation coursework and inmate completes and any email or phone call that contains evidence of criminal or rule-breaking activity are relevant to the question of whether or not he is currently dangerous.

The Petitioner suggest a regulation pertaining to BPH's access to this data should be balance these concerns. The Petitioner requests that BPH members be given explicit access to coursework data and should be explicitly prohibited from having access to any other data either directly or indirectly. This may require forbidding the recording of storage of certain data, restricting its sale or transfer to third parties, and/or explicitly restricting its use with the department. Text messages and phone calls containing evidence of criminal or rule breaking behavior will be part of the inmate's disciplinary record and can be accessed like all other information in the disciplinary record.

The Petitioner is requesting a section to be added to the Title 15, that gives BPH access to coursework data

while meaningfully forbidding BPH access to all other generated by GTL's tablets and services.

DEPARTMENT DECISION

The Department denies the petition to amend BPH's access to data on GTL's tablets. The petition is in regards to BPH having access to data stored on the tablets, such as music, books, emails, and phone calls. The Petitioner has concerns that BPH would read too much into the books, movies, music and other available services on the tablets and it may be used against inmates seeking parole.

It is not known yet what access, if any, BPH will have when it comes to access of data on the tablets. Inmate messages, photos, and videos are all subject to review and approval. Custody and Investigative Services Unit staff will have varied permissions to GTL's "Command Center," wherein they are able to activate/deactivate the tablet or select features on the tablet, review content, or select certain inmates to monitor for investigatory processes. It's important to acknowledge that the tablets are loaned to the inmate, and are the property of GTL. Any misuse is subject to disciplinary action or loss of tablet privileges. While policies are still being established for use and content on the tablet, BPH will determine what information they will need to access to ensure the best decision is made in regards to paroling an inmate and the general public.

**AVAILABILITY OF INDEX OF
PRECEDENTIAL DECISIONS**

**DEPARTMENT OF FISH AND
WILDLIFE**

**NOTICE: DESIGNATION OF
PRECEDENTIAL DECISION AND
DECISION INDEX PURSUANT TO
GOVERNMENT CODE SECTION 11425.60(b)**

PUBLIC NOTICE: NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife has designated as precedential the determination of the Office of Administrative Hearings in the matter of CDFW v. ELVIS KY, d.b.a. KYZEN ENTERPRISES, Inc., CDFW Case No. 1708020034, OAH No. 2018080269, in accordance with the requirements of Government Code section 11425.60. This decision found that Respondent ELVIS KY, d.b.a. KYZEN ENTERPRISES, had and has an affirmative duty to make reasonable efforts to ensure that land use

projects on his property were conducted according to law; that all necessary permits were obtained; and that cannabis cultivation activities did not result in violations of the Fish and Game Code. Absent such reasonable efforts, the Office of Administrative Hearings determined that Respondent was responsible for the environmental damage on the property, and thus liable for administrative penalties under Fish and Game Code sections 12025, 1602, 5650, and 5652.

NOTICE IS ALSO GIVEN that the Department maintains an index of precedential decisions. The index and the text of precedential decisions may be accessed by the public from CDFW's Cannabis Program website at <https://wildlife.ca.gov/Conservation/Cannabis>. In addition, the public may request copies of the index and any precedential decisions by submitting a Public Records Act request to:

Wildlife PRA Coordinator
P.O. Box 944209
Sacramento, CA 94244-2090
PRACoordinator@wildlife.ca.gov
CA Dept. of Fish and Wildlife

**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.

Acupuncture Board
File # 2020-1209-01
Amend Fee Regulations to Comply with Statute

This action without regulatory effect by the Acupuncture Board amends fees to comply with statute.

Title 16
Amend: 1399.460, 1399.461, 1399.462
Filed 05/24/2021
Agency Contact:
Kristine Brothers (916) 923-2204

Board of Forestry and Fire Protection
File # 2021-0521-01
Santa Cruz and San Mateo Weekend Emergency

This emergency rulemaking action extends the allowed days of operation of chainsaws and other power-driven equipment within, and the hauling of forest products from, Timberland affected by the CZU Lighting Complex Fire of 2020 in Santa Cruz and San Mateo Counties to include Saturdays and Sundays.

Title 14
Amend: 926.9, 926.10, 928.5, 928.6
Filed 05/26/2021
Effective 05/26/2021
Agency Contact: Eric Hedge (916) 653-9633

Board of Juvenile Hearings
File # 2021-0507-01
Honorable Discharge

The Board of Juvenile Hearings in this action establishes the criteria for honorable discharges including the process to request this type of discharge. This action also establishes the appeal process when an honorable discharge is denied.

Title 15, 09
Adopt: 30852, 30886, 30891, 30892, 30895, 30896
Amend: 30885, 30890, 30893, 30894
Repeal: 30887, 30888, 30897
Filed 05/20/2021
Effective 07/01/2021
Agency Contact: Shelly Jones (916) 683-7473

Board of Pharmacy
File # 2021-0407-01
Automated Drug Delivery System

This action by the Board of Pharmacy amends regulations relating to automated drug delivery systems and adopts an "Automated Drug Delivery System Self-Assessment," which is incorporated by reference.

Title 16
Adopt: 1715.1
Amend: 1711, 1713
Filed 05/19/2021
Effective 07/01/2021
Agency Contact: Lori Martinez (916) 518-3078

Board of Registered Nursing
File # 2020-1207-04
Unprofessional Conduct, Substantial Relationship
Criteria

The Board of Registered Nursing adopts criteria to be used in determining whether a crime, act, or professional misconduct is substantially related to the qualifications, functions, or duties of an applicant or

licensee, or when a licensee has made a showing of rehabilitation related to a crime, act, or professional misconduct when considering denial, suspension, or revocation of a license. The amendments implement amendments to the Business and Professions Code made by Assembly Bill 2138 (Stats. 2018, Ch. 995).

Title 16
 Amend: 1441, 1444, 1444.5, 1445
 Filed 05/20/2021
 Effective 05/20/2021
 Agency Contact: Thelma Harris (916) 574-7466

Bureau of Cannabis Control
 File # 2021-0407-04
 Commercial Cannabis Billboard Advertisements on Interstate and State Highways

This action repeals the provision allowing placement of outdoor signs and billboards advertising cannabis products along Interstate Highways or State Highways, provided they are located further than 15 miles from the California border. This is a change without regulatory effect pursuant to section 100(a)(3) of title 1 of the California Code of Regulations.

Title 16
 Amend: 5040
 Filed 05/19/2021
 Agency Contact: Kaila Fayne (916) 465-9120

California Alternative Energy and Advanced Transportation Financing Authority
 File # 2021-0513-01
 Residential Energy Efficiency Loan Assistance Program

This emergency rulemaking action by the California Alternative Energy and Advanced Transportation Financing Authority revises and updates the Residential Energy Efficiency Loan Assistance Program.

Title 04
 Adopt: 10091.4, 10091.16
 Amend: 10091.1, 10091.2, 10091.3, 10091.4 [renumbered as 10091.5], 10091.5 [renumbered as 10091.6], 10091.6 [renumbered as 10091.7], 10091.8, 10091.9, 10091.10, 10091.11, 10091.12, 10091.13, 10091.14, 10091.15
 Repeal: 10091.7
 Filed 05/24/2021
 Effective 05/24/2021
 Agency Contact: Susan Mills (916) 651-3760

California Department of Tax and Fee Administration
 File # 2021-0426-01
 Membership Fees

This action, which is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b), increases the “nominal amount” used to determine a retail seller’s tax liability for the collection of membership fees.

Title 18
 Amend: 1584
 Filed 05/25/2021
 Effective 05/25/2021
 Agency Contact: Kim DeArte (916) 309-5227

California Department of Tax and Fee Administration
 File # 2021-0517-01
 Federal Areas

This action, which is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b), amends provisions relating to the applicability of sales and use taxes to retail sales of meals, food, and beverages on Indian Reservations.

Title 18
 Amend: 1616
 Filed 05/26/2021
 Effective 05/26/2021
 Agency Contact: Kim DeArte (916) 309-5227

California Horse Racing Board
 File # 2021-0414-03
 Eliminate Retention of Furosemide Syringe

The California Horse Racing Board is eliminating the requirement the the furosemide veterinarian or California registered veterinary technician place a syringe used to administer furosemide in an evidence bag and have a witness sign the sealed bag which is then stored by the Board until all testing of the horse is complete.

Title 04
 Amend: 1845
 Filed 05/20/2021
 Effective 07/01/2021
 Agency Contact: Rick Pimentel (916) 274-6043

California State Transportation Agency
 File # 2021-0430-06
 Conflict of Interest Code

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

Title 21
Amend: 7000
Filed 05/25/2021
Effective 06/24/2021
Agency Contact: Randi Calkins (916) 657-8898

Contractors State License Board
File # 2021-0408-01
Fees

This rulemaking by the Contractors State License Board makes permanent emergency regulations (2019-1211-02E, 2020-1104-01EE) which increased fees for license renewal for active licenses, inactive licenses and renewal of a home improvement salesperson registration.

Title 16
Amend: 811
Filed 05/20/2021
Effective 05/20/2021
Agency Contact: Betsy Figueria (916) 255-3369

Department of Corrections and Rehabilitation
File # 2020-1216-02
Alternative Custody Program

This action by California Department of Corrections (CDCR) amends California Code of Regulations, Title 15, Section 3078.4 to incorporate by reference the revised CDCR Form 1516-ACP.

Title 15
Amend: 3078.4
Filed 05/26/2021
Effective 07/01/2021
Agency Contact: Sarah Pollock (916) 445-2308

Department of Justice
File # 2021-0518-02
Dealer Record of Sale (DROS) Fee

This second emergency readopt action amends the Dealer Record of Sale (DROS) fee pursuant to Penal Code section 28233.

Title 11
Amend: 4001
Filed 05/25/2021
Effective 05/25/2021
Agency Contact: Kevin Sabo (916) 210-7639

Department of Public Health
File # 2021-0408-02
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 05/19/2021
Effective 05/19/2021
Agency Contact: Michael Boutros (916) 440-7822

Department of Water Resources
File # 2021-0514-03
Conflict-of-Interest Code

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

Title 23
Filed 05/25/2021
Effective 06/24/2021
Agency Contact: Amanda Jack (916) 651-6851

Superintendent of Public Instruction
File # 2021-0409-03
12-Month Eligibility

This action adopts and amends certification and re-certification standards for eligibility, enrollment, and administration of services regarding subsidized early learning and care services for children and families under the Childcare and Development Services Act (Education Code section 8200 et seq.).

Title 05
Adopt: 18066.5, 18082.1, 18082.2, 18082.3, 18086.6, 18409.3, 18410, 18410.1, 18410.2, 18410.3, 18425, 18425.1, 18425.2, 18425.3
Amend: 18066, 18078, 18081, 18082, 18083, 18084, 18085.5, 18086, 18086.1, 18086.5, 18087, 18088, 18090, 18091, 18096, 18084.1, 18100, 18083.1, 18405, 18406, 18408, 18409, 18409.5, 18412, 18415, 18421, 18423, 18424, 18427, 18430
Repeal: 18102, 18103, 18104, 18410, 18425
Filed 05/21/2021
Effective 07/01/2021
Agency Contact: Lorie Adame (916) 319-0860

**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.