



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 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:

Consolidated Mosquito Abatement District
San Joaquin Valley Unified Air Pollution Control District

A written comment period has been established commencing on June 18, 2021 and closing on August 2, 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 August 2, 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 2. SECRETARY OF STATE

STATEWIDE VOTER REGISTRATION
SYSTEM AND CONDITIONAL
VOTER REGISTRATION

NOTICE IS HEREBY GIVEN that the California Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the SOS at its office not later than August 2, 2021.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact persons listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the SOS, upon its own motion or at the instance 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 persons 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.

Public Comment Period: June 18, 2021 through August 2, 2021.

AUTHORITY AND REFERENCE

Authority cited: Section 12172.5, Government Code and Sections 10 and 2168, Elections Code.

Reference: Sections 2170, 2171, 2172, 2173, 2196, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007,

3007.5, 3007.7, 3007.8, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3016.5, 3017, 3018, 3019, 3019.5, 3019.7, 3020, 3021, 3021.5, 3022, 3023, 3024, 3025, 3026, 4005, 4007, 14279, 14310, 14311, and 15373, Elections Code; 52 U.S.C. Section 21083.

INFORMATIVE DIGEST

The purpose of these regulations is to make permanent the emergency regulations the Secretary of State (SOS) adopted on October 5, 2020 related to Statewide Voter Registration System and Conditional Voter Registration. The emergency regulations clarified and added vote-by-mail (VBM) acceptance and rejection reason codes for the counties to ensure uniformity with respect to the processing of ballots of first-time voters who do not provide a California driver license or state identification number or the last four (4) digits of their social security number when they register to vote, pursuant to the provisions of the Help America Vote Act of 2002 (HAVA) (52 U.S.C. 21083(b)).

The text of the proposed regulations updates and adds to existing regulations in order to reflect current law and practices related to how the SOS and local elections officials deal with the ballot return status for vote-by-mail ballots, conditional voter registration provisional ballots, and provisional ballots. These proposed regulations also align the provisions regarding voter participation history in both the Statewide Voter Registration System and Conditional Voter Registration Regulations. These proposed regulations comply with the corresponding provisions of the Elections Code amended as of January 01, 2020. These regulations are necessary to conform to not only the current law, but also to current practices of the SOS and local elections officials.

Policy Statement Overview/Anticipated Benefits of Proposal

On March 19, 2020, due to the COVID-19 pandemic, Governor Newsom issued Executive Order N-33-20, which provided for a stay-at-home order. When Executive Order N-33-20 was issued, the SOS immediately began preparations for the November 3, 2020, Presidential General Election, which, due to COVID-19, could not be held in the same manner as elections thus far.

The SOS immediately began working closely with the Governor's office, county elections officials, and voting advocacy groups to develop a plan for conducting the November 3, 2020, Presidential General Election in a manner that would be safe and secure to voters, election workers, and the general public. The result of the work between the Governor's office, county elections officials, voting advocacy groups, and eventually the State Legislature, was a

comprehensive plan for the conduct of the November 3, 2020, Presidential General Election. These plans were solidified by Executive Orders N-64-20 and N-67-20, and then by Assembly Bill 860 (Chapter 4 of the Statutes of 2020), and Senate Bill 423 (Chapter 31 of the Statutes of 2020).

The biggest change facing voters in the November 3, 2020, Presidential General Election, was that every single California voter with a registration status of active received a vote-by-mail ballot (hereinafter “VBM” ballots). Due to this unprecedented change, our office determined to revisit all relevant procedures to ensure the smooth and orderly conduct of the November 3, 2020, election. During this review process, it was discovered that these at-issue regulations should be updated in order to provide the 58 counties with procedures that would ensure uniformity with respect to the processing of ballots of first-time voters who did not provide a California driver license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to the provisions of the Help America Vote Act of 2002 (HAVA) (52 U.S.C. 21083(b)). In addition, during the review process, it was also found that additional rejection reason codes, relating to processing of VBM ballots and provisional ballots are needed in order to provide counties with procedures that will ensure uniformity, in order to avoid confusion among election stakeholders including the press and the public who review the state’s election data following the election.

Our office adopted emergency regulations, due to lack of time, in order to ensure that counties calculated the VBM ballots acceptance and rejection rates accurately. Without the emergency regulations, it was possible that VBM acceptance and rejection rates for the counties would not have been understood correctly and consequently would have led to an incorrect perception of the amount of double voting scenarios and VBM rejection rates, potentially risking public confidence in the election.

Even though November 3, 2020, election is now over, changes to the regulations are still needed.

These changes bring these regulations in compliance with the Help America Vote Act of 2002 (HAVA) (52 U.S.C. 21083(b)). Further, the additional changes we are proposing to the Conditional Voter Registration regulations will make them consistent with the recent statutory changes to the Elections Code by the California State Legislature.

Consistency/Compatibility with Existing State Regulations

The SOS has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the

SOS has concluded that these are the only regulations that concern Statewide Voter Registration System and Conditional Voter Registration in California.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing the Regulations: OAL File No. 2020-0925-03.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/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.

Adverse Business Impact: The SOS has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The SOS has made an initial determination that this regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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

Effect on Housing Costs: None.

Effect on Small Business: The SOS has made an initial determination that the proposed regulatory action will have no effect on small business. Under the Elections Code and these regulations, only county elections officials utilize the statewide voter registration system and offer conditional voter registration to the voters of California.

Result of Economic Impact Assessment/Analysis Summary Comments: The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the SOS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed 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 only alternative considered was to leave existing regulations unchanged. However, the necessity to provide elections officials with flexibility in the required times to retrieve voted vote-by-mail ballots from vote-by-mail drop boxes and drop-off locations remains intact. COVID-19 concerns remains ever-present, and elections officials conduct elections each year.

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

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The SOS has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the SOS's website.

Copies of the express 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 throughout the rulemaking process upon request from the SOS contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

California Secretary of State
Elections Division
1500 11th Street, 5th Floor
Sacramento, CA 95814

Due to restrictions related to COVID-19, the SOS' public counter is not currently open to the public. Please contact the contact persons below to arrange for public inspection of the rulemaking documents.

Options for public inspection during COVID-19 may include having the rulemaking documents emailed to the requester or scheduling an in-person review.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

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

Rachelle Delucchi
California Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95841
(916) 695-1565
rdelucch@sos.ca.gov

The backup contact person is:

Robbie Anderson
California Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95841
(916) 216-6488
aanderso@sos.ca.gov

Website Access: Materials regarding this proposal can be found at: <https://www.sos.ca.gov/administration/regulations/>.

TITLE 2. SECRETARY OF STATE

RISK LIMITING AUDITS

NOTICE IS HEREBY GIVEN that the California Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the SOS at its office not later than August 2, 2021.

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

of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the SOS, upon its own motion or at the instance 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 persons 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.

Public Comment Period: June 18, 2021 through August 2, 2021.

AUTHORITY AND REFERENCE

Authority cited: Section 12172.5, Government Code; Section 15367, Elections Code.

Reference: Sections 320, 362, 15150, 15290, 15302, 15360, 15366, and 15367, Elections Code

INFORMATIVE DIGEST

The purpose of these regulations is to make permanent the emergency regulations (OAL File No. 2020–0902–01) the Secretary of State (SOS) adopted on September 10, 2020, related to Risk Limiting Audit (RLA). The emergency regulations were adopted to conform to urgency legislation Assembly Bill 2400 passed by the California Legislature that went into effect on August 27, 2020. Without the emergency regulation, California counties would not have been able to conduct risk-limiting audits compliant with regulation for the statewide general election held on November 3, 2020.

The emergency regulations made changes to procedures for conducting a two-phased audit. These changes were necessary to conform to audit software that the SOS procured for use in risk-limiting audits in California. In the process of procuring audit software, the SOS learned that the procedures in the current regulations were overly restrictive and would make them incompatible with available audit software. These changes were necessary to ensure audit software is available for county elections officials to use.

In addition, we are proposing to add two more audit types in the regulations: “Batch comparison audit” and “Hybrid audit.” This is being done on the demand of some counties and in consultation with the RLA experts. Batch comparison and Hybrid audit can be efficient for some counties depending upon the use of the type of voting system and method of ballot

storage. Pursuant to section 15367 (a)(4), a county elections official cannot use any other method other than a ballot-level comparison audit, or ballot polling audit without the approval of the Secretary of State. Therefore, it is necessary for the Secretary of State to include these additional methods of the RLAs in order for counties to use them.

Policy Statement Overview/Anticipated Benefits of Proposal

A risk-limiting audit is a method to ensure that at the end of the canvass, the hardware, software, and procedures used to tally votes found the real winners. Specifically, a risk-limiting audit involves a manual tally of randomly selected ballots that stops as soon as it is implausible that a full recount would alter the result. Risk-limiting audits determine precisely how much hand counting is necessary to confirm election results to a given level of confidence. The closer the contest, the more ballots one must examine to have strong evidence — because fewer errors can change the outcome. The higher the desired confidence the more ballots one must examine — because higher confidence requires more evidence. Risk-limiting audits, however, do not guarantee the electoral outcome is right, but they have a good chance of correcting the outcome if it is wrong.

The current regulations are based on AB 2125 (Quirk), Chapter 913, Statutes of 2018, which created a risk-limiting audit pilot program and permitted an elections official to conduct risk-limiting audits in lieu of conducting a 1% manual tally beginning with the statewide primary election in March 2020. AB 2125 required the Secretary of State (SOS), in consultation with statistical experts, election verification and integrity stakeholders, voting system manufacturers and local elections officials, to adopt regulations for the pilot program. The regulations were adopted in January, 2019.

During the development of the current regulations, the SOS’s working group determined that because a jurisdiction is required to audit all contests during an election cycle, the chances that one of the election contests might be close was statistically high enough to increase the chances a participating jurisdiction would be required to conduct a full manual recount for all races in the county anyway.

The working group concluded it is likely infeasible for a county to participate in the pilot program based on AB 2125 and the current regulations that implement that legislation, because conducting a full manual tally would be too costly and burdensome to complete. Additionally, the working group determined a partial risk-limiting audit provided for in AB 2125 and the current regulations that implement that legislation would offer weaker confirmation of the election results than a standard risk-limiting audit, and thus would not

be useful in determining whether an election outcome is accurate.

The proposed regulations accomplish the mandate of the statute. The benefit of these proposed regulations is that they will provide guidance to the SOS and local elections officials on the procedure for conducting risk-limiting audits. These proposed regulations will also provide the opportunity for the public to take part in and observe the audit process. Along with bringing more transparency in the post-election canvass process these proposed regulations will strengthen the public trust the State of California's election process.

Consistency/Compatibility with Existing State Regulations

The SOS has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the SOS has concluded that these are the only regulations that deal with the post-election risk limiting audits pilot program.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing the Regulations: OAL File No. 2020-0902-01E.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/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.

Adverse Business Impact: The SOS has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The SOS has made an initial determination that this regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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

Effect on Housing Costs: None.

Effect on Small Business: The SOS has determined that the proposed regulations would not affect small businesses. The proposed regulations would give county elections officials an option to conduct a comprehensive post-election audit in lieu of their current practice of 1% manual tally. The proposed regulations affect counties and individuals, neither of which are small businesses.

Result of Economic Impact Assessment/Analysis Summary Comments: The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. The proposed regulations will not affect worker safety or the state's environment, but it will benefit the health and welfare of California residents by strengthening the public trust in the State of California's election process.

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The SOS has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the SOS's website.

Copies of the express 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 throughout the rulemaking process upon request from the SOS contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

California Secretary of State
Elections Division
1500 11th Street, 5th Floor
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Due to restrictions related to COVID-19, the SOS' public counter is not open to the public. Please contact the contact persons below to arrange for public inspection of the rulemaking documents. Options for public inspection during COVID-19 may include having the rulemaking documents emailed to you or scheduling an in-person review.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

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

Taylor Kayatta California Secretary of State
1500 11th Street, Room 495
Sacramento, CA 95814
(916) 695-1530
tkayatta@sos.ca.gov

The backup contact person is:

Robbie Anderson California Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95841
(916) 216-6488
aanderso@sos.ca.gov

Website Access: Materials regarding this proposal can be found at: <https://www.sos.ca.gov/administration/regulations/>.

TITLE 16. BUREAU OF AUTOMOTIVE
REPAIR

CONSUMER ASSISTANCE
PROGRAM UPDATES

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

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, to be considered by the Bureau, must be received by the Bureau at its office no later than **5:00 p.m. on Tuesday, August 3, 2021**, or must be received by the Bureau at the hearing, if a hearing is held.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Health and Safety Code sections 44001.3, 44001.5, 44002, 44062.3, 44091, and 44094, and Business and Professions Code section 9882 and to implement, interpret, or make specific sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44014.7, 44015, 44017, 44017.1, 44037.1, 44062.1, 44062.3, 44091, 44092, 44093, 40094, 44095, and 44125 of the Health and Safety Code, the Bureau is proposing to adopt the following changes to California Code of Regulations Title 16, Division 33, Chapter 1, Article 11.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

This rulemaking action increases repair assistance contribution limits to income-eligible vehicle owners with pre-approval from the Bureau, restructures the

consumer copay, allows participation in the Consumer Assistance Program (CAP) of a vehicle with vehicle registration expired up to 365 days, and eliminates eligibility requirements pertaining to prior registration lapses.

Background

Air Pollution negatively impacts public health in California. Large quantities of air pollution come from mobile sources, including cars and light duty trucks. The Smog Check Program was implemented in 1984 to reduce pollution caused by vehicle malfunction and emission control equipment tampering. The Bureau of Automotive Repair (Bureau), within the Department of Consumer Affairs (Department), is the state agency charged with the administration and implementation of the Smog Check Program.

The Smog Check Program is designed to reduce emissions by identifying and repairing vehicles that exceed specific emissions standards as set by the California Air Resources Board (ARB). A vehicle that has failed its Smog Check inspection must be repaired and pass a subsequent Smog Check inspection in order to complete the Department of Motor Vehicles' (DMV's) registration renewal process.

In order to assist vehicle owners in complying with the provisions of the Smog Check Program, the Bureau is also charged with administering the Consumer Assistance Program (CAP) pursuant to Health and Safety Code (HSC) sections 44062.1 and 44062.3. CAP has two components: Vehicle Retirement Program (VR) and Repair Assistance Program (RA). Through VR, a vehicle owner can retire a failing vehicle for either \$1,000 or \$1,500, if they meet income eligibility requirements. Through RA, a low-income vehicle owner who meets CAP's eligibility requirements and chooses to repair a vehicle after it fails a biennial Smog Check inspection may receive up to \$500 toward emissions-related repairs at a STAR-certified test-and-repair station¹ operating under an agreement with the Bureau. The goals of these programs are to reduce air pollution and assist vehicle owners whose vehicles fail the Smog Check inspection.

Addressing the needs of low-income vehicle owners is essential to the success of the Smog Check Program. Failure to address those needs can undermine the success of the Smog Check Program and the effort to enforce vehicle registration laws. Without assistance, many low-income vehicle owners are unable to afford

to repair or replace vehicles that fail the Smog Check inspection and as a result, often continue to drive their polluting vehicle with either expired registration tags or registration tags obtained with a fraudulent smog certificate, both of which reduce the pollution control benefits of the Smog Check Program.

By assisting low-income vehicle owners repair their vehicles to pass the Smog Check inspection, RA fills a gap left by the vehicle retirement programs operated by CAP and local Air Pollution Control Districts (APCD).

Many vehicle owners do not benefit from retirement programs because they have neither the credit nor the income to replace their vehicle, even if they retire their vehicle and receive \$1,500 from the VR program. Although the APCD's retire-and-replace programs can provide qualifying individuals additional funds (above \$1,500) for vehicle purchases, they cannot always make up for an individual's lack of income or poor credit.

RA helps low-income vehicle owners by making relatively low-cost repairs to vehicles that fail the Smog Check inspection. Many failing vehicles are mechanically sound and can be cost-effectively repaired for far less than the cost of replacing a vehicle. Proper repairs can result in a significant reduction in harmful vehicle emissions and allow owners to register their vehicles with DMV with valid Smog Check certifications.

Contribution Amount Set by Statute and Regulation

The RA program was created in 1994 by Senate Bill 198 (Kopp, Chapter 28, Statutes of 1994), which set the repair assistance contribution at \$450.

HSC section 44062.1(f) allows the Department to increase its RA contribution above \$450 if it determines the repairs related to failure, including failure of a visible smoke test, are cost-effective. In the year 2000, the RA contribution was increased to \$500, by regulation in order to increase participation. This increase was sufficient to account for inflation between 1994 and 2000; however, it has not been increased since that time.

Impact of Inflation on Repair Costs

Between January 1994 and September 2019, the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Motor Vehicle Maintenance and Repair increased 101.5% compared to 74% for the overall Consumer Price Index. This means that a repair which cost \$450 in 1994 now costs over \$900.

Reduction in RA Program Participation

During the past seven years, utilization of RA by low-income vehicle owners has decreased dramatically. There are fewer applicants, and a smaller percentage of those that do apply are approved. The participation

¹A STAR-certified test-and-repair station is a station that meets emission testing performance standards per Title 16 of the California Code of Regulations, section 3392.3.1. The STAR Program was established by Assembly Bill (AB) 2289 (Eng, Chapter 258, Statutes of 2010) and implemented by the Bureau in January 2013.

rate among approved applicants dropped from 92% in fiscal year (FY) 2011–12 to 44% in FY 2018–19.

Improving Program Effectiveness and Increasing Participation

The RA program is no longer effectively serving its intended purpose. The decrease in participation is related to the current program contribution amount, vehicle owner copay structure, and eligibility requirements. The proposed regulation changes are intended to remedy the problems causing reduced participation and keep this important program active and effective.

Proposed Regulation Changes

- Increase the RA contribution above the current limit of \$500, allowing an additional contribution of up to \$400 for 1976–1995 vehicles and up to \$700 for 1996 and newer vehicles when needed to facilitate higher cost repairs. The maximum contribution for 1995 and older vehicles will be \$900. The maximum contribution for 1996 and newer vehicles will be \$1,200.
- Require that the Bureau concurs that repairs in excess of \$500 are necessary to pass the Smog Check inspection and are cost effective.
- List the reasons why Repair Assistance shall not be awarded.
- Establish what the STAR test–and–repair station may charge for diagnosis, which shall include a Smog Check inspection to confirm the current condition of the vehicle.
- Require STAR test–and–repair stations to perform a Smog Check inspection to confirm the effectiveness of the repairs at no charge to the consumer, and if the vehicle passes the inspection, the consumer shall pay for the certificate of compliance.
- Set the vehicle owner’s copay to a minimum of 20% of the cost of diagnosis and repair.
- Modify applicant eligibility requirements to allow participation of vehicles with registration expired up to 365 days.
- Remove applicant eligibility requirements relating to lapses in vehicle registration during the two years preceding the current vehicle registration expiration date.
- Amend the CAP application currently incorporated by reference to reflect the changes elsewhere in this package.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

BAR has made an initial determination that the proposed regulatory action will have a positive impact on the health and welfare of California citizens to the extent it promotes compliance with laws and regulations and reduces the pollution from vehicles being driven in California.

BENEFITS OF THE REGULATION TO THE STATE’S ENVIRONMENT:

BAR has made an initial determination the proposed regulatory action will tend to reduce air pollution and have a positive effect on the environment.

BENEFITS OF THE REGULATION TO WORKER SAFETY:

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

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

Consumer Assistance Program Application: CAP/APP (Rev. 04/2020). The changes in the application incorporated by reference are necessary to reflect changes elsewhere in this package or to correct outdated references, and are as follows:

- (1) Delete “\$500” and insert “\$1,200” under the “Repair Assistance” checkbox on page 1 of the form. This reflects the change made under proposed section 3394.3(c)(2) and will notify parties filling out the form of the appropriate maximum amount.
- (2) Insert the phrase “model year 1996 or newer.” This reflects the change made under proposed section 3394.3(c)(2) and will notify parties filling out the form of the appropriate eligibility conditions.
- (3) Insert the sentence “Income–eligible vehicle owners of model year 1976 through 1995 vehicles may receive up to \$900 in emission–related repairs.” This reflects the change made under proposed section 3394.3(c)(1) and will inform parties filling out the form of the correct maximum eligibility for those vehicles.

- (4) Correct the Bureau website listed on the form from “www.smogcheck.ca.gov” to “www.bar.ca.gov.” This change is made to correct an outdated reference to a website no longer in operation.
- (5) Correct the revision date on the bottom of the form to reflect the revision date listed in proposed section 3394.6.

DISCLOSURES REGARDING THE PROPOSED ACTION

MANDATED BY FEDERAL LAW OR REGULATIONS:

No.

LOCAL MANDATE:

None.

FISCAL IMPACT ESTIMATES

COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500–17630 REQUIRE REIMBURSEMENT:

None.

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES AND COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

The Bureau anticipates that the proposed regulatory action will result in program expenditures of \$5,086,000 in 2021–22 and 2022–23 for vehicle repairs. However, the implementation, administration, and enforcement of the proposed changes are not anticipated to increase workload or costs.

This proposal will result in no costs or savings in federal funding to the state.

NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:

None.

EFFECT ON HOUSING COSTS:

None.

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

None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Bureau has determined that this regulatory proposal will have a minimal impact, if any, on the creation of jobs or new businesses or the elimination of jobs or existing businesses in the State of California. The Bureau anticipates that revenues may increase at some STAR test-and-repair stations as a result of this proposal. The anticipated benefits to California

residents’ health and welfare, worker safety, and the environment are described above.

The proposed regulations would result in program expenditures of \$5,086,000 in FY 2021–22 and 2022–23, which is an increase of \$4,079,040 from 2019–20. These expenditures would require a \$2,300,000 augmentation of the repair assistance schedule of the High Polluter Repair or Removal Account.

The increased costs stem from a proposed baseline adjustment to the Bureau’s \$500 contribution toward repairs based on changes to the Consumer Price Index for Motor Vehicle Maintenance and Repair, an additional increase in the State’s contribution toward repairs of 1996 and newer vehicles, the modification to certain consumer eligibility requirements, and a change to the structure of the required consumer copayment.

These changes will ultimately increase consumer demand for repair assistance and increase average per-vehicle repair expenditures. Pre-approval requirements for repairs over \$500 included in this proposal will help limit unnecessary expenditures and help promote cost-effective repairs. Factors contributing to the fiscal impact of this regulation are detailed below:

I. Increase the Maximum State Contribution to \$900 for Model Year 1976–1995 Vehicles

Fiscal Impact: This will increase CAP’s average cost to repair a 1995 and older vehicle and will also increase the number of vehicles repaired under CAP.

When combined with a 20% consumer copay, the \$900 contribution will allow STAR-certified Smog Check test-and-repair stations to perform up to \$1,125 in diagnosis and repairs, when pre-approved by the Bureau.

HSC section 44094(b)(1) authorizes the Bureau to provide up to \$450 in financial assistance to qualified consumers toward emissions-related repairs of a vehicle. HSC section 44062.1(f) authorizes the Bureau to raise the contribution to qualified consumers above \$450 if it determines the expenditure is cost-effective. In 2000, the Bureau adopted regulations to increase the State contribution amount from \$450 to \$500 as a means of counteracting inflation’s impact on the Smog Check industry’s ability to make cost-effective vehicle emissions repairs.

The Bureau has determined that cost-effective emissions repairs are significantly more than the \$500 currently authorized by regulation. The Bureau proposes adjusting the amount of the contribution to reflect increases in the Consumer Price Index (CPI) for Motor Vehicle Maintenance and Repair as published by the United States Department of Labor, Bureau of Labor Statistics in October 2019. All repairs above \$500 will require pre-approval by Bureau

personnel in order to ensure that the additional repair expenditures are cost-effective.

In this regulatory proposal, the Bureau proposes to use the CPI for Motor Vehicle Maintenance and Repair rather than the broader CPI covering all items. The CPI for Motor Vehicle Maintenance and Repair has increased more rapidly than the broader CPI and is a more accurate reflection of the cost a typical consumer is likely to incur for emissions repairs to a vehicle. The CPI for Motor Vehicle Maintenance and Repair includes a number of parts and services, such as the inspection, adjustment, or repair of ignition systems, fuel systems, and other systems that a vehicle may need repaired following a failed Smog Check inspection. This contrasts with the overall CPI for all items, that account for the cost of all goods and services, including those unrelated to automotive repair.

As noted in Attachment 2 to the Initial Statement of Reasons, the CPI for Motor Vehicle Maintenance and Repair has increased by 101.51% between January 1994 and September 2019. Several factors account for the high rate of inflation for motor vehicle maintenance and repair, including the increased complexity of automotive components, the increased cost of equipment necessary to properly test and diagnose a vehicle, and the time required to train technicians to properly diagnose and repair a vehicle. See Attachment 2 to the Initial Statement of Reasons: CPI for Motor Vehicle Maintenance and Repair — Percentage Increase 1994–2019.

The Bureau used the following formula to determine the present-day value of the \$450 maximum allowable State contribution toward emissions repairs established pursuant to statute: base contribution + (CPI for MVMR × base contribution). This equates to: $\$450 + (101.51\% \times \$450) = \$906.795$.

II. Increase the Maximum State Contribution to \$1,200 for Model Year 1996 and Newer Vehicles

Fiscal Impact: This will increase CAP’s average cost to repair a 1996 and newer vehicle and will also increase the number of vehicles repaired under CAP.

When combined with a 20% consumer copay, the \$1,200 contribution will allow STAR-certified Smog Check test-and-repair stations to perform up to \$1,500 in diagnosis and repairs, when pre-approved by the Bureau.

Unlike pre-1996 vehicles, 1996 and newer vehicles come equipped with a second generation on-board diagnostic system (OBDII). This system includes a greater number of sensors and computer modules than prior on-board diagnostic systems. When operating properly, OBDII vehicles produce significantly lower levels of pollution than non-OBDII vehicles. However,

the diagnosis and repair of emission failures on these vehicles is more complex and more expensive. Not all of the increased expense is accounted for in the CPI for Motor Vehicle Maintenance and Repair.

In 2017, the Bureau conducted a cost survey of emission related repairs on 1996 and newer vehicles that showed diagnostic and repair costs exceeded \$1,125 for 18% of vehicles requiring only catalytic converter replacement and 52% of vehicles requiring both catalytic converter replacement and other emission repairs. The survey also showed that the majority of transmission and mechanical repairs also exceeded \$1,125. See Attachment 3 to the Initial Statement of Reasons: Bureau of Automotive Repair Cost Survey of Typical Repairs Needed to Correct Smog Check Failure (June 2017).

This proposal also: (1) accounts for the inclusion of repairs that were not previously considered emission-related when the \$450 contribution was set, (2) accounts for California specific emission repair cost increases not fully included in the nationwide CPI for Motor Vehicle Maintenance and Repair, and (3) provides flexibility to make additional cost-effective repairs.

- With continual advancements to OBDII systems, emission repair has expanded to include costly repairs that were not considered emission related when the original \$450 contribution was set by statute such as transmissions and some hybrid vehicle components.
- Some increases to California emission repair costs are not accounted for by the nationwide CPI for Motor Vehicle Maintenance and Repair. For example, California imposes more stringent durability and testing requirements on aftermarket OBDII catalytic converters than other states which can contribute to higher repair costs.
- There are circumstances where emission reductions with a \$1,200 contribution exceed what could be accomplished with the base contribution of \$900.

The higher contribution amount will most beneficial and cost-effective when multiple repairs are required. For example, when repairing a vehicle with a defective catalytic converter and an engine misfire, repairing both conditions provides far more effective and long-lasting emission reductions than repairing only one part and not the other. (This is because engine misfires destroy catalytic converters, and catalytic converter replacement, though normally very effective in reducing emissions, will not produce durable emission reductions in the presence of an engine misfire.)

III. Require BAR Pre-Approval for Repairs over \$500

Fiscal Impact: This will help limit CAP’s average cost to repair a vehicle and promote cost-effective repairs on CAP participant vehicles.

Under this proposal all repairs requiring a contribution over \$500 will require pre-approval to ensure that the repair is cost-effective. The Bureau will review proposed repairs over \$500 to:

- Ensure the cause of failure is properly diagnosed by verifying that STAR-certified Smog Check test-and-repair stations are either following the emission diagnosis and repair procedures found in the vehicle manufacturer’s recommended procedures or industry-standard reference manuals and periodicals published by nationally recognized repair information providers, as required by Title 16, California Code of Regulations (CCR) Section 3340.41(d).
- Ensure the vehicle has no major mechanical problems that would shorten vehicle life.
- Prevent the use of state funds on repairs that are unlikely to significantly reduce vehicle emissions.

IV. Modify the Consumer Copay Structure

Fiscal Impact: This will increase the number of vehicles repaired under CAP.

This proposal modifies the structure of the consumer copay. It would eliminate the current requirement of consumers having to pay all vehicle inspection and diagnostic costs associated with the program. Approved applicants and STAR-certified Smog Check test-and-repair stations have reported that pre-repair diagnostic costs have been a barrier to consumer participation in CAP. Low-income consumers are often unwilling to pay for a diagnosis when they have no information regarding the final cost to repair their vehicle.

This proposal changes the copay structure so that the consumer would pay 20% of the repair cost and CAP would pay the remaining 80% of the repair cost, up to the maximum contribution amount under the regulation.

Under the proposed regulation, a participant whose vehicle failed the Smog Check test would initially pay 20% of the diagnostic cost and CAP would pay the remaining 80%, thereby reducing the consumer’s pre-repair costs.

After a STAR-certified Smog Check test-and-repair station diagnoses the vehicle and recommends repairs, the consumer would have the opportunity to evaluate the advisability of approving further repairs. If the consumer decided not to perform the recommended repairs, they would still only be responsible for 20% of the diagnostic cost.

When a participant decides to proceed with the recommended repairs and CAP approves any repairs exceeding \$500, the consumer would pay 20% of the repair cost and CAP would pay the remaining 80% of the repair cost, up to the maximum contribution amount under the regulation. The consumer would be responsible for any costs that exceed the maximum contribution amount.

This copay restructure proposal more closely aligns with the requirements of HSC section 44094(b)(1), that allows the program to pay up to 80% of the total cost of repair, as determined by the Bureau. It helps reduce the consumer’s pre-repair costs that have been a barrier to program participation.

V. Modify Registration-Based Consumer Eligibility Requirements

Impact: This will increase the number of vehicles repaired under CAP.

Consumers are currently ineligible for repair assistance if they have a vehicle registration that is expired more than 120 days, or had a lapse in registration over 120 days during the two years preceding their application to the program. This proposal eliminates a barrier to the program that prevented over 4,000 applicants from participating in FY 2018-19.

In addition, the proposed action is not expected to expand or reduce existing business.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

BAR is not aware of any cost increase that a representative private person or business would necessarily incur in as a result of this proposal. Repair costs may decrease for persons participating in this program.

BUSINESS REPORTING REQUIREMENTS

None.

EFFECT ON SMALL BUSINESS

These proposed regulations will likely increase revenue for STAR Test and Repair stations, which are typically small businesses.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

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

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

The backup contact person is:

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any requested hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts

the regulations as revised. Please send requests for copies of any modified regulations to the attention of Holly O'Connor at the address indicated above. The Bureau will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person named above, or by accessing the website listed below.

WEBSITE ACCESS

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

TITLE 20. CALIFORNIA ENERGY COMMISSION

TITLE 20. PUBLIC UTILITIES AND ENERGY
DIVISION 2. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
CHAPTER 3. DATA COLLECTION ARTICLES 1, 2, 3 AND 4 AND
CHAPTER 7. ADMINISTRATION
ARTICLE 2. DISCLOSURE OF COMMISSION RECORDS

DOCKET NO. 18-OIR-01

Notice is hereby given that the California Energy Commission (CEC) proposes to adopt changes to the California Code of Regulations (CCR), Title 20, Chapter 3, Data Collection, and Chapter 7, Administration, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The CEC will hold a public hearing for the proposed regulations at the date and time below. Interested persons, or their authorized representative, may

present oral and written statements, arguments, or contentions relevant to the proposed regulations at the hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

**Tuesday August 6, 2021
9:00 a.m. (Pacific Time)**

The public hearing will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

REMOTE ATTENDANCE

The public hearing may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the Webinar ID and password listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Public Advisor's Office at publicadvisor@energy.ca.gov or (800) 822-6228.

Link: <https://energy.zoom.us/j/94456419141?pwd=cUdydWpkZVRibWVOWkZiZWpFV0FTdz09>
Webinar ID: 944 5641 9141
Password: 185423

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the Webinar ID and password above. To comment or ask a question over the telephone, dial *9 to "raise your hand" and *6 to mute/unmute your phone line.

PUBLIC ADVISOR

The CEC's Public Advisor's Office provides the public with assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at publicadvisor@energy.ca.gov, by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Public Advisor's office via email or phone.

NEWS MEDIA INQUIRIES

Direct media inquiries to the Media and Public Communications Office to (916) 654-4989 or mediaoffice@energy.ca.gov.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written statements, arguments, or contentions to the CEC for consideration on or prior to August 2, 2021. The CEC appreciates receiving written comments as soon as possible.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01> which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the "Comment Text" box or attached as a downloadable, searchable document consistent with 20 CCR section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 18-OIR-01 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit, MS-4
Docket No. 18-OIR-01
1516 9th Street
Sacramento, California 95814

STATUTORY AUTHORITY AND REFERENCE

Public Resources Code (PRC) sections 25213, 25218(e) and 25320 and Government Codes Section 6253 (e) authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, or make specific PRC sections 25005.5, 25100-25141, 25216, 25216.5, 25223, 25300, 25301, 25302, 25302.5, 25303, 25304, 25305, 25305.1, 25310, 25322, 25324, 25350-25366, 25364, 25366, 25401, 25401.2, 25403, 25403.5, 25602 and 25604; and Public Utilities Code sections 9615 and 9620.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Warren-Alquist Act establishes the CEC as California's primary energy policy and planning agency. Sections 25213, 25218(e), and 25320 of the PRC mandate and authorize that the CEC adopt rules and regulations, as necessary, to manage a data collection system for obtaining information necessary to develop the policy reports and analysis as required by statute.

The CEC is required by statute to “conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices.” (PRC section 25301(a).) These forecasting and assessment activities are developed as part of the Integrated Energy Policy Report (IEPR) that is mandated every two years. (*Id.* section 25303.) As part of the IEPR process, the CEC adopts a detailed demand forecast that is used by other energy agencies—including the California Independent System Operator—to identify resource additions needed to ensure reliability, while still meeting California air pollution mitigation goals. (*Id.* section 25302(c) & (f).) In addition, the demand forecast is used for “analyzing the success of and developing policy recommendations for public interest energy strategies.” (*Id.* section 25305.) As part of this comprehensive energy assessment, the CEC also conducts a natural gas demand forecast, a transportation energy demand forecast, and an electricity demand forecast, and performs various energy market assessments which evaluate energy supply constraints and system performance. (*Id.* section 25301(a); *id.* Section 25303(a); and *id.* Section 25304(a), (c), (d), (f), & (g); *id.* sections 25350, *et seq.*) To this end, the CEC is authorized to collect data from a broad range of market participants, including utilities, independent generators, gas utilities, petroleum producers, load-serving entities, and utility distribution companies.¹ The CEC is also required to develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish targets for statewide annual energy efficiency savings and demand reduction. (*Id.* section 25310.) Pursuant to the Public Records Act, the CEC is required to provide access to public records but may withhold certain records if they are exempt. (Gov. Code, sections 6253, 6254; PRC, sections 25223, 25322, 25366.)

The CEC’s regulations also outline how access to public records is provided and the circumstances under which records may be withheld from disclosure. The proposed regulatory changes help ensure that the CEC has access to sufficient information for its analytical mandates while complying with its duties to disclose or withhold documents under the Public Records Act.

¹Pursuant to Public Resource Code section 25108 “electric utility” includes all generators and distributors of electric power. The latter group includes utility distribution companies or “UDCs,” and load-serving entities or “LSEs.” A UDC is an electric utility that distributes electricity to end-use customers, whereas an LSE sells electricity to end-use customers. A UDC can be either an investor-owned utility or a local publicly owned electric utility. All UDCs in California are also LSEs, but there are LSEs—such as community choice aggregators—that rely on a UDC to distribute the power the LSE sells. The proposed changes affect regulations governing UDC data reporting requirements.

In compliance with statute, the CEC proposes the following amendments:

- Simplify the procedure for applying for extensions to report data.
- Relocate existing wind performance reporting requirements.
- Modify water data reporting by requiring specific water data be reported.
- Eliminate the reporting requirement for service account, premise identification, and meter identification numbers for UDC’s not required to report disaggregated demand data.
- Remove duplicative reporting requirements by adding a sunset date for the provision of data that will be provided in disaggregated form.
- Broaden the classification categories by which gas sales by utilities are reported.
- Align the regulations to conform with changes to statutory reporting requirements.
- Add reporting requirements for Property Assessed Clean Energy (PACE) program administrators to submit data to the CEC on an annual basis.
- Add reporting requirements for owners of underground storage gas projects that are interconnected to California gas utility systems.
- Align reporting of disaggregated demand data with data the utilities collect and use and in a manner in which they organize and store it.
- Correct typographical errors and references to standards which have been changed.
- Add reporting requirements for alternative fuel data, such as hydrogen, biodiesel and renewable diesel production data.
- Update confidentiality regulations to align with the requirements of the Public Records Act.
- Add a provision that would provide an end date for confidentiality protection under the CEC’s confidentiality provisions.
- Delete regulations related to inspection and copying.

Difference from existing comparable federal regulation or statute

These proposed regulations do not unnecessarily duplicate or conflict with any federal regulations contained in the Code of Federal Regulations.

The requirements contained in section 1384, as amended, cover information that is also required to be reported to the EIA pursuant to federal regulations. As discussed in Section I (Problem Statement) and Section II (Purpose and Necessary), the CEC is imposing comparable reporting requirements in these regulations to comply with state requirements set forth by PRC section 25304 to assess trends in

transportation fuels, technologies, and infrastructure supply and demand within California. It was suggested to the CEC that information from the EIA would comply with the need for data. As production data that is specific to a location is considered confidential by the EIA, the CEC is creating this regulation to directly obtain this information from alternative fuel producers and will accept EIA forms with similar information for ease of reporting purposes. As noted above, the CEC considered stakeholder feedback in drafting this regulation to allow reporting entities flexibility to avoid duplication of work and potential conflicting standards between the CEC and EIA.

Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments

The broad objective of this proposed action is to enable the CEC to meet its statutory and analytical requirements supporting the reliable operation of the state's electricity and natural gas supply systems and assessing progress in, and developing recommendations for, meeting state energy goals.

The specific benefit of the proposed action will be that the CEC will more accurately depict when, where, and for what purpose energy is being used. It will more accurately identify the specific effect of various energy programs and policies on electricity, transportation, and natural gas consumption patterns. This will improve CEC forecasts geographically, by sector, and by end-use, and will allow for better tracking and targeting of policies designed to promote state energy goals. Current data collection does not track new trends and the proposed changes to regulations will assist the CEC in capturing new energy sources and new patterns of energy demand. Specifically, collection of hydrogen, bio-diesel, and renewable diesel production data will reduce errors in the CEC's modeling and analytical work and provide a better understanding of key transportation fuel production needs to respond to energy emergencies. PACE data will allow for better estimation of energy efficiency savings. In addition, obtaining natural gas storage inventory data will allow the state to evaluate supply uncertainties and the sufficiency of natural gas supplies and infrastructure to ensure electric system reliability. The proposed changes to the confidentiality regulations will better align the circumstances of disclosing or withholding records under the regulations with the parallel requirements under the Public Records Act.

Determination of inconsistency or incompatibility with existing state regulations

The CEC has evaluated other state regulations in this area and has determined that the proposed regulations are consistent and compatible with existing state regulations. Where possible, the CEC has noted data reporting schedules imposed by other state agencies

and sought to align the reporting schedules in these regulations for administrative ease.

**DOCUMENTS INCORPORATED
BY REFERENCE**

The CEC proposes to incorporate the following document by reference:

Arizona Administrative Code R3-7-701 (Current through Volume 27, Issue 13, March 26, 2021; last amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018.)

All documents are available for review at the CEC at 1516 Ninth Street, Sacramento, California 95814 and at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01>.

**MANDATED BY FEDERAL
LAW OR REGULATIONS**

None.

OTHER STATUTORY REQUIREMENTS

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.: None.
- Cost or savings to any state agency: None.
- Non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in federal funding to the state: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY AFFECTING
BUSINESS, INCLUDING ABILITY OF
CALIFORNIA BUSINESSES TO COMPETE
WITH BUSINESSES IN OTHER STATES**

The CEC estimates that roughly 247 businesses may be impacted by the regulations. The proposed regulations are unlikely to result in a significant statewide adverse economic impact directly affecting

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

The proposed updates to the data collection regulations enable the CEC to meet its statutory and analytical responsibilities supporting the reliable operation of the state's electricity and natural gas supply systems and assessing progress in, and developing recommendations for, meeting state energy goals. Current data collection does not track new trends and the proposed changes to regulations will assist the CEC in capturing new energy sources and new patterns of energy demand.

The proposed regulations consist of four types of changes: 1) data submission procedural changes, 2) general language modernization, 3) confidentiality process changes, and 4) new data collection requirements. Type 1, 2, and 3 changes are being undertaken to lessen or keep consistent the reporting burden on energy business entities. For new data requirements, the data is either information that is reported to federal entities that is deemed confidential by federal entities or that is collected by other agencies that the CEC is asking to include in the transmission of that data. Any impact on business is strictly clerical in nature.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The CEC concludes that 1) it's unlikely the proposal will create jobs within California, 2) it's unlikely the proposal will eliminate jobs within California, 3) it's unlikely the proposal will create new businesses in California, 4) it's unlikely the proposal will eliminate existing businesses within California, and 5) it's unlikely the proposal will result in the expansion of businesses doing business in California.

The benefits of the proposed changes will 1) allow the CEC to monitor regional energy trends; 2) develop regional energy demand forecasts; and 3) track and develop targeted energy policies to ensure the reliability of the electricity and gas system and supply for the health, safety, and welfare of the people of California.

The proposed changes will not adversely affect the health and welfare of California residents, worker safety, or the environment.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

The proposed updates to the data collection regulations will enable the CEC to meet its statutory and analytical responsibilities supporting the reliable operation of the state's electricity and natural gas supply systems and assessing progress in, and developing recommendations for, meeting state energy goals. Current data collection does not track new trends and the proposed changes to regulations will assist the CEC in capturing new energy sources and new patterns of energy demand.

The proposed regulations consist of four types of changes: 1) data submission procedural changes, 2) general language modernization, 3) confidentiality process changes, and 4) new data collection requirements. Type 1, 2, and 3 changes lessen or keep consistent of level reporting burden of energy business entities. For new data requirements, data requested is either information that is reported to federal entities that is deemed confidential by federal entities or that is collected for other uses by other agencies that the CEC is asking to include in the transmission of that data. Thus any impact on individuals is strictly clerical in nature.

BUSINESS REPORT

There are no proposed additions to the current reporting requirements.

SMALL BUSINESS

The proposed regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

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

The CEC invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

Please direct inquiries about the rulemaking process, including requests for copies of the proposed text (express terms), the initial statement of reasons (ISOR), any modified version of the regulations,

the substance of the proposed regulations, or other information about the rulemaking to:

Ryan Eggers, Supervisor
California Energy Commission
Transportation Fuels Data and Analysis Unit
(916) 776-3597
ryan.eggers@energy.ca.gov

If Ryan Eggers is unavailable, you may contact

Justin Delacruz, Attorney
California Energy Commission
Chief Counsel's Office
(916) 931-5867
Justin.delacruz@energy.ca.gov

COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC will have the rulemaking file available for inspection and copying during the rulemaking process at the above address. As of the date this notice is published, the rulemaking file consists of this notice, the express terms, the Economic and Fiscal Impacts (form 399) and the ISOR. Copies may be obtained by contacting Corrine Fishman at the address or phone number above or accessed online at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01>.

AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be changed substantively as a result of public comment, staff recommendation, or recommendations from commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve clarity or effectiveness. If the CEC considers changes to the proposed regulations pursuant to Government Code section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date the CEC adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01> or contacting the contact person above.

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01> or contacting the contact person above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking are posted at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01>.

TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0520-02

ITEM # Child Welfare Services Regulatory Amendments

The California Department of Social Services (hereafter known as the Department) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services
Office of Regulations Development
744 P Street, MS 8-4-192
Sacramento, CA 95814
Tel: (916) 657-2586, Fax: (916) 654-3286
Email: ord@dss.ca.gov

Statements or arguments relating to the proposals may be submitted in writing, e-mail, or by facsimile to the address/number listed above. All comments must be received by August 4, 2021.

Following the public comment period, the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons

are available from the office listed above. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at CDSS Public Comment Period for Proposed Regulations (<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/regulations-home-page/cdss-regulation-changes-in-process-and-completed-regulations/public-hearing-information>). Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed above. Following the public comment period, copies of the Final Statement of Reasons will be available at the above address.

CHAPTERS

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP), Division 31, Child Welfare Services Program

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law specifies that child welfare services include a continuum of services, including emergency response, initial intake, evaluation of risk, and investigation services. Existing law requires counties to maintain a 24-hour emergency response system and to respond to all referrals, which allege that a child is endangered by abuse, neglect, or exploitation. A county social worker must respond to a referral by completing the Emergency Response Protocol and/or conducting an in-person investigation immediately or within 10 calendar days, as specified. Existing law specifies the requirements for the social worker's in-person investigation. Existing law requires counties to provide child welfare services in accordance with regulations promulgated by CDSS.

This rulemaking action amends, clarifies, and makes specific the requirements that counties must follow when receiving, assessing, documenting, responding to, and investigating a referral that alleges a child is endangered by abuse, neglect, or exploitation. This regulatory action will also incorporate into the MPP prior guidance and existing requirements set forth in All-County Letters (ACLs). Changes to these chapters of the MPP will amend and clarify existing regulations, or establish new regulations, for:

- Emergency response access and protocol
- Documentation requirements
- Investigation requirements
- Face-to-face contacts
- Risk assessments

- Safety assessments
- Safety planning
- Investigations and cross-reports of allegations of abuse in out-of-home placements
- Enhancements to services for Indian and non-Indian children and families, and
- Uniform application of the Indian Child Welfare Act of 1978 (25 USC 1901 et seq.) (ICWA) to all child welfare investigations.

Additionally, CDSS is incorporating federal regulations from the Bureau of Indian Affairs, codified under 25 Code of Federal Regulations (CFR) Part 23 in December 2016, to ensure state regulations relating to intake and investigation of Child Welfare Services (CWS) referrals comply with ICWA.

The broad objectives of this regulatory action are to improve the quality and timeliness of investigations and enhance services to families to ensure the safety of children alleged to be abused and/or neglected. It is anticipated that these regulations will benefit children and families in California who receive child welfare services by clarifying and improving emergency response, investigation, risk and safety assessment, and safety planning requirements. Furthermore, it is anticipated that these regulations will strengthen California's compliance with the safety outcomes required by the federal Child and Family Services Review (CFSR). These objectives are included under goal six of California's 2017 CFSR Program Improvement Plan (PIP), which was required under federal regulations set forth at 45 CFR 1355.35, approved by the federal Administration for Children and Families (ACF) in September 2018, and is currently being implemented to improve California's compliance with existing federal requirements. The adoption of these regulations is a key activity required by California's PIP.

The CDSS finds that these proposed regulations are compatible and consistent with existing federal and state law, as well as other existing state regulations that are not a part of these proposed changes.

Anticipated Benefits

To improve the timeliness of investigations and enhance services to families to ensure safety of children alleged to be abused and/or neglected and to clarify prior guidance or requirements issued through ACLs or ACINs, and to promote uniform application of ICWA.

COST ESTIMATE

1. Costs or Savings to State Agencies: Activities related to these regulations are covered under existing state operations resources.

2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500 – 17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: The majority of these regulations are a result of AB 3176 (Chapter 833, Statutes of 2018). It was determined the newly required administrative activities would not outweigh workload reductions realized as a result of the bill. Therefore, there is no fiscal impact. Updates to county staff training are provided for in current statewide training contracts. The clarifying regulations regarding the state’s 2017 CFSR are related to activities for which the funding responsibility was realigned to counties as part of the 2011 Public Safety Realignment.
4. Federal Funding to State Agencies: The majority of these regulations are a result of AB 3176 (Chapter 833, Statutes of 2018). It was determined the newly required administrative activities would not outweigh workload reductions realized as a result of the bill. Therefore, there is no fiscal impact. Updates to county staff training are provided for in current statewide training contracts. The clarifying regulations regarding the state’s 2017 CFSR are related to activities for which the funding responsibility was realigned to counties as part of the 2011 Public Safety Realignment. Also, addressing the state’s 2017 CFSR via these regulations can indirectly impact federal funding received by the state by limiting potential future federal penalties.

LOCAL MANDATE STATEMENT

These regulations do not impose a new mandate on local agencies or on local school districts. There are no reimbursable state–mandated costs under Section 17500 et seq. of the Government Code because these regulations clarify existing practice, bring the MPP into conformity with existing federal and state law, and/or include only technical and clarifying changes.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made because the regulations only apply to public child welfare services agencies, not private businesses.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The CDSS has made an initial determination that adoption of the proposed amendments will not have an impact on the creation or elimination of jobs nor result in the elimination of existing businesses or create or expand businesses in the State of California because these regulations only incorporate existing state and federal requirements regarding county child welfare staff actions pertaining to the intake and investigation of child welfare referrals involving Indian children.

The adoption of these proposed regulations will not have any anticipated or direct impact on worker safety or the state’s environment.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS has made an initial determination that no reasonable alternatives are available because regulatory action is required by the Department’s federally required CFSR Program Improvement Plan to improve timeliness of investigation and enhance services to children and family to ensure safety. The alternative used by CDSS has been to issue ACLs or ACINs as part of its duty to inform county agencies on requirements associated with California statutes. The CDSS has concluded that compliance and implementation will be strengthened by amending and updating regulations to clarify and make specific these requirements, as required under California’s CFSR PIP.

Regulatory action is also required to comply with changes with ICWA and to the Bureau of Indian Affairs’ federal regulations, codified in 25 CFR Part

23, which clarified child–custody matters involving an Indian Child.

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

AUTHORITY AND REFERENCE CITATIONS

The Department adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific Sections 215, 224.1, 224.2, 224.3, 224.6, 290, 290.1, 290.2, 291, 292, 293, 294, 295, 297, 305.5, 306, 306.6, 309, 312, 313, 315, 319, 328, 332, 342, 361, 361.7, 388, 777, 778, 10553, 10554, 16501, and 16501.1, Welfare and Institutions Code; Section 1901 et seq. 25, United States Code (ICWA); Section 23 et seq., 25, Code of Federal Regulation (2016 BIA Final Rule), Rules 5.381, 5.481, and 5.552, California Rules of Court.

**CDSS REPRESENTATIVE
REGARDING THE RULEMAKING
PROCESS OF THE PROPOSED REGULATION**

Contact Person: Everardo Vaca (916) 657–2586
Backup: Oliver Chu (916) 657–2586

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

**CESA CONSISTENCY DETERMINATION
REQUEST FOR**

Casmalia Resources Superfund Site
2080–2021–005–05
Santa Barbara County

The California Department of Fish and Wildlife (CDFW) received a notice on June 7, 2021 that the U.S. Environmental Protection Agency (EPA) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves remediation activities at a Class I hazardous waste management

facility. Proposed activities will include, but are not limited to, soil excavation, grading, removal or capping of contaminated areas, the development of extraction wells, and the closure of contaminated ponds. The proposed project will occur at the Casmalia Resources Superfund Site located west of the City of Santa Maria in northern Santa Barbara County, California.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (BO) (Service Ref. No. 08EVEN00–2021–F–0137) in a memorandum to the EPA on June 4, 2021, which considered the effects of the proposed project on state threatened and federally endangered Santa Barbara County distinct population segment of California tiger salamander (*Ambystoma californiense*).

Pursuant to California Fish and Game Code section 2080.1, the EPA is requesting a determination that the BO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, the EPA will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF FISH AND
WILDLIFE**

**CESA CONSISTENCY DETERMINATION
REQUEST FOR**

Paynes Creek Bend Water Users Fish
Passage Restoration Project
2080–2021–006–01
Tehama County

The California Department of Fish and Wildlife (CDFW) received a notice on June 4, 2021 that Trout Unlimited proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves restoring fish passage at the Bend Water User’s diversion facilities and addressing mortality associated with the unscreened irrigation ditch. Proposed activities will include, but are not limited to, the replacement of a flashboard diversion dam with improved fish passage facilities including installation of a roughened rock ramp and an on–river cone screen. The proposed project will occur the Project is located on Paynes Creek, approximately 2.5 miles upstream of the confluence with the Sacramento River, in Tehama County, California.

The National Marine Fisheries Service (Service) issued a federal programmatic biological opinion

(BO)(Service Ref. No. WCR–2017–8532) in a memorandum to the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration (NOAA) Restoration Center on August 31, 2018, which considered the effects of the proposed project on state and federally endangered Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*), state and federally threatened Central Valley spring–run Chinook salmon (*O. tshawytscha*), federally threatened California Central Valley steelhead (*O. mykiss*), and federally threatened Southern Distinct Population Segment of North American green sturgeon (*Acipenser medirostris*). In an email dated May 28, 2021, the NOAA Restoration Center determined that the Paynes Creek Bend Water Users Fish Passage Restoration Project (SPK–2019–00259) fits within the scope of the programmatic BO.

Pursuant to California Fish and Game Code section 2080.1, Trout Unlimited is requesting a determination that the BO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, Trout Unlimited will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
State Route (SR) 162 Butte City
Bridge Replacement Project
2080–2021–007–02
Glenn County**

The California Department of Fish and Wildlife (CDFW) received a notice on June 4, 2021 that the California Department of Transportation (Caltrans) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves preserving and extending the useful life of the existing roadway throughout the project limits and to replacing the existing Sacramento River Bridge and Viaduct (Bridge No. 11–0017) to meet current design standards. Proposed activities will include, but are not limited to, dewatering activities; removal of debris and sediment; pile driving; placement of cofferdams or sediment barriers; vegetation removal; trestle installation; and the construction of new ditches

and culverts. The proposed project will occur on the Sacramento River Butte City Bridge (Bridge No. 11–001 7) and the connecting viaduct located at river mile 168.5 on State Route 162 in Glenn County, California at post mile 76.3–78.6 in the Butte City and Princeton 7.5 Quadrangles.

The National Marine Fisheries Service (Service) issued a federal biological opinion (BO)(Service Ref. No. ECO # WCRO–2021–00556) in a memorandum to Caltrans on May 17, 2021, which considered the effects of the proposed project on state and federally endangered Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*), state and federally threatened Central Valley spring–run Chinook salmon (*O. tshawytscha*), federally threatened California Central Valley steelhead (*O. mykiss*), and federally threatened Southern Distinct Population Segment of North American green sturgeon (*Acipenser medirostris*).

Pursuant to California Fish and Game Code section 2080.1, Caltrans is requesting a determination that the BO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

**PROPOSED PROJECT ON A FULLY
PROTECTED SPECIES
Reestablishment of Unarmored
Threespine Stickleback and Southern Mountain
Yellow–legged Frog at Bluff Lake
San Bernardino County**

The Department of Fish and Wildlife (CDFW) received a project proposal from the Wildlands Conservancy requesting authorization to take the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), a fully protected fish, in an effort to recover fully protected, threatened, or endangered species. The unarmored threespine stickleback is also listed as endangered under the California Endangered Species Act and the federal Endangered Species Act.

The Wildlands Conservancy proposes to facilitate the release of Covered Species into Bluff Lake and provide for Covered Species management and monitoring. CDFW and the U.S. Fish and Wildlife Service will be primarily responsible for efforts to

reestablish the unarmored threespine stickleback on the site. Proposed activities will include, but are not limited to, continuance of ranger patrols to manage recreational activities at the lake; management of aquatic vegetation and non-native animals; installation of a floating dock to replace of an existing a poorly defined canoe and kayak launch site, and the restoration of the adjacent Siberia Creek. The proposed project will occur at the Bluff Lake Reserve, a 60-acre site located in the San Bernardino Mountains, south of Big Bear Lake near Mill Creek Road. CDFW intends to issue, under specified conditions, a Restoration Management Permit (RMP) to authorize applicant to carry out the proposed project.

Pursuant to California Fish and Game Code section 5515(a)(1), CDFW may authorize take of fully protected fish after 30 days' notice has been provided to affected and interested parties through publication of this notice. If CDFW determines that the proposed project is consistent with the requirements of Section 5515 for take of fully protected fish, it may issue the authorization in the form of an RMP on or after July 19, 2021 for an initial and extendable term of 30 years.

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED PROJECT ON A FULLY PROTECTED SPECIES

Redwood Rising Ecosystem Restoration Program: Greater Mill Creek and Greater Prairie Creek Ecosystem Restoration Project
Del Norte and Humboldt Counties

The Department of Fish and Wildlife (CDFW) received a project proposal from the California Department of Parks and Recreation (State Parks) and the National Park Service (NPS) requesting authorization to take golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*), fully protected birds, and ring-tailed cat (ringtail) (*Bassariscus astutus*), a fully protected mammal, in an effort to recover fully protected, threatened, or endangered species.

State Parks and NPS propose to complete vegetation management, aquatic restoration, and road removal activities over 34,080 acres in the greater Mill Creek area. State Parks and NPS also propose to restore approximately 9,200 acres of the lower Prairie Creek sub-basin (major tributary to Redwood Creek) by thinning and yarding second growth forests to enhance late seral characteristics, removing old logging roads to reduce sediment sources, and enhancing aquatic habitat by placing large wood in streams and planting native vegetation in riparian zones. The proposed

project will occur withing Redwood National and State Parks in Del Norte and Humboldt Counties in California. CDFW intends to issue, under specified conditions, a Restoration Management Permit (RMP) to authorize applicant to carry out the proposed project.

Pursuant to California Fish and Game Code sections 3511 (a)(1) and 4700(a)(1), CDFW may authorize take of fully protected birds and mammals after 30 days' notice has been provided to affected and interested parties through publication of this notice. If CDFW determines that the proposed project is consistent with the requirements of Sections 3511 and 4700 for take of fully protected birds and mammals, it may issue the authorization in the form of an RMP on or after July 19, 2021.

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED PROJECT ON A FULLY PROTECTED SPECIES

Bull Creek Hamilton Reach Instream and Floodplain Habitat Restoration Project
Humboldt County

The Department of Fish and Wildlife (CDFW) received a project proposal from the California Department of Parks and Recreation (State Parks) requesting authorization to take American peregrine falcon (*Falco peregrinus anatum*), a fully protected bird, in an effort to recover fully protected, threatened, or endangered species.

State Parks proposes to restore floodplain habitat along the Hamilton Sub-reach of Bull Creek. Design objectives include: (1) remediate legacy effects of the sediment aggradation lingering from the catastrophic 1955 and 1964 floods; (2) restore and expand summer in-channel and winter off-channel rearing habitat; (3) increase large wood and wood jams to promote pool habitat creation and sediment sorting; and (4) promote riparian forest regeneration to alleviate water temperature impairment. Proposed activities will include, but are not limited to, sediment removal, grading, and recontouring of the floodplain; installation of large wood structures; planting of native riparian vegetation; and restoration of prairie habitat. The proposed project will occur on the Hamilton Reach of Bull Creek which begins approximately 500 feet upstream of the County Bridge (RM 6.1) and extends for 1450 feet. Bull Creek is the northernmost tributary to the South Fork Eel River, joining the river approximately 1.9 miles upstream from the South Fork Eel and Mainstem Eel confluence, near the town of Weott in Humboldt County, California. CDFW intends to issue, under specified conditions, a

Restoration Management Permit (RMP) to authorize applicant to carry out the proposed project.

Pursuant to California Fish and Game Code section 3511 (a)(1), CDFW may authorize take of fully protected birds after 30 days' notice has been provided to affected and interested parties through publication of this notice. If CDFW determines that the proposed project is consistent with the requirements of Section 3511 for take of fully protected birds, it may issue the authorization in the form of an RMP on or after July 19, 2021 for an initial and extendable term of 3 years.

DEPARTMENT OF FISH AND WILDLIFE

**PROPOSED PROJECT ON A FULLY PROTECTED SPECIES
Santa Clara River and Coast Project
Ventura County**

The Department of Fish and Wildlife (CDFW) received a project proposal from the Nature Conservancy (TNC) requesting authorization to take the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), a fully protected fish, and American peregrine falcon (*Falco peregrinus anatum*), white-tailed kite (*Elanus leucurus*) and California least tern (*Sternula antillarum browni*), fully protected birds, in an effort to recover fully protected, threatened, or endangered species. The unarmored threespine stickleback and the California least tern are also both listed as endangered under the California Endangered Species Act and the federal Endangered Species Act.

TNC proposes to enhance and restore jurisdictional and riparian areas within TNC owned properties to a more natural state and habitat. Proposed activities will include, but are not limited to, removal of trash and debris, native re-vegetation, invasive vegetation removal, and re-creation of natural and topographical functions. The proposed project will occur at several properties owned by the TNC located at various areas within Ventura County, mainly within the Santa Clara River watershed. CDFW intends to issue, under specified conditions, a Restoration Management Permit (RMP) to authorize applicant to carry out the proposed project.

Pursuant to California Fish and Game Code section 5515(a)(1) and 3511 (a)(1), CDFW may authorize take of fully protected fish and birds after 30 days' notice has been provided to affected and interested parties through publication of this notice. If CDFW determines that the proposed project is consistent

with the requirements of Sections 5515 and 3511 for take of fully protected fish and birds, it may issue the authorization in the form of an RMP on or after July 19, 2021.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

PUBLIC NOTICE REQUIREMENT FOR ISSUANCE OF TREATED WOOD WASTE VARIANCES

The week of April 12, 2021, the Department of Toxic Substances Control (DTSC) issued variances for the management of treated wood waste. The variances were issued pursuant to Health and Safety Code section 25143(b)(1) and California Code of Regulations, title 22, section 66260.210.

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

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

Recipients of Large Quantity Generator/ Self-transporter Variances

- TWW-2021-LG-00233, County of San Diego, 116 5th Street, Ramona, CA 92065
- TWW-2021-LG-00239, County of San Diego, 11970 Singer Lane, Spring Valley, CA 91978
- TWW-2021-LG-00242, Los Angeles County Sanitation Districts, 3001 Scholl Canyon Road, Glendale, CA 91206; 9530 Garfield Avenue, South Gate, CA 90280; 2808 Workman Mill Road, Whittier, CA 90601; 9770 Washburn Road, Downey, CA 90241

Recipients of Small Quantity Generator/ Self-transporter Variances

- TWW-2021-SG-00275, East Bay Municipal Utility District, 4700 STONY CREEK RD, IONE, CA 95640; 1804 WEST MAIN STREET, STOCKTON, CA 95203; 5601 OAKPORT STREET, OAKLAND, CA 94621
- TWW-2021-SG-00276, Prime West Investments, LLC, 1501 Northgate Boulevard, Sacramento, CA 95815
- TWW-2021-SG-00286, Shea Homes, Pine Creek, Rice Ranch, Tract 14805, Orcutt, CA

93455; Monarch Dunes, Tract 2341, Nipomo, CA 93444

- TWW-2021-SG-00320, City of Cupertino, 10555 Mary Avenue, Cupertino, CA 95014

Recipients of Transporter Variances

- TWW-2021-TR-00173, K&D Landscaping, Inc., 62 Hangar Way, Watsonville, CA 95076
- TWW-2021-TR-00222, Cypress Coast Fence, 836 Walker Street, Watsonville, CA 95076
- TWW-2021-TR-00289, PSC Industrial Outsourcing, LP, 2050 West Fremont Street, Stockton, CA 95203
- TWW-2021-TR-00299, Coastal Rolloff Services, 4388 Old Santa Fe Road, San Luis Obispo, CA 93401
- TWW-2021-TR-00324, Steve's Home Repairs, 1932 Larchmont Circle, Fairfield, CA 94534
- TWW-2021-TR-00333, Reynega Transportation, 11721 Whittier Boulevard #560, Whittier, CA 90601
- TWW-2021-TR-00338, Ferina Trucking, Inc., P.O. Box 451, Penngrove, CA 94951
- TWW-2021-TR-00342, Bodas Construction, 625 Miramontes, #201, Half Moon Bay, CA 94019
- TWW-2021-TR-10333, Manzoni Trucking & Excavating, Inc., 27500 Skaggs Island Road, Sonoma, CA 95476

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

**DEPARTMENT OF HEALTH
CARE SERVICES**

FINAL RULES, CMS-2249-F, REQUIRE
HOME AND COMMUNITY BASED (HCB)
SETTING COMPLIANCE STATEWIDE
TRANSITION PLAN RESUBMISSION

Purpose:

The California Department of Health Care Services (DHCS) gives notice that the revised Statewide Transition Plan (STP) will be submitted for approval to the Centers for Medicare and Medicaid Services (CMS) in summer 2021. The Community-Based Adult Services (CBAS) Transition Plan is included as Attachment #1 to the STP.

The revised STP describes California's current efforts, and actions the state proposes to ensure Home and Community-Based Services (HCBS) waiver providers achieve compliance with the federal HCB settings rule. DHCS, sister divisions, and stakeholders

have updated the STP based on CMS guidance, continued work by DHCS, and its sister divisions. More information about the HCBS Settings Final Rule is available at: CMS HCBS Guidance.

Information:

DHCS invites all interested parties to review the STP along with the CBAS Transition Plan and provide public input. The public comment period will begin June 19, 2021, and end July 19, 2021. Public comments on the STP can be submitted through the Public Comment Form, which is available below and on the DHCS STP website. The DHCS website will also provide a link to the STP, which will include the CBAS Transition Plan.

Public comments should be submitted through the following routes:

- Online at: Public Comment for California's Statewide Transition Plan
- By US Mail:
Department of Health Care Services
Integrated Systems of Care Division
1501 Capitol Avenue, MS 4502
P.O. Box 997437
Sacramento, CA 95899-7413

For further information on the STP contact:

- By Email: STP@dhcs.ca.gov
- By US Mail:
Department of Health Care Services
Integrated Systems of Care Division
1501 Capitol Avenue, MS 4502
P.O. Box 997437
Sacramento, CA 95899-7413

For further information on the CBAS Transition Plan attachment contact:

- By Email: cbascda@aging.ca.gov
- By Phone: 916-419-7545
- By US Mail:
California Department of Aging
1300 National Drive, Suite 200
Sacramento, CA 95834

**RULEMAKING PETITION
DECISION**

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

**NOTICE OF DECISION ON PETITION TO
REPEAL REGULATIONS
(Gov. Code, § 11340.7)**

PETITIONERS

Anne Marie Schubert, District Attorney of Sacramento, and other elected District Attorneys.

CONTACT PERSON

Please direct inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, by email to RPMB@cdcr.ca.gov, or by phone to (916) 445-2269.

AVAILABILITY OF PETITION

The petition to repeal regulations is available upon request from the Department's contact person.

AUTHORITY

The Public Safety Rehabilitation Act of 2016, overwhelmingly approved by California voters on November 8, 2016, amends the California Constitution to give the California Department of Corrections and Rehabilitation (CDCR or Department) broad powers to promulgate regulations that award credits earned for good conduct and approved rehabilitation or educational achievements. (Cal. Const., art. I, § 32, subdivision (a)(2).) Penal Code section 5058.3 authorizes the Department to promulgate emergency regulations based on the Secretary's certification that the regulations are necessary in furtherance of the Department's operational needs.

**PROVISIONS OF CALIFORNIA CODE OF
REGULATIONS AFFECTED**

Title 15, Crime Prevention and Corrections, Division 3, Adult Institutions, Programs and Parole.

SUMMARY OF PETITION

Petitioners request the Department repeal the Minimum Security Credit and Inmate Credit

Earning emergency regulations filed with the Office of Administrative Law (OAL) on April 8, 2021, and approved by OAL on April 28, 2021. They assert the Department adopted these regulations without complying with Penal Code section 5058.3's Certification of Operational Needs requirement for promulgating regulations on an emergency basis. Petitioners contend the Department's certification lacks a description of the underlying facts and an explanation of the operational need to justify the emergency rulemaking procedure. Petitioners also contend the emergency regulations do not relate to the Department's operational needs or its circumstances, and absent a demonstrated operational need, the Department must comply with the rulemaking procedures of Government Code sections 11346 or 11346.1, subdivision (b).

DEPARTMENT DECISION

Petitioners' request is denied. The Department submitted the Minimum Security Credit and Inmate Credit Earning emergency regulations to OAL in compliance with Penal Code section 5058.3, which OAL reviewed and approved.

Penal Code section 5058.3 empowers the Department to adopt emergency regulations for operational needs without the usual showing of an emergency required of other state agencies. Under this law, the Department certifies in a statement filed with OAL that "operational needs of the department require adoption, amendment, or repeal of the regulation on an emergency basis," and must include "the underlying facts and an explanation of the operational need to use the emergency rulemaking procedure." (Pen. Code, § 5058.3, subdivision (a)(2).) The Department's regulatory filing complied with section 5058.3.

Secretary Kathleen Allison stated in the Certification of Operational Necessity and Certification of Public Safety Compliance that article I, section 32 of the California Constitution (as enacted by Proposition 57) grants the Department broad powers to promulgate regulations governing the award of credits to state inmates for good conduct and approved rehabilitative or educational achievements. The certifications state that the Department's operational needs require the immediate amendment of the California Code of Regulations as set out in the Minimum Security Credit and Inmate Credit Earning emergency regulations. Additionally, the Secretary explained that the Governor directed the Department in the 2020-2021 Budget Summary to make prospective changes to the award of good conduct credits for state inmates in support of the Department's public safety mission to rehabilitate inmates and support their release into the community—an essential function of

the Department. The Department further explained the underlying facts and direct operational need supporting the emergency regulations in the Finding of Emergency and the Addendum to the Finding of Emergency that accompanied the Certification of Operational Needs. There, the Department explained the emergency regulations “will improve inmate behavior and reduce violence in prisons,” “mak[e] conditions safer for inmates and departmental staff,” “will benefit our criminal justice system and communities by continuing to create incentives and opportunities for inmates to positively program,” and will “have a positive impact on the Health and Welfare of California residents, worker safety, and the State’s environment by reducing prison overcrowding.”

Petitioners’ assertion that the public was denied an adequate opportunity to provide input or comment on the emergency regulations is without merit. Penal Code section 5058.3’s exception for the Department’s emergency rulemaking differs from the usual emergency rulemaking procedure by enlarging the time for regulatory approval and public comment. For instance, it *extends* OAL’s review and approval period from 10 days to 20 (Pen. Code, § 5058.3, subdivision (a) (3); Gov. Code, § 11349.6, subdivision (b)), and *extends* the public comment period from the usual 5 days to 10 (Pen. Code, § 5058.3, subdivision (a)(3); Gov. Code, § 11349.6, subdivision (b)). In addition, during the effective period provided by OAL’s approval of the emergency regulations, the Department will provide public notice, accept public comments for a minimum of 45 days, and hold a public hearing. This process provides petitioners, as well as any other member of the public, ample opportunity to provide input and comment on the Minimum Security Credit and Inmate Credit Earning emergency regulations.

Exercising the Department’s constitutional authority over the award of credits, complying with the Governor’s directive, administering inmate credits and discipline, and managing prison safety and overcrowding are essential aspects of the Department’s public safety operations and are well within the type of “operational needs” that Penal Code section 5058.3 contemplates. The Department satisfied the statutory requirements for its emergency rulemaking here. (Pen. Code, § 5058.3, subdivision (a)(2).) For these reasons, the Department denies in whole petitioners’ request to repeal the Minimum Security Credit and Inmate Credit Earning emergency regulations.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE SECRETARY OF STATE

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

Board of Accountancy
 File # 2020-1222-01
 AB 2138/Disciplinary Guidelines

In this regular rulemaking by the Board of Accountancy (the “Board”), the Board is amending criteria to be used in determining whether a crime, act, or professional misconduct is substantially related to the qualifications, functions, or duties of a certified public accountant or public accountant. The Board is also amending criteria to be used in determining whether an applicant or licensee has made a showing of rehabilitation related to a crime, act, or professional misconduct when considering denial, revocation, or suspension of a license. Lastly, the Board is adopting criteria to be used in considering whether specified crimes are directly and adversely related to the qualifications, functions, or duties of a certified public accountant. These changes implement amendments to the Business and Professions Code made by Assembly Bill 2138 (Stats. 2018, ch. 995).

Title 16
 Adopt: 99.2
 Amend: 98, 99, 99.1
 Filed 06/04/2021
 Effective 06/04/2021
 Agency Contact:
 Dominic Franzella (916) 263-3680

Board of Barbering and Cosmetology
 File # 2020-1229-02
 Substantial Relationship; Rehabilitation Criteria

The Board of Barbering and Cosmetology filed this action to amend two regulations by adopting and

amending criteria to be used in determining whether a crime, act, or professional misconduct is substantially related to the qualifications, functions, or duties of a licensee, or when a licensee has made a showing of rehabilitation related to a crime, act, or professional misconduct when the board considers denial, suspension, revocation, or reinstatement of a license. The amendments implement amendments to the Business and Professions Code made by A.B. 2138 (Stats.2018, ch. 995).

Title 16
 Amend: 970, 971
 Filed 06/09/2021
 Effective 06/09/2021
 Agency Contact: Allison Lee (916) 928-6810

Board of Equalization
 File # 2021-0422-02
 Eminent Domain Base Year Value Transfer

This action amends the regulation regarding requests for exclusion from reassessment of property taken by eminent domain proceedings, public acquisitions, or judgments of inverse condemnation in order to align with Revenue and Taxation Code section 68, as modified by Senate Bill 803 (Stats. 2015, ch. 454).

Title 18
 Amend: 462.500
 Filed 06/08/2021
 Effective 10/01/2021
 Agency Contact: Sonya Yim (949) 224-4804

Board of Pharmacy
 File # 2021-0427-01
 HIV Preexposure and Postexposure Prophylaxis
 Furnishing

This certificate of compliance rulemaking by the California Board of Pharmacy makes permanent, with modifications, regulations originally adopted in emergency action 2020-0420-02E and readopted in emergency action 2021-0216-01 relating to the independent initiation and furnishing of HIV preexposure and postexposure prophylaxis to patients as authorized by Statutes 2019, chapter 532 (SB 159).

Title 16
 Adopt: 1747
 Filed 06/08/2021
 Effective 06/08/2021
 Agency Contact: Lori Martinez (916) 518-3078

Bureau of Automotive Repair
 File # 2021-0525-01
 Consumer Assistance Program Updates

This emergency rulemaking action by the Bureau of Automotive Repair readopts OAL File No.

2020-0820-01ER, which increased repair assistance contribution limits for income eligible vehicle owners, amended repair assistance requirements, restructured consumer copayments for repairs, and amended Consumer Assistance Program eligibility requirements.

Title 16
 Amend: 3394.3, 3394.4, 3394.6
 Filed 06/04/2021
 Effective 06/30/2021
 Agency Contact: Holly O'Connor (916) 464-3424

Department of Financial Protection and Innovation
 File # 2021-0225-01
 Regulations for Agent of Payee Exemption in Money
 Transmission Act

This action by the Department of Financial Protection and Innovation adopts regulations to clarify the scope of the agency of payee exemption under the Money Transmission Act (Fin. Code, sec. 2000 et seq.).

Title 10
 Adopt: 80.126.10, 80.126.20, 80.126.30, 80.128, 80.128.10, 80.130
 Filed 06/07/2021
 Effective 10/01/2021
 Agency Contact:
 Pamela Hernandez (916) 445-7205

Department of Housing and Community
 Development
 File # 2021-0427-03
 Income Limits (Title 25, Section 6932)

This regulatory action by the Department of Housing and Community Development (the "Department") is the annual update of the income limits for households of varying sizes used to determine eligibility for Department programs. The Department transmitted this action to the Office of Administrative Law ("OAL") for filing with the Secretary of State and publishing in the California Code of Regulations pursuant to Health and Safety Code section 50093. This filing is exempt from the rulemaking requirements of Articles 5 and 6 of Chapter 3.5 of the Administrative Procedure Act, and, therefore, is not subject to OAL's review. (Health and Saf. Code, sec. 50093.) These regulations are effective April 27, 2021 — the date the regulations were filed with OAL — pursuant to Health and Safety Code section 50093.

Title 25
 Adopt: 6932
 Repeal: 6932
 Filed 06/04/2021
 Effective 04/27/2021
 Agency Contact: Tim Brinkhuis (916) 776-7707

Fair Political Practices Commission
 File # 2021-0524-02
 CARS- Cal Access Replacements

This action amends, adopts, and repeals regulations concerning campaign and lobbyist disclosures and reporting requirements. OAL's review of FPPC proposed regulations is limited to the provisions of the APA as it existed on June 4, 1974, when voters adopted the California Political Reform Act. (Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer, (April 27, 1992, C010924 [nonpub. opn.]). Thus, OAL's review is limited to determining if the proposed regulations comply with "the form and style prescribed by the Secretary of State. If the department approves the regulation or order of repeal for filing, it shall endorse on the certified copy thereof its approval for filing and shall transmit such copy to the Secretary of State." (Former Gov. Code, sec. 11380.2, repealed by Stats. 1979, ch. 567, Section 2.)

Title 02
 Adopt: 18422.5
 Amend: 18402.1, 18406, 18410, 18465, 18601, 18611, 18613, 18616, 18616.4
 Repeal: 18422.5, 18465.1
 Filed 06/07/2021
 Effective 07/07/2021
 Agency Contact: Daniel Vo (916) 322-5660

Osteopathic Medical Board of California
 File # 2020-1223-01
 Notice to Consumers

This action by the Osteopathic Medical Board of California adopts a regulation requiring licensed osteopathic physicians and surgeons to notify consumers of their licensure by the board and that consumers can check the status of a license and file a complaint against a licensee.

Title 16
 Adopt: 1606
 Filed 06/08/2021
 Effective 10/01/2021
 Agency Contact: Mark Ito (916) 928-7639

**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.