



# California Regulatory Notice Register

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JULY 2, 2021

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

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

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

State Agency: Legislative Counsel Bureau  
Department of Housing and  
Community Development

A written comment period has been established commencing on July 2, 2021 and closing on August 16, 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 16, 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. OFFICE OF THE STATE PUBLIC DEFENDER

### NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE OFFICE OF THE STATE PUBLIC DEFENDER

NOTICE IS HEREBY GIVEN that the Office of the State Public Defender, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on July 2, 2021 and closing on August 16, 2021. All inquiries should be directed to the contact listed below.

The Office of the State Public Defender proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include: (1) Updating the designated positions to include new positions and/or those that have changed since the last conflict-of-interest code, and (2) Updating designated positions to include classification title changes. Each of the following positions is involved as a State employee, at other than a clerical level, in the function of negotiating or signing contracts awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiations, signing or making decisions on contracts executed pursuant to Section 10122 of Public Contract Code.

#### EXECUTIVE OFFICE

1. The Executive Director is assigned to the disclosure Category 1,3. The Executive Director reports to the State Public Defender.
2. The Assistant Chief Counsel is assigned to disclosure Category 1,3. The Assistant Chief Counsel reports to the State Public Defender.
3. The Executive Manager & EEO Officer is assigned to disclosure Category 1,3. The Executive Manager & EEO Officer reports to the State Public Defender.

#### LEGAL OFFICE

1. Attorney (All Levels) is assigned to the disclosure Category 1. The Attorney (All Levels) reports to the Supervising Deputy State Public Defender.
2. Legal Counsel is assigned to the disclosure Category 1. Legal Counsel reports to the Supervising State Public Defender. The Office of the State Public Defender is no longer utilizing the Legal Counsel classification.

Our list of designated filers has been updated to represent changes to the staff approving purchases and contracts. All of these staff solicit bids and have a role in the final decisions of which vendors to use for purchases and/or contracts.

- Executive Office
  - Executive Director
  - Assistant Chief Counsel
  - Executive Manager & EEO Officer
- Legal Office
  - Attorney (All Levels)
  - Legal Counsel

Information on the code amendment is available on the agency's intranet site under Administration Memo 21-009.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than August 16, 2021, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than August 2, 2021.

The Office of the State Public Defender has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Twanna Moore, Human Resources Analyst by telephone (916) 322-7043, or by e-mail at [Twanna.Moore@ospd.ca.gov](mailto:Twanna.Moore@ospd.ca.gov).

**TITLE 14. SAN FRANCISCO BAY  
CONSERVATION AND DEVELOPMENT  
COMMISSION**

NOTICE OF PROPOSED RULEMAKING TO  
AMEND COMMISSION REGULATIONS FOR  
IMPLEMENTATION OF THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT  
TITLE 14, DIVISION 5, CHAPTER 15

**PUBLIC HEARING**

The San Francisco Bay Conservation and Development Commission (“Commission”) will hold a public hearing on the subject of this Notice of Proposed Rulemaking on August 19, 2021 at its regularly scheduled meeting, which will begin at 1:00 p.m., and will be held online and by teleconference due to the COVID-19 public health orders and in accordance with the Governor’s Executive Order No. N-08-21 issued on June 11, 2021. The hearing will concern proposed changes to the Commission’s regulations for implementation of the California Environmental Quality Act (“CEQA”) that are codified at Title 14 of the California Code of Regulations, Division 5, Chapter 15. At the hearing, any person may present comments, arguments, or statements orally or in writing relevant to the proposed action described in the Informative Digest (below). Information regarding how to access the August 19, 2021, Commission meeting online or by teleconference will be provided in a meeting notice and agenda provided to interested parties and posted on the Commission’s website not less than ten days prior to the meeting date.

Following the public hearing, the Commission may adopt the proposal substantially as described below or may modify the proposal. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for at least 15 days prior to its adoption from the person designated in this Notice as the Contact Person. Any proposed modifications will be mailed to those persons who submit written comments, provide oral comments, or have requested notification of any changes to the proposal. Please notify the Commission to receive a meeting notice and any notices of change to the hearing date (see Contact Person, below).

**WRITTEN COMMENT PERIOD**

Any person or organization may submit written comments on the proposed regulatory action. The written comment period closes at 5 p.m. on August 19, 2021. The Commission will only consider comments

received by that time. Please submit written comments to:

Greg Scharff, Chief Counsel  
San Francisco Bay Conservation and Development  
Commission  
375 Beale Street, Suite 510  
San Francisco, California 94105  
Telephone: (415) 352-3655  
Email: [greg.scharff@bcdc.ca.gov](mailto:greg.scharff@bcdc.ca.gov)

**AUTHORITY AND REFERENCE**

Authority: Government Code Section 66632(f); and Public Resources Code Sections 21082 and 29201(e).

References: Government Code Section 66632(a); and Public Resources Code Sections 21000, 21080.4, 21080.5, 21081, 21081.6, 21082.1, 21084, 21089, 21091, 21092, 21092.2, 21104, 21153, 21166, 29202, 29502(a), and 29250(b).

**INFORMATIVE DIGEST**

The Commission is a State agency that issues permits for: (1) the placement of fill, extraction of materials worth more than \$20, or any substantial change in use of any water, land, or structure located within the area of the Commission’s jurisdiction as established under the McAteer-Petris Act (“MPA”), California Government Code sections 66600 through 66694; and (2) any development within the area of the Commission’s jurisdiction as established under the Suisun Marsh Preservation Act (“SMPA”), California Public Resources Code sections 29000 through 29612. The Commission also considers: (1) requests to amend the San Francisco Bay Plan, including a number of special area plans, the Suisun Marsh Protection Plan, and the Suisun Marsh Local Protection Program; and (2) appeals of any action by certain local government agencies on an application for a marsh development permit under the SMPA.

The Commission has adopted a set of regulations that are codified at Title 14 of the California Code of Regulations, Division 5, Chapter 15, sections 11500-11561, for implementation of CEQA. The Commission is proposing amendments to these regulations.

In summary, the proposed amendments to the regulations governing when the Commission is the CEQA lead agency would:

- Add a regulation to address the Commission’s obligations, upon completion of an environmental assessment, to consult with other public agencies having jurisdiction by law with respect to the proposed activity or which exercise authority over resources that may be affected by the proposed activity.

- Add a regulation to address how an environmental assessment will be made available for public review, clarify the requirement to prepare written responses to comments, and address how the written responses to comments will be made available prior to the Commission’s consideration of a proposed activity.
- Add a regulation to: (1) address the Commission’s consideration and approval of an environmental assessment; (2) identify the documents that comprise the final environmental assessment; (3) address the findings to be made by the Commission if an environmental assessment identifies one or more significant environmental effects of a proposed activity; and (4) provide for adoption of a program for monitoring or reporting on revisions the Commission has required in a project or the measures it has imposed as conditions of approval to mitigate or avoid significant environmental effects.
- Add a regulation to restate the requirements, which are currently set forth in the Commission’s permitting and planning regulations, to file a notice of decision on a proposed activity with the Secretary of the Resources Agency.
- Clarify the two possible arrangements for retaining a consultant, when necessary and as selected by the Executive Director, to prepare an environmental assessment; delete the existing requirement that a consultant establish a fixed cost for preparation of an environmental assessment; and clarify that, notwithstanding the fees and costs estimated by the selected consultant, the applicant shall be responsible for all consultant fees and costs to prepare the environmental assessment.
- Confirm that before using an environmental assessment prepared by a consultant, the Commission shall subject the environmental assessment to the agency’s own independent review and analysis.
- Eliminate existing provisions that establish nominal fees that are intended, but are insufficient, to cover the Commission’s costs to prepare an environmental assessment, and instead authorize the Commission to assess fees sufficient to recover its full costs to prepare an environmental assessment. Provide for monthly billing of costs incurred by the Commission and staff for preparation of an environmental assessment and require the applicant to pay such bills within 30 days of receipt.
- Acknowledge the duty of the Commission to respond to any request for consultation by the lead agency to ensure that the lead agency prepares an environmental document that meets the informational needs of the Commission.
- Delete as unnecessary and burdensome, to the applicant and staff, the existing requirement that an applicant prepare a written summary of any environmental document prepared by the lead agency.
- Delete as unnecessary and burdensome, to the Commission and staff, the existing requirement that the Executive Director include any final environmental document that is less than 10 pages in length, or a summary thereof if the document is longer than 10 pages in length, with the staff summary of the permit application. Instead, consistent with current practice, require that the Executive Director (through staff) consider the environmental effects of the proposed activity as described in any environmental document prepared by the lead agency and summarize the environmental information contained therein as relevant to the Commission’s statutory responsibilities in the application summary and/or staff recommendation on the permit application or in the staff planning report on a planning matter.
- Add provisions to: (1) address the findings to be made by the Commission if the lead agency’s environmental document identifies one or more significant environmental effects of a proposed activity; and (2) provide for adoption of a program for monitoring or reporting on revisions the Commission has required in a project or the measures it has imposed as conditions of approval to mitigate or avoid significant environmental effects.

*Objectives and Anticipated Benefits of the Proposed Amendments*

The objectives of the proposed amendments are to improve the clarity of the Commission’s regulations for implementing CEQA and to update the regulations to incorporate statutory changes that have been made to CEQA since the Commission’s regulations were last amended. The proposed amendments will also clarify that the Commission is authorized to recover its full costs to prepare an environmental assessment when it is the CEQA lead agency.

*Evaluation of Inconsistency/Incompatibility with Existing State Regulations*

The Commission’s regulations are the only state regulations for implementation of CEQA in connection with the Commission’s consideration of applications for permits or for amendments to Commission plan

In summary, the proposed amendments to the regulations governing when the Commission is a CEQA responsible agency would:

documents under the MPA or SMPA. Therefore, the proposed amended regulations are neither inconsistent nor incompatible with existing state regulations.

*No Comparable Federal Statutes or Regulations*

There are no federal statutes or regulations applicable to the MPA, SMPA, or consideration of applications for Commission permits or for amendments to Commission plan documents. Therefore, neither the Commission's existing regulations nor the proposed amendments differ from an existing comparable federal statute or regulation.

DETERMINATIONS REGARDING THE PROPOSED ACTION

The Commission has made the following determinations or initial determinations:

*Mandate imposed on local agencies or school districts by proposed amendments:* None.

*Cost or savings to any state agency:*

The proposed amendments will not impose any direct or indirect costs on any state agency. The proposed amendments will authorize the Commission to recover its full costs to prepare an environmental assessment. The dollar value of this benefit to the state, in terms of recovered costs for staff time to prepare an environmental assessment, is estimated to range from approximately \$15,000 to \$40,000 per project, depending on the complexity of the project and its potential environmental impacts, and would average approximately \$25,000 per project.

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

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

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

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

*Cost impacts on a representative private person or business:* The proposed amendments will not impose any direct or indirect costs on individuals. With one exception, the proposed amendments will not impose any direct or indirect costs on any businesses. The exception is that the proposed amendments will authorize the Commission to recover its full costs to prepare an environmental assessment in connection with an application by a business for an amendment to a Commission plan document or for a permit where the local agency granting the local discretionary approval has not previously acted as lead agency and prepared a CEQA environmental review document. The estimated costs of Commission staff time to prepare an environmental assessment, which the

Commission would be authorized to recover from applicants under the proposed amendments, would range from approximately \$15,000 to \$40,000 per project, depending on the complexity of the project and its potential environmental impacts, and would average approximately \$25,000 per project.

*Results of the Economic Impact Assessment:*

The proposed amendments to the Commission's regulations for implementing CEQA will not create or eliminate jobs within California, create new businesses or eliminate existing businesses within California, or affect the expansion of businesses currently doing business within California. With one exception, the proposed amendments will not impose any direct or indirect costs on individuals, businesses, local government agencies, or state agencies. The exception is that the proposed amendments will eliminate existing provisions that establish nominal fees that are intended, but are insufficient, to recover the Commission's costs to prepare an environmental assessment when it is acting as the CEQA lead agency and instead add a provision to authorize the Commission to assess fees sufficient to recover its full costs to prepare an environmental assessment.

The proposed amendments authorizing the Commission to assess fees to recover its full costs to prepare an environmental assessment will not result in substantial costs to businesses or local government agencies and are not expected to result in any costs to individuals, small businesses, or state agencies. The proposed amendments will not result in substantial costs to business or local governments, in part, because the Commission's planning regulations (specifically 14 C.C.R. § 11008(a)) currently authorize the Commission to recover its full costs of processing a plan amendment (except for a plan amendment to eliminate a park priority use designation) or other plan document, including the costs to prepare an environmental assessment associated with the plan amendment. The proposed amendments also will not result in substantial costs to businesses or local governments because the Commission rarely (*i.e.*, less frequently than once every 10 years) acts as the CEQA lead agency (which would require it to prepare an environmental assessment) in considering a permit application.

Based on available information and estimates, the costs of Commission staff time to prepare an environmental assessment, which the Commission would be authorized to recover from applicants under the proposed amendments, would range from approximately \$15,000 to \$40,000 per project, depending on the complexity of the project and its potential environmental impacts, and would average approximately \$25,000 per project.

The benefits of the proposed amendments are primarily non-monetary. The benefits will include improved clarity and consistency in the Commission's regulations for implementing CEQA, including improved consistency in the procedures followed by the Commission when it is acting as the lead agency either for an amendment to a plan document or for a permit application. In addition, the proposed amendments will update the Commission's regulations to incorporate certain statutory changes that have been made to CEQA since the Commission's regulations were last amended, including referencing the findings to be made by the Commission in adopting an environmental assessment or approving a project. The proposed amendments will not affect and are not anticipated to benefit the general health and welfare of California residents or worker safety.

As discussed above, the proposed amendments will authorize the Commission to recover its full costs to prepare an environmental assessment. The dollar value of this benefit to the state, in terms of recovered costs for staff time to prepare an environmental assessment, is estimated to range from approximately \$15,000 to \$40,000 per project, depending on the complexity of the project and its potential environmental impacts, and would average approximately \$25,000 per project.

An analysis of economic and fiscal impacts is contained in the Economic and Fiscal Impact Statement (Form 399), including the supplement thereto.

*Significant effect on housing costs:* None.

*Business reporting requirements:* None.

*Determination of effect on small business:* The proposed amendments will not affect small business. The Commission's records reflect that a small business has never applied to the Commission for a permit or plan amendment for which the Commission has acted as the CEQA lead agency, requiring the Commission to prepare an environmental assessment, and this is not anticipated to occur in the future.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered 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 provisions of law.

Alternatives to the proposed regulatory action are described in the accompanying Initial Statement of Reasons. The Commission invites interested persons

to present comments on the proposed amendments and alternatives at the scheduled public hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

Greg Scharff, Chief Counsel  
San Francisco Bay Conservation and Development  
Commission  
375 Beale Street, Suite 510  
San Francisco, CA 94105  
Telephone: (415) 352-3655  
Email: [greg.scharff@bcdca.gov](mailto:greg.scharff@bcdca.gov)

The backup contact person for these inquiries is:

Margie Malan, Legal Secretary  
San Francisco Bay Conservation and Development  
Commission  
375 Beale Street, Suite 510  
San Francisco, CA 94105  
Telephone: (415) 352-3675  
Email: [margie.malan@bcdca.gov](mailto:margie.malan@bcdca.gov)

#### AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS TO REGULATIONS AND THE INITIAL STATEMENT OF REASONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the California Regulatory Notice Register, the rulemaking file consists of:

- (1) this Notice;
- (2) the text of the proposed amendments to the regulations, with proposed deletions shown in strikeout and proposed inserts shown in underscore;
- (3) the Initial Statement of Reasons;
- (4) the Economic and Fiscal Impact Statement (Form 399) and supplement thereto;
- (5) Staff Report on Proposed Amendments to Commission Regulations for Implementation of the California Environmental Quality Act; Recommendation to Commence the Rulemaking Process to Adopt the Proposed Amendments (March 19, 2021);
- (6) Minutes of April 1, 2021 Virtual Commission Meeting, at 1, 18-27 (agenda item 9).

Copies of these documents may be obtained from the Commission's website at [www.bcdca.gov](http://www.bcdca.gov) under

the link to Latest News. Copies may also be obtained by contacting Greg Scharff at the address, telephone number, or email address listed above.

The proposed regulations were prepared pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are non-technical and written to be easily understood by the affected parties.

**AVAILABILITY OF CHANGES OR  
MODIFIED TEXT**

After holding the public hearing and considering all timely and relevant comments, the Commission may adopt the proposed regulatory changes substantially as described in this notice. If the Commission makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as modified. Please send requests for copies of any modified regulations to Greg Scharff at the address indicated above. The Commission will accept written comments on the modified text for 15 days after the date on which the modified proposed regulations are made available.

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon the Commission's adoption of the regulations, copies of the Final Statement of Reasons may be obtained by contacting Greg Scharff at the above address.

**AVAILABILITY OF THE  
DOCUMENTS ON THE INTERNET**

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the proposed amendments to regulations (in strikeout and underlined format), as well as the Final Statement of Reasons once it is completed, can be obtained from the Commission website at [www.bcdc.ca.gov](http://www.bcdc.ca.gov).

**TITLE 15. PRISON INDUSTRY  
AUTHORITY**

**NOTICE IS HEREBY GIVEN** that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2800, 2802, 2807, 2808, and 2809 in order to implement, interpret and make specific Penal Code 2808, propose to add

section 8122 titled Employee Prohibition on Use of Nonpublic Information at Auctions, in the California Code of Regulations (CCR), Title 15, concerning the sale of surplus and discontinued goods and property by auction.

**PUBLIC HEARING**

At this time, no public hearing has been scheduled concerning the proposed regulatory action. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than August 2, 2021.

**SPECIAL ACCOMMODATION REQUEST**

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

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

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

Para solicitador estas adaptaciones especiales o servicios de idioma, puede contactar a CALPIA at (916) 358-1721 or [Roxanna.Leffel@calpia.ca.gov](mailto:Roxanna.Leffel@calpia.ca.gov) lo más pronto posible y a más tarder 10 días hábiles antes de la fecha de la audiencia de la Junta (Board).

**PUBLIC COMMENT PERIOD**

The public comment period will close on August 17, 2021, 45 days after the Publication in the Notice Register on July 2, 2021. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

**MAIL or HAND DELIVER**

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

**FAX**  
(916) 358-2709

**E-MAIL**  
[PIAregs@calpia.ca.gov](mailto:PIAregs@calpia.ca.gov)

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

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

#### CONTACT PERSONS

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

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

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

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

#### AUTHORITY AND REFERENCE

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

**Penal Code Section 2807(a):** Section 2807(a) provides that CALPIA is authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by

the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. By giving CALPIA these duties and powers by statute, rulemaking authority is implicitly delegated to adopt those rules and regulations necessary for the due and efficient exercise of a duty or power expressly granted.

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

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

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

#### INFORMATIVE DIGEST

CALPIA is conducting auctions of property of surplus and discontinued goods and property. In order to meet ethical standards, a prohibition is necessary against an employee using inside nonpublic information to obtain advantage bidding at an auction, or to assist another to do so. There must be fair and open access to the public for all auctions of CALPIA property, and this regulation provides guidance and a standard for employees.

Auctions are conducted online through the Department of General Services' (DGS) Gov Deals website for state property. DGS has told CALPIA to now sell its property directly. Assets, equipment, raw materials, goods and property are sold per the State Administrative Manual requirements.

This regulation is also important due to recent items in the news. In 2020, the National Law Journal reported the improper use of insider information for personal benefit at CalPERS. This regulation ensures that CALPIA is operating best practices to eliminate such a possibility with auctions.

In order to fully support CALPIA's purpose to operate like a private, self-sustaining business and to function safely and efficiently, the proposed amended regulation is necessary. Pursuant to Government Code section 11342.2, the proposed amendment is consistent with, and not in conflict with, PC sections 2801 through 2808. The proposed regulatory action is

reasonably necessary to effectuate the purposes of PC section 2801 through 2808.

**POLICY STATEMENT OVERVIEW**

CALPIA and the State are moving into the digital world/platform that itself is monitored. Best practices are having auctions that all parties may participate in as long as they do not have insider information. An example would be if an employee knows which lot of an item has holes in it, and bids on a different lot that does not, and that information is not listed on the surplus sale.

**Anticipated Benefits of the Proposed Regulation:**

The proposed regulatory action will promote fairness and increase transparency in government as well as provide California residents the benefit of ensuring the ethical use of auctions and sales to dispose of surplus and discontinued good and property.

**Evaluation of Inconsistency/Incompatibility with Existing Regulations:**

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

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

**Mandated by Federal Law or Regulations:**

The proposed regulations are not federally mandated.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

**Local Mandates:**

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

**Fiscal Impact Statement:**

Cost or savings to any state agency: None.

Cost to any local agency or school district that is required to be reimbursed in accordance with

Government Code Sections 17500 through 17630: None.

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

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

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

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

**Significant Statewide Adverse Economic Impact on Business:**

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

**Effect on Housing Costs:**

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

**Results of the Economic Impact Analysis/Assessment:**

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

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

**Benefits of Proposed Action:**

As stated above under the Informative Digest and Policy Statement Overview, the benefits of the regulatory action include the benefit of ensuring the ethical use of auctions and sales to dispose of surplus and discontinued goods and property.

There is no anticipated benefit to worker safety or the state’s environment by this proposed action.

Thus, this proposed action benefits the public and general welfare.

**Creation or Elimination of Jobs Within the State of California:**

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

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

This action will not create or eliminate existing jobs within the State of California. It is determined that this action has no significant adverse economic impact on

jobs within the State of California because these jobs are not affected by CALPIA's proposed regulatory changes any differently than exists presently or there is no impact on existing jobs and therefore there is no impact with the adoption of this section.

**Reports Relied Upon:**

None.

**Cost Impacts on Representative Private Persons or Businesses:**

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

**Effect on Small Businesses:**

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

**Consideration of Alternatives:**

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

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

**Availability of Statement of Reasons, Text of Proposed Regulations, and Rulemaking Documents, and Other Information upon Which the Rulemaking is Based:**

CALPIA will have the rulemaking file available for inspection and copying throughout the rulemaking process through its aforementioned contact persons at the office location identified above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and all rulemaking documents (includes Form 399 and Form 400, special notice requests).

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

**Availability of Changes to Proposed Text:**

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the PIB reviews and approves the regulations as revised. CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting CALPIA's website: [www.calpia.ca.gov](http://www.calpia.ca.gov).

**Availability of the Final Statement of Reasons:**

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

**Availability of the Documents on the Internet:**

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

**TITLE 16. BOARD OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA or Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

California Board of Accountancy  
2450 Venture Oaks Way, Suite 420  
Sacramento, CA 95833  
10:30 a.m.  
August 18, 2021

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office not later than **5:00 p.m. on August 17, 2021**, or must be received by the CBA at the hearing on August 18, 2021. The CBA, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to

those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

*Authority and Reference:* Pursuant to the authority vested by sections 5010 and 5134 of the Business and Professions Code<sup>1</sup> (BPC or Code), and to implement, interpret or make specific section 5134 of the Code, the CBA is considering changes to Section 70 of Article 10, Division 1 of Title 16 of the California Code of Regulations<sup>2</sup> (CCR) as described herein.

## INFORMATIVE DIGEST

### A. Informative Digest

The California Board of Accountancy is a licensing board within the Department of Consumer Affairs. Section 5010 authorizes the board to adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of the Accountancy Act. The CBA proposes to increase the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant, and the fee for renewal of a permit to practice as a partnership, a corporation, a public accountant, or certified public accountant described in Section 70(d) and 70(e) of the CCR and clean up existing regulation language.

Existing law establishes the CBA's required and permissible fee schedule. Section 5134 sets forth the fees, including the limits, the CBA is required to charge applicants and licensees, and requires that any fee increase be pursuant to a regulation duly adopted by the board. Section 5130 requires the CBA to charge and collect a fee from each applicant for a certified public accountant (CPA) certificate. Pursuant to Section 5134(j), the initial permit fee is the same amount as the renewal fee in effect on the last regular license renewal date before the date the permit is issued, unless the permit is issued one year or less before it will expire; if the permit is issued one year or less before it will expire, the initial permit fee is fifty percent (50%) of the renewal fee on the last regular renewal date before the date on which the permit is issued.

Prior law, Section 5134(f), provided that until December 31, 2019, the biennial renewal fee of each of the permits to engage in the practice of public accountancy was a maximum of \$250. Pursuant to the provisions of AB 1521 (2019–2020, Low) effective January 1, 2020, the biennial renewal fee of each of the permits to engage in the practice of public accountancy shall be a minimum of \$250 and a maximum of \$280.

<sup>1</sup>Unless otherwise specified, all sections refer to the Business and Professions Code.

<sup>2</sup>Unless otherwise specified, all California Code of Regulations Sections refer to title 16.

Existing regulation, Section 70(d), provides that the initial permit fee and renewal fees for a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant are \$120 each, respectively. Although the regulation specifies the \$120 fee level, BPC 5134 was amended and established a minimum fee level of \$250 effective January 1, 2020. BPC 5134 also set a statutory maximum level of \$280.

The CBA proposes to increase the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant to the statutory maximum of \$280 and align the regulations to reflect this increase as described in 16 CCR Section 70(d) from \$120 to \$280.

The CBA proposes to increase the fee for renewal of a permit to practice as a partnership, a corporation, a public accountant, or certified public accountant to the statutory maximum of \$280 and align the regulations to reflect this increase as described in 16 CCR Section 70(e) from \$120 to \$280.

As noted above, the CBA intends to clean up existing regulation language specifying the effective date of fees, specifically the reference to July 1, 2016. Also removed is a now–obsolete reporting subsection that required the Board to issue a report regarding the appropriate level of fees by July 1, 2016.

### B. Policy Statement Overview/Anticipated Benefits of Proposal

In accordance with Section 5000.1, the CBA's highest priority is protection of the public in exercising its licensing, regulatory, and disciplinary functions. The CBA is a self-supporting, special fund agency that generates its revenues from fees authorized by the Legislature. In order to continue performing these functions essential to protecting consumers, the CBA must ensure it maintains a healthy fund balance by generating sufficient revenue.

This regulatory proposal to increase initial permit and renewal fees would benefit consumers by helping to ensure the CBA has sufficient resources to protect consumers from unqualified and/or unscrupulous individuals and/or firms providing public accountancy services. Further, this proposal would ensure that the CBA has sufficient resources to fund unanticipated enforcement and litigation activities pursuant to Section 5025.2, weather enforcement cases against large accountancy firms and/or extensive and prolonged appeals, update and modernize its database, and remain financially solvent.

### C. Consistency and Compatibility with Existing State Regulations

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

**FISCAL IMPACT ESTIMATES**

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

The CBA indicates because the fees are already being assessed and the proposed regulations only increase the fee amount levels, no additional workload or costs are anticipated.

The Board estimates the proposed regulations will increase revenues by approximately \$1.53 million per year, narrow the structural imbalance between revenues and expenditures, and provide for a prudent fund balance reserve in the near future.

*Nondiscretionary Costs/Savings to Local Agencies:*

If local agencies employ CPAs and cover the associated costs of license renewal, there may be a fiscal impact.

*Local Mandate:* None.

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

*Business Impact:*

The CBA has made an initial determination that the proposed amendment may have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, specifically, public accountancy firms and individuals practicing public accountancy. The CBA has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (A) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (B) Consolidation or simplification of compliance and reporting requirements for businesses.
- (C) The use of performance standards rather than prescriptive standards.
- (D) Exemption or partial exemption from the regulatory requirements for businesses.

The following types of businesses would be affected:

- (A) Public accountancy firms
- (B) Individual certified public accountants operating as sole proprietors

The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action:

- (A) None.

*Cost Impact on Representative Private Person or Business:*

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the CBA are an increase of the initial licensing fee and the biennial renewal fee in the amount of \$30 each, respectively, and an increase of \$15 in the delinquency fee if an individual or firm is delinquent in the payment of the renewal fee.

Although the regulation specifies a \$120 fee level, BPC 5134, amended and effective January 1, 2020, established a minimum fee level of \$250 and a statutory maximum level of \$280. The \$30 increase is reflective of what is being assessed now (\$250) and what is proposed to be assessed (\$280).

*Effect on Housing Costs:* None.

**EFFECT ON SMALL BUSINESS**

The CBA has determined that the proposed regulations may affect small businesses as the proposal would increase the initial licensing fee and the biennial renewal fee in the amount of \$30 each, respectively, and increase the delinquency fee in the amount of \$15 if an individual or firm is delinquent in the payment of the renewal fee.

Although the regulation specifies a \$120 fee level, BPC 5134, amended and effective January 1, 2020, established a minimum fee level of \$250 and a statutory maximum level of \$280. The \$30 increase is reflective of what is being assessed now (\$250) and what is proposed to be assessed (\$280).

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

*Impact on Jobs/Businesses:*

The CBA has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This is because this regulation increases license fees by \$15 per year, which is an amount not significant enough, given the industry licensed, to materially impact the creation, expansion, or elimination of jobs or businesses.

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

This proposal would ensure continued consumer protection per the CBA’s mandate by stabilizing the CBA’s reserve fund so it has the financial resources to continue to prosecute unqualified and/or unscrupulous individuals and/or firms providing public accountancy services, fund unanticipated enforcement and litigation activities pursuant to Section 5025.2, whether en-

forcement cases against large accountancy firms and/or extensive and prolonged appeals, and remain financially solvent.

*Benefits of Regulation to Worker Safety and the State's Environment:*

None.

CONSIDERATION OF ALTERNATIVES

The CBA must determine that no reasonable alternative it considered to the proposal 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 submit comments to the CBA in writing relevant to the above determinations at 2450 Venture Oaks Way, Suite 300, Sacramento, California, 95833 and/or present such statements or arguments orally or in writing at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2450 Venture Oaks Way, Suite 300, Sacramento, California, 95833.

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

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

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

CONTACT PERSON

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

Name: Christy Abate  
 Address: 2450 Venture Oaks Way  
 Suite 300  
 Sacramento, CA 95833  
 Telephone Number: (916) 561-1715  
 Fax Number: (916) 263-3678  
 E-mail Address: [christy.abate@cba.ca.gov](mailto:christy.abate@cba.ca.gov)

Name: Kim Koski  
 Address: 2450 Venture Oaks Way  
 Suite 300  
 Sacramento, CA 95833  
 Telephone Number: (916) 561-4370  
 Fax Number: (916) 263-3674  
 E-mail Address: [kim.koski@cba.ca.gov](mailto:kim.koski@cba.ca.gov)

TITLE 18. BOARD OF EQUALIZATION

THE BOARD OF EQUALIZATION  
 PROPOSES TO ADOPT SECTION 462.540,  
 CHANGE IN OWNERSHIP — BASE YEAR  
 VALUE TRANSFERS

**NOTICE IS HEREBY GIVEN** that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt California Code of Regulations, title 18, section (Rule or Property Tax Rule) 462.540, *Change in Ownership — Base Year Value Transfers*. This Rule implements, interprets, and makes specific certain change in ownership exclusion provisions provided by section 2.1 of article XIII A of the California Constitution (Section 2.1). Specifically, Section 2.1, subdivision (b), creates the ability for any eligible homeowner who is either at least 55 years of age, severely disabled, or a victim of a wildfire or natural disaster, to transfer their property tax base year value to a replacement home within any of the 58 counties of California. This new base year value transfer is operative for transfers occurring on or after April 1, 2021. Additionally, Section 2.1, subdivision (e), provides relevant definitions for the interpretation of the new base year value transfer. Pursuant to the changes enacted by Section 2.1, subdivisions (b) and (e), the proposed new Property Tax Rule 462.540 (Proposed Rule) clarifies homeowner eligibility and provides specificity to claim the base year value transfers, as necessary for the fair and efficient administration of Section 2.1, and to provide examples.

PUBLIC HEARING

The Board will conduct a meeting on August 24–25, 2021 via teleconference, consistent with the Governor’s Executive Order N–29–20 (issued March 17, 2020). The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s website at [www.boe.ca.gov](http://www.boe.ca.gov) at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. on August 24, 2021, or as soon thereafter as the matter may be heard at the Board’s August 24–25, 2021 meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the new Property Tax Rule 462.540.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Article XIII A, section 2.1, California Constitution; and Revenue and Taxation Code section 60.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

*Current Law*

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of one percent of the full cash value of real property. For purposes of this limitation, section 2 of article XIII A defines full cash value to mean a county assessor’s valuation of real property as shown on the 1975–76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. In general, properties are reassessed to current market value only upon a change in ownership or the completion of new construction, establishing a new “base year value” for property tax purposes. The California Legislature codified the definition of “change in ownership” in Revenue and Taxation Code (RTC) section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership, is excluded from the definition of “change in ownership,” or allows for the transfer of a property’s base year

value to a replacement property.<sup>1</sup> (RTC sections 61 through 69.5).

Since Proposition 13 was enacted, voters have amended Article XIII A of the constitution several times to provide specified conditions permitting the transfer of a property’s base year value from an existing principal residence to a replacement principal residence:

- Proposition 60 (1986) authorized persons aged 55 or older to transfer the base year value of their principal residence to a replacement dwelling, if the replacement is within the same county (intracounty), of equal or lesser value, and was purchased or newly constructed within two years of the sale of the principal residence.
- Proposition 90 (1988) expanded the base year value transfer authorized by Proposition 60 to allow for intercounty transfers if the county had authorized such a transfer by ordinance.
- Proposition 110 (1990) expanded the base year value transfer eligibility established by Propositions 60/90 to severely and permanently disabled claimants.
- Proposition 50 (1986) allows property owners to transfer their base year value transfer of an original property that has been substantially damaged or destroyed in a Governor–declared disaster to a comparable replacement property located within the same county.
- Proposition 171 (1993) expanded the base year value transfer eligibility established by Proposition 50 to allow for intracounty transfers if the county has authorized such a transfer by ordinance.

These constitutional amendments are reflected in article XIII A, section 2 of the California Constitution and have been further implemented and codified as RTC sections 69 (Proposition 50), 69.3 (Proposition 171), and 69.5 (Propositions 60, 90, and 110).

In the November 3, 2020 general election, the voters amended the constitution by approving Proposition 19. Proposition 19 defined eligibility conditions for persons, who are aged 55 or older, severely disabled, or a victim of wildfire or natural disaster, to engage in statewide base year value transfers (by adding Section 2.1, subdivisions (b) and (e)). Proposition 19, while

<sup>1</sup>As the transfer of a base year value to a replacement property allows the owner to be assessed property tax based on the historic factored base year value transferred (generally established at a lower fair market value, as adjusted for inflation), the transfer of a base year value to a replacement property is referred to as “property tax relief.”

replacing existing base year value transfer provisions for seniors and severely and permanently disabled as provided in Section 2, Article XIII A of the California Constitution implemented by Revenue and Taxation Code section 69.5, enacted options for taxpayers to transfer the base year values of their principal residences substantially damaged or destroyed in a disaster in addition to those previously authorized by Section 2 of Article XIII A and implemented by sections 69, 69.3, and 70.5 of the Revenue and Taxation Code.

Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board proposed to adopt Property Tax Rule 462.540, *Exclusion from Change in Ownership — Base Year Value Transfers* to implement, interpret, and make specific the change in ownership provisions instituted by Proposition 19. In particular, Property Tax Rule 462.540 implements, interprets, and makes specific California Constitution, article XIII A, section 2.1, subdivision (b), which provides that:

- (b) Property Tax Fairness for Seniors, the Severely Disabled, and Victims of Wildfire and Natural Disasters. Notwithstanding any other provision of this Constitution or any other law, beginning on and after April 1, 2021, the following shall apply:
  - (1) Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence.
  - (2) For purposes of this subdivision:
    - (A) For any transfer of taxable value to a replacement primary residence of equal or lesser value than the original primary residence, the taxable value of the replacement primary residence shall be deemed to be the taxable value of the original primary residence.
    - (B) For any transfer of taxable value to a replacement primary residence of greater value than the original primary residence, the taxable value of the replacement primary residence shall be calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary

residence to the taxable value of the original primary residence.

- (3) An owner of a primary residence who is over 55 years of age or severely disabled shall not be allowed to transfer the taxable value of a primary residence more than three times pursuant to this subdivision.
- (4) Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.

Property Tax Rule 462.540 also implements, interprets, and makes specific Section 2.1, subdivision (e), which provides, in relevant part, that:

- (e) For purposes of this section:
  - (1) "Disabled veteran's exemption" means the exemption authorized by subdivision (a) of Section 4 of Article XIII.
  - (2) "Family farm" means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in Section 51201 of the Government Code as that section read on January 1, 2020.
  - (3) "Family home" has the same meaning as "principal residence," as that term is used in subdivision (k) of Section 3 of Article XIII.
  - (4) "Full cash value" has the same meaning as defined in subdivision (a) of Section 2.
  - (5) "Homeowner's exemption" means the exemption provided by subdivision (k) of Section 3 of Article XIII.
  - (6) "Natural disaster" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.
  - (7) "Primary residence" means a residence eligible for either of the following:
    - (A) The homeowner's exemption.
    - (B) The disabled veteran's exemption.
  - (8) "Principal residence" as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

- (9) “Replacement primary residence” has the same meaning as “replacement dwelling,” as that term is defined in subdivision (a) of Section 2.
- (10) “Taxable value” means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

*Effects, Objectives, and Benefits of the Proposed Property Tax Rule*

Here, the relevant Proposition 19 provisions became effective as of April 1, 2021. Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. Consistent with this responsibility, the Board seeks to promulgate new Property Tax Rule 462.540 to provide clarity of the relevant provisions within Section 2.1 of article XIII A of the California Constitution. Specifically, the Board is proposing this Rule to implement, interpret, and make specific subdivisions (b) and (e) of section 2.1 of article XIII A of the California Constitution.

Proposed Rule 462.540, subdivision (a) makes explicit or provides clarification for specific provisions of Section 2.1, subdivision (b), including:

- That either the sale of the original primary residence or the purchase or new construction of the replacement primary residence, but not both, may occur prior to April 1, 2021;
- That the real property from which a particular base year value is transferred is the original primary residence either at the time of its sale or at the time the claimant became a victim of a wildfire or natural disaster;
- That a qualifying original primary residence undergoes a change in ownership that either subjects the property to reappraisal at current full cash value or results in a base year value determined in accordance with this rule or RTC sections 69 or 69.3 (i.e. the original primary residence is a qualifying replacement primary residence, dwelling or property for the base year value transfer of another eligible claimant);
- That the replacement primary residence is purchased or newly constructed within two years of the sale of the original primary residence. In instances where the replacement is, in part, purchased and also, in part, newly constructed, the latter date is used, and the base year value does not transfer until the original primary residence is sold;
- That at the time the claim is filed, the purchased or newly constructed dwelling qualifies as the person’s replacement primary residence; and

- That the person has not previously been granted property tax relief provided by this rule more than two previous times, not including previous claims due to wildfires or natural disasters.

Additionally, subdivision (a) includes three examples. Example 1 shows that the original primary residence must undergo a 100 percent change in ownership that results in a reappraisal of the property at its current full cash value. Example 2 illustrates that the claimant does not need to own 100 percent of the replacement primary residence for their original primary residence’s base year value to transfer. Examples 4 and 5 illustrate the principle that the replacement primary residence must be purchased within two years of the sale of the original primary residence.

Example 6 illustrates that a married couple may qualify to transfer the base year value of their community property primary residence provided that the claimant spouse has not yet used the exclusion more than two previous times.

Importantly, the proposed rule provides clarification for valuation of real property under Proposition 19’s base year value transfer exclusion. Subdivision (b)(1) provides that if the replacement primary residence’s full cash value is of equal or lesser value than the full cash value of the original primary residence, then the new base year value of the replacement primary residence will be the original primary residence’s factored base year value. Example 7 provides an illustration of this calculation. Additionally, subdivision (b)(2) explains that if the replacement primary residence’s full cash value is greater than the full cash value of the original primary residence, then the new base year value of the replacement primary residence will be the sum of the factored base year value of the original primary residence plus the difference between the full cash values of the replacement and original primary residences. Example 8 illustrates this calculation. Subdivision (b)(3) clarifies that the full cash value of the original primary residence shall be determined as of the date of its sale, whereas the full cash value of the replacement primary residence shall be determined as of the date it is purchased or newly constructed.

Subdivision (c) of the Proposed Rule provides definitions for terms used throughout the Rule and which are required for its implementation. It includes certain definitions (such as “full cash value,” and “primary residence”) or clarifies other definitions (such as “natural disaster”) that are found within Section 2.1, subdivision (e).

The Proposed Rule in subdivision (d) clarifies Section 2.1, subdivision (b)(4) and provides claim filing instructions, including: how an eligible transferee can file a claim for base year value transfer; when the claim is considered timely; and that an untimely claim will only provide prospective relief. The Proposed

Rule requires county assessors to report such claims quarterly to the State Board of Equalization. Example 9 provides an illustration of what property tax relief is available for an untimely base year value transfer claim.

Subdivision (e) of the Proposed Rule provides further clarification regarding the timing of the transfer, including: that the adjustment to the new base year value of the replacement primary residence must be made as of the latest of specified dates; under what conditions must levied taxes on the replacement primary residence be canceled or refunded (as illustrated by Example 10); that chapter 3.5 of the RTC (starting with section 75 and notwithstanding section 75.10) governs this subdivision's implementation; and under what conditions this property tax relief extends to new construction completed after a base year value transfer claim has already been granted under this Proposed Rule (as illustrated by Examples 11 and 12).

Subdivision (f) of the Proposed Rule clarifies how Section 2.1's base year value transfer provision applies to situations where the claimant is a co-owner of an original primary residence.

Subdivision (g) clarifies that multiunit properties and mobilehomes are also eligible for base year value transfers, as described.

The above clarifications are reasonably necessary for the efficient and fair administration of the change in ownership provisions under section 2.1 of article XIII A of the California Constitution applicable to base year value transfers. The Board anticipates that the Proposed Rule will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, county assessors, and owners of property potentially eligible for a base year value transfer provided by Proposition 19.

The Board has performed an evaluation of whether proposed Property Tax Rule 462.540 is inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Rule is not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the proposed new Rule. In addition, there is no comparable federal regulation or statute to proposed Property Tax Rule 462.540.

**NO MANDATE ON LOCAL  
AGENCIES AND SCHOOL DISTRICTS**

The Board has determined that the adoption of the Proposed Rule will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7

(commencing with section 17500) of division 4 of title 2 of the Government Code.

**ONE-TIME COST TO STATE  
AGENCIES, LOCAL AGENCIES, AND  
SCHOOL DISTRICTS**

The Board has determined that the adoption of proposed new Property Tax Rule 462.540 will result in an absorbable \$856 one-time cost for the Board to update its website, issue letters regarding this Rule to interested parties, and train county assessors on how to assess property under this Rule after the Proposed Rule is completed. The Board has determined that the adoption of the Proposed Rule will result in no other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

**NO SIGNIFICANT STATEWIDE  
ADVERSE ECONOMIC IMPACT  
DIRECTLY AFFECTING BUSINESS**

The Board has made an initial determination that the adoption of the Proposed Rule 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.

**NO EFFECT ON SMALL BUSINESS**

The adoption of the proposed new Rule is not expected to affect small business because Section 2.1, subdivision (b) of Article XIII A does not apply to small businesses.

**NO COST IMPACTS TO PRIVATE  
PERSONS OR BUSINESSES**

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

**RESULTS OF THE ECONOMIC  
IMPACT ASSESSMENT REQUIRED  
BY GOVERNMENT CODE  
SECTION 11346.3, SUBDIVISION (b)**

The Board assessed the economic impact of proposed new Property Tax Rule 462.540 on

California businesses and individuals and determined that the Proposed Rule is not a major regulation as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Rule and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Rule will neither create nor eliminate jobs in the State of California, nor create new businesses or eliminate existing businesses within the state, nor expand businesses currently doing business in the State of California. Furthermore, the Board has determined that the adoption of the Proposed Rule will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment.

**NO SIGNIFICANT EFFECT ON  
HOUSING COSTS**

The adoption of proposed Property Tax Rule 462.540 will not have a significant effect on housing costs.

**DETERMINATION REGARDING  
ALTERNATIVES**

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

**CONTACT PERSONS**

Questions regarding the substance of the Proposed Rule should be directed to Mr. Henry Nanjo, Chief Counsel, by telephone at (916) 216-7838, by e-mail at [henry.nanjo@boe.ca.gov](mailto:henry.nanjo@boe.ca.gov), or by mail at State Board of Equalization, Attn: Henry Nanjo, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Henry Nanjo, Chief Counsel, by telephone at (916) 216-7838, by e-mail at [henry.nanjo@boe.ca.gov](mailto:henry.nanjo@boe.ca.gov), or by mail at State Board of Equalization, Attn: Henry Nanjo, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121.

Ms. Honey Her, Associate Government Program Analyst, is the designated backup contact person to Mr. Nanjo for this matter and can be reached by telephone at (916) 274-3523 and by e-mail at [honey.her@boe.ca.gov](mailto:honey.her@boe.ca.gov).

**WRITTEN COMMENT PERIOD**

The written comment period ends at 10:00 a.m. on August 24, 2021, or as soon thereafter as the Board holds the public hearing regarding the Proposed Rule during the August 24-25, 2021 Board meeting. Written comments received by Mr. Nanjo at the postal address or email address provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Rule. The Board will only consider written comments received by that time.

**AVAILABILITY OF INITIAL  
STATEMENT OF REASONS AND  
TEXT OF PROPOSED REGULATION**

The Board has prepared an underline version of proposed new Property Tax Rule 462.540 illustrating the express terms of the Proposed Rule and an initial statement of reasons for the adoption of the Proposed Rule, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Rule is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed new Rule and the Initial Statement of Reasons are also available on the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov).

**SUBSTANTIALLY RELATED CHANGES  
PURSUANT TO GOVERNMENT CODE  
SECTION 11346.8**

The Board may adopt the Proposed Rule with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or

who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Nanjo. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL  
STATEMENT OF REASONS

If the Board adopts the Proposed Rule, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov).

**TITLE 24. STATE BUILDING  
STANDARDS COMMISSION/  
CALIFORNIA ENERGY COMMISSION**

PROPOSED REVISIONS TO  
THE CALIFORNIA  
BUILDING ENERGY  
EFFICIENCY STANDARDS  
2022 CALIFORNIA GREEN BUILDING  
STANDARDS CODE  
PART 11, AND PARTS 2, 2.5, 3, 4, AND 5

CALIFORNIA ENERGY COMMISSION  
DOCKET NO. 21-BSTD-03

INTRODUCTION

Notice is hereby given that the California Energy Commission (Energy Commission) proposes to adopt changes to the Building Energy Efficiency Standards contained in the California Green Building Standards Code, California Code of Regulations (CCR), Title 24, Part 11 (also known as CALGreen). In addition, the Energy Commission is making non-substantive changes to Parts 2, 2.5, 3, 4, and 5.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) regarding the need for the proposed revisions and has made available all the information upon which its proposal is based. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed amendment language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>.

PUBLIC HEARING AND  
ADOPTION BY COMMISSION

The Energy Commission will hold a public hearing for the purpose of hearing comments on the proposed standards at the date and time listed below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed standards at the public hearing.

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.

Public Hearing and Proposed Adoption Date  
September 30, 2021  
10:00 a.m. (Pacific Time)

REMOTE ATTENDANCE

The workshop may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password for the workshop 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](mailto:publicadvisor@energy.ca.gov) or (800) 822-6228.

Link: <https://energy.zoom.us/j/93869230237?pwd=Zm96c09ULzdXTjd4eldtUXdnUGErzd09>  
Webinar ID: 93869230237  
Password: mtg@10am

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the Webinar ID and password listed 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 Energy Commission's Public Advisor's Office provides the public assistance in participating in Energy Commission proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at [publicadvisor@energy.ca.gov](mailto: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 Energy Commission 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.

### MEDIA INQUIRIES

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

### WRITTEN COMMENT PERIOD

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 public comment period for the 2022 Green Building Standards will be held from July 2 through August 16, 2021. Any interested person, or their authorized representative, may submit written comments to the Energy Commission for consideration on or prior to August 16, 2021. The Energy Commission appreciates receiving written comments at the earliest possible date.

The Energy Commission encourages use of its electronic commenting system. Visit the commenting page at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>, 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 California Code of Regulations Section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 21-BSTD-03 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit, MS-4  
RE: Docket No. 21-BSTD-03  
1516 9<sup>th</sup> Street, MS-4  
Sacramento, CA 95814

### POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Pursuant to Government Code Section 11346.5(a)(18), following the written public comment period and the public hearing, the Energy Commission may adopt the proposed building standards substantially as proposed in this notice

or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). The Energy Commission will accept written comments on the modified building standards during the 15-day period.

### AUTHORITY AND REFERENCE

The Energy Commission proposes to adopt these regulations under the authority granted by Public Resources Code Sections 25213, 25218, 25218.5, 25402, subdivisions (a)-(b), 25402.1, 25402.4, 25402.5, 25402.8, 25910, 25942, and 25943.

The Energy Commission proposes to implement, interpret, or make specific Public Resources Code Sections 25007, 25008, 25310, 25402, subdivisions (a)-(b), 25402.1, 25402.4, 25402.5, 25910, 25942, and 25943, and Health and Safety Code Sections 18390, 18934, and 18935.

### INFORMATIVE DIGEST

#### Summary of Existing Laws and Regulations

The Warren-Alquist Act (California Pub. Res. Code Sections 25001 et seq.) establishes the Energy Commission as California's primary energy policy and planning agency. Public Resources Code Sections 25213, 25402, 25402.1, 25402.4, 25402.5, 25402.8, 25910, 25942, and 25943 mandate and/or authorize that the Energy Commission adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water in newly constructed buildings and certain additions and alterations to existing buildings. One of the ways the Energy Commission satisfies this requirement is through the California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), found in the California Building Standards Code. As a part of the California Building Standards Code, the California Green Building Standards Code follows the same three-year update cycle.

Therefore, the Energy Commission proposes to update the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11) and provide non-substantive changes to Parts 2, 2.5, 3, 4, and 5. Proposed changes to Parts 2, 2.5, 3, 4, and 5 consist entirely of nonsubstantive cross-references to the Energy Code made at the request of, and coordinated with, proposing agencies. The Energy Commission proposes to adopt these amendments for publication in 2022 with an effective date of January 1, 2023.

**Comparable Federal Statutes or Regulations**

The Energy Commission has determined that there are no existing comparable federal regulations or statutes.

**Policy Statement Overview**

The changes proposed in this rulemaking are updates to the voluntary energy efficiency provisions of the California Green Building Standards. These voluntary guidelines, contained in Title 24, Part 11 of the California Code of Regulations, go beyond the mandatory standards in Part 6. In addition to updating the voluntary provisions in Title 24 Part 11, the Energy Commission is also proposing non-substantive changes to Parts 2, 2.5, 3, 4, and 5, which direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements.

**Evaluation of Inconsistency or Incompatibility with Existing State Regulations**

The Energy Commission has conducted an evaluation for other state regulations in this area and has determined that the proposed standards are neither inconsistent nor incompatible with existing state regulations. The Energy Commission is the sole state agency authorized to promulgate building energy efficiency standards. These changes update the Energy Commission’s longstanding voluntary measures (Part 11) and provide various non-substantive cross-references to the Energy Code (Parts 2, 2.5, 3, 4, and 5). These non-substantive changes were made at the request of, and in coordination with, proposing agencies.

OTHER MATTERS PRESCRIBED  
BY STATUTE APPLICABLE TO THE AGENCY  
OR TO ANY SPECIFIC REGULATION OR  
CLASS OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS

The Energy Commission has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

A. Cost or Savings to any state agency: **None.**

- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None.**
- E. Cost or savings in federal funding to the state: **None.**

**Estimate:** There are no estimated costs or savings associated with the proposed regulations because compliance with the Part 11 provisions is voluntary, not required, and because the proposed amendments to Parts 2, 2.5, 3, 4, and 5 consist entirely of non-substantive cross-references to the Energy Code.

INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES

The Energy Commission has made an initial determination that the proposed regulations are unlikely to have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

The proposed regulations take additional steps in meeting California’s energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards.

The changes proposed to Parts 2, 2.5, 3, 4, and 5 are non-substantive changes to effectively communicate the regulation in a precise and clear manner but do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect.

DECLARATION OF EVIDENCE

The basis for the Energy Commission’s findings of no impacts is that the California Green Building Standards are voluntary provisions and the amendments to Parts 2, 2.5, 3, 4, and 5 are entirely non–substantive cross–references to the Energy Code.

DOCUMENTS INCORPORATED  
BY REFERENCE

The Energy Commission is not proposing to incorporate by reference any documents.

FINDING OF NECESSITY FOR THE PUBLIC’S  
HEALTH, SAFETY, OR WELFARE

The proposed regulations do not impose a new reporting requirement.

COST IMPACT ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS

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

The proposed regulations take additional steps in meeting California’s energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards.

The changes proposed to Parts 2, 2.5, 3, 4, and 5 are non–substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes do not materially alter any requirement, right, responsibility,

condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect.

ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION

The Energy Commission has assessed whether or not and to what extent this proposal will affect the following:

**The creation or elimination of jobs within the State of California.**

The proposed regulations take additional steps in meeting California’s energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards. Therefore, the Energy Commission has determined it is unlikely any jobs will be created or eliminated as a result of the proposed regulation.

The changes proposed to Parts 2, 2.5, 3, 4 and 5 are non–substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes, which consist entirely of cross–references to regulations in Part 6, do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect. Therefore, the Energy Commission has determined it is unlikely any jobs will be created or eliminated as a result of the proposed regulation.

**The creation of new businesses or the elimination of existing businesses within the State of California.**

The proposed regulations take additional steps in meeting California’s energy resource conservation

goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards. Therefore, the Energy Commission has determined it is unlikely businesses will be eliminated or created as a result of the proposed regulation.

The changes proposed to Parts 2, 2.5, 3, 4 and 5 are non-substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes, which consist entirely of cross-references to regulations in Part 6, do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect. Therefore, the Energy Commission has determined it is unlikely any businesses will be eliminated or created as a result of the proposed regulation.

**The expansion of businesses currently doing business within the State of California.**

The proposed regulations take additional steps in meeting California’s energy resource conservation goals through updates to the voluntary energy efficiency provisions of the California Green Building Standards (Title 24, Part 11). The proposed amendments to the voluntary provisions are unlikely to create cost impacts due to their voluntary nature. Businesses may, but are not required, to comply with voluntary provisions. To the extent that actions taken by local agencies may include, modify, or not include all or part of the voluntary provisions, those actions would be subject to existing laws relating to the evaluation and disclosure of impacts of actions by those local agencies. While local agencies may use the provisions in these appendices as templates or examples for drafting of local ordinances, such agencies are not required to adhere to the specific

language or requirements in these appendices. Consideration of potential future actions taken by local agencies is therefore speculative and is not included in the assessment of the effects of the proposed standards. Therefore, the Energy Commission has determined it is unlikely businesses will expand as a result of the proposed regulation.

The changes proposed to Parts 2, 2.5, 3, 4 and 5 are non-substantive changes to effectively communicate and direct readers to the regulations adopted into Part 6 in a precise and clear manner for the benefit of readers who may not be aware of or familiar with Energy Code requirements, in order to prevent misapplication of associated requirements. The changes, which consist entirely of cross-references to regulations in Part 6, do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision, nor do they have any other regulatory effect. Therefore, the Energy Commission has determined it is unlikely any businesses will expand as a result of the proposed regulation.

**The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.**

The proposed updates to the voluntary appendices will have no direct effect on health, welfare, worker safety, or the environment. The updates may encourage consideration and adoption of local ordinances relating to energy efficiency in buildings, and such ordinances, if adopted, may have positive impacts on health, welfare, and the environment known to result from energy efficiency. However, as such impacts are speculative, they are not considered in this rulemaking. The proposed non-substantive amendments to Parts 2, 2.5, 3, 4, and 5 are intended to improve the readability and clarity of the code, and may result in improved compliance with the Energy Code, which may also result in positive impacts on health, welfare, and the environment.

ESTIMATED COST OF COMPLIANCE WITH STANDARDS THAT WOULD IMPACT HOUSING

The Energy Commission has made an initial determination that amending the voluntary provisions of Part 11 and non-substantive amendments to Parts 2, 2.5, 3, 4, and 5 are unlikely to have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The CEC has determined that no reasonable alternative considered by the CEC or that has otherwise been identified and brought to the attention

of the CEC 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 provisions of law.

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

#### AVAILABILITY OF RULEMAKING DOCUMENTS

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 have been posted at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>.

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the address below. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the Express Terms, the Initial Statement of Reasons (ISOR), the Economic and Fiscal Impact Statement (STD. 399), any documents relied upon, and any documents incorporated by reference. Copies may be obtained by contacting Corrine Fishman at the phone number below or accessed through the CEC website at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>.

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 the CEC's website at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency> or by contacting the contact person listed below.

#### CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Corrine Fishman  
Regulations Manager  
California Energy Commission  
Efficiency Division  
(916) 805-7452  
[corrine.fishman@energy.ca.gov](mailto:corrine.fishman@energy.ca.gov)

#### PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Payam Bozorgchami, PE  
Senior Civil Engineer  
California Energy Commission  
Building Standards Office, Efficiency Division  
(916) 931-9765  
[payam.bozorgchami@energy.ca.gov](mailto:payam.bozorgchami@energy.ca.gov)

Secondary Contact:

Peter Strait, Supervisor  
California Energy Commission  
Building Standards Office, Efficiency Division  
(916) 805-7427  
[peter.strait@energy.ca.gov](mailto:peter.strait@energy.ca.gov)

### GENERAL PUBLIC INTEREST

#### DEPARTMENT OF FISH AND WILDLIFE

#### HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2021-070-001-R1

**Project:** Klamath Flood Plain Habitat  
Enhancement Project

**Location:** Siskiyou

**Applicant:** Mid Klamath Watershed Council  
(MKWC)

**Notifier:** James Peterson

#### Background

*Project Location:* The Klamath Flood Plain Habitat Enhancement Project (Project) is located along Highway 96, at the confluences of Sandy Bar Creek and Stanshaw Creeks and Klamath River, in the County of Siskiyou. The Project will occur on the Assessor Parcel Number (APN) 026-290-1600-000 which is owned by Konrad Fischer. Both Sandy Bar Creek and Stanshaw Creek are tributaries to Klamath River and support populations of Chinook salmon

(*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), and steelhead (*O. mykiss*).

*Project Description:* MKWC (Applicant) proposes to enhance or restore habitat within Sandy Bar and Stanshaw Creeks to provide a net conservation benefit for Chinook salmon, coho salmon, and steelhead. The conservation benefits from the proposed project will create slow water pools to enhance winter and summer rearing habitat. The placement of up to 4 (four) Beaver Dam Analogs (BDAs) will be installed at two sites. The Stanshaw Creek BDA will be parallel to an off channel pond for approximately 50 feet. The BDA should raise the pond depth and activate an outlet to improve juvenile fish passage. The Sandy Bar BDAs will include two channel spanning and one partial to encourage flow to a better confluence with the Klamath River and recruitment of riparian vegetation. Hand tools will be used including a hydraulic post pounder that will be carried in by foot.

*Project Size:* The total area of ground disturbance associated with the Project is not greater than 0.01 acres and 100 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

*Project Associated Discharge:* Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) approximately 200 three-inch diameter Douglas fir poles, (2) 150 cubic feet of native willow cuttings, (3) 12 cubic yards of native gravel, and (4) up to six bales of weed-free straw.

*Project Timeframes:*

- Start date: June 1, 2021
- Completion date: August 15, 2024
- Work window: June 1–August 15
- Number of Workdays: Approximately 60 days

*Water Quality Certification Background:* Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage and function to Sandy Bar and Stanshaw Creeks, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) Waste Discharge Identification (WDID) No. 1A21061WNSI, Electronic Content Management Identification (ECM PIN) No. CW-873387 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that

sets forth measures to avoid and minimize impacts to fish (Chinook salmon, coho salmon, and steelhead), plants, mammals, and birds.

*Receiving Water:* Sandy Bar and Stanshaw Creeks, Klamath River

*Filled or Excavated Area:*

- Permanent area impacted: Less than 0.01 acres
- Temporary area impacted: Less than 0.01 acres
- Length temporarily impacted: 100 linear feet
- Length permanently impacted: 100 linear feet

*Dredge Volume:* None.

*Discharge Volume:* Approximately 200 three-inch diameter Douglas fir poles, (2) 150 cubic feet of native willow cuttings, (3) 12 cubic yards of native gravel, and (4) up to six bales of weed-free straw.

*Project Location:* Within the APN 026–290–1600–000, the coordinates for the Project are Latitude 41.486211° N, Longitude 123.517921° W for Sandy Bar Creek site and Latitude 41.476875° N, Longitude 123.512083° W for Stanshaw Creek site.

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

On May 18, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on May 18, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2021–0518–21) on May 28, 2021. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

**Determination**

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

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the

eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

**Avoidance and Minimization Measures**

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: flora, fauna, sensitive species habitats and life histories (foothill yellow-legged frog, northern spotted owl, northern goshawk, grey wolf, fisher), and avoidance and minimization measures specific to erosion control, instream construction, water quality, environmental resources, protected species, and site maintenance and monitoring. The specific avoidance and minimization requirements are found in an attachment to the NOI.

**Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, identified as "Monitoring Plan."

**Notice of Completion**

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

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

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

**Project Authorization**

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

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

**DEPARTMENT OF FISH AND WILDLIFE**

FISH AND GAME CODE SECTION 1653  
CONSISTENCY DETERMINATION  
REQUEST FOR  
South Fork Scott River Floodplain  
Restoration — Phase II  
(Tracking Number: 1653-2021-071-001-R1)  
Siskiyou County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 6/22/2021, that California Trout proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves implementing two inset floodplains, an apex logjam, six large wood structures, and five chop-and-drop logjams. The proposed project will be carried out on South Fork Scott River, located at 3044 Cecilville Road, Callahan, Siskiyou, California.

On 9/11/2020, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the South Fork Scott River Floodplain Restoration — Phase II. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID

No. 1A20179WNSI; ECM PIN No. CW-868947) for coverage under the General 401 Order on 6/17/2021.

California Trout is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the District will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, California Trout will have the opportunity to submit under Fish and Game Code section 1652.

## **OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

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

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

#### **PUBLIC MEETING**

On **August 19, 2021**, at 10:00 a.m. via the following:

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

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

#### **BUSINESS MEETING**

On **August 19, 2021**, at 10:00 a.m. via the following:

- Video-conference at [www.webex.com](http://www.webex.com) (meeting ID 268 984 996)

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

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

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

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

## **NOTICE OF DECISION NOT TO PROCEED**

### **STATE FIRE MARSHAL**

PURSUANT TO GOVERNMENT CODE SECTION 11347

RE: NOTICE OF PROPOSED RULEMAKING CONCERNING FIRE AND LIFE SAFETY SPECIAL EVENT PERMITS

Pursuant to Government Code section 11347, the Office of the State Fire Marshal (SFM) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register (CRNR) on May 7, 2021, Register 2021, Number 19-Z. Considering the fact the Notice of Decision Not To Proceed is being published, **the Public Hearing scheduled for June 23, 2021 is**

**being cancelled.** Any interested person with questions concerning this rulemaking should contact:

Diane Arend, Supervising Deputy State Fire Marshal, Regulations Coordinator  
(916) 568-2917 [diane.arend@fire.ca.gov](mailto:diane.arend@fire.ca.gov)

Jack Stinson, Supervising Deputy State Fire Marshal, Fire & Life Safety Division (FLS)  
(916) 568-2968 [jack.stinson@fire.ca.gov](mailto:jack.stinson@fire.ca.gov) for substantive or technical questions.

A notice of Decision Not to Proceed and cancel the public hearing is being published in the California Regulatory Notice Register on July 2, 2021. The SFM will also publish this Notice of Decision Not to Proceed on its website.

**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 Equalization  
File # 2021-0506-01  
Allocation of Certificated Aircraft

This certificate of compliance rulemaking action by the Board of Equalization makes permanent changes to emergency regulations initially adopted in OAL Matter No. 2019-1216-04 and readopted in OAL Matter No. 2020-0819-05EE. The amendments make changes to Tax Rule 202 pertaining to the allocation of aircraft of certified air carriers and scheduled air taxi operations to implement changes enacted in Statutes 2019, chapter 333 (SB 791).

Title 18  
Amend: 202  
Filed 06/16/2021  
Effective 06/16/2021  
Agency Contact: Lawrence Lin (916) 322-1982

State Allocation Board  
File # 2021-0505-02  
Leroy F. Greene School Facilities Act of 1998;  
Facility Hardship/SMP

This certificate of compliance (1) reorganizes and amends the application process and other requirements of the Facility Hardship and Seismic Mitigation Program regulations; and (2) provides a funding mechanism for the replacement of portable school buildings posing health and safety threats.

Title 02  
Adopt: 1859.82, 1859.82.1, 1859.82.2, 1859.82.3  
Amend: 1859.2, 1859.51, 1859.61, 1859.76, 1859.77.3, 1859.80, 1859.81, 1859.83, 1859.90.3, 1859.93, 1859.106  
Repeal: 1859.82  
Filed 06/16/2021  
Effective 06/16/2021  
Agency Contact: Lisa Jones (916) 376-1753

Occupational Safety and Health Standards Board  
File # 2021-0617-03  
COVID-19 Prevention

In this emergency readopt action of OAL Matter No. 2020-1120-01E, the Occupational Safety and Health Standards Board (the "Board") is establishing requirements regarding COVID-19 prevention for employees and places of employment. Specifically, the Board is: (1) identifying which employees and places of employment the regulations apply to; (2) defining terms used throughout the emergency regulations; and (3) adopting regulations for prevention and identification of COVID-19 exposure and hazards in places of employment, including in both employer-provided housing and transportation to and from work. This action is exempt from the APA pursuant to Executive Order N-09-21.

Title 08  
Adopt: 3205, 3205.1, 3205.2, 3205.3, 3205.4  
Filed 06/17/2021  
Effective 06/17/2021  
Agency Contact: Christina Shupe (916) 274-5721

Seismic Safety Commission  
File # 2021-0524-01  
Conflict-of-Interest Code

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

Title 02  
 Amend: 40000  
 Filed 06/22/2021  
 Effective 07/22/2021  
 Agency Contact: Tanya Black (916) 224-8819

Board of Equalization  
 File # 2021-0519-01  
 Rules for Tax Appeals

This change without regulatory effect updates contact information for the Board Proceedings Division provided throughout title 18 of the California Code of Regulations.

Title 18  
 Amend: 5216, 5240, 5262, 5570  
 Filed 06/21/2021  
 Agency Contact: Lawrence Lin (916) 322-1982

Dental Board of California  
 File # 2021-0507-02  
 Permit Processing Times

This change without regulatory effect repeals the regulation that established permit processing times for the Board's various programs.

Title 16  
 Repeal: 1061  
 Filed 06/21/2021  
 Agency Contact: Sarah Wallace (916) 263-2187

Department of Justice  
 File # 2021-0506-02  
 Police Body Armor

This action without regulatory effect by the Department of Justice amends regulations regarding police body armor to update "authority" and "reference" citations, correct typographical errors, and replace outdated terminology to conform to statutory changes.

Title 11  
 Amend: 941, 942, 943, 944, 945, 946, 947, 948, 949, 951, 952, 953, 954, 955, 956, 957  
 Filed 06/17/2021  
 Agency Contact:  
 Zachary Hoffman (916) 210-6366

Emergency Medical Services Authority  
 File # 2021-0512-05  
 Paramedic Application Fee

The Emergency Medical Services Authority (Authority) submitted this action making changes without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to update the fees and the revision dates on seven incorporated by reference paramedic application forms. The updated fees

are based on changes in the fees that were adopted in California Code of Regulations, title 22, section 100172(b). The updated revision dates are being made to reflect the changes to the forms and the updated revision dates are shown as amendments to the seven forms and to the regulation where the seven forms are incorporated by reference.

Title 22  
 Amend: 100164  
 Filed 06/21/2021  
 Agency Contact: Kent Gray (916) 384-1476

Board of Pharmacy  
 File # 2021-0330-01  
 Automatic Refill Programs

This action by the Board of Pharmacy adopts requirements for pharmacies that offer prescription medication automatic refill programs to patients.

Title 16  
 Adopt: 1717.5  
 Filed 06/22/2021  
 Effective 07/01/2022  
 Agency Contact: Lori Martinez (916) 518-3078

Cemetery and Funeral Bureau  
 File # 2021-0104-01  
 Licensure and Regulation of Alkaline Hydrolysis

This action adopts a regulatory scheme to license and regulate hydrolysis facilities pursuant to Assembly Bill 967 (Gloria, Chapter 846, Statutes of 2017).

Title 16  
 Adopt: 2326.05, 2329.1  
 Amend: 2310, 2311, 2326.1, 2339, 2370  
 Filed 06/17/2021  
 Effective 06/17/2021  
 Agency Contact:  
 Carolina Sammons (916) 574-7876

Commission on Peace Officer Standards and Training  
 File # 2021-0512-04  
 Regulation 1015 — Reimbursements for Training

This action adds the requirement that requests by training presenters for reimbursement of presentation costs include copies of receipts showing actual expenses per individual traveler. This action also changes the method of submission of presenter reimbursement requests from U.S. mail to electronic submission.

Title 11  
 Amend: 1015  
 Filed 06/22/2021  
 Effective 10/01/2021  
 Agency Contact: Melanie Dunn (916) 227-4866

Department of Toxic Substances Control  
File # 2021-0510-02  
Listing Carpets & Rugs with PFASs as Priority Product

This regular rulemaking action amends the Safer Consumer Products regulations by adding carpets and rugs containing perfluoroalkyl or polyfluoroalkyl substances to the Priority Products List.

Title 22  
Adopt: 69511.4  
Amend: 66260.11, 69511  
Filed 06/22/2021  
Effective 07/01/2021  
Agency Contact: Rick Brausch (916) 251-6398

State Water Resources Control Board  
File # 2021-0505-03  
Perchlorate Detection Limit For Purposes of Reporting

In this regular rulemaking, the State Water Resources Control Board (the "Board") is reducing the detection limit for purposes of reporting for perchlorate. The Board is also adopting definitions for the terms "Possible Contaminating Activity" and "Source Water Assessment".

Title 22  
Adopt: 64400.95, 64401.57  
Amend: 64432, 64443, 64554, 64560  
Filed 06/17/2021  
Effective 07/01/2021  
Agency Contact: Melissa Hall (916) 323-0373

State Water Resources Control Board  
File # 2021-0512-01  
Los Angeles Region's Update of the Bacteria Objectives for Water Contact Recreation

This action amends the Water Quality Control Plan for the Los Angeles Region (Basin Plan). On February 13, 2020, the Los Angeles Regional Water Quality Control Board adopted Resolution No. R20-001 to update bacteria objectives for waters designated for water contact recreation based on the Statewide Bacteria Provisions adopted by the State Water

Resources Control Board in 2018. The State Water Resources Control Board approved the amendments under Resolution No. 2020-0017 on May 19, 2020.

Title 23  
Adopt: 3939.57  
Filed 06/22/2021  
Effective 06/22/2021  
Agency Contact: Stefani Daryanto (213) 576-6763

State Water Resources Control Board  
File # 2021-0512-02  
Los Angeles Region's Basin Plan Administrative Update of Chapters 4 & 5

This action amends the Water Quality Control Plan for the Los Angeles Region (Basin Plan). On June 13, 2019, the Los Angeles Regional Water Quality Control Board adopted Resolution No. R19-006 to make non-substantive amendments to Chapters 4 and 5 of the Basin Plan. The State Water Resources Control Board approved the amendments under Resolution No. 2020-0008 on April 21, 2020.

Title 23  
Amend: 3930  
Filed 06/22/2021  
Effective 06/22/2021  
Agency Contact:  
Stefani Daryanto (213) 576-6763

**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](http://www.oal.ca.gov).