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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 (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **August 19, 2021** at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **August 17, 2021**.

BACKGROUND/OVERVIEW

Commission staff has prepared a package of regulatory proposals related to campaign communication and advertisement disclosure under the Act. The proposals are aimed at ensuring proper disclosure when committees pay third parties to post campaign advertisements and other communications online. The proposals also contain provisions intended to help clarify how disclosures should be displayed for certain types of online advertisements where there is currently a lack of clarity. Proposed amendments include amendments to Regulations 18421.5 and 18450.4; and adoption of Regulation 18450.9.

REGULATORY ACTION

Amend 2 Cal. Code Regs., Section 18421.5. — Reporting an Expenditure for Paid Online Communications.

The Commission may consider amendments to Regulation 18421.5, which requires committees to include additional details on campaign reports when

committees pay third parties to provide favorable or unfavorable content about a candidate or ballot measure on a website other than the committee's own website, or in lieu of such disclosure, place a disclosure on the communication itself. In addition to any other revisions consistent with this notice, it is anticipated that the Commission will specifically consider proposed amendments to Regulation 18421.5, which would:

- 1) Define the terms "Internet website," "web application," and "digital application."
- 2) Modernize the campaign expenditure reporting required in connection with communications where a committee has paid a third party to post favorable or unfavorable content by updating the regulation to better address the expansion of platforms on which such paid content now more frequently appears.
- 3) Expand the current expenditure reporting requirements of Regulation 18421.5 to include more specific information about a paid online communication such as a paid social media poster's username or handle and the title of an op-ed or article, in addition to the extra reporting already required under the regulation.
- 4) Require the extra reporting under Regulation 18421.5 for each platform for which a committee pays a person to post, rather than only "in the first instance."
- 5) Clarify that for communications which also meet the definition of "advertisement" under the Act, the extra reporting requirements in the regulation are required in addition to the disclosure requirements for advertisements under the Act.
- 6) Make other non-substantive technical changes.

Amend 2 Cal. Code Regs., Section 18450.4. — Video and Television Advertisement Disclosure.

The Commission may consider amendments to Regulation 18450.4, which requires that a video or television advertisement that is shorter than the required disclosure times set forth in Sections 84504.1, 84504.4 and 84504.5 must display the disclosure for the length of the advertisement. Proposed amendments to Regulation 18450.4 would clarify that a video posted on social media that is required to include disclosures under Section 84504.3 of the Act must follow the video disclosure rules, which require disclosures to be included on the video, and not only on the committee's profile or landing page.

Adopt 2 Cal. Code Regs., Section 18450.9. Website Advertisements and Third-Party Social Media Advertisements.

The Commission may consider adoption of Regulation 18450.9. Proposed Regulation 18450.9 would require social media advertisements that fall under Section 84504.3, that are made by third parties,

¹The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

to have a tag or otherwise include a link to the social media profile or landing page of the committee that paid for the advertisement, so voters can access the committee's profile or landing page to view the required advertisement disclosures. In addition, proposed Regulation 18450.9 would provide that advertisements in the form of a written post on non-social media websites that fall under Section 84504.3, and that are not the committee's website, must have disclosures at the top or bottom of each individual post.

SCOPE: The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on any local entity or program.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 84211, 84501, 84502, 84503, 84504.1, 84504.3, 84504.4, 84504.5, and 84504.6.

CONTACT

Any inquiries should be made to Toren Lewis, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC, or by email at tlewis@fppc.ca.gov. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of

the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

Multi-County: Schools Insurance Authority
San Joaquin River Exchange
Contractors Water Authority

ADOPTION

Multi-County: Henry Miller Reclamation
District #2131

A written comment period has been established commencing on July 16, 2021 and closing on August 30, 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 30, 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 15. BOARD OF PAROLE HEARINGS

BPH RN 21-03

AMENDMENT OF SECTION 2240 COMPREHENSIVE RISK ASSESSMENTS

NOTICE IS HEREBY GIVEN that the Executive Officer of the Board of Parole Hearings (board), under the authority granted by Government Code section 12838.4 and Penal Code sections 3052 and 5076.2, authorizes the board to adopt the proposed amendments to section 2240 of division 2 of title 15 of the California Code of Regulations (CCR) concerning Comprehensive Risk Assessments (CRAs).

AUTHORITY AND REFERENCE

Government Code section 12838.4 vests the board with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Prison Terms and Narcotic Addict Evaluation Authority, which no longer exist.

Penal Code section 3052 vests with the board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code section 5076.2 requires the board promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

Penal Code section 3041 requires the board to meet with each inmate before the inmate’s Minimum Eligible Parole Date (MEPD) for the purpose of reviewing and documenting the inmate’s activities.

Penal Code section 3041.5 establishes the requirements and conditions concerning parole denial and guidelines concerning the inmate’s right to petition the board concerning the results.

The Federal Eastern District Court of California case *Johnson v. Shaffer* approved a stipulated agreement between the parties requiring the discontinuation of subsequent risk assessments, replacement with CRAs, and a pre-hearing process through which inmates can object to factual errors. (*Johnson v. Shaffer* (E.D. Cal. May 26, 2016) No. 2:12-cv-1059, Doc. 167 [order approving stipulated agreement].) In the settlement agreement, there is an acknowledgement that the CRA process could change, including that CRAs may not be provided.

Penal Code section 3051 established a process for hearings for youth offenders. Subparagraph (i) (3)(B) requires the board to conduct an initial youth

offender parole hearing by December 31, 2021, for any determinately-sentenced youth offender who qualified as a youth offender under Assembly Bill 1308 (Chapter 675 of the Statutes of 2017) and for whom Case Records Services of the department calculated a YPED as a date occurring prior to the effective date of the bill under which the inmate became qualified

Penal Code section 3051.1, subdivision (b), requires the board to conduct an initial youth offender parole hearing by December 31, 2021, for any determinately-sentenced youth offender who qualified as a youth offender under Senate Bill 261 (Chapter 471 of the Statutes of 2015) and for whom Case Records Services of the California Department of Corrections and Rehabilitation (department) calculated a YPED as a date occurring prior to the effective date of the bill under which the inmate became qualified.

Penal Code section 3053.9 requires the board consider the results of a CRA for sex offenders in considering parole for an inmate with a prior conviction for a sexually violent offense, as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code.

The Three-Judge Court in the Eastern and Northern District Courts of California in the cases *Coleman v. Brown* and *Plata v. Brown* issued a February 10, 2014 order requiring the department, in consultation with the Receiver's office, finalize and implement an expanded parole process for medically incapacitated inmates (*Coleman v. Brown* (E.D. Cal. February 10, 2014) No. 2:90-cv-0520, Doc. 2766; *Plata v. Brown* (N.D. Cal. February 10, 2014) No. C01-1351, Doc. 2766.) While Penal Code section 3550 details requirements and conditions under which an inmate can be placed on medical parole supervision, the board is operating under the more expansive provisions in the Expanded Medical Parole Guide, based on the mandates in the court order.

SPECIFIC AGENCY STATUTORY REQUIREMENTS

There are no other statutory requirements specific to the board or to any specific regulation or class of regulations promulgated by the board.

PUBLIC COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulations to the board. **THE WRITTEN COMMENT PERIOD ON THIS PROPOSED REGULATORY ACTION WILL COMMENCE ON FRIDAY, JULY 16, 2021, AND WILL CLOSE ON TUESDAY, AUGUST 31, 2021.** For comments to be considered by the board, they must be submitted in

writing to the board's Contact Person identified in this Notice no later than the close of the comment period.

CONTACT PERSON

Please direct requests for copies of the Initial Statement of Reasons (ISOR), the Proposed Text of the Regulation, or other information upon which the rulemaking is based to:

Christopher J. Hoeft, Staff Attorney

Board of Parole Hearings

P.O. Box 4036

Sacramento, CA 95812-4036

Phone: (916) 322-6729

Facsimile: (916) 322-3475

E-mail: BPH.Regulations@cdcr.ca.gov

If Christopher Hoeft is unavailable, please contact Assistant Chief Counsel, Heather L. McCray at Heather.McCray@cdcr.ca.gov. In any such inquiries, please identify the action by using the board's regulation control number **BPH RN 21-03**.

NO PUBLIC HEARING SCHEDULED

The board has not scheduled a public hearing on this proposed regulatory action. The board, however, will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period. Written or facsimile comments submitted during the prescribed comment period have the same significance and influence as oral comments presented at a public hearing.

If scheduled, the purpose of a public hearing would be to receive oral comments about the proposed regulations. It would not be a forum to debate the proposed regulations, and no decision regarding the permanent adoption of the proposed regulations would be rendered at a public hearing. The members of the board would not be present at a public hearing.

PROCEDURAL BACKGROUND

On February 5, 2021, emergency regulations amending section 2240 of title 15 of the CCR went into effect. The emergency regulations authorized the board to conduct parole consideration and subsequent parole reconsideration hearings scheduled to occur on or between April 1, 2021, and June 30, 2022, for specified inmates without preparing a CRA. Further, the emergency regulations established processes through which specified inmates could challenge the board's determination not to prepare a CRA for their hearing or request the board prepare a CRA for their hearing. As a result of Executive Orders N-40-20

and N-71-20 issued by the Governor of California, the emergency regulations are currently scheduled to expire on December 4, 2021.

This rulemaking seeks to adopt the regulatory language of the emergency regulations in accordance with Government Code sections 11346.2 to 11347.3, inclusive.

In addition, this rulemaking seeks to further amend section 2240 of title 15 of the CCR to clarify the board is not required to prepare a CRA before conducting a parole consideration or subsequent parole reconsideration hearing for specified inmates placed on medical parole supervision on the date the hearing is scheduled to occur.

INFORMATIVE DIGEST

Summary of Existing Laws and Regulations and Effect of Proposed Action

The board is vested with the power to establish and enforce rules and regulations under which inmates committed to state prisons may be allowed to go upon parole outside the prison buildings and enclosures when eligible for parole. (Pen. Code, § 3052.) An inmate subject to the board’s parole-hearing jurisdiction has a protected liberty interest in parole consideration.

Inmates have a right to a parole consideration hearing before the board based on their parole eligibility date, including their MEPD, Youth Parole Eligible Date (YPED), Elderly Parole Eligible Date (EPED), or Nonviolent Parole Eligible Date (NPED), whichever is applicable. (Pen. Code, §§ 3041, subdivision (a)(2); 3051, 3055; *In re Edwards* (2018) 26 Cal.App.5th 1181.) Further, inmates identified in Penal Code sections 3000, subdivision (b)(4), and 3000.1, who were remanded to the custody of the department because of a violation of law or condition of parole while on parole, are entitled to annual subsequent parole reconsideration hearings if the board, within one year of the violation, determines the circumstances and gravity of the violation are such that consideration of the public safety requires a more lengthy period of incarceration, unless there is a new prison commitment following a conviction. Additionally, while placed on medical parole supervision under the expanded medical parole program, as described in the board’s ISOR, an inmate is still eligible to receive parole consideration hearings under their MEPD, YPED, EPED, or NPED, or subsequent parole reconsideration hearings under Penal Code sections 3000, subdivision (b)(4), or 3000.1, as applicable. Changes to the California Constitution and Penal Code in the last few years have changed requirements and timelines for people who come before the board, resulting in a significant increase in the number of hearings the

board is required to hold each year. (Cal. Const., article I, § 32.; Pen. Code §§ 3051, 3055.)

The board has broad discretion in making parole decisions and, because there is no ideal, error-free way to make decisions, “experimentation involving analysis of psychological factors combined with fact evaluation guided by practical experience” is encouraged in our system of government. (*Greenholtz v. Inmates of Nebraska Penal & Corr. Complex* (1979) 442 U.S. 1, 13.) At a parole hearing, the board is assessing whether the inmate’s release presents a current unreasonable risk of danger to public safety. (*See In re Lawrence* (2008) 44 Cal.4th 1181.)

In reaching a parole decision, a hearing panel must consider all relevant and reliable information available. (*See* Cal. Code Regs., title 15, § 2281, subdivision (b).) One tool the board uses to generate relevant and reliable information for hearing panels is a CRA. (*See* Cal. Code Regs., title 15, § 2240.) CCR, title 15, section 2240, paragraph (d)(1), requires the board to prepare a CRA for all initial and subsequent parole consideration hearings and subsequent parole reconsideration hearings for inmates housed within California if, on the date of the hearing, more than three years will have passed since the most recent CRA. However, the CRA is intended as a tool to assist the hearing panel to assess the inmate’s current risk of danger to the public if released. An inmate subject to the board’s parole-hearing jurisdiction does not have a protected statutory or due process right in the board preparing a CRA prior to a hearing; instead the CRA is intended to benefit the hearing panel by providing information. (*See In re Lazor* (2009) 172 Cal.App.4th 1185, 1202 [CRA is information that bears on suitability for release, but it does not dictate the board’s parole decision].) Further, the board may focus its limited resources on inmates most suitable for parole. (*Garner v. Jones* (2000) 529 U.S. 244, 254.)

The board proposes to amend CCR, title 15, section 2240, subdivision (d), by adding language enacted through emergency regulations, as stated above, permitting the board to conduct an initial or subsequent parole consideration hearing or subsequent parole reconsideration hearing for an inmate without preparing a CRA, even if more than three years will have passed since the most recent CRA, unless required under Penal Code section 3053.9. Specifically, the proposed regulations would not require the board to prepare a CRA for a hearing if both of the following circumstances apply: (1) the inmate is designated by the department as Security Level IV as of January 1, 2021, and the inmate has received two or more Serious Rules Violation Reports (RVRs) for which the department found the inmate guilty on or between January 1, 2018, and January 1, 2021, and (2) the board scheduled the inmate’s hearing

to occur on or between April 1, 2021, and June 30, 2022, or previously scheduled the hearing to occur on or between April 1, 2021, and June 30, 2022, but the hearing was postponed and rescheduled to occur on a date after June 30, 2022. These hearings would still go forward, satisfying the inmate's right to parole consideration. Further, the board proposes to amend CCR, title 15, section 2240, subdivision (d), by adding language to clarify the board will not prepare a CRA for an inmate on medical parole supervision at the time of their hearing, unless required under Penal Code section 3053.9.

Under the proposed amendments, if the board determines an inmate meets the specified criteria to not prepare a CRA for the inmate's hearing, the proposed amendments to subdivision (d) require the board to mail notice to the inmate at least 60 days before the inmate's hearing. If the inmate receives such notification and believes they do not meet the criteria for a hearing without a CRA, the inmate or inmate's attorney of record may submit a challenge to the board, as specified. The proposed regulations establish a procedure by which the board's Chief Counsel can evaluate and respond to a challenge received by the board, including when the Chief Counsel may postpone an inmate's hearing to allow the board time to prepare a CRA before the hearing. Additionally, if, since the inmate's most recent RVR, the inmate experienced a change to the inmate's physical or mental health that would be relevant to determining the inmate's suitability for parole, the inmate or inmate's attorney of record may request the board prepare a CRA on that basis, despite meeting criteria for CRA exclusion. The proposed regulations also establish a procedure by which the Chief Counsel can evaluate and respond to a request received by the board, including when the Chief Counsel may postpone an inmate's hearing to allow the board time to prepare a CRA before the hearing.

Finally, under the proposed amendments, if the board did not prepare a CRA for the inmate's hearing, but the hearing panel finds a CRA is necessary to reach a determination on the inmate's suitability for parole, the hearing panel shall continue the hearing and require the board prepare a CRA.

Policy Statement Overview

Because of increased hearing postponements due to COVID-19, as well as statutory and regulatory requirements that the board provide initial parole consideration hearings to certain inmate populations by December 31, 2021, as described in the ISOR, the board was projecting a backlog of about 864 to 1,411 CRAs by the end of 2021. That would have resulted in the postponement of those parole hearings because the board would be unable to comply with the CRA requirements as they existed prior to the enactment

of emergency regulations. The proposed amendments to CCR, title 15, section 2240, will enable the board to avoid postponing hearings for inmates and allow the board to move forward with hearings scheduled to occur between April 1, 2021, and June 30, 2022, for specified inmates without preparing a CRA for the hearings.

As noted above, the proposed regulations exempt the board from the requirement to conduct a CRA for inmates designated by the department as Security Level IV as of January 1, 2021, and who were found guilty by the department of two or more Serious RVRs on or between January 1, 2018, and January 1, 2021. By identifying a static date on which the department must have designated the inmate as Security Level IV, as well as a static time over which the department must have found the inmate guilty of two or more Serious RVRs, the board has determined through analysis that the proposed regulations will be sufficient to address the board's CRA backlog. The projected number of hearings the board's proposed regulations will impact is 1,177, meaning the proposed regulations will enable the board to address its projected CRA backlog of about 1,000 CRAs by the end of the 2021-2022 fiscal year.

Further, when analyzing parole hearings conducted in 2019, 99% of hearings that were not postponed and that were held for inmates who were designated Security Level IV and had two or more RVRs in the three years preceding their hearing resulted in a denial of parole, waiver of the hearing, or stipulation by the inmate to unsuitability for parole. Thus, by identifying hearings for inmates who meet similar criteria as those hearings for which the board will not prepare a CRA, the board will be able to address its projected CRA backlog in a manner that allows it to focus available CRA resources on inmates more likely to be found suitable for parole at their hearing.

The proposed regulations include a process by which an inmate or inmate's attorney of record may challenge the board's determination that an inmate meets the specified criteria for the board to not conduct a CRA for the upcoming parole hearing. This process provides a means by which an inmate may seek an administrative remedy if the inmate believes the board incorrectly identified the inmate as meeting the specified criteria.

Further, the proposed regulations allow an inmate or inmate's attorney of record to request the board prepare a CRA even though the inmate meets the specified criteria if there was a change to the inmate's physical or mental health, as specified. This process enables the inmate to request a CRA under circumstances in which a CRA is likely to provide relevant information for a hearing panel when determining the inmate's suitability for parole; namely, an assessment by a

licensed psychologist as to how the change to the inmate’s physical or mental health impacts the inmate’s risk of violence.

Finally, at a hearing for which the board did not prepare a CRA, the proposed regulations allow the hearing panel to continue the hearing and require the board to prepare a CRA before the rescheduled hearing if the hearing panel finds a CRA is necessary to reach a determination on the inmate’s suitability for parole. This will ensure a hearing panel will not be forced to determine an inmate’s suitability for parole without any information deemed necessary that the board has authority to provide.

The board determined the current language in CCR, title 15, section 2240, subdivision (d), is vague as to whether the board is required to prepare a CRA for a parole consideration or subsequent parole reconsideration hearing for an inmate placed on medical parole supervision at the time of the hearing. Thus, the board determined it was necessary to clarify within the regulatory language that the board will not prepare a CRA for hearings for this population of inmates, unless required under Penal Code section 3053.9.

Determination of Inconsistency/Incompatibility with Existing State Regulations

CCR, title 15, section 2240 currently requires the board to prepare a CRA for all initial and subsequent parole consideration hearings and all subsequent parole reconsideration hearings for inmates housed within the State of California if, on the date of the hearing, more than three years will have passed since the most recent CRA became final. The proposed regulations amend section 2240 by specifying the board is not required to prepare a CRA for specified hearings if the inmates for whom the board will conduct the hearings meet specified criteria. The proposed regulations create an exception to the general rule that the board shall prepare a CRA for all initial and subsequent parole consideration hearings and all subsequent parole reconsideration hearings, as specified above. Thus, by specifying the hearings for which the board will not prepare a CRA, the board has determined the proposed amendments are consistent with existing regulations. The board has also determined the proposed regulations are compatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the board has concluded CCR, title 15, section 2240, is the only regulation that concerns when the board must prepare a CRA for a parole consideration hearing or subsequent parole reconsideration hearing for an inmate subject to the parole authority of the board.

DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandates: The board has determined that the proposed action imposes no mandate upon local agencies or school districts.

Fiscal Impact Statement: The board has made the following initial determinations:

- Cost or savings to any state agency: **None.** If enacted, the board does not anticipate any specific cost or savings associated with the proposed regulations. Any speculative savings would be associated with avoiding future litigation.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: **None.**
- Other non–discretionary cost or savings imposed on local agencies: **None.**
- Cost or savings in federal funding to the state: **None.**

Significant Statewide Adverse Economic Impact on Business: The board has determined there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effects on Job and/or Business Creation, Elimination, or Expansion: The board has determined adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on Housing Costs: The board has determined the proposed action will have no significant effect on housing costs.

Small Business Determination: The board has determined that the proposed regulations do not have a significant adverse economic impact on small business because small businesses are not affected by the board’s internal processes governing the board’s role and requirements in preparing a CRA prior to a parole consideration hearing or subsequent parole reconsideration hearing for an inmate subject to the parole authority of the board.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

Creation or Elimination of Jobs within California: The board concludes it is unlikely the proposed regulations will create or eliminate any jobs in California.

Creation of New Businesses or Elimination of Existing Businesses within California: The board concludes it is unlikely the proposed regulations will create any new business or eliminate any existing businesses in California.

Expansion of Businesses Currently Doing Business within California: The board concludes it is unlikely the proposed regulations will result in the expansion of businesses currently doing business in California.

Anticipated Benefits to the Health and Welfare of California Residents, Worker Safety, and California's Environment: As explained in the Economic Impact Analysis in the ISOR, these proposed regulations will benefit all stakeholders by providing greater clarity on how to determine whether the board will prepare a CRA in advance of an inmate's parole consideration or subsequent parole reconsideration hearing and how the board will address its CRA backlog in a manner that protects an inmate's liberty interest in receiving a timely parole hearing. We anticipate these benefits will ultimately help to reduce some of the risk and anxiety hearing participants experience when faced with these hearings because they will have a better understanding of what information will be available to a hearing panel at an upcoming hearing and that less hearings will need postponement due to the board needing to prepare a CRA before the hearing. Additionally, the proposed regulations reduce the risk of error through the challenge process, which may reduce inmate anxiety by providing an administrative process to correct any errors by the board. Finally, under the proposed regulations, inmates and their attorneys will be able to request a CRA under specified circumstances in which a CRA may be especially beneficial to a hearing panel, i.e. change in the inmate's health status, and hearing panels will be able to continue a hearing if they find a CRA is necessary to reach a determination regarding the inmate's risk to public safety. These processes ultimately benefit public safety and welfare by ensuring board hearing panels have the information they need to reach decisions that protect public safety in a manner that also protects an inmate's liberty interest in timely release from incarceration.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Interested parties are accordingly invited to present statements or arguments with respect to any alternatives to the proposed changes during the public comment period.

AVAILABILITY OF PROPOSED TEXT

The board will make the rulemaking file available to the public throughout the rulemaking process at its offices located at 1515 K Street, Suite 600, Sacramento, California. As of the date this Notice is published in the Office of Administrative Law's Notice Register, the rulemaking file consists of this Notice, the Form 400 (Notice of Submission of Regulation), the Proposed Text of the Regulation, the ISOR, and the Form 399 (Fiscal and Economic Impact Statement). Copies of any of these documents may be obtained by contacting the board's Contact Person identified in this Notice at the mailing address, fax number, or email address listed above or by visiting the board's website at: http://www.cdcr.ca.gov/BOPH/reg_revisions.html.

AVAILABILITY OF CHANGES TO
PROPOSED TEXT

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this Notice. If the board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the board adopts the regulations as revised. Please send requests for copies of any modified regulation text to the attention of the Contact Person identified in this Notice or by visiting the board's website at http://www.cdcr.ca.gov/BOPH/reg_revisions.html. If the board makes modifications, the board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the board's Contact Person identified in this notice at the mailing address, phone number, fax number, or email address listed above or by visiting the board's website at: http://www.cdcr.ca.gov/BOPH/reg_revisions.html.

**TITLE 15. CALIFORNIA 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 delete Section 8007 and add Sections 8480, 8481, 8482, 8483, 8484, 8485, 8486, 8487 and 8488 of Article 3, of the California Code of Regulations (CCR), Title 15, Division 8, concerning inmate grievances and appeals.

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 16, 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 as soon as possible, but no later than 10 business days before a scheduled hearing.

Para solicitar estas adaptaciones especiales o servicios de idioma, puede contactar a CALPIA at (916) 358-1721 or Roxanna.Leffel@calpia.ca.gov lo más pronto posible y a más 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 31, 2021, 45 days after the Publication in the Notice

Register on July 16, 2021. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVER

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

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

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

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

CONTACT PERSONS

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action, or for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to 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 inmates, abolishing the Correctional Industries Commission and replacing it with the newly created Prison Industry Authority (PIA) (subsequently renamed CALPIA) under the direction of the Prison Industry Board.

Penal Code Section 2807(a): Section 2807(a) provides that CALPIA is authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. By giving CALPIA these duties and 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 and do all of the things that the board of directors of a private corporation would do.

State Departments have been given "Quasi-Legislative" powers to adopt rules (regulations) that are consistent with state law so that they can run the programs 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.4th 124. By the implied terms of Penal Code Sections 2808, 2802, 2807, 2800, CALPIA has the authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of these statutes.

INFORMATIVE DIGEST

CALPIA is deleting Section 8007 and adding Sections 8480, 8481, 8482, 8483, 8484, 8485, 8486, and 8487 of Article 3, of the California Code of Regulations (CCR), Title 15, Division 8, concerning inmate grievances and appeals

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 2818. The proposed regulatory action is reasonably necessary to effectuate the purposes of PC section 2801 through 2818.

POLICY STATEMENT OVERVIEW

The proposed amendment is necessary to provide regulations in light of recent related California Department of Corrections and Rehabilitation ("CDCR") regulations that now require this action. CDCR has obtained the approval of its similar regulations according to a Certification of Operational Necessity, according to Penal Code Section 5058.3(a)(4). An operational necessity exists for the PIB and CALPIA, although Section 5058.3(a)(4), does not incorporate CALPIA. CDCR's new regulations provide that inmate grievance and appeal matters related to CALPIA will be referred to and handled by CALPIA, which were previously handled through the procedures provided by CDCR. It is timely to delete section 8007 and add sections 8480 to 8487 to CALPIA's regulations to provide procedures for inmate grievances and appeals.

The Prison Litigation Reform Act (PLRA) provides that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). In *Porter v. Nussle*, 534 U.S. 516, 122 S.Ct. 983 (2002), the Supreme Court confirmed that "the PLRA's exhaustion requirement applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes, and whether they allege excessive force or some other wrong." *Id.*, 122 S.Ct. at 992. Inmates must exhaust the procedures provided for grievances and appeals before filing litigation, and this regulatory action delineates this process. In this regulatory action, the PIB and CALPIA propose to formalize the inmate grievances and appeals process. These changes would be effective on or about June 1, 2021.

As stated above, CDCR's new regulations in Title 15 for inmate appeals and grievances provide that those matters related to CALPIA will be referred to and handled by CALPIA, previously processed through the procedures provided by CDCR. Therefore, it is timely to add and amend CALPIA's regulations to provide procedures for inmate grievances and appeals.

Anticipated Benefits of the Proposed Regulation:

Anticipated benefits of the proposed regulatory action include:

- Formalize the process for handling all inmate and parolee grievances and appeals of grievances to improve response times.
- Formalize and clarify the roles and responsibilities of staff at the various levels, including the initial grievance level and the appeal level for inmate grievances.
- Expedite the processing of inmate grievances which contain information concerning personal safety, institutional security, or sexual misconduct.
- Formalize the procedures and process for handling inmate grievance appeals.
- Clarify the process for handling all allegations of staff misconduct.
- These regulations will significantly improve the handling of inmate grievances and appeals of grievances to improve transparency, integrity, and staff accountability.

The proposed regulatory action will promote fairness and increase transparency in government as well as provide California residents with safety by addressing the complaints of incarcerated persons.

There is no anticipated benefit to worker safety or the state's environment by this proposed action other than potentially provide one element that may help to maintain the current level of safety for workers on-site at CALPIA work locations.

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

Effect on Housing Costs:

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

Results of the Economic Impact Analysis/Assessment:

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

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

Benefits of Proposed Action:

As stated above under the Informative Digest and Policy Statement Overview, the benefits of the regulatory action include:

- Formalize the process for handling all inmate and parolee grievances and appeals of grievances to improve response times.
- Formalize and clarify the roles and responsibilities of staff at the various levels, including the initial

grievance level and the appeal level for inmate grievances.

- Expedite the processing of inmate grievances which contain information concerning personal safety, institutional security, or sexual misconduct.
- Formalize the procedures and process for handling inmate grievance appeals.
- Clarify the process for handling all allegations of staff misconduct.
- These regulations will significantly improve the handling of inmate grievances and appeals of grievances to improve transparency, integrity, and staff accountability.

Thus, this proposed action benefits the public and general welfare. As stated above, The proposed regulatory action will promote fairness and increase transparency in government as well as provide California residents with safety by addressing the complaints of incarcerated persons.

There is no anticipated benefit to worker safety or the state's environment by this proposed action other than potentially help to maintain the current level of safety for workers on-site at CALPIA work locations.

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:

1. OAL's Decision of Approval, CDCR's Emergency Regulation, Grievances and Appeals, 2020. OAL Matter No. 2020-0309-01; https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2020/04/Master-File-Appeals-Emerg-Regs_ADA.pdf.
2. CDCR Budget Change Proposal, 5225-315-BCP-2019-A1; https://esd.dof.ca.gov/Documents/bcp/1920/FY1920_ORG5225_BCP3073.pdf.
3. 2011, Special Report, Office of the Inspector General (CA), CDCR's Revised Inmate Appeals Process Leaves Key Problems Unaddressed,

Robert A. Barton, Inspector General, State of California; <https://www.oig.ca.gov/wp-content/uploads/2019/05/Special-Report-on-CDCRs-Revised-Inmate-Appeal-Process-Leaves-Key-Problems-Unaddressed.pdf>.

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 inmate workers.

Consideration of Alternatives:

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

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

Availability of Statement of Reasons, Text of Proposed Regulations, and Rulemaking Documents, and other information upon which the rulemaking is based:

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

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

Availability of Changes to Proposed Text:

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA

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

Availability of the Final Statement of Reasons:

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

Availability of the Documents on the Internet:

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

TITLE 16. PHYSICAL THERAPY BOARD

DISCIPLINARY GUIDELINES REVISIONS

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California (Board) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or that person's authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at 916-263-2560, or by e-mail to ptbc.rulemaking@dca.ca.gov. The written comment period closes at **5:00 p.m. on Tuesday, August 31, 2021**. The Board will

consider only comments received at the Board's office by that time. Submit comments to the Contact Person identified in the Contact Person section below.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 2615, and to implement, interpret or make specific BPC sections 315, 315.2, 315.4, 2660, 2660.1, 2660.2, 2661, 2661.5, as well as Government Code (GOV) sections 11400.20 and 11425.50, subsection (e), the Board is considering changes to title 16, division 13.2 of the California Code of Regulations (CCR), as follows:

A. INFORMATIVE DIGEST

In reaching its disciplinary decisions, the Board uses the Guidelines for Issuing Citations and Imposing Discipline (Guidelines), incorporated by reference into 16 CCR 1399.15. Currently, the Board uses the Revised, December 2013, 5th Edition of the Guidelines, which were adopted by regulation in 2014.

Proposed Amendment to 16 CCR 1399.15

This rulemaking proposes to amend 16 CCR 1399.15 to incorporate by reference the Guidelines (Revised September 2020, 6th Edition), replacing the Guidelines (Revised December 2013, 5th Edition). It is necessary to incorporate the Guidelines by reference due to the size of the document. The current Guidelines are posted on the Board's website at: https://www.ptbc.ca.gov/forms/model_guide_citations.pdf.

Proposed Amendments to the Guidelines (Incorporated by Reference)

The current Disciplinary Guidelines (5th Edition, December 2013), incorporated by reference in section 1399.15, must be amended to reflect the Board's mandate to educate licensees in matters relevant to the current probationary environment in accordance with the Physical Therapy Practice Act (Act).

The Legislature also enacted Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes 2018) "to reduce licensing and employment barriers for people who are rehabilitated." This measure adjusted various provisions of law to allow individuals with criminal convictions to become licensed if certain conditions exist relating to those convictions. Thus, the Guidelines must be amended to reflect those changes. In addition, they are being amended to make various technical, non-substantive changes, and for housekeeping matters, such as changes in the members of the Board and to revise the name of the governor of California.

B. ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

This regulatory action will update the Board's Guidelines used in its enforcement decisions and will amend 16 CCR 1399.15 to incorporate these updated Guidelines by reference as the Revised September 2020, 6th Edition. The proposed amendments will benefit the Board, licensees, and consumers by making the Guidelines consistent with current law, along with the current educational and probationary environment, clarifying the terms and conditions of probation (to reduce the likelihood of misinterpretation to licensees and others), and strengthening consumer protection.

C. CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

D. DOCUMENTS INCORPORATED BY REFERENCE

The Guidelines for Issuing Citations and Imposing Discipline (Revised September 2020, 6th Edition).
Uniform Standards Regarding Substance—Abusing Healing Arts Licensees (Revised March 2019)

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Business Impact:

The Board made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states, nor will it have any significant 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 initial determination is based on the fact that these proposed amendments to the regulatory changes do not impose additional requirements that impact the conduct of physical therapy in California, unless the licensee is disciplined or under probation from having violated the law. Further, the Board has determined that that the proposed regulation will benefit the health and welfare of California residents by clarifying the terms and conditions of probation for physical therapists and physical therapist assistants, subject to discipline, and will therefore strengthen consumer protection to their potential patients. This proposal is not anticipated to benefit worker safety or the state's environment.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any costs impacts that a representative private person business will necessarily incur in reasonable compliance with the proposed action. While discipline may involve costs to be paid by a licensee after due process, these updates do not increase fees or costs and in no event would impose costs or fees upon licensees in compliance with law. The representative private persons or directly affected businesses are physical therapists or physical therapist assistants that are regulated by the Board.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has made an initial determination that the proposed regulatory action will have no effect on small businesses. This initial determination is based on the fact that these proposed amendments to the Guidelines will simply make this document consistent with current law, amend the document to reflect changes that occurred in the educational and probationary environment since the last update, clarify terms and conditions of probation, and improve consumer protection.

CONSIDERATION OF ALTERNATIVES

In accordance with GOV sec. 11346.5(a)(13), the Board must determine that no reasonable alternative that it considered to the regulation, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which this regulatory action is proposed, would be as effective and less burdensome to affected private persons than the proposed action 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.

The Board invites interested persons to present statements or arguments, orally or in writing, that are relevant to the above determinations.

INITIAL STATEMENT OF
REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and any document incorporated by reference, along with the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be inspected and reviewed, upon request, from the person designated in this Notice under Contact Person or from the Physical Therapy Board of California, located at 2005 Evergreen Street, Suite 2600, Sacramento, California 95815, or on the Board's website at: http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

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:

Rebecca Marco
2005 Evergreen Street, Suite 2600
Sacramento, California 95815
Telephone: (916) 318-0564
Fax: (916) 263-2560
Email Address: ptbc.rulemaking@dca.ca.gov

The backup contact person is:

Elsa Ybarra
2005 Evergreen Street, Suite 2600
Sacramento, California 95815
Telephone: (916) 561-8262
Fax: (916) 263-2560
Email Address: ptbc.rulemaking@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can also be found at: http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

GENERAL PUBLIC INTEREST

FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission (Commission), on June 14, 2021, received a petition from California Trout to list Southern California steelhead (also known as southern steelhead) (*Oncorhynchus mykiss*) as endangered under the California Endangered Species Act.

The Southern California steelhead is a highly migratory and adaptive species utilizing multiple habitat types over their complete life-history. This species of fish will spend one to four years maturing in the Pacific Ocean. Once Southern California steelhead have reached maturity, they will typically return to their natal river system to spawn. Upon entering the river system, Southern California steelhead can migrate several to hundreds of miles to reach suitable spawning habitat. Southern California Steelhead require cool, clean water, and complex, connected habitat that provides sufficient nutrients and foraging opportunities. The geological character of their geographic range is young, highly erodible sedimentary rock that is suitable for spawning and incubation. Freshwater spawning sites must provide sufficient water quantity and quality. The primary habitat conditions that influence the species are temperature, dissolved oxygen, water depth and velocity.

Pursuant to Section 2073 of California Fish and Game Code, on June 23, 2021, the Commission transmitted the petition to the California Department of Fish and Wildlife (Department) for review pursuant to Section 2073.5 of said code. The Commission will receive the petition at its August 18-19, 2021, meeting which will be held via teleconference and webinar.

It is anticipated that the Department's evaluation and recommendation relating to the petition will be received by the Commission at its October 13–14, 2021, meeting in Sacramento.

Interested parties may contact Jonathan Nelson, Environmental Program Manager I, Anadromous Fisheries Conservation and Management Program, at California Department of Fish and Wildlife, 1010 Riverside Parkway, West Sacramento, CA 95605 or (916) 376–1641 or Jonathan.nelson@wildlife.ca.gov, for information on the petition or to submit information to the Department relating to the petitioned species.

DECISION NOT TO PROCEED

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

PURSUANT TO GOVERNMENT
CODE SECTION 11347

RE: NOTICE OF PROPOSED
RULEMAKING CONCERNING
HEALTH CARE GRIEVANCES

NOTICE IS HEREBY GIVEN that pursuant to Government Code section 11347, the California Department of Corrections and Rehabilitation has decided not to proceed with the rulemaking action published on the California Notice Registry on March 5, 2021, Register 2021, No. 10–Z. The proposed rulemaking concerned health care grievances (OAL Notice Z–2021–0222–01).

The Department will also post this Notice of Decision Not to Proceed on its website at <https://cchcs.ca.gov/> and CDCR institution law libraries.

**RULEMAKING PETITION
DECISION**

**BOARD OF FORESTRY AND
FIRE PROTECTION**

Mr. Jesse Noell
noelljesse@gmail.com

June 28, 2021

Mr. Noell,

This is the California State Board of Forestry and Fire Protection's (Board) response to your "petition for emergency rules including a process for redress" (Petition), which the Board received on May 25, 2021.

(Gov. Code, § 11340.7, subdivision (a).) The Petition, in full, is appended to this response.

Pursuant to Government Code section 11340.6, a petition for the adoption, amendment, or repeal of a regulation, such as the Petition, must state all of the following "clearly and concisely:"

- (a) The substance or nature of the regulation, amendment, or repeal requested.
- (b) The reason for the request.
- (c) Reference to the authority of the state agency to take the action requested.

After careful review, the Board hereby denies your Petition on two grounds: (1) it does not clearly and concisely state the substance or nature of the regulation requested; and (2) it does not reference the Board's authority to take the emergency regulatory action requested. (Gov. Code, § 11340.6, subdivisions (a), (c).)

Specifically, the Petition fails to clearly and concisely state the substance or nature of the regulation requested. While reciting a twenty-plus year history of dissatisfaction with and grievances against the Board, CAL FIRE, tax values, insurance rates, as well as other things, the Petition lacks the clarity needed for the Board to adopt, amend or repeal regulations. The Petition further fails to identify any particular regulations it would like adopted, amended or repealed, fails to identify the "process for redress" stated, and fails to provide sufficient information, such as proposed language, for the Board to consider. The Board therefore denies the petition on this ground. (Gov. Code § 11346.1, subdivision (a).)

As for the second ground for denial, the Petition requests "emergency rules," but provides no basis for or reference to the authority that would enable the Board to take such emergency action. The Petition fails to identify any statute or other authority that provides the authority to the Board to take such emergency action. Further, the Petition includes no information that would satisfy the emergency rulemaking requirements under Government Code § 11346.1 and provides no description or facts demonstrating the existence of an emergency and need for immediate action. In addition, the Board has made no finding of emergency thereunder. Finally, the Petition provides no basis or reference to the authority of the Board to provide a process for redress, as requested. Consequently, the Board denies the Petition on these grounds as well. (Gov. Code § 11346.1, subdivision (c).)

While the Petition is denied for the above reasons, the Board offers you an alternative approach that may allow you to pursue the regulatory actions you seek. The Board invites you to prepare all documents necessary to satisfy the notice requirements under Article 5 of the Administrative Procedures Act (commencing

with Gov. Code, § 11346) for the Board to consider the issues raised in your Petition. Should you decide to pursue this alternative approach, your prepared noticing documents will be promptly brought forth before the Board or one of its standing committees for consideration of commencing a rulemaking effort.

For the reasons described above, the Board denies the Petition. Petitioners are encouraged to participate in the existing environmental review process and the Board's meetings.

Best Regards

/s/

Matt Dias

Executive Officer

Board of Forestry and Fire Protection

**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.

California Debt Limit Allocation Committee
File # 2021-0625-03
QRRP Application Process

This emergency rulemaking by the California Debt Limit Allocation Committee amends regulations relating to the Qualified Residential Rental Project (QRRP) Program.

Title 04
Adopt: 5000, 5180
Filed 07/06/2021
Effective 07/14/2021
Agency Contact: Isaac Clark III (916) 651-8484

Department of Public Health
File # 2021-0526-01
Ocal Regulations (DPH-21-005)

This file and print action establishes the OCal certification program for manufactured "organic" cannabis products that is comparable to the National Organic Program (NOP) and the California Organic Food and Farming Act (COFFA). This action is exempt from the

Administrative Procedure Act pursuant to Business and Professions Code section 26062(a)(2).

Title 17
Adopt: 22000, 22005, 22015, 22020, 22025, 22030, 22035, 22040, 22045, 22050, 22055, 22060, 22065, 22070, 22075, 22080, 22085, 22090, 22095, 22100, 22105, 22110, 22115, 22120, 22125, 22130, 22135, 22140, 22145, 22150, 22155, 22160, 22165, 22170, 22175, 22180, 22185, 22190, 22195, 22200, 22205, 22210, 22215, 22220, 22225, 22230, 22235, 22240, 22245, 22250, 22255, 22260, 22265, 22267, 22270
Filed 07/01/2021
Effective 07/01/2021
Agency Contact: Dawn Basciano (916) 440-7367

State Personnel Board
File # 2021-0603-03
Anti-Nepotism

This action adopts, amends, and repeals regulations related to civil service applications, transfers and special assignments. These regulations are exempt from the Administrative Procedure Act. (Govt. Code, § 18211.)

Title 02
Adopt: 83.5, 83.6, 87
Filed 07/07/2021
Effective 07/07/2021
Agency Contact: Lori Gillihan (916) 651-1043

Department of Developmental Services
File # 2021-0521-04
DDS Address Update

In this action without regulatory effect the Department of Developmental Services updates its address.

Title 17
Amend: Subchapter 3, 52170
Filed 07/01/2021
Agency Contact: Amy Whiting (916) 654-4418

Fish and Game Commission
File # 2021-0520-01
Ocean Salmon Recreational Fishing 2021-22 Season

This print only submission by the Fish and Game Commission amends recreational ocean salmon fishing regulations for the 2021-2022 season to conform with federal regulations pursuant to Fish and Game Code section 7110 and California Code of Regulations, title 14, section 1.95.

Title 14
Amend: 27.80, 28.65
Filed 07/01/2021
Effective 05/16/2021
Agency Contact:
Sherrie Fonbuena (916) 653-4899

Commission on Peace Officer Standards and Training
File # 2021-0519-07
Regulation 1005 — Perishable Skills Program (FOS)

This action repeals language allowing the use of the Force Options Simulator (FOS) as an approved method of instruction to fulfill the Tactical Firearms Perishable Skills requirement.

Title 11
Amend: 1005
Filed 07/01/2021
Effective 07/01/2021
Agency Contact: Steve Harding (916) 227-5426

Office of Environmental Health Hazard Assessment
File # 2021-0519-02
Proposition 65 Dibromoacetic Acid NSRL

In this regular rulemaking, the Office of Environmental Health Hazard Assessment is adopting a Proposition 65 No Significant Risk Level of 2.8 micrograms per day for dibromoacetic acid.

Title 27
Amend: 25705
Filed 07/06/2021
Effective 10/01/2021
Agency Contact:
Esther Barajas-Ochoa (916) 322-2068

Office of Environmental Health Hazard Assessment
File # 2021-0519-03
Proposition 65 Trichloroacetic Acid NSRL

This action adds exposure to trichloroacetic acid at a level of 9.9 micrograms per day to a regulation that establishes specific regulatory levels for cancer-causing chemicals that pose no significant risk.

Title 27
Amend: 25705
Filed 07/06/2021
Effective 10/01/2021
Agency Contact:
Esther Barajas-Ochoa (916) 322-2068

**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.