



California Regulatory Notice Register

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 - Redwoods Community College District
- State Agency:
 - Labor and Workforce Development

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

- Multi-County: Aspire Public Schools
 Monterey Bay Community Power JPA
 Tahoe City Public Utility District
 Truckee Tahoe Airport District
 Redwoods Community College District
- State Agency: Labor and Workforce Development Agency

ADOPTION

- Multi-County: CSCDA Community Improvement Authority
 San Luis Westlands Water District Financing Authority

A written comment period has been established commencing on August 20, 2021 and closing on October 4, 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 hear-

ing 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 October 4, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

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

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

**TITLE 4. GAMBLING CONTROL
COMMISSION**

**SOUTHERN CALIFORNIA GAMBLING
CONTROL ACT HEARINGS
CGCC-GCA-2021-04-R**

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on **OCTOBER 5, 2021**. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on OCTOBER 5, 2021. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

PUBLIC HEARING

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the persons listed under Contact Persons no later than 15 days prior to the close of the written comment period.

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally 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 oral or written 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 19811, 19823, 19824, 19840, and 19841 of the Business and Professions Code; and to implement, interpret or make specific sections 19816, 19823, 19824, 19824.5, 19825, 19868, 19870, 19871, and 19876, Business and Professions Code; and Section 11512, Government Code, the Commission is proposing to adopt the following changes to Chapters 1 and 2 of Division 18 of Title 4 of the California Code of Regulations:

**INFORMATIVE DIGEST AND POLICY
STATEMENT OVERVIEW**

INTRODUCTION:

The Commission is the state agency charged with the administration and implementation of the Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations governing applications for licenses, permits, registrations, findings of suitability, or other approvals,² including the consideration of an application at an evidentiary hearing.³

¹Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

²Business and Professions Code section 19824, subdivision (a).

³Business and Professions Code section 19870.

The Commission’s regulations provide comprehensive procedures for evidentiary and non-evidentiary hearings and related topics. At a non-evidentiary hearing meeting the Commission may, among other actions, issue a license, temporary license, interim license, registration, permit, finding of suitability, renewal or other approval; or it may elect to hold an evidentiary hearing if issues are identified that require additional information or consideration related to an applicant’s suitability for licensure. For evidentiary hearings on applications, the regulations require the hearing be conducted as a Gambling Control Act hearing (GCA hearing), which is most common, unless the Commission determines the hearing should be conducted as an Administrative Procedure Act hearing (APA hearing).

EXISTING LAW:

Gambling Control Act

Business and Professions Code section 19819, subdivision (a), requires the Commission establish and maintain a general office for the transaction of its business in Sacramento and provides that the Commission may hold meetings at any place within the state when the interests of the public may be better served.

Business and Professions Code section 19819, subdivision (c), specifies that a majority of the membership of the Commission is a quorum and requires a concurring vote of three members for any official action of the Commission.

Business and Professions Code section 19871 provides authority for promulgating regulations pertaining to the evidentiary hearing process, and provides a list of items that must be part of the process.

EFFECT OF REGULATORY ACTION:

This proposed action has been prepared to modify existing GCA hearing regulations including the Notice of Defense form, CGCC-CH1-03, to establish specific criteria and requirements associated with determining when an applicant is eligible to request their GCA hearing be held at a location in Southern California. The criteria consist of requirements concerning the location of an applicant’s primary residence, the estimated length of an applicant’s GCA hearing, whether the hearing promotes judicial economy, and other requirements.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

The proposed regulations are anticipated to improve GCA hearing attendance of applicants that reside in the Southern California area by providing them the opportunity to be heard closer to their home. Improving access to an applicant’s right to due process and thorough evidentiary hearing by reducing travel burdens for these applicants should result in a decrease in the number of withdrawn hearing requests

and failures to appear, both of which result in default denial decisions.

SPECIFIC PROPOSAL:

This proposed action will make changes within California Code of Regulations, Title 4, Division 18 as follows:

General Notes

A general change throughout has been made in all references to the current version of the Notice of Defense form, CGCC-CH1-03 (~~New-05/20~~ Rev. 08/21), as amendments to the form are being proposed as part of this regulatory package.

CHAPTER 1. GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.

Amend Section 12006. Service of Notices, Orders, and Communications.

Subsection (b) is amended to reference the new version of the Notice of Defense form, CGCC-CH1-03 (Rev. 08/21). See General Notes above.

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

Amend Section 12052. Commission Meetings; General Procedures; Scope; Notice; Rescheduling of Meeting.

This section provides general procedures regarding the hearing process that is required for the consideration of any license, permit, finding of suitability, renewal, or other Commission approval.

1. **Subparagraphs (c)(2)(B) and (C)** contain non-substantive amendments to align with the re-numbering of the subsections in Section 12060.
2. **Subparagraph (c)(2)(E)** is amended to include a new version of the Notice of Defense form, CGCC-CH1-03 (Rev. 08/21). This form is provided to the applicant to complete, and once returned to the Bureau and Commission, provides important information to the Commission concerning the evidentiary hearing process. Section 1 of the form is being amended to provide an applicant the ability to request a GCA hearing be held at a Southern California location. The applicant is required to acknowledge that there may be a significant delay in concluding a Southern California hearing and confirms that their primary residence is in one of the following California counties: Imperial, Kern, Los Angeles, Orange, Riverside, San Diego, San Luis Obispo, San Bernardino, Santa Barbara, or Ventura.

Amend Section 12057. Default Decisions and Uncontested Applications.

Subsection (a) is amended to reference the new version of the Notice of Defense form, CGCC-CH1-03 (Rev. 08/21). See General Notes above.

Amend Section 12060. GCA Hearings.

This section implements the evidentiary hearing process pursuant to Business and Professions Code sections 19870 and 19871. This process provides a clear method for the applicant to show the Commission that he, she, or it meets the requirements of the Act and is of good character, honesty, and integrity.

1. **New subsection (c)** provides that an applicant may request his, her, or its GCA hearing be held at a Southern California location on the Notice of Defense form under specified conditions (see below).
2. **New paragraph (c)(1)** provides that the Executive Director (or designee), as defined in Section 12002(w), will approve an applicant’s request to have a Southern California GCA hearing if specified criteria are met (identified below).
 - a. **New subparagraph (c)(1)(A)** specifies that the hearing must not be estimated by Commission staff to exceed four hours in length.
 - b. **New subparagraph (c)(1)(B)** specifies that the applicant’s primary residence must be located in one of the following counties: Imperial, Kern, Los Angeles, Orange, Riverside, San Diego, San Luis Obispo, San Bernardino, Santa Barbara, or Ventura.
 - c. **New subparagraph (c)(1)(C)** specifies that a GCA hearing will be noticed for a Southern California location only when doing so is in the best public interest, promotes judicial economy, and comports with the Commission’s availability.
3. **New paragraph (c)(2)** authorizes Commission staff to cancel a Southern California GCA hearing and issue a new notice of hearing for the Commission’s Sacramento office if at any time before the hearing the Executive Director determines that the criteria in subparagraphs (c)(1)(A) through (C) are no longer met.
4. **Subsection (e)** [formerly (d)] specifies that if a request for a continuance of a Southern California hearing is granted, the hearing may be relocated to the Commission’s office in Sacramento if the criteria specified in subparagraphs (A) through (C) of paragraph (1) of subsection (c) are no longer met.
5. **Subsections (f), (g), (h), (i), (j), (k), (l), (m), and (n)** [formerly (e), (f), (g), (h), (i), (j), (k), (l), and (m) respectively] contain non-substantive amendments to align with the re-lettering of the subsections in Section 12060.

CHAPTER 2. LICENSES AND WORK PERMITS.

ARTICLE 2. INITIAL AND RENEWAL LICENSES AND WORK PERMITS.

Amend Section 12118. Objection to Local Work Permits.

Paragraph (c)(3) contains a non-substantive amendment to align with the re-lettering of the subsections in Section 12060.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

The proposed action is intended to reduce travel costs and other disproportionate burdens for applicants residing in Southern California that have been scheduled for a GCA hearing by establishing a process with specific criteria for said applicants to request that their GCA hearing be held at a location in Southern California determined by the Commission.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

FISCAL IMPACT ESTIMATES

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

The proposed action is estimated to result in a minor fiscal impact to the Commission and the Department of Justice’s Bureau of Gambling Control (Bureau) and Indian Gaming Law Section (IGLS). Total costs for all agencies associated with traveling to Southern California for attending the GCA Hearings is estimated to increase by \$63,278 per year, which would be absorbed within the agencies’ existing budget and resources. The total cost to the State consists of expenses for parking, incidentals, hotel accommodations, flights, meals, and ground transportation associated with conducting Gambling Control Act Hearings in Southern California 15 days per year (five days per trip, three times per year).

Each agency identified below provided its costs based on the number of staff needed to attend the hearings as follows:

- Commission (\$32,771 per year):
 - Five Commissioners
 - One Executive Director
 - Two Attorney IIIs

- One Tech Support staff member
- Bureau (\$23,224 per year):
 - One Assistant Director
 - Three Staff Services Manager IIs
 - Three Staff Services Manager Is
- IGLS (\$7,283 per year):
 - Two Attorneys

There would be no costs or savings in Federal funding to the State.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

EFFECT ON HOUSING COSTS:

None.

IMPACT ON BUSINESS:

The Commission has determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony: This proposed action imposes no mandatory requirement on businesses. The proposed regulations only provide an optional process for individual applicants to request their GCA hearing be held in Southern California if specified conditions are met.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission has determined there would be no increase in costs to a representative private person or business as a result of complying with the proposed action. The proposed regulations only provide a process for individual applicants to request their GCA hearing be held in Southern California if specified conditions are met.

The proposed action would result in a cost savings to applicants residing in Southern California that meet specified criteria as defined in the regulations and are approved and scheduled to have their hearing held in a Southern California location based on meeting said criteria. It is difficult to quantify the total amount of benefit this regulation would provide as the benefits to individual applicants are primarily non-monetary

in nature (e.g., improved access to an applicant’s right to due process by having the hearings held locally). Further, there is derivative benefit in that it may also assist employers and the families of employees in maintaining an incumbent (employee subject to evidentiary hearing) in a position that may otherwise not have remained without the improved access to an applicant’s right to due process and a thorough evidentiary hearing.

From a strictly monetary perspective, said applicants would be relieved from long distance travel expenses (airfare, airport transportation, parking, hotel accommodations, extended childcare or caretaking arrangements, lost wages, etc.) and only incur negligible costs to travel locally using their personal vehicle or public transportation. Due to the individual cases of each applicant, the amount of monetary benefit the regulations will have on these individuals is contingent on the following unpredictable circumstances:

- How far the applicants will need to travel by car or public transportation from their residence to the hearing location;
- The cost of gasoline and the amount of traffic which would affect fuel economy;
- Whether the regulations will increase GCA hearing attendance (and by how much) for qualifying applicants and any of their witnesses residing in Southern California by improving the applicant’s right to due process. Notwithstanding, assuming a 1 hour distance and a vehicle at 20 miles per gallon going an average of 60 mph (reduced mileage per hour to account for some traffic). This would essentially equate to three gallons per way. This is then multiplied by the current cost of gasoline (\$4.00 per gallon), essentially making the trip approximately \$24.00 per applicant.

EFFECT ON SMALL BUSINESS:

The Commission has made a determination that the proposed regulatory action would have no significant impact on small businesses as the proposed action only impacts individual applicants and will not create or eliminate any businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. For this purpose, the consolidated small business definition provided in

Government Code section 11346.3, subdivision (b), paragraph (4) was utilized.

The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission's current practices and procedures. Licenses and Commission work permits are portable and the proposed action only increases access to an applicant's right to due process and thorough evidentiary hearing by providing a different means of hearing attendance for qualifying Southern California applicants. The proposed action may cause a minor and insignificant increase in business for the following types of businesses as a result of holding GCA hearings in Southern California over a four day period, three times per year: Airlines, hotels, restaurants, and ground transportation businesses.

The Commission does not have an established hearing location in Southern California, and location choices will be limited due to space requirements and availability. However, the Commission has been in contact with the Department of General Services' Building Management Division, which has provided information on several state-owned facilities located in Southern California that are available to reserve and rent at no additional cost to any state agency.

BENEFITS OF PROPOSED REGULATION:

The proposed regulations are anticipated to improve GCA hearing attendance of applicants that reside in the Southern California area by providing them the opportunity to be heard closer to their home. Improving access to an applicant's right to due process and a thorough evidentiary hearing by reducing travel burdens for these applicants should result in a decrease in the number of withdrawn hearing requests and failures to appear, both of which result in default denial decisions.

HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by aiding and preserving the integrity of controlled gambling and providing increased access to an applicant's right to due process and a thorough evidentiary hearing, which will better serve the public.

WORKER SAFETY:

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

STATE'S ENVIRONMENT:

It has been determined that the proposed action will not affect the State's environment because it has nothing to do with environmental issues.

CONSIDERATION of ALTERNATIVES

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

**INITIAL STATEMENT OF REASONS,
INFORMATION AND TEXT OF PROPOSAL**

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language 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 Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

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

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the primary contact 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 one of the contact persons named below or by accessing the Commission's Website listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

Alex Hunter, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220,
Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499
E-mail: ahunter@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joshua Rosenstein, Legislative and Regulatory Specialist
 Legislative and Regulatory Affairs Division
 California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220,
 Sacramento, CA 95833-4231
 Telephone: (916) 274-5823
 Fax: (916) 263-0499
 E-mail: jrosenstein@cgcc.ca.gov

WEBSITE ACCESS

Materials regarding this proposed action are also available on the Commission’s website at www.cgcc.ca.gov.

TITLE 8. WORKERS’ COMPENSATION APPEALS BOARD/DEPARTMENT OF INDUSTRIAL RELATIONS

RULES OF PRACTICE AND PROCEDURE

TITLE 8. SECTIONS 10300 THROUGH 10999 (i.e., Division 1, Chapter 4.5, Subchapter 2)

NOTICE IS HEREBY GIVEN that the Workers’ Compensation Appeals Board (WCAB) proposes to amend various provisions of its Rules of Practice and Procedure (Rules),¹ as described below, after considering all comments, objections, and recommendations regarding the proposed action. *Equal weight will be accorded to oral and written comments. However, the WCAB prefers written comments submitted electronically using the comment submission form. If written comments are timely submitted, it is not necessary to present oral comments at the public hearing.*

The WCAB’s proposed amendments to its Rules are being initiated pursuant to its rulemaking power under Labor Code sections 5307(a), 133, 5309 and 5708,² subject to the procedural requirements of section 5307.4. This Notice of Proposed Rulemaking and the accompanying Initial Statement of Reasons have been prepared to comply with the procedural

requirements of section 5307.4 and for the convenience of the regulated public to assist it in analyzing and commenting on this largely non-APA rulemaking process.³

PUBLIC HEARING

In light of the COVID-19 public health emergency and in compliance with California’s reopening plan, an online public hearing via the Zoom meeting platform has been scheduled in lieu of an in-person public hearing to permit all interested persons the opportunity to present statements or arguments orally or in writing relevant to the proposed action on the following date:

Date: September 24, 2021
 Time: 9:00 a.m. to 4:00 p.m., or until conclusion of business
 Join from PC, Mac, Linux, iOS or Android:
<https://dir-ca-gov.zoom.us/j/85768405804?pwd=ckZwdkRrZk82eHk4M2tpTVlvaldwUT09>
 Password: 211916
 Or Telephone:
 Dial:
 USA 404 443 6397
 USA 8773361831 (US Toll Free)
 Conference code: 852415

Find local AT&T Numbers: <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=4044436397&accessCode=852415>

Public comment will begin promptly at **9:00 a.m.** and will conclude when the last speaker has finished their presentation. To provide everyone with an opportunity to speak, public comments will be limited to 10 minutes per speaker and should be specific to the proposed regulations. Comments that would exceed 10 minutes may be submitted electronically using the comment submission form. If public comment concludes before the Noon recess, no afternoon session will be held. If an afternoon session is held, public comment will conclude no later than **4:00 p.m.**

Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodations to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator at 1-866-681-1459 (toll free), or through the California Relay Service

³Under Government Code section 11351, the WCAB is not subject to Article 5 (Gov. Code, § 11346 et seq.), Article 6 (*id.* § 11349 et seq.), Article 7 (*id.* § 11349.7 et seq.), or Article 8 (*id.* § 11350 et seq.) of the rulemaking provisions of the Administrative Procedure Act (APA), with the sole exception that section 11346.4(a)(5) [publication in the California Regulatory Notice Register] does apply to the WCAB.

¹ See Cal. Code Regs., Title 8, Division 1, Chapter 4.5, Subchapter 2, section 10300 et seq.

² All further statutory references are to the Labor Code unless otherwise specified.

by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

The WCAB requests but does not require that persons who make oral comments at the hearing also submit an electronic version of their comments prior to the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representatives, may submit written comments to the WCAB relevant to the proposed rulemaking. The written comment period closes at **4:00 p.m. on Friday, September 24, 2021**. The WCAB will consider only comments it has *received* by that time.

Pursuant to Government Code § 11546.7, we strongly prefer electronic submission of written comments using this submission form. A separate submission must be individually completed and separately submitted for each rule comment. ***Electronic comments submitted in any other format will not be accepted or considered.***

Written comments may also be submitted in hard copy by mail, delivery service, or personal delivery to the address below. Hard copy comments should consist only of text-based narratives, should not contain any other formatting such as letterheads or graphics, and should not rely on the use of color or images to convey information not conveyed in the text-based narrative. ***Improperly formatted hard-copy documents will be subject to rejection and may not be accepted or considered.***

Workers' Compensation Appeals Board
Attention: Julie Podbereski, Regulations
Coordinator
455 Golden Gate Avenue
Ninth Floor
San Francisco, CA 94102

AUTHORITY AND REFERENCE

Labor Code sections 133, 5307(a), 5309 and 5708, authorize the WCAB to adopt the proposed regulations. The proposed regulations implement, interpret and make specific various sections of the Labor Code.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The WCAB has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to Any Local Agency or School District That Is Required To Be Reimbursed Under Part 7 (Commencing with Section 17500) of Division 4 of the Government Code: None.

Other Nondiscretionary Costs or Savings to Local Agencies: None.

Cost or Savings to Any State Agency or in Federal Funding to the State: None.

Significant Statewide, Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete With Businesses in Other States: None.

Effect on Small Business: None.

Cost Impacts on Representative Private Persons or Businesses: None.

Other Impacts on Jobs and Businesses: None.

Effect on Housing Costs: None.

The adoption of these regulations is not expected to create or eliminate jobs or businesses in the State of California or reduce or expand businesses currently doing business in the State of California.

CONSIDERATION OF ALTERNATIVES

Under Government Code section 11351, the WCAB is *not* subject to the provisions of Government Code section 11346.5(a)(13). Nevertheless, the WCAB invites interested persons to present statements or arguments at the scheduled hearing or during the written comment period regarding reasonable alternatives that would be more effective in carrying out the purpose of this rulemaking, or would be as effective and less burdensome to the affected private persons than the proposed action of this rulemaking.

PRE-NOTICE PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Under Government Code section 11351, the WCAB is *not* subject to the provisions of Government Code section 11346.45 relating to pre-notice public review and comment of contemplated amendments to its Rules.

CONTACT PERSONS

Nonsubstantive inquiries concerning this rulemaking action, such as requests to be added to the e-mail and/or mail distribution list(s) or requests for copies of rulemaking documents (e.g., the proposed regulations, the Initial Statement of Reasons), may be directed to: Julie Podbereski, Regulations Coordinator, Workers' Compensation Appeals Board, 455 Golden Gate Avenue, Ninth Floor, San Francisco, CA 94102, E-mail: WCABRules@dir.ca.gov, Phone: (415) 703-4560. The backup contact person for nonsubstantive

inquiries is Rachel Brill, Industrial Relations Counsel IV, at the same address, email address, and phone number.

The contact person for substantive inquiries is: Rachel Brill, Industrial Relations Counsel IV, Workers' Compensation Appeals Board, 455 Golden Gate Avenue, Ninth Floor, San Francisco, CA 94102, E-mail: WCABRules@dir.ca.gov, Phone: (415) 703-4560. The backup contact person for substantive inquiries is: Anne Schmitz, Secretary/Deputy Commissioner, at the same address, email address and telephone number.

AVAILABILITY OF INITIAL
STATEMENT OF REASONS, TEXT OF
PROPOSED REGULATIONS, RULEMAKING
FILE, AND INTERNET ACCESS

Throughout the rulemaking process, the WCAB will have its entire rulemaking file available for inspection and copying on the internet at <http://www.dir.ca.gov/WCAB/WCABProposedRegulations/2021/WCAB-Rulemaking/Index.htm>. In addition, the above-cited materials may be accessed at the WCAB's office at 455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday (excluding holidays), by request. Requests to inspect and copy the physical rulemaking file at the WCAB's office may be directed to: Julie Podbereski, Regulations Coordinator, Workers' Compensation Appeals Board, 455 Golden Gate Avenue, Ninth Floor, San Francisco, CA 94102, E-mail: WCABRules@dir.ca.gov, Phone: (415) 703-4560.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the proposed regulations will automatically be sent to those interested persons on the mailing list of the WCAB, and to all persons who have requested notice of hearing as required by Labor Code Section 5307.4.

If adopted, the regulations with any final amendments will appear in the California Code of Regulations at Title 8, Division 1, Chapter 4.5, Subchapter 2, commencing with Section 10300. The text of the final regulations also may be available through the website of the Office of Administrative Law at www.oal.ca.gov.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

FISH AND GAME CODE SECTION 1653
CONSISTENCY
DETERMINATION REQUEST FOR
HAYWORTH CREEK LARGE WOOD
ENHANCEMENT PROJECT
(TRACKING NUMBER:
1653-2021-073-001-R1)
MENDOCINO COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/9/2021, that Trout Unlimited proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves 89 pieces of large wood to be installed at 40 sites along Hayworth Creek. The proposed project will be carried out on Hayworth Creek, located in the Mendocino Coast Hydrologic Unit 113.20, Mendocino County, California.

On 6/18/2021, 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 Hayworth Creek Large Wood Augmentation Project. 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. 1B21141WNME; ECM PIN No. CW-874813) for coverage under the General 401 Order on 7/16/2021.

Trout Unlimited 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, Trout Unlimited 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, Trout Unlimited will have

the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
MIDDLE FORK TEN MILE RIVER
LARGE WOOD ENHANCEMENT PROJECT
(TRACKING NUMBER:
1653-2021-074-001-R1)
MENDOCINO COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/9/2021, that Trout Unlimited proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves 39 pieces of large wood to be installed at 23 sites. The proposed project will be carried out on Ten Mile River, located 10 miles northeast of the City of Fort Bragg, Mendocino County, California.

On 6/28/2021, 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 Middle Fork Ten Mile River Large Wood Augmentation Project. 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. 1B21145WNME; ECM PIN No. CW-875002) for coverage under the General 401 Order on 7/16/2021.

Trout Unlimited 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, Trout Unlimited 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, Trout Unlimited will have

the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR NEEFUS GULCH FISH
PASSAGE AND HABITAT
IMPROVEMENT PROJECT
(TRACKING NUMBER:
1653-2021-076-001-R1)
MENDOCINO COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/9/2021, that Trout Unlimited proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves construction of a self-sustaining stream simulation channel bed and banks within an embedded culvert crossing and restoration of 200 feet of channel immediately downstream of the crossing with nine large wood grade control structures. The proposed project will be carried out on the Neefus Gulch culvert crossing, located by Appian Way, Philo, Mendocino County, California.

On 6/1/2021, 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 Neefus Gulch Fish Passage and Habitat Improvement Project. 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. 1B21131WNME; ECM PIN No. CW-874412) for coverage under the General 401 Order on 6/28/2021.

Trout Unlimited 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, Trout Unlimited 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, Trout Unlimited will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR BOND CREEK LARGE
WOOD ENHANCEMENT PROJECT
(TRACKING NUMBER:
1653-2021-075-001-R1)
MENDOCINO COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/9/2021, that Trout Unlimited proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves 69 pieces of large wood to be installed at 49 sites along 1.6 miles of Bond Creek. The proposed project will be carried out on Bond Creek, located at the confluence of Bond Creek with Hollow Tree Creek, Mendocino, California.

On 7/1/2021, 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 Bond Creek Large Wood Augmentation Project. 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. 1B21147WNME; ECM PIN No. CW-875095) for coverage under the General 401 Order on 7/16/2021.

Trout Unlimited 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, Trout Unlimited 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, Trout Unlimited will have

the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR STEVENS CREEK
STEELHEAD PASSAGE
IMPROVEMENT PROJECT
(TRACKING NUMBER:
1653-2021-072-001-R3)
SANTA CLARA COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/9/2021, that Friends of Stevens Creek Trail proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves removing and replacing a fish passage barrier, and the installation of four large woody features. The proposed project will be carried out on Stevens Creek, located at Deep Cliff Golf Course, 10700 Club House Lane, Cupertino CA 95014.

On 5/14/2021, the San Francisco Bay 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 Stevens Creek Steelhead Passage Improvement Project. 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 (ECM PIN No. CW-443323) for coverage under the General 401 Order on 8/3/2021.

Friends of Stevens Creek Trail 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, Friends of Stevens Creek Trail 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, Friends of Stevens Creek Trail will

have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

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

For the week of June 14, 2021, the Department of Toxic Substances Control (DTSC) issued variances for the management of treated wood waste. The variances were issued pursuant to Health and Safety Code section 25143(b)(1) and California Code of Regulations, title 22, section 66260.210.

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

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

Recipients of Disposal Facility Variances

- TWW-2021-DF-00580, City of Clovis, 15679 Auberry Road, Clovis, CA 93612

Recipients of Large Quantity Generator/Self-transporter Variances

- TWW-2021-LG-00483, Community Services, Public Works, County of Yolo, 292 West Beamer Street, Woodland, CA 95695
- TWW-2021-LG-00535, Alameda County Public Works Agency, Miller Sweeney Bridge, Fruitvale Avenue, Alameda County, CA 94601
- TWW-2021-LG-00576, Morning Star Merced LLC, 1400 Waterloo Road, Stockton, CA 95205

Recipients of Small Quantity Generator/Self-transporter Variances

- TWW-2021-SG-00417, Ausonio, Inc., 11420-A Commercial Parkway, Castroville, CA 95012
- TWW-2021-SG-00546, Airtight Construction, Inc., 1825 Sargent Road, Concord, CA 94518
- TWW-2021-SG-00574, U.C. Davis, 1 Shields Avenue, Davis, CA 95616

Recipients of Transporter Variances

- TWW-2021-TR-00541, Baughn & Cameron, 2450 North State Street, Ukiah, CA 95482
- TWW-2021-TR-00577, Jim Thorpe Oil Inc, 357 North Beckman Road, Lodi, CA 95240

- TWW-2021-TR-00578, Walberg, Inc., 6041 Highway 99 West, Corning, CA 96021

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

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

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

For the week of June 21, 2021, the Department of Toxic Substances Control (DTSC) issued variances for the management of treated wood waste. The variances were issued pursuant to Health and Safety Code section 25143(b)(1) and California Code of Regulations, title 22, section 66260.210.

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

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

Recipients of Handler-Transporter Facility Variances

- TWW-2021-HT-00403, Bertolotti Transfer Station, 231 Flamingo Drive, Modesto, CA 95358
- TWW-2021-HT-00502, Clean Earth Specialty Waste Solutions, Inc., 3324 Landco Drive, Bakersfield, CA 93308; 3310 Fitzgerald Road, Rancho Cordova, CA 95742; 121 Main Street, Riverside, CA 92503

Recipients of Large Quantity Generator/Self-transporter Variances

- TWW-2021-LG-00391, Saucito Land Company, 477-479 Alvarado Street, Monterey, CA 93940
- TWW-2021-LG-00544, Highway Specialties on behalf of Caltrans, Interstate 80 from postmile 1.3 to 63.5, Roseville to Cisco Grove
- TWW-2021-LG-00557, California Department of Transportation (Caltrans), 1200 Atlantic Street, Roseville, CA 95678
- TWW-2021-LG-00581, Peninsula Corridor Joint Powers Board, 590 Dubuque Avenue, South San Francisco, CA 94080

Recipients of Small Quantity Generator/Self-transporter Variances

- TWW-2021-SG-00564, Marin County Parks, 3501 Civic Center Drive, Suite #260, San Rafael, CA 94903
- TWW-2021-SG-00602, McNickle Construction Inc., 8990 West Carmel Valley Road, Carmel, CA 93923

Recipients of Transporter Variances

- TWW-2021-TR-00254, Mid-Cal Construction, Inc., 2716 East Miner Avenue, Suite S, Stockton, CA 95205
- TWW-2021-TR-00551, Ocean Blue Environmental Services, Inc., 925 West Esther Street, Long Beach, CA 90813
- TWW-2021-TR-00565, American Refuse, 1316 J Street, Wasco, CA 93280
- TWW-2021-TR-00590, With Fencing Inc. Sfp, 200 Valley Drive, #27, Brisbane, CA 94005
- TWW-2021-TR-00591, Clean Harbors Environmental Services, Inc., 42 Longwater Drive, Norwell, MA 02061
- TWW-2021-TR-00593, Moore Fencing, 2954 Highway 32, Suite 2000, Chico, CA 95973
- TWW-2021-TR-00594, Siteworks Landscape, Inc., 5327 Jacuzzi Street, Suite 1B, Richmond, CA 94804
- TWW-2021-TR-00596, Stein H. Langmo Construction, 9155 Glen Arbor Road, Ben Lomond, CA 95005

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

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

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

For the week of June 28, 2021, the Department of Toxic Substances Control (DTSC) issued variances for the management of treated wood waste. The variances were issued pursuant to Health and Safety Code section 25143(b)(1) and California Code of Regulations, title 22, section 66260.210.

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

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

Recipients of Handler-Transporter Facility Variances

- TWW-2021-HT-00587, River City Restoration Inc., 8521 Thys Court, Sacramento, CA 95828
- TWW-2021-HT-00595, Shook & Waller Construction, Inc., 340 Standard Avenue, Windsor, CA 95492

Recipients of Large Quantity Generator/Self-transporter Variances

- TWW-2021-LG-00589, Mission Rock Parcel A Owner LLC, 498 Terry A. Francois Boulevard, San Francisco, CA 94158
- TWW-2021-LG-00592, Port of Los Angeles, Los Angeles, CA
- TWW-2021-LG-00616, Caltrans, 10551 West Stockton Boulevard, Elk Grove, CA 95757 – near Elk Grove on State Route 99 From 0.3 Mile South of Dillard Road Overcrossing to 0.6 Mile South of Grant Line Road, between Post Mile 7.1 and Post Mile 9.4

Recipients of Small Quantity Generator/Self-transporter Variances

- TWW-2021-SG-00540, Cal West Construction Group Inc., 2132 La Cuesta, Santa Ana, CA 92705
- TWW-2021-SG-00560, U.S. Coast Guard Humboldt Housing, 1475 Terrace Way, Eureka, CA 95501
- TWW-2021-SG-00571, Statewide Safety Systems, 13261 Garden Grove Boulevard, Garden Grove, CA 92843
- TWW-2021-SG-00585, Tico Construction, 355 East Trimble, San Jose, CA 95112
- TWW-2021-SG-00599, Village West Marina, LLC, 6645 Embarcadero Drive, Stockton, CA 95219

Recipients of Transporter Variances

- TWW-2021-TR-00600, Flores Container Co., 723 Arroyo Street, San Fernando, CA 91340
- TWW-2021-TR-00603, J. A. Placek Construction Company, Inc., 12771 Imperial Highway, Santa Fe Springs, CA 90670
- TWW-2021-TR-00606, Lorick & Martinez Design Build, Inc., 5052 Woodminster Lane, Oakland, CA 94602
- TWW-2021-TR-00609, The Garden Route Company, 151 Haskins Way Suite E, South San Francisco, CA 94080
- TWW-2021-TR-00614, A. R. O. Trucking, Inc., 2500 East Woodlyn Road, Pasadena, CA 91104

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

PETITION DECISION

**DIVISION OF WORKERS’
COMPENSATION/DEPARTMENT OF
INDUSTRIAL RELATIONS**

**NOTICE OF DECISION ON PETITION
TO AMEND REGULATIONS
(GOVERNMENT CODE SECTION 11340.7)
SECTION 9795, ARTICLE 5.6 OF CHAPTER
4.5, SUBCHAPTER 1**

PETITIONER

By letter dated July 9, 2021, Adam Dombchik (Petitioner) petitioned the Division of Workers’ Compensation (DWC) in accordance with Government Code section 11340.6. Petitioner requested that DWC amend a provision of California Code of Regulations, title 8 (“8 CCR”), section 9795(c), to require that the workers’ compensation claims department for the responsible defendant insurance carrier or self-insured employer pre-pay physician’s fees for a noticed deposition.

AUTHORITY

Labor Code section 133 confers to the Administrative Director of DWC the power and jurisdiction to do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon the Administrative Director under the Labor Code. The statutes establishing the procedures for medical treatment, procurement of medical treatment, processing of claims for payment for medical treatment — Labor Code sections 4600 through 4615 — are found in article 2 of chapter 4 in Division 4. Labor Code section 4603.5 gives the Administrative Director the authority to adopt rules pertaining to the format and content of all notices required by article 2.

Labor Code section 5307.3 authorizes the Administrative Director to adopt, amend, or repeal any rule or regulation that is reasonably necessary to enforce Division 4 of the Labor Code, except where that power is specifically given to the Workers’ Compensation Appeals Board (WCAB).

CONTACT PERSON

Please direct any inquiries regarding this action to Winslow F. West, Industrial Relations Counsel, Division of Workers’ Compensation — Legal Unit, P.O. Box 70823, Oakland, CA 94612.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Division’s contact person.

SUMMARY OF THE PETITION

Petitioner requests that the DWC amend 8 CCR section 9795(c). Specifically, the petition requests additional language be added to the billing code in ML-204, the code which defines the amount and manner of payment for medical legal testimony. The requested amendment would require the responsible defendant insurance carrier or self-insured employer to prepay the deposition fee for physicians either 14 days after the notice of deposition is served or 14 days in advance of the deposition date.

The petition states that if a represented applicant sets the deposition of a physician, sometimes the defendant advances the fee and sometimes they do not. The petition alleges there is no valid reason for not advancing the fee when applicant sets the deposition. The petition goes on to state that if the fee is not timely paid after the deposition is completed a petition must be filed with the WCAB under Labor Code section 5811, which engenders unnecessary time and resources to obtain an Order from a Workers’ Compensation Administrative Law Judge (WCALJ) for reimbursement of the deposition fee. The petition posits that since the fee is ultimately always paid or reimbursed, it makes sense to make pre-payment of the fee a requirement to avoid encumbrance on the applicant who wishes to question the physician.

DEPARTMENT DECISION

The Administrative Director of the DWC declines the petition in its entirety.

The petition requests that the Administrative Director amend a regulation to institute a requirement that is not found in the general statutes governing payment for the deposition of an expert witness.

There is no statutory authority that allows for the prepayment of the expert witnesses deposition fees prior to the date of the actual deposition. Code of Civil Procedure section 2034.450(a) regulates the tender of the fee for a deposition of an expert witness. That statute gives the party noticing the deposition the option of providing the estimated fee with the notice

of deposition or it can be tendered at the start of the deposition itself.

Therefore, requiring prepayment of the deposition fee at least 14 days before the date of the deposition would take away an option provided to the financially responsible party by the statute governing payment for expert witness deposition testimony. The amendment would not allow the financially responsible party to pay for the deposition at the start of the deposition.

Labor Code section 5811(a) provides for costs as between parties to be allowed by the WCAB. In addition, Labor Code section 4620(a) specifically includes medical testimony as a legitimate medical-legal expense. This would mean any costs advanced for procurement of medical legal testimony would be subject to the payment rules embodied in Labor Code sections 4620-4622 and the Independent Bill Review (IBR) procedures mandated in section 4622(b). The interest and penalty provisions of Labor Code § 4622(a)(1) should apply to the late payment of a bill for reimbursement of costs. Requiring the carrier or employer to advance the fee for the deposition would seem beyond the scope of authority in these statutes related to the payment for medical-legal expenses.

Upon the filing of a Petition for Costs, 8 CCR section 10545(h) allows a WCALJ to award sanctions and attorney fees pursuant to Labor Code section 5813 and 8 CCR section 10421 for failure to make good-faith payments on costs.

The existing statutory and regulatory scheme provides ample incentive for the financially responsible party to pay for the medical legal testimony in a timely manner. If this does not occur, the existing regulatory and statutory scheme provides for adequate reimbursement for any time spent by a party to the action in procuring payment of the medical legal costs.

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.

State Allocation Board
File # 2021-0625-05
Surplus School Property; Use of Proceeds

This action makes permanent the emergency rulemaking action by the State Allocation Board which extended the applicability of the terms defined in section 1700 of Title 2 of the California Code of Regulations to sales of surplus properties by local education agencies (LEAs) which are made pursuant to Education Code section 17463.7. Education Code section 17463.7 was enacted in 2020 to authorize LEAs to use the proceeds from the sales of surplus properties purchased with non-state funds for any one-time general fund purpose in order to provide LEAs the resources and flexibility necessary to ensuring quality public education during the COVID-19 pandemic.

Title 02
Amend: 1700
Filed 08/04/2021
Effective 08/04/2021
Agency Contact: Lisa Jones (916) 376-1753

Board of Forestry and Fire Protection
File # 2021-0729-02
Emergency Notice RPF Responsibility

This emergency action, relating to emergency timber operations, (1) requires a Timber Owner or operator to retain a Registered Professional Forester (RPF) to provide professional advice and that the RPF be present on site at a sufficient frequency to know the progress of operations and advise the Timber Owner or Licensed Timber Operator; and (2) alters the timelines for emergency fuels treatments to be based upon the time the Director accepts the Emergency Notice.

Title 14
Amend: 1052, 1052.4
Filed 08/05/2021
Effective 08/05/2021
Agency Contact: Jane Van Susteren (916) 619-9795

Secretary of State
File # 2021-0728-01
Statewide Voter Registration System and Conditional Voter Registration

This emergency rulemaking action by the California Secretary of State readopts changes originally made in emergency matter 2020-0925-03 to the reason codes for vote-by-mail ballots, provisional ballots, and conditional voter registration provisional ballots.

Title 02
Amend: 19092, 19094, 20026
Filed 08/05/2021
Effective 08/05/2021
Agency Contact:
Robbie Anderson (916) 216-6488

Department of Insurance
File # 2021-0628-01
Workers' Compensation Classification/Rating Rules

In this file and print action, the Department of Insurance (DOI) amends the California Workers' Compensation Uniform Statistical Reporting Plan — 1995 and the California Workers' Compensation Experience Rating Plan — 1995. The publications are incorporated by reference in sections 2318.6 and 2353.1, respectively, in title 10 of the California Code of Regulations. The full text of each publication is available at the Insurance Commissioner's offices and is published by the Workers' Compensation Insurance Rating Bureau of California. These amendments are exempt from the Administrative Procedure Act under the rates exemption of Government Code section 11340.9(g) and are effective 7/1/2020.

Title 10
Amend: 2318.6, 2353.1
Filed 08/09/2021
Effective 07/01/2020
Agency Contact: Brentley Yim (415) 538-4113

Department of Insurance
File # 2021-0628-02
Workers' Compensation Classification/Rating Rules

In this file and print action, the Department of Insurance (DOI) amends the California Workers' Compensation Uniform Statistical Reporting Plan — 1995, the California Workers' Compensation Experience Rating Plan — 1995, and the Miscellaneous Regulations for the Recording and Reporting of Data. The three publications are incorporated by reference in sections 2318.6, 2353.1, and 2354, respectively, in title 10 of the California Code of Regulations. The full text of each publication is available at the Insurance Commissioner's offices and is published by the Workers' Compensation Insurance Rating Bureau of California. These amendments are exempt from the Administrative Procedure Act and OAL review under the rates exemption of Government Code section 11340.9(g) and are effective 9/1/2021.

Title 10
Amend: 2318.6, 2353.1, 2354
Filed 08/10/2021
Effective 09/01/2021
Agency Contact:
Yvonne Hauscarriague (415) 538-4417

Franchise Tax Board
File # 2021-0715-01
Referral and Hearings on Appeals of Penalties
Imposed by CalSavers

This file and print action by the Franchise Tax Board (FTB) adopts regulations for referrals of penalties and hearings on appeals of such penalties imposed by the CalSavers Retirement Savings Board (CalSavers).

Title 18
Adopt: 19285, 19286, 19288
Filed 08/04/2021
Effective 08/04/2021
Agency Contact: L. Red Gobuty (916) 845-7855

Acupuncture Board
File # 2021-0624-02
Repeal Title 16, Article 1.5 — Free and Sponsored
Health Care Events

This action without regulatory effect by the California Acupuncture Board repeals Sponsored Free Health Care Events regulations as the statutory authority has been repealed for these regulations.

Title 16
Repeal: 1399.407, 1399.407.1, 1399.407.2,
1399.407.3
Filed 08/06/2021
Agency Contact:
Kristine Brothers (916) 923-2204

California Apprenticeship Council
File # 2021-0625-02
Payment of Apprenticeship Training Contributions

This action makes nonsubstantive changes relating to the payment and distribution of apprenticeship training contributions to align with amendments to Labor Code section 1777.5, subdivision (m)(2).

Title 08
Amend: 230.2
Filed 08/09/2021
Agency Contact: Glen Forman (510) 879-3965

California Architects Board
File # 2021-0721-03
Processing Times (Permit Reform Act)

The California Architects Board submitted this action without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to repeal a regulation that was adopted in 1988 to meet the requirements of the Permit Reform Act of 1981. The Permit Reform Act was repealed in 2003 (A.B. 1757 (Stats. 2003, chapter 229, section 1.8)).

Title 16
 Repeal: 112
 Filed 08/11/2021
 Agency Contact:
 Kimberly McDaniel (916) 575-7221

California Coastal Commission
 File # 2021-0629-03
 Annual increases to permit fees & major public works threshold

As changes without regulatory effect, the California Coastal Commission is amending the threshold amount to qualify as a major public works or energy project, as well as the fees for permit applications and other filings.

Title 14
 Amend: 13012, 13055
 Filed 08/09/2021
 Agency Contact: Claire Wilkens (760) 419-8607

Board of Psychology
 File # 2021-0601-05
 Standards of Practice for Telehealth

In this regular rulemaking action, the Board of Psychology adopts one section establishing the standards of practice for telehealth services.

Title 16
 Adopt: 1396.8
 Filed 08/10/2021
 Effective 08/10/2021
 Agency Contact:
 Jason Glasspiegel (916) 574-7137

California Apprenticeship Council
 File # 2021-0222-02
 Public Works Apprenticeship Requirements

The California Apprenticeship Council is adding definitions for “apprenticeable occupation,” “work process,” and “registered apprentice” and adding specific standards on the use of apprentices. The council is also repealing sections dealing with hearings as most of the regulatory text has become obsolete due to statutory amendments.

Title 08
 Adopt: 202, 205, 227, 228, 229, 230.1
 Repeal: 231, 232, 232.01, 232.02, 232.03, 232.04, 232.05, 232.06, 232.07, 232.08, 232.09, 232.10, 232.11, 232.12, 232.20, 232.21, 232.22, 232.23, 232.23, 232.24, 232.25, 232.26, 232.27, 232.28, 232.30, 232.31, 232.32, 232.33, 232.34, 232.35, 232.36, 232.37, 232.40, 232.41, 232.42, 232.43, 232.44, 232.45, 232.46, 232.47, 232.48, 232.49, 232.50, 232.52, 232.53, 232.60, 232.61, 232.62, 232.63, 232.64, 232.70
 Filed 08/06/2021
 Effective 10/01/2021
 Agency Contact: Glen Forman (510) 879-3965

California Prison Industry Authority
 File # 2021-0414-01
 Incarcerated Individuals — Overtime Pay

This action by the California Prison Industry Authority amends pay rates to include specifications for overtime pay for incarcerated individuals.

Title 15
 Amend: 8006
 Filed 08/09/2021
 Effective 10/01/2021
 Agency Contact: Moira Doherty (916) 413-1140

Department of Financial Protection and Innovation
 File # 2021-0222-01
 NMLS Transition and Pace Program Administrators

This action adopts and amends regulations to implement Assembly Bill 1284 (Dababneh, 2017) and the California Financing Law (Fin. Code § 22000 et seq.) governing the regulatory oversight of Property Assessed Clean Energy (PACE) programs and PACE program administrators, PACE solicitors, and PACE solicitor agents. This action also amends regulations to transition all licensees under the California Financing Law onto the Nationwide Multistate Licensing System & Registry (NMLS) national online database.

Title 10
 Adopt: 1620.01, 1620.02, 1620.03, 1620.05, 1620.06, 1620.07, 1620.08, 1620.10, 1620.11, 1620.12, 1620.13, 1620.14, 1620.15, 1620.16, 1620.17, 1620.19, 1620.21, 1620.22, 1620.25, 1620.27, 1620.28, 1620.29
 Amend: 1404, 1408, 1409, 1409.1, 1411, 1422, 1422.4, 1422.4.5, 1422.5, 1422.5.1, 1422.6.2, 1422.7.1, 1422.9, 1422.10, 1422.12, 1423, 1424, 1425, 1426, 1437, 1550, 1552
 Filed 08/05/2021
 Effective 10/01/2021
 Agency Contact:
 Colleen Monahan (916) 576-4952

Naturopathic Medicine Committee
File # 2021-0309-02
Substantial Relationship and Rehabilitation Criteria

This rulemaking action by the Naturopathic Medicine Committee adopts criteria to evaluate the rehabilitation of an applicant or licensee when considering the denial, suspension, or revocation of a license or certificate. The action also includes criteria for determining when a crime is substantially related to the qualification, functions, and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed in compliance with Assembly Bill 2138 (Stats. 2018, chapter 995).

Title 16
Adopt: 4259
Amend: 4256, 4258
Filed 08/04/2021
Effective 08/04/2021
Agency Contact:
Rebecca Mitchell

(916) 928-5862

**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.