



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

Multi-County: Scholarship Prep
State Agency: Health and Human Services Agency

A written comment period has been established commencing on September 17, 2021 and closing on November 1, 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 November 1, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING
COSTS AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

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

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from

the Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 2. 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 **October 21, 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 ofices no later than **5:00 p.m.** on **October 20, 2021**.

BACKGROUND/OVERVIEW

The proposed regulation pertains to the Act's Section 84224 behested payment reporting requirements applicable to an elected officer or Public Utilities Commission member (hereinafter referred to collectively as "official") when a payment involves a donor advised fund. The purpose of the behested payment reporting requirements is to capture payments that are not contributions or clear gifts to officials but are payments in which the public would have an interest given the official's role in the exchange.

Section 84224 imposes reporting requirements on behesting officials for payments that satisfy each of the following requirements: (1) The payment is made at the behest of the official; (2) The behesting official does not provide full and adequate consideration in exchange for the payment; (3) The payment is made principally for a legislative, governmental, or charitable purpose; and (4) If made principally for a legislative or governmental purpose, the payment is made by a person other than a state, local, or federal governmental agency. (Section 84224(b).)

A behested payment that meets the above description must be reported and filed with the official's agency within 30 days following the date on which the payment or payments equal or exceed \$5,000 in the aggregate from the same source in the same calendar

year in which they are made. (See Section 84224(a).) The report must include: "name of **payor**; address of **payor**; amount of the payment or payments; date or dates the payment or payments were made; the name and address of the payee; a brief description of the goods or services provided or purchased, if any; and a description of the specific purpose or event for which the payment or payments were made." (Emphasis added.) Once the reporting threshold is met, all additional payments made by the single source in the calendar year must be reported within 30 days after the payment was made. The statute does not define key terms, however, including "payor" or "single source."

Donor Advised Funds

A donor advised fund ("DAF") is a charitable giving mechanism, where separately identified funds are maintained and operated by a section 501(c)(3) organization called a sponsoring organization. Each account is composed of contributions made by individual donors. Once the donor makes the contribution, the sponsoring organization has legal control over it. However, the donor, or the donor's representative retains advisory privileges with respect to the distribution of funds and the investment of the assets in the account. (See "Donor-Advised Funds | Internal Revenue Service" ([irs.gov](https://www.irs.gov)). See also, 26 USCS § 4966, defining "donor advised fund" and "sponsoring organization.")

Under this structure, when an official reports a behested payment that comes from a DAF the sponsoring organization has written the check for payment from the donor's DAF at the request of the donor. A donor may select to have a particular DAF payment be anonymous or may name the DAF in a manner that does not disclose the donor's name. The sponsoring organization sends notice to the payee charitable organization that the payment is made from a DAF and, at the discretion of the donor, may or may not disclose the name of the DAF and name of the donor. Because the payment is made at the discretion of the donor, merely reporting the sponsoring organization as the "name of the payor" would not disclose the donor's role in directing the payment.

REGULATORY ACTION

The Commission will consider regulatory action addressing the reporting of a DAF behested payment. At the request of the Commission, staff has prepared draft regulatory language defining a "payor" and a "single source" in the context of a DAF behested payment so that meaningful disclosure is provided to the public, and to provide additional guidance to reporting officials. The Commission will consider proposed Regulation 18424.3 and may consider any related amendments to address the reporting of a DAF behested payment.

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 18998 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.

Adopt 2 Cal. Code Regs. Section 18424.3 Behested Payment Reporting. Donor Advised Fund.

The Commission will consider the adoption of proposed Regulation 18424.3 to address reporting a behested payment from a DAF. As proposed, Regulation 18424.3:

- Requires the official to report the name of the sponsoring organization, the name of the donor advised fund, and the name of the donor, to the extent this information is known to the official. Where there is more than one donor, the name of the donor, or donors, who exercised advisory privileges over the DAF for this payment is provided.
- Places the duty on the official to identify and report the above information with as much specificity as the official knows or can determine by inquiring with the sponsoring organization. If the official learns the identity of the donor or DAF with greater specificity after the report filing date, the official has a duty to amend the behested payment report with the information within 10 days of the official receiving the additional information.
- Clarifies how to identify the “single source” of a DAF payment, to determine the \$5,000 threshold triggering a behested payment report, and any subsequent reporting requirements including instances in which there are multiple donors, or the sponsoring organization withholds the identity of the donor or DAF.
- Defines the terms “sponsoring organization,” “donor advised fund,” and “donor.”

The proposed language provides for the meaningful disclosure of the parties involved in a behested payment transaction, while limiting the reporting requirements to payor information the official either knows or can determine by inquiring with the sponsoring organization. The proposed language places a duty on the official to promptly amend the report within 10 days of learning the specific identity of the donor or the donor advised fund. The language balances prompt, informative, and accurate public disclosure of behested payments by officials with the need to not discourage the important public service that these payments can provide, and the anonymity afforded such donors.

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

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. None.
 Fiscal Impact on State Government. None.

Fiscal Impact on Federal Funding of State Programs. None.

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 these regulations is to clarify and implement Section 84224.

CONTACT

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

TITLE 4. SCHOOL FINANCE AUTHORITY

THE CALIFORNIA SCHOOL FINANCE AUTHORITY PROPOSES TO AMEND REGULATION SECTIONS 10152 THROUGH 10157, TITLE 4, CALIFORNIA CODE OF REGULATIONS, RELATING TO THE CHARTER SCHOOL FACILITIES PROGRAM

REGULATION SECTIONS PROPOSED FOR AMENDMENTS:

- 10152
- 10153
- 10154
- 10155
- 10156
- 10157

NOTICE IS HEREBY GIVEN that the California School Finance Authority (Authority) proposes to amend the above-referenced regulation sections, contained in Title 4, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a request for a public hearing to the contact person listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one

is requested, or following the written comment period if no public hearing is requested, the California School Finance Authority Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below without further notice.

AUTHORITY AND REFERENCE CITATIONS

The Authority proposes to amend the above-references regulation sections under the authority provided by Sections 17078.57, 17179, 17180, and 17180.5 of the Education Code. The proposal interprets and makes specific reference to Section 17078.62 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The State Allocation Board (SAB) adopted regulations to implement the Leroy F. Green School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The Charter School Facilities Program (CSFP) was enacted in 2002 by Assembly Bill 14, and funded through four state general obligation bond measures, totaling \$1.4 billion. The program was created for the purpose constructing, acquiring, or renovating facilities for high-quality, site-based charter schools throughout California. CSFP provides charter schools access to facility funding for new construction directly or through the school district where the charter school is physically located. The program is jointly administered by the Authority and the Office of Public School Construction (OPSC).

At its June 24, 2021 meeting, the California School Finance Authority Board adopted proposed regulatory amendments that would provide additional clarity on how to proceed with the selection of a successor Charter School under CSFP should a Charter School be unable to continue occupancy of its CSFP-funded facility. These amendments include notification of interested applicants and selection of a successor Charter School, while ensuring the statutory intent for providing CSFP facilities is met.

Bond Funds Impacted

- Kindergarten–University Public Education Facilities Bond Act of 2002 (Proposition 47)

- Kindergarten–University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten–University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

Attached to this Notice is a copy of the regulatory language at issue, along with the text of the specific proposed regulatory amendments. The proposed regulations can also be reviewed on the Authority’s website at <https://www.treasurer.ca.gov/csfa/csfp/public-comment.asp>. Copies of the proposed regulatory amendments will be mailed to any person requesting this information from the **Contact Person** as set forth below in this Notice. The proposed regulations amend the CSFP Regulations under the California Code of Regulations, Title 4, Division 15, Article 1, Sections 10152 through 10157.

Background and Problem Being Resolved

In the course of administering CSFP, the Authority become aware of two separate Charter Schools that are unable to continue occupancy of their CSFP-funded facilities. Education Code Section 17078.62 allows for a successor Charter School in the event a CSFP funded Charter School no longer occupies the facility. In working through facility disposition under the existing regulatory framework, OPSC and the Authority determined that regulations are necessary to provide clear and specific guidance to districts and interested successor Charter Schools concerning the process of selecting a successor Charter School in such instances.

OPSC and the Authority held two virtual joint public stakeholder meetings: one on February 25, 2021, and one on May 26, 2021, to discuss the proposed amendments. Stakeholders provided feedback regarding the proposed amendments at the February meeting. The comments were discussed at the May meeting. No additional comments were received following the May meeting.

Anticipated Benefits of the Proposed Regulations

The proposed amendments were drafted to provide a clear, transparent process and consistent guidance in the event a CSFP recipient Charter School is unable to continue occupancy of a CSFP-funded facility. The proposed changes are also necessary to provide clarity and internal consistency to the regulations as a whole. Charter Schools and School Districts will benefit from a more predictable and standardized process. The State of California will benefit because the State’s investment will be maintained; a CSFP-funded facility will continue to operate once a successor Charter School has been selected. The proposed amendments are not anticipated to have a

direct impact on the State’s economy or job creation because the successor Charter School will take over the facility on equal terms as the original occupant.

The Authority has conducted an evaluation as to whether there are any related regulations on this matter and has found that these are the only regulations dealing with this type of hybrid grant/loan program. Therefore, the proposed regulations do not present any inconsistencies or incompatibilities with existing State laws or regulations. Proceeding with the proposed regulatory amendments aligns with the statute and carries out the will of the voters.

Summary of the Proposed Regulatory Amendments

Pursuant to its authority to promulgate rules and regulations under Section 17179 and 17180 of the Education Code, the Authority proposes to amend sections 10152 through 10157 of Title 4, Division 15 to the California Code of Regulations to accomplish the following objectives:

- Provide an overview of the successor notification and selection process:
 - Identify the entity responsible for notifying interested charter schools of an available facility;
 - Indicate what charter schools should be notified;
 - Provide the minimum requirements to be considered a successor charter school;
 - Provide examples of allowable district requirements to qualify as a successor charter school;
 - Identify state preference points that must be used if more than one charter school applies to be a successor charter school;
 - Provide examples of allowable district preference points that may be used if more than one charter school applies to be a successor charter school; and
- Clarify language and internal consistency throughout the regulations.

Statutory Authority and Implementation

Under authority established in California Education Code sections 17179 and 17180, the Authority may adopt rules and regulations to carry out its responsibility of assisting school districts and community college districts with financing for school projects that may consist of the following elements; acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor an educational facility to be financed or refinanced under chapter 18 of the Education Code. All programs administered by the Authority refer to charter schools as established pursuant to Education

Code section 4700 et seq., the Charter Schools Act of 1992.

Determination of Inconsistency or Incompatibility with Existing State Regulations

SFP Regulation Section 1859.17, passed under the authority of Education Code Section 17078.62, allows for a successor Charter School in the event a CSFP recipient Charter School no longer occupies a CSFP-funded facility. Neither this regulation nor the Education Code provides specificity concerning the process whereby Charter Schools are notified of the availability of such facilities nor selected as successor Charter School, nor do the regulations clearly indicate what entity is responsible for this process.

After review, the Authority has concluded that these are the only regulations in this subject area and that the proposed amendments are therefore neither inconsistent nor incompatible with existing State laws and regulations. The proposed amendments are within the Authority’s enact regulations for CSFP under Education Code Section 17179 and 17180.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Authority has determined that the proposed regulatory amendments do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 or the Government Code. It will not require local agencies, school districts, or charter schools to incur additional costs in order to comply with the proposed regulatory amendments.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Authority has made the following initial determinations relative to the required statutory categories:

- The Authority has made an initial determination that there will be no significant, statewide, adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The Authority is not aware of any cost impacts that a representative private person or business would not necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulatory amendments create no costs to any local agency, school district, or charter school requiring reimbursement pursuant to Section 17500 et seq., or beyond those required

by law, except for the required district contribution toward each project as stipulated in statute.

- There will be no costs or savings in federal funding to the State.
- The proposed regulatory amendments create no costs or savings to any State agency beyond those required by law.
- The Authority has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Business and Jobs in California

The proposed amendments promote transparency and consistency because the process will be clarified in regulation. This will benefit school districts and charter schools by ensuring equitability to all parties involved. The State of California will benefit because the State's investment will be maintained as the CSFP-funded facility will continue to operate once a successor Charter School is installed. The proposed amendments do not have a direct impact on the State's economy or job creation because the successor Charter School will take over the facility on equal terms as the original occupant.

Proceeding with the implementation of the proposed amendments align with statute and carries out the will of the voters. The proposed amendments do not have an impact on the creation or elimination of jobs within California. It does not have an impact on the creation of new businesses or elimination of existing businesses within California. Nor will the proposal have an impact on the expansion of businesses currently doing business within the state.

Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment

- The proposed amendments promote transparency and consistency because the process will be clarified in regulation. This will benefit school districts and charter schools by ensuring equitability to all parties involved. The State of California will benefit because the State's investment will be maintained as the CSFP-funded facility will continue to operate once a successor Charter School is installed. The proposed amendments do not have a direct impact on the State's economy or job creation because the successor Charter School will take over the facility on equal terms as the original occupant.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local educational agencies utilize construction and trades employees to work on school construction

projects and although this proposed regulation does not directly impact workers' safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant, and safer for use by pupils, staff, and other occupants on the site.

- There is no impact to the State's environment for the proposed regulatory amendments.

The Authority finds the proposed regulations fully consistent with the state purposes and benefits.

EFFECT ON SMALL BUSINESS

The proposed regulatory amendments will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. Although the proposed amendments only apply to school districts, charter schools, and local education agencies for the purpose of funding school facility projects, the proposed regulatory amendments do not have a direct impact on the creation of new small businesses, or expansion of small businesses and it will not eliminate jobs or eliminate existing small businesses within California. Further, the nature of the proposed regulatory amendments is to provide specific guidance and additional clarity that promotes transparency and consistency necessary for the process of selecting a successor Charter School.

SUBMISSION OF COMMENTS, DOCUMENTS, AND ADDITIONAL INFORMATION

Any interested person may present statements or arguments relevant to the proposed regulatory action in writing, submitted via U.S. mail, e-mail, or fax. Written comments, submitted via U.S. mail, e-mail, or fax must be received by the Authority no later than Monday, November 1, 2021. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Contact Person:

Written comments, submitted via U.S. mail, e-mail, or fax regarding the proposed regulatory action, requests for copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Katrina Johantgen, Executive Director
California School Finance Authority

At:
300 South Spring Street, Suite 8500
Los Angeles, CA 90013
213•620•4467

OR

915 Capitol Mall, Room 101
Sacramento, CA 95814
916•651•7710

OR to: kjohantgen@treasurer.ca.gov

OR

csfp@treasurer.ca.gov

The following person is designated as a backup Contact Person for inquiries only regarding the Regulations:

Ravinder Kapoor, Senior Attorney
State Treasurer's Office
915 Capitol Mall, Room 110
Sacramento, CA 95814
916•653•2995

Website Access: Materials regarding this proposal can be found at: <https://www.treasurer.ca.gov/csfa/csfp/public-comment.asp>.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the Authority may adopt the regulations substantially as proposed in this notice or with modifications that are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the Authority adopts the regulations.

The modified regulations will be made available and provided to:

- All persons who submitted written comments at the public hearing,
- all persons who submitted written comments during the public comment period, and
- all persons who requested notification from the agency of the availability of such changes.

Requests for copies of any modified regulations should be addressed to the **Contact Person** identified

above. The Authority will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the Authority intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedures Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the Authority is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which adoption is proposed in strikeout/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the Authority is relying in proposing the adoption.

As data and other factual information, studies, reports, or written comments are received they will be added to the rulemaking file. The file is available for public inspection at the Authority during normal working hours. Please be aware that due to COVID-19, the office may not be fully staffed at all times. If you wish to inspect the documents in person, please call first. Items 1 through 3 are also available on the Authority's Internet Website at: <https://www.treasurer.ca.gov/csfa/csfp/public-comment.asp>.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Authority has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, 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 than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The alternative to these proposed amendments would be to take no action and not provide the guidance and clarity that is needed for the process. Without the proposed amendments, different processes would be followed, leading to inconsistencies and ultimately a

longer period of time for a CSFP-funded facility to remain unoccupied.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available, and copies may be requested from the agency's **Contact Person** named in this Notice or may be accessed on the website listed above.

TITLE 4. SCHOOL FINANCE AUTHORITY

NOTICE IS HEREBY GIVEN that the California School Finance Authority (Authority), organized and operating pursuant to Sections 17170 through 17199.6 of the Education Code, is proposing to take the action described in the Informative Digest. Any person interested may present written statements or arguments relevant to the proposed action. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under **Contact Person** in this Notice, must be received by the Authority no later than Monday, November 1, 2021.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact person listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the California School Finance Authority Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as **Contact Person** and will be mailed to those persons who submit statements related to this proposal or who have requested notification of any changes to the proposal.

Public Comment Period: September 17, 2021 through November 1, 2021.

AUTHORITY AND REFERENCE

Authority & Reference cited: Sections 41365, 41366.5, 47600 et seq., and 47605, Education Code.

INFORMATIVE DIGEST

A. Informative Digest

Under authority established in California Education Code sections 17179 and 17180, the Authority may adopt rules and regulations to carry out its responsibility of assisting school districts and community college districts with financing for school projects that may consist of the following elements; acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor.

The Authority processes between 28 to 48 applications for loans under the Charter School Revolving Loan Fund Program (Program) each year. These loans are intended to assist new Charter Schools in meeting their short-term cash flow needs when State revenues based on student attendance are not sufficient to cover operating expenses.

These regulations are intended to refine and add clarity and specificity to the administration of the Program by defining terms, modifying the over subscription process, the loan application, application materials, and giving the schools the ability to remedy a default. The Authority submits these proposed regulations to provide guidance to the public and those charter schools eligible for the Program. The regulations as proposed also serve to ensure Program regulations are consistent with current Program practices, and include revisions to language to provide clarity and promote internal consistency within the regulations as well as consistency between regulations of the programs administered by the Authority.

Pursuant to its authority to promulgate rules and regulations under Section 41365(h) of the Education Code, the Authority proposes to amend sections 10170.17, 10170.18, 10170.19, 10170.20, 10170.21 and 10170.22 of Title 4, Division [15], [Article 1.6] to the California Code of Regulations to accomplish the following objectives:

1. Modify the use of Free and Reduced-Price Meal (FRPM) data and regions used to determine preference in the event of Program oversubscription.
2. Ensure that the regulations are consistent with current Program practices.
3. Update Program application content to align with current internal practices that focus on financial soundness for loan recommendations.
4. Improve internal consistency of the regulations and make them easier to understand.

B. Policy Statement Overview/Anticipated Benefits or Proposal

The regulations will benefit the welfare of California residents because they will assist in providing school districts and community college districts access to financing for working capital improvements, a purpose the Legislature explicitly stated was in the interest of the state and its people. After administrating the Program since 2013–14, the Authority has found that many items that were once requested for review of applicant charter schools are no longer necessary. A majority of the proposed changes are to simplify and streamline the application and the review process conducted by staff. The Authority are not subject matter experts in regards to the qualifications needed to get a charter petition approved. As such, staff now rely on process of the approval done by the authorizer, as they are in the position to determine if the qualifications of opening a school are met and sufficient.

Furthermore, the Authority is proposing to delete and re–write the methodology of establishing priority if there are insufficient funds due to oversubscription. The current method is overly complicated and the Authority wishes to simplify the process. Additionally, the Program has only been oversubscribed once where staff had to ensure equal representation amongst “Regions” that were established in the first approved Program regulations. Instead, the Authority recommends determining priority by the age of the charter school, confirmed by the California Department of Education’s (CDE) website.

These changes streamline and clarify Program requirements and procedures, helping to ensure the Authority has clear and uniform standards, internal controls, and guidelines that ensure consistent and effective administration of the Program. This in turn protects Program funds and clarifies Program expectations for the charter school community and the public at large.

C. Consistency/Compatibility with Existing State Regulations

The Authority has conducted an evaluation as to whether there are any related regulations on this matter and has found that these are the only regulations dealing with this type of loan program. Therefore, the proposed regulations do not present any inconsistencies or incompatibilities with existing state regulations.

D. Documents Incorporated by Reference

In accordance with 1 CCR 20(c)(3) and Government Code Sections 11346.1(b)(2) and 11346.5(a)(3), the Authority provides a Good Standing Confirmation Form (GSCF) (CSFA 1119, rev. November 2019), incorporated herein by reference.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate on local agencies and school districts: None.

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

Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability to Compete: The Authority has made an initial determination that this regulatory action merely proposes to implement, interpret, or make specific existing requirements and procedures and therefore will not have a significant, statewide adverse economic impact directly effecting business, including the ability of California businesses to compete with businesses in other states. In fact, by providing additional funding opportunities to charter schools, this regulatory action will make establishing a new charter school in California easier and more attractive.

Impact on Jobs/New Businesses: The Authority has determined that this regulatory proposal will not have any negative impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses of the expansion of businesses in the State of California. However, because of the increased funding opportunities for new Charter Schools, such schools in California may be able to begin operations more quickly and be at less risk of failure.

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

Effect on Housing Costs: None.

Effect on Small Business: The Authority has determined that this regulatory proposal may have a positive impact on charter schools and businesses supporting Charter Schools. The creation of additional funding opportunities to provide start–up costs to California Charter Schools may result in a large number of Charter Schools, or in the survival of Charter Schools that would not have survived without funding assistance.

Economic Impact Assessment/Analysis Summary Comments: This proposed regulation is not a “major regulation”, therefore there is no economic impact assessment comment from the Department of Finance and no response.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), CSFA must determine that no reasonable alternative considered by CSFA or that has otherwise been identified and brought to the attention of CSFA would be more effective in carrying out the purpose for which the Regulations are 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.

Any interested persons may present statements or arguments relevant to the above determination during the written comment period.

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

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

Copies of the express language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the Authority Contact Person or on the website listed below. The file is available for inspection at CSFA's office at 915 Capitol Mall, Sacramento, California, during normal business hours. Please be aware that due to COVID-19, the office is not fully staffed at all times. If you wish to inspect the documents in person, please call first.

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

A Final Statement of Reasons will be created after the closing of the public comment period. You may obtain a copy of the final statement of reasons once it has been prepared from the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director
California School Finance Authority

at:
300 South Spring Street, Suite 8500
Los Angeles, CA 90013
(213) 620-4467

or

915 Capitol Mall, Room 101
Sacramento, CA 95814
(916) 651-7710

Or to: kjohantgen@treasurer.ca.gov

or

csrlf@treasurer.ca.gov

The following person is designated as a backup Contact Person for inquiries only regarding the Regulations:

Ravinder Kapoor, Senior Attorney
State Treasurer's Office
915 Capitol Mall, Room 110
Sacramento, CA 95814
(916) 653-2995

Website Access: Materials regarding this proposal can be found at <https://www.treasurer.ca.gov/csfa/csfgp/public-comment.asp>.

**TITLE 4. GAMBLING CONTROL
COMMISSION**

**AB 120 HEARINGS UPDATE
CGCC-GCA-2021-06-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. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on November 2, 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. 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.

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 person(s) 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 19825, 19862, 19869, 19870, and 19871, Business and Professions 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

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 to be conducted as a Gambling Control Act hearing (GCA hearing), unless the Commission determines the hearing should be conducted as an Administrative Procedure Act hearing (APA hearing).

This proposed regulatory action will implement the changes made in Assembly Bill (AB) 120 (Salas, Chapter 45, Statutes of 2021), which becomes effective January 1, 2022. AB 120 made a number of changes to the way the Commission can choose to consider an application. These include:

1. Changing the timeline for when a request to withdraw an application may be made from when the Bureau of Gambling Control within the Department of Justice (Bureau) has completed its initial review of an application and prepared any recommendation for the Commission to when the Commission has issued its final decision on the application.
2. Providing the Commission with the authority to deny an application, or approve an application with limits, restrictions, or conditions, without an evidentiary hearing provided that the action of the Commission is stayed for 30 days to allow the applicant the opportunity to request an evidentiary hearing.

EXISTING LAW:

Business and Professions Code section 19869 provides that a request for withdrawal of an application may be made at any time prior to the final action upon the application by the Commission. The Commission shall not grant the request if it determines it would not be consistent with the public interest and policies of the Act. Additionally, the Commission may approve the withdrawal request with or without prejudice.

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.

Business and Professions Code section 19870 provides the conditions under which the Commission considers an application, the recommendation of the Chief, and any other testimony and written comments and decides to either grant an application, grant an application with conditions, limitations, or restrictions, deny an application, or consider an application at an evidentiary hearing.

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 implement the statutory changes made in AB 120. This includes the establishment of two new options for the Commission to consider at a Commission meeting, the denial of an application for a license, work permit, finding of suitability, or other approval, or the approval of an application for a license, work permit, finding of suitability, or other approval with conditions, restrictions, or limitations. Additionally, the proposed action includes other necessary changes to integrate these two options with the Commission's existing evidentiary hearing processes. Other regulatory changes are proposed to implement the other provisions of AB 120, including staying specified Commission action for up to 30 days, extending the request period for the withdrawal of an application through the Commission's review period, and adjusting the Commission's timeline for issuing an interim renewal license.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing the Commission a process to consider an application that saves the steps of a default decision or a hearing without applicant participation, should the applicant choose to waive their right to an evidentiary hearing.

SPECIFIC PROPOSAL:

This proposed action will make changes within the 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 (Rev. 09/21), as amendments to the form are being proposed as part of this regulatory package.

CHAPTER 1. GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS.

Amend Section 12002. General Definitions

This section provides general definitions for overall use in this division.

Subsection (g) provides the definition of "Bureau report" to mean the final determination by the Chief of the Bureau regarding his or her recommendation to the Commission on an application. This provision is modified to provide a definition of Bureau report, which references the filing by the Chief of the Bureau of his or her written reasons, as provided in Business and Professions Code section 19868(b), regarding his or her recommendation of denial or approval with restrictions or conditions, or the notification to the Commission that the Bureau is recommending approval or is not issuing a recommendation of denial or approval with restrictions or conditions.

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

Section 12006 provides standards for notices that are required by Commission regulation.

Subsection (b) provides that an applicant, licensee, or designated agent may request that the Commission provide communications electronically instead of mailing written communications. This provision is modified to change the date of the Notice of Defense.

Amend 12012. Ex Parte Communication.

Section 12012 provides the Commission's guidelines for what is and is not an *ex parte* communication and what to do should an inappropriate communication occur.

Subsection (a) provides the definition for "*ex parte communication*" and "*ex parte.*" This definition includes a misspelling for the word "communication" which is being corrected.

Subsection (d) provides a list of communications that do not qualify as *ex parte*. Paragraph (2) provides that communications made at a public hearing or meeting that has been properly noticed do not qualify as *ex parte* communications. This provision is modified to replace "public hearing or meeting" with "evidentiary hearing or Commission meeting."

Subsection (e) provides when the Commission's *ex parte* regulations apply to an APA hearing. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number.

Amend 12015. Withdrawal of Applications.

Section 12015 provides the process by which an applicant can request, and the Commission considers, the withdrawal of an application.

Subsection (a) provides that a request may be made by an applicant, or his, her, or its designated agent. The provision provides that a request must be made

prior to the Bureau report being submitted to the Commission. The regulations have been revised to repeal the reference to the Bureau report and replacing it with a reference to Section 12066(b).

Additionally, subsection (a) provides that the Executive Director, upon receipt of information or documentation provided by the Bureau will schedule the withdrawal request for Commission consideration. This provision is amended to provide that the information and documentation provided by the Bureau must be that information required by Business and Professions Code section 19869.

Subsection (d) provides that if a request for withdrawal is granted with prejudice, the applicant will not be eligible to apply again for a license or approval for one year. This provision has been modified to be consistent with the changes to AB 120, specifically, revising the restriction from “will not be eligible” to “will be ineligible.” Additionally, an applicant will no longer be limited from applying for a license or approval, but will instead be ineligible to submit or renew an application for the one-year period.

Amend 12035. Issuance of Interim Renewal Licenses.

Section 12035 provides standards and conditions for issuing an interim renewal license.

Subsection (a) provides when the Commission will issue an interim renewal license to an applicant. The proposed action would provide that the Commission would instead provide the interim renewal license prior to the expiration of the existing license should a triggering event occur. Additionally, the language is revised to include “finding of suitability” separate from “other approval.”

Finally, the proposed action would amend one paragraph and adopt two more paragraphs:

- Paragraph (1) provides that the Commission will issue an interim renewal license when it has elected to hold an evidentiary hearing on a renewal license, work permit, or other approval. This provision is renumbered to reference the current provision’s new number.
- New paragraph (4) will provide that the Commission will issue an interim renewal license to an applicant for a renewal license, work permit, finding of suitability, or other approval when their requested renewal license, work permit, finding of suitability, or other approval has been issued with conditions, restrictions, or limitations at a Commission meeting.
- New paragraph (5) will provide that the Commission will issue an interim renewal license to an applicant for the denial of a renewal license, work permit, finding of suitability, or other approval at a Commission meeting.

Subsection (b) provides that the Commission will issue a new interim renewal license if the hearing process will not be concluded before the expiration of the current interim renewal license. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision’s new number.

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

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

Section 12052 provides information on how the Commission issues notices for the consideration of applications.

Subsection (c) provides what the Commission will include in a notice for any license, permit, finding of suitability, renewal, or other approval.

- Paragraph (1) provides what the Commission will include in a notice for a non-evidentiary hearing meeting, now renamed Commission meeting.
 - Subparagraph (C) provides notice that an individual who is making an oral statement might be required to be placed under oath. This provision is repealed.
- Paragraph (2) provides what the Commission will include in a notice for a GCA hearing. Subparagraph (E) is modified to change the date of the Notice of Defense.

Additionally, the Notice of Defense form has been amended.

- A new paragraph is proposed to be added to the form’s instructions. This paragraph would provide the timeline for requesting an evidentiary hearing when an application has been approved with conditions, restrictions, or limitations, or has been denied at a Commission meeting. The instructions inform the applicant that the Notice of Defense form must be submitted to both the Commission and the Bureau, otherwise it will result in the Commission’s decision becoming final. Additionally, the Notice of Defense must be received by the Commission within 30 calendar days of the Commission meeting where the application was approved with conditions, restrictions, or limitations, or has been denied.
- The existing instructions on the form have been amended to provide clarification that the existing process will apply for applications that the Commission has referred to an evidentiary hearing. Additionally, the timeline for submittal of the Notice of Defense has been changed from 21 days to 30 calendar days.

Amend 12054. Consideration at Regular Commission Meeting.

Section 12054 provides a limited list of the possible actions that could be taken by the Commission at a non-evidentiary hearing meeting. This section's title has been changed to Consideration at a Commission meeting.

Subsection (a) provides a list of nine possible actions that the Commission could take at a non-evidentiary hearing meeting, now renamed Commission meeting. This proposed action would add two new items to the list of possible Commission actions. The actions authorized by AB 120 are:

- Paragraph (2) provides that the Commission can issue a license, work permit, finding of suitability, or other approval with conditions, restrictions, or limitations.
- Paragraph (3) provides that the Commission can deny an application for a license, work permit, finding of suitability, or other approval.

Additionally, both of these provisions provide that if the application is for a renewal, the Commission will issue an interim renewal license. As the list of actions in subsection (a) is designed to provide an applicant with a list of possible results, it is consistent to reference this additional action here.

- Existing paragraphs (2) through (9) are renumbered (4) through (11). This is a non-substantive change.

Amend 12056. Evidentiary Hearings.

Section 12056 provides the process when the Commission elects to hold an evidentiary hearing, including information such as limitations to discovery, costs, and the ability of the Commission to decide, at any time, that a referred application should be considered at a GCA hearing, APA hearing, or Commission meeting instead of the evidentiary hearing it had previously been referred to.

Subsection (a) provides that when the Commission has elected to hold an evidentiary hearing, that evidentiary hearing will by default be a GCA hearing, unless the Commission or Executive Director determines that the application should be considered at an APA hearing. This provision is modified to require that when an applicant has elected to request an evidentiary hearing following the Commission's denial of an application, or its approval with conditions, restrictions, or limitations, the evidentiary hearing process will follow the same process as when the Commission has elected to hold an evidentiary hearing.

Subsection (d) provides that the Commission reserves the ability to decide, at any time, that a referred application should be considered at a GCA hearing, APA hearing, or Commission meeting instead of the

evidentiary hearing it had previously been referred to. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number.

Amend 12057. Default Decisions and Uncontested Applications.

Section 12057 provides the specifics of the Commission's default decision process.

Subsection (a) provides what happens if an applicant fails to submit a completed Notice of Defense according to the timelines provided on the form or affirmatively waives their right to an evidentiary hearing. This provision is modified to change the date of the Notice of Defense.

- Paragraph (5) is proposed to provide that if an application was approved with conditions, limitations, or restrictions, or was denied at a Commission meeting and the applicant affirmatively waives their rights to an evidentiary hearing or 30 calendar days has passed, the Commission need only finalize the decision pursuant to Section 12055(b)(4).

Amend 12060. GCA Hearings.

Section 12060 provides the specifics of a GCA hearing.

Subsection (b) provides that if the Commission has elected to hold a GCA hearing, the Executive Director will provide notices to the various parties, as specified, 60 days in advance of the GCA hearing. This provision is amended to include when the Commission has made a decision on an application at a Commission meeting, and the applicant has requested an evidentiary hearing.

Amend 12066. Final Decisions; Judicial Review.

Section 12066 provides when a decision by the Commission is final and what judicial remedies are available.

Subsection (a) provides information on when a decision is final if the Commission accepts a request for withdrawal or a decision of abandonment is made. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number.

Subsection (b) provides a list of when a decision on an application is final.

- Paragraph (4) is proposed to provide that an application is final if the application was approved with conditions, limitations, or restrictions, or was denied at a Commission meeting and the applicant affirmatively waives their rights to an evidentiary hearing or 30 calendar days has passed.

Subsection (c) provides that a decision of the Commission denying an application or imposing conditions on a license is subject to judicial review, as specified. This provision is amended to clarify that

judicial review only applies if the denial or approval with conditions was made after an evidentiary hearing.

CHAPTER 2. LICENSES AND WORK PERMITS.

ARTICLE 4. INTERIM OWNER CATEGORY LICENSE.

Amend 12134. General Provisions.

Section 12134 provides a series of general provisions that apply to the interim owner category license process.

Subsection (c) provides that if the Bureau determines that the holder of an interim owner category license has become disqualified or may have violated a condition of their interim owner category license, the matter will be set for Commission consideration at a non-evidentiary hearing meeting, now renamed Commission meeting.

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.

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:

Amend Section 12035. Issuance of Interim Renewal Licenses.

Existing regulations require that the Commission will provide an interim renewal license when a triggering event occurs, without considering the existing duration of the current license. The proposed action would provide that the Commission would instead provide an interim renewal license prior to the expiration of the existing license. Currently, the Commission does not believe this timeline will have a significant impact on the Commission. The vast majority of applicants that go to an evidentiary hearing, including those that are considered as a default decision, have a timeline sufficiently extended to require the issuance of an interim renewal license, no matter if it is immediately issued or issued in conjunction with the expiration of the existing license.

Where the Commission does expect to realize some savings, is for applications that are now denied, or approved with conditions, limitations, or restrictions, at a Commission meeting and whose applicant does not submit a notice of defense requesting an evidentiary

hearing. As discussed in greater detail below, the Commission does not have an estimate on how many applications may be resolved in this way; however, based upon a recent fee study, the Commission has determined that the issuance of the badge associated with the interim renewal license is approximately \$8 per instance. So regardless of how many applicants will no longer require an interim renewal license, the total savings will not be significant.

Amend Section 12054. Consideration at a Commission Meeting

The proposed action provides two new options for the Commission to consider at a Commission meeting. These changes do not significantly alter the Commission's evidentiary hearing process. Currently, after receiving the application from the Bureau, the application can follow one of two paths: (1) the Executive Director can directly schedule the application to an evidentiary hearing or (2) the Commission considers the application at a Commission meeting, at which point it can approve the application or send it to an evidentiary hearing. Either way, once the application has been sent to an evidentiary hearing, the applicant will receive a Notice of Defense form, at which point the applicant can: (1) accept a default decision which can be either denial or approval with conditions, restrictions, or limitations, (2) request an evidentiary hearing, or (3) fail to submit a Notice of Defense, in which case the Commission may decide to deny the application or approve it with conditions, restrictions, or limitations.

Under the proposed regulations, the Commission can decide at the Commission meeting to either deny the application or approve it with conditions, restrictions, or limitations, at which point the applicant will receive a Notice of Defense form and can: (1) accept the Commission's denial or approval with conditions, restrictions, or limitations, (2) request an evidentiary hearing, or (3) fail to submit a Notice of Defense, in which case the Commission's previous decision to deny the application or approve it with conditions, restrictions, or limitations will stand.

As illustrated here, the only alteration is for applications that are denied or approved with conditions, limitations, or restrictions at a Commission meeting and whose applicant does not request an evidentiary hearing. Additionally, there may be some savings from applicants who would have otherwise participated in a hearing had the Commission chosen to send an application to an evidentiary hearing, but who choose not to based upon an initial decision at a Commission meeting; either because they are willing to accept the Commission's conditions, limitations, or restrictions, or because they choose not to request an evidentiary hearing after having their application denied.

For applications where the Commission will now approve with conditions, limitations, or restrictions, the Commission estimates no impact. Currently, when electing to send an application to an evidentiary hearing, the Commission is required to provide a focus for the evidentiary hearing. For applications that the Commission is sending to an evidentiary hearing to consider approval with conditions, limitations, or restrictions, the Notice of Defense currently allows the applicant to waive their right to an evidentiary hearing and accept the conditions, limitations, or restrictions, or request an evidentiary hearing to challenge them. This process is in line with how the process will work under the proposed action, and so in these types of cases there will be no impact to the Commission.

For applications where the Commission will now deny an application at a Commission meeting, the Commission estimates some unknown impact. The Commission regulations allow for two responses to a denial (besides accepting it):

1. Fail to submit a Notice of Defense
2. Request an evidentiary hearing

For the first situation, the Commission expects that there will be a reduction in default decisions, and thus a savings to the Commission. An analysis of the Commission’s workload tracking database and the entries related to applications that result in a default decision shows the following average time allocated to these projects is:

Table 1. Commission costs for default decisions

Position: Senior Legal Analyst
 Number of Hours: 3.5
 Hourly Rate: \$40.84
 Cost: \$408

Position: Attorney
 Number of Hours: 10⁴
 Hourly Rate: \$73.84
 Cost: \$258

Position: Chief Counsel
 Number of Hours: .5
 Hourly Rate: \$76.89
 Cost: \$38

Position: Executive Director
 Number of Hours: .5
 Hourly Rate: \$77.14
 Cost: \$39

⁴This reflects the combined total hours of all attorneys working on a project in their various roles.

Position: Commissioner
 Number of Hours: 2⁵
 Hourly Rate: \$79.96
 Cost: \$160

Position: Chair
 Number of Hours: .5
 Hourly Rate: \$82.50
 Cost: \$41

Total: \$945

While the Commission is unable to accurately predict how the Commission might decide an application, the Commission does expect that those applications who exhibit information that would result in a mandatory denial under the Gambling Control Act will be denied at a Commission meeting. The Commission averages approximately 20 default decisions a year, and based on an analysis of these cases estimates that approximately 75% or 15 per year include facts that would result in a mandatory denial. As such, the Commission expects to save the costs of a minimum 15 default decisions at a total of **\$14,175** per year. Additionally, the Commission expects that some other portion of those 20 annual default decisions will be denied at a Commission meeting, but is unable to predict how many.

For the second situation, the Commission estimates that there may be a reduction in evidentiary hearings, and thus a savings to the Commission. An analysis of the Commission’s workload tracking database and the entries related to applications that result in an evidentiary hearing shows the following average time allocated to these projects is:

Table 2. Commission costs for evidentiary hearings

Position: Senior Legal Analyst
 Number of Hours: 26
 Hourly Rate: \$40.84
 Cost: \$1,062

Position: Attorney
 Number of Hours: 77.06⁶
 Hourly Rate: \$73.84
 Cost: \$5,690

Position: Chief Counsel
 Number of Hours: 6.8
 Hourly Rate: \$76.89
 Cost: \$523

⁵This reflects four Commissioners each spending .5 hours on a project.

⁶This reflects the combined total hours of all attorneys working on a project in their various roles.

Position: Executive Director
 Number of Hours: 15
 Hourly Rate: \$77.14
 Cost: \$1,157

Position: Commissioner
 Number of Hours: 60⁷
 Hourly Rate: \$79.96
 Cost: \$4,798

Position: Chair
 Number of Hours: 15
 Hourly Rate: \$82.50
 Cost: \$1,238

Total: \$14,467

The Commission is unable to predict how many applications that are currently sent to an evidentiary hearing and for which an evidentiary hearing was held will now result in no evidentiary hearing being held. Each of these applications had their applicants affirmatively indicate a desire to participate in an evidentiary hearing, and so while it is possible that a denial at a Commission meeting will impact the applicant's willingness to participate in a hearing, there is no way to estimate that amount.

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:

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. The proposed action provides an alternative timeline on how applications can be considered, it does not remove or significantly alter any existing process.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission has determined there would be no increase in costs to representative private persons or businesses as a result of complying with the proposed action. The proposed action provides an alternative timeline on how applications can be considered; it does not remove or significantly alter any existing process.

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 provides an alternative timeline on how applications can be considered; it does not remove or significantly alter any existing process.

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. The proposed action provides an alternative timeline on how applications can be considered; it does not remove or significantly alter any existing process.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing the Commission a process to consider an application that saves the steps of a default decision or a hearing without applicant participation, should the applicant choose to waive their right to an evidentiary hearing.

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.

⁷This reflects four Commissioners each spending 15 hours on a project.

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:

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

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:

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

WEB SITE ACCESS

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

TITLE 13. HIGHWAY PATROL

**EXPLOSIVES ROUTES — MAP 12
(CHP-R-2021-06204)**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13 of the California Code of Regulations, Division 2, Chapter 6, Article 1, Section 1152.2, regarding the designated routes for the transportation of explosives by commercial vehicles on highways in the state.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Pursuant to Division 14, Transportation of Explosives, commencing with Section 31600 of the California Vehicle Code (CVC), the CHP shall adopt regulations specifying the routes to be used in the transportation of explosives. The CVC requires the

CHP to keep information current in regulations with maps indicating the designated routes. The proposed regulation amendments will remove 11.4 miles and extend 4.1 miles of currently designated routes in the Pismo Beach/Grover Beach/Oceano area. These updates will provide carriers an alternative route to reduce potential risks associated with the transportation of explosives, thereby enhancing public health and safety.

The proposed amendments have received concurrence from the CHP's Coastal Division, Pismo Beach Fire Department, Five Cities Fire Authority, San Luis Obispo County Fire Department, State Fire Marshal, and California Department of Transportation. Once adopted, the proposed amendments will be provided to the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

This proposed regulatory action will continue to provide a nonmonetary benefit by protecting the health, safety, and welfare of California's residents, workers, and environment. The changes to the application of the regulation are not substantive and bring the regulation in conformance with existing statute. The proposed changes update and clarify highway routes designated for carriers transporting explosives, and contribute to transportation safety and public health.

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

PUBLIC COMMENT

Any interested person may submit written comments on the proposed action via facsimile at (916) 322-3154, by electronic mail to cvsregulations@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
Attention: Dr. Tian-Ting Shih
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments must be received by November 1, 2021.

PUBLIC HEARINGS

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based, and the proposed regulation text in strikeout and underline format. Requests to review or receive copies of this information should be directed to the CHP at the above address; by facsimile, at (916) 322-3154; or by calling the CHP, CVS, at (916) 843-3400. All requests for information should include the following: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection. Interested parties are advised to call the CHP, CVS, for an appointment.

All documents regarding the proposed action are available through the CHP's website at <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above-noted address. Copies will also be posted on the CHP website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations or the substance of the proposed regulations should be directed to Dr. Tian-Ting Shih or Sergeant Robert Daniels, at (916) 843-3400.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL IMPACT AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) will involve no nondiscretionary cost or savings to any local agency, no cost to any local agency or school district for which Government Code (GC) Sections 17500-17630 require reimbursement, no cost or savings to any state agency, nor costs or savings

in federal funding to the state; (4) will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) 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.

Benefits of the Proposed Action: The proposed regulations updating the designated routes for carriers transporting explosives will continue to provide benefits, including the nonmonetary benefit of protecting public health and safety for the residents, workers, and the environment by providing a regulatory basis for enforcement efforts as they relate to safety–compliance ratings.

The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP 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

The CHP has determined that the proposed regulatory action will not affect small businesses. The action is intended to clarify and update the designated routes for commercial vehicles transporting explosives on the highways. As a result, no small business will be affected by the update.

ALTERNATIVES

In accordance with Section 11346.5(a)(13) GC, the CHP must determine that no reasonable alternative considered by the CHP, or otherwise identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Section 31616, CVC.

REFERENCE

This action implements, interprets, or makes specific Sections 31303, 31304, 31601, 31602, 31607, 31611, 31614, and 31616, CVC.

TITLE 15. PRISON INDUSTRY AUTHORITY

NOTICE OF INTENTION TO AMEND THE CONFLICT–OF–INTEREST CODE OF THE CALIFORNIA PRISON INDUSTRY AUTHORITY

NOTICE IS HEREBY GIVEN that the California Prison Industry Authority (CALPIA), pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict–of–interest code. A comment period has been established commencing on September 17, 2021 and closing on November 1, 2021. All inquiries should be directed to the contact listed below.

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

Changes to the conflict–of–interest code include: adding, renaming, and eliminating positions; adding new divisions and reorganizing positions; revising disclosing categories; and other technical changes.

The proposed amendment and explanation of the reasons can be obtained from the agency’s contact or website.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than November 1, 2021, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than October 17, 2021.

CALPIA has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.

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

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Lindsay Yoshitomi, Attorney, (916) 358-1711, CALPIAregs@calpia.ca.gov.

TITLE 16. BOARD OF PHARMACY

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING: WHOLESALER SELF-ASSESSMENTS

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office on November 1, 2021.

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

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

Authority and Reference: Section 4005 of the Business and Professions Code (BPC) authorizes the board to adopt these regulations. The proposed regulations implement, interpret, and make specific sections 4022.5, 4022.7, 4043, 4044.5, 4045, 4053,

4053.1, 4059, 4120, 4160, 4161, 4201, 4301 and 4305.5 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law requires that a wholesaler and a third-party logistics provider (3PL) be licensed by the California State Board of Pharmacy (board) in order to operate. (BPC sections 4160 and 4161.) There are some distinctions between the two settings although they are subject to the same general requirements. They must designate a designated representative-in-charge (DRIC) or responsible manager (RM) who is responsible for their compliance with all state and federal laws and regulations pertaining to the practice of pharmacy. (BPC sections 4160(d) and 4160(e).) All wholesalers and 3PLs are subject to extensive state and federal laws and regulations including those governing the scope of practice; prescription and labeling requirements; record keeping requirements, including policies and procedures; cooperating with inspections; duties related to storage, handling, and security of drugs and devices; duties related to compounding sterile drug products; and duties with respect to notices to the board about certain changes to staff, facilities, and operations.

Existing regulations, California Code of Regulations, title 16 (CCR) section 1784, requires the DRIC of a wholesaler to complete a self-assessment every odd-numbered year, and within 30 days when specific conditions are met. The self-assessment form assists with increasing compliance with federal and state requirements and makes the board inspection process more efficient. The self-assessment form is incorporated by reference within 16 CCR section 1784, so as law and regulations change, the form must be updated through the rulemaking process. This is a time-intensive process and the board has not been able to update the regulation and self-assessment form as frequently as necessary, with the last update being completed in 2014.

One example of this problem is the addition of the 3PL licensing category, which was established in 2014. Previously, the board licensed 3PLs as wholesalers. However, in response to a federal law change in 2013, the board successfully obtained legislation to establish 3PLs as a separate licensing category (Assembly Bill 2605, Bonilla, Chapter 507, Statutes of 2014).

To address this, the board further seeks to more clearly and directly state the requirements of the self-assessment form within regulation. By specifying the requirements in regulation, it will allow future updates to the self-assessment form to be expedited through the streamlined rulemaking process afforded

for nonsubstantive changes in Section 100 of CCR (Title 1).

The board proposes to amend Section 1784 of Article 10 of Division 17 of Title 16 of the CCR for the purpose of updating the form incorporated by reference therein (*Wholesaler Dangerous Drugs and Dangerous Devices Self-Assessment (17M-26 Rev. 10/14)*) to include recent changes in law and regulation. Additionally, the proposal will add the requirement for the new licensing category, 3PLs and RMs, to complete the self-assessment, and will more clearly and directly state the requirements of the self-assessment form within regulation.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The self-assessment form aids licensees in assessing their compliance with federal and state pharmacy law. This proposal will update the form to include laws and regulations adopted since 2014, and remove any laws and regulations superseded or repealed since 2014. Additionally, this proposal will add the requirement for the RM of the 3PL to complete the self-assessment form. Requiring 3PLs to complete the self-assessment will maintain the same level of oversight as when they were licensed as wholesalers. As the DRIC or RM goes through the biennial process of completing the self-assessment form, they will be made aware of any areas where the wholesaler or 3PL may be out of compliance with laws and regulations. This awareness can increase self-correction and promote compliance with state and federal laws and regulations. This should assist wholesalers and 3PLs in complying with current law; since the laws are designed for consumer protection, consumer protection will be advanced by the licensee's compliance. This proposal also allows for a streamlined process for updating the self-assessment form as changes to pharmacy law occur, which will provide a more effective and efficient use of board resources, by reducing the workload associated with the rulemaking process.

EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

INCORPORATION BY REFERENCE

Wholesaler Dangerous Drugs & Dangerous Devices Self-Assessment (17M-26 Rev. 10/14) which is currently incorporated by reference in the same regulation, is being renamed and revised to *Wholesaler/Third Party Logistics Provider Self-Assessment (17M-26 Rev. 09/18)*.

DISCLOSURES REGARDING THE PROPOSED ACTION, INCLUDING FISCAL IMPACTS

The Board has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to Any Local Agency or School District That Requires Reimbursement Pursuant to Government Code Sections 17500-17630: None.

Costs/Savings to Any State Agency:

The proposed regulations do not result in a fiscal impact to the state. The board currently requires wholesalers and 3PLs to complete and submit self-assessments, as specified. The regulations do not increase the number of self-assessments to be submitted or require additional board workload or costs from the current process.

Nondiscretionary Costs/Savings to Local Agencies: None.

Costs/Savings in Federal Funding to the State: None.

Effect on Housing Costs: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The board currently requires wholesalers and 3PLs to complete and submit self-assessments. The proposed regulations do not increase the workload or costs for these licensees to comply.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The board has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact directly affecting small businesses. While the board does not have specific

data to determine if its licensees are a “small business” as defined in Government Code section 11342.610, the board anticipates that 3PLs are, by their nature, rather large businesses. The proposal makes the regulatory oversight of 3PLs, previously licensed as wholesalers, consistent with the standards for wholesalers.

Completion of a self–assessment form is required by existing regulation biennially and based on certain events; the completed forms are also required to be maintained. The updates will change some of the questions on the forms, but do not ask significantly more questions, it is therefore not anticipated that the licensee will use more time completing, or more space storing, the self–assessment form. As the requirement to complete and maintain these forms already exists in regulations, this proposal, that updates the form used and places some of the requirements, currently contained only in the form, into regulations will not have an impact on businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses:

The Board has determined that it is:

- (1) unlikely that this proposal will create jobs within California;
- (2) unlikely that this proposal will eliminate jobs within California;
- (3) unlikely that this proposal will create new businesses within California;
- (4) unlikely that this proposal will eliminate of existing businesses within California;
- (5) unlikely that this proposal will expand businesses currently doing business in the State of California.

Benefits of Regulation:

The board has determined that this regulatory proposal benefits the health and welfare of California residents and worker safety because the DRICs and RMs in wholesalers and third–party logistics providers both in and outside California will be conducting self–assessments based on current and up–to–date laws, rather than outdated laws, which will make it more likely that they will follow current laws and regulations. When DRICs/RMs are actively engaged in assessing a facility’s compliance with current laws and regulations, they are more likely to identify and remedy any violations of pharmacy law. The board believes this periodic review and accountability will result in increased consumer safety and improve facility operations with respect to employee safety and the state’s environment. Additionally, this proposal will allow for a more efficient use of board resources during inspections, as compliance should be better,

and in updating the forms for the future. The proposal does not impact the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF RULEMAKING FILE, INCLUDING INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND INFORMATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address listed for, and from the person identified as, the contact person below. The rulemaking file currently includes this notice, the proposed text of the regulations, the documents incorporated by reference, the initial statement of reasons, and all the information upon which the proposal is based.

AVAILABILITY OF MODIFIED TEXT

If the Board proposes to substantively modify the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for copies of any modified regulations may be sent to the contact person below. 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

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

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a

written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

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

The backup contact person is:

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

WEBSITE ACCESS

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

TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office by November 1, 2021.

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

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person

designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, clinics, and pharmacists. The Board's mandate and its mission is to protect the public (BPC section 4001.1).

On April 1, 2018, the Board's regulation, 16 Title, California Code of Regulations (CCR) section 1715.65, establishing the requirement for pharmacies and clinics to perform inventory reconciliation activities to detect and prevent the loss of controlled substances became effective. In July 2019, the Board began a post-implementation review of the regulation to determine if any changes should be considered. During discussions with stakeholders at several Board meetings, the Board determined that the regulatory language should be amended.

This proposed regulation will clarify what an inventory reconciliation is and define "inventory activities." It will identify four non-Schedule II controlled substances (Alprazolam, 1 milligram/unit, Alprazolam, 2 milligrams/unit, Tramadol, 50 milligrams/unit, and Promethazine/codeine, 6.25 milligrams of promethazine and 10 milligrams of codeine per 5 milliliters of product) that will require an inventory at least once every twelve months, and specify that all other controlled substances must have an inventory completed within 3 months of a discovered loss and at least once every two years, when no loss is found.

Additionally, the proposal will require that all individuals involved in completing the inventory or preparing the report be identified, and that the individual who performs the inventory to sign and date it.

Furthermore, this proposal will allow for the use of a digital, electronic, or biometric identifier in lieu of a physical signature if a printed signed statement confirming the accuracy of the report is retained according to existing retention requirements.

Finally, the proposal will clarify the inventory requirements for an inpatient hospital pharmacy where drugs are stored within a drug storage area

under the pharmacy’s control and for the inventory of an automated drug delivery system (ADDS) within the inpatient hospital.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

This proposal will require pharmacies and clinics to perform a physical count inventory at least once every twelve months for four non–Schedule II controlled substances. According to the National Council on Alcoholism and Drug Dependence, Inc., the availability of opioids is partly the cause of the epidemic misuse of prescription medication.

By requiring the inventory of the four non–Schedule II controlled substances yearly and of other non–Schedule II controlled substances biennially, pharmacists and pharmacies will be better equipped to spot and stop employee drug diversion from the pharmacy earlier and prevent excessive drug losses from occurring. This will reduce the supply of controlled substances available for misuse and abuse without denying pain relief for those that need it. Additionally, the proposal will improve clarity among the regulated public and ensure that complete and accurate inventories are being completed.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT AND RELATED ESTIMATES

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: None. The Board will ensure facilities comply with the regulations through routine inspections and no additional workload or costs are anticipated.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses and/or employees. This initial

determination is based on the absence of testimony to that effect during the development of the proposed regulation, which occurred over several months.

Additionally, pharmacies and clinics are currently required to perform an inventory reconciliation on all Schedule II controlled substances. While this proposal does add an additional four controlled substances that must be inventoried, the Board does not anticipate an impact on businesses from this additional requirement. The Board notes that the proposed regulation does not require the use of specific computer software. The inventory counts are to be completed by hand and can be recorded using pen and paper or basic computer spreadsheet software that the pharmacy currently utilizes.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that representative private persons or businesses would necessarily incur in reasonable compliance with proposed action. The Board indicates approximately 8,800 licensees would be subject to the proposed requirements, of which approximately 453 (or 5 percent) do not use PIS and will need to hand count. These locations may need to schedule additional staffing hours for these purposes, which could result in minor additional costs.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses:

The Board concludes that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;

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

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents and worker safety because the proposed regulation will require better inventory and control of controlled substances. By reducing the amount of controlled substances diverted, it will reduce the number of drugs being misused and abused. This will result in improved health for Californians. Additionally, the job accidents may decrease if fewer employees and/or co-workers are working under the influence of a misused or abused controlled substance. The proposed regulation will not impact the state's environment.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

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

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

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

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

CONTACT PERSON

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

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

The backup contact person is:

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

WEBSITE ACCESS

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

TITLE 18. DEPARTMENT OF TAX AND FEE ADMINISTRATION

AMEND CALIFORNIA CODE OF REGULATIONS, TITLE 18, SECTION 1590, NEWSPAPERS AND PERIODICALS

NOTICE IS HEREBY GIVEN that the California Department of Tax and Fee Administration (Department), pursuant to its authority under Revenue and Taxation Code (RTC) section 7051, proposes to amend California Code of Regulations, title 18, section (Regulation) 1590, *Newspapers and Periodicals*. The proposed amendments clarify the application of tax to mixed newspaper subscriptions. The proposed

amendments include prescribing the methodology for calculating the measure of tax for a sale of a mixed newspaper subscription which includes charges for transportation and sales tax reimbursement. The proposed amendments are consistent with the accounting and reporting practices of the newspaper industry.

AUTHORITY

RTC section 7051.

REFERENCE

RTC sections 6005, 6006, 6007, 6010, 6015, 6361.5, 6362.7, and 6362.8.

AVAILABILITY OF
STATEMENT OF REASONS AND
TEXT OF PROPOSED AMENDMENTS

The Department has prepared copies of the text of the proposed amendments to Regulation 1590, as well as a statement of reasons for the proposed amendments to Regulation 1590. These documents and all the information on which the proposed regulatory action is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The statement of reasons and text of the proposed amendments to Regulation 1590 are also available on the Department’s website at <https://www.cdtfa.ca.gov/taxes-and-fees/regscont.htm>.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Robert Wilke, by telephone at (916) 309–5302, by e–mail at Robert.Wilke@cdtfa.ca.gov, or by mail at California Department of Tax and Fee Administration, Attention: Robert Wilke, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050.

Written comments for the Department’s consideration, written requests to hold a public hearing, notices of intent to present testimony or witnesses at the public hearing, and other inquiries concerning the proposed regulatory action should be directed to Kim DeArte, Regulations Coordinator, by telephone at (916) 309–5227, by fax at (916) 322–2958, by e–mail at CDTFARegulations@cdtfa.ca.gov, or by mail to: California Department of Tax and Fee Administration, Attention: Kim DeArte, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050. Ms. DeArte is the designated backup contact person to Mr. Wilke.

WRITTEN COMMENT PERIOD

The written comment period ends at 11:59 p.m. (PDT) on November 1, 2021. The Department will consider the statements, arguments, and/or contentions contained in written comments received by Ms. DeArte at the postal address, email address, or fax number provided above, prior to the close of the written comment period, before the Department decides whether to adopt the proposed regulatory action. The Department will only consider written comments received by that time.

However, if a public hearing is held, written comments may also be submitted at the public hearing and the Department will consider the statements, arguments, and/or contentions contained in written comments submitted at the public hearing before the Department decides whether to adopt the proposed regulatory action.

PUBLIC HEARING

The Department has not scheduled a public hearing to discuss the proposed regulatory action. However, any interested person or his or her authorized representative may submit a written request for a public hearing no later than 15 days before the close of the written comment period, and the Department will hold a public hearing if it receives a timely written request.

CHANGES TO THE TEXT OF THE ORIGINAL
PROPOSED AMENDMENTS

The Department may adopt the proposed amendments to Regulation 1590 with changes that are non–substantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Department will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be distributed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Ms. DeArte. The Department will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF UPDATED
STATEMENT OF REASONS

If the Department adopts the proposed regulatory action, the Department will prepare an updated statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Department's website at <https://www.cdtfa.ca.gov/taxes-and-fees/regscont.htm>.

**TITLE 28. DEPARTMENT OF
MANAGED HEALTH CARE**

ADOPTION OF REGULATION, TITLE 28,
CALIFORNIA CODE OF REGULATIONS,
SECTION 1300.67.02, TRANSFER OF
ENROLLEES PURSUANT TO A PUBLIC
HEALTH ORDER,
CONTROL NO. 2021-TRFR.

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Department) proposes to make final the emergency regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), Title 28, California Code of Regulations (CCR), section 1300.67.02. This regulation was initially adopted as an emergency regulation and approved by the Office of Administrative Law (OAL) and effective on January 15, 2021. There are no changes to the text as originally adopted during the emergency rulemaking; therefore, there is no underline or strikeout contained in the text. **Please Note: Parties may comment on the entire text of the proposed regulation.** The Department is incorporating by reference the above-mentioned emergency filing approved by OAL, File No. 2021-0112-01E.

Before undertaking this action, the Director of the Department (Director) will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may submit a written request for a public hearing pursuant to Section 11346.8(a) of the Government Code. The written request for hearing must be received by the Department's contact person, designated below,

no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office of Legal Services, **by 5 p.m. on November 2, 2021**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email or via the Department's website:

Website: <http://wps.dmhc.ca.gov/regulations/#1>
Email: regulations@dmhc.ca.gov
Mail: Department of Managed Health Care
Office of Legal Services
Attention: Regulations Coordinator
980 9th Street, Suite 500
Sacramento, CA 95814
Fax: (916) 322-3968

Please note: if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author's name and a U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Please identify the action by using the Department's rulemaking title and control number, **Transfer of Enrollees Pursuant to a Public Health Order, Control No. 2021-TRFR** in any of the above inquiries.

CONTACTS

Inquiries concerning the proposed adoption of these regulations may be directed to:

Jennifer Willis
Senior Counsel
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 324-9014
(916) 322-3968 fax
jennifer.willis@dmhc.ca.gov

OR

Kim Bollenbach

Legal Analyst
 Department of Managed Health Care
 Office of Legal Services
 980 9th Street, Suite 500
 Sacramento, CA 95814
 (916) 414-0790
 (916) 322-3968 fax
kim.bollenbach@dmhc.ca.gov

AVAILABILITY OF DOCUMENTS

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulation is based (rulemaking file). This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Sacramento, CA 95814, Attention: Regulations Coordinator.

The Notice of Proposed Rulemaking Action, the proposed text of the regulation, and the Initial Statement of Reasons are also available on the Department’s website at <http://wpsso.dmhc.ca.gov/regulations/#1>, under the heading “Open Pending Regulations.”

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the Regulation Coordinator named above.

AVAILABILITY OF MODIFIED TEXT

The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days before the date the Department adopts the regulation. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Director will accept comments via the Department’s website, mail, fax or email on the modified regulation(s) for 15 days after the date on which the modified text is made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth without further notice.

AUTHORITY AND REFERENCE

Pursuant to Health and Safety Code section 1341, the Department is vested with all duties, powers, purposes, responsibilities and jurisdiction as they pertain to health care service plans (health plans) and the health care service plan business. This includes ensuring that health plans provide enrollees with access to quality health care services and protect and promote the interests of enrollees.

Health and Safety Code section 1343 defines the term “health plan” and “specialized health plan” and lists those entities not subject to the jurisdiction of the Department and the Knox-Keene Act.

Health and Safety Code section 1344 grants the Director authority to adopt, amend, and rescind regulations as necessary to carry out the provisions of the Knox-Keene Act, including rules governing applications and reports, and defining any terms as are necessary to carry out the provisions of the Knox-Keene Act.

Health and Safety Code section 1367 states requirements that each health plan must meet for compliance with the Knox-Keene Act. This section requires a health plan to furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice and to ensure it has the organizational and administrative capacity to fulfill its duties to enrollees. Health and Safety Code section 1367 also requires health plans to make all services readily available at reasonable times to each enrollee consistent with good professional practice and, to the extent feasible, to make all services readily accessible to all enrollees consistent with Health and Safety Code section 1367.03 (regarding timely access to needed health care services).

Health and Safety Code section 1367.01 requires that health plans have written policies and procedures for review, approval, modification and denial of medical services based in whole or in part on medical necessity for requests by providers for the provision of health care services to enrollees.

Health and Safety Code section 1367.03 requires that health plans provide enrollees with access to health care services in a timely manner.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, under the Knox-Keene Act, provides for the licensure and regulation of health plans by the Department. The Knox-Keene Act also requires a health plan’s provider network to be adequate enough to provide necessary care in a reasonable and timely manner to the health plan’s enrollees. Health plans must ensure health care services are provided in a readily accessible manner in accordance with good professional practice. Further, a health plan is responsible for providing health care services in a manner that provides and ensures continuity of care for enrollees and provides referrals of patients to other providers as necessary in accordance with good professional practice.

A health care service plan must employ and utilize allied manpower for the furnishing of health care services to the extent permitted by law and consistent with good professional practice. Existing law also requires a health plan to have sufficient organization and administrative capacity to assure the delivery of health care services to its enrollees.

The purpose of this rulemaking action is to clarify and interpret the rights and responsibilities of plans, providers, and enrollees as it relates to the transfer of enrollees between facilities during a public health order due to the COVID-19 pandemic.

POLICY STATEMENT OVERVIEW — BROAD OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATION (Govt. Code § 1346.5(a)(3)(c))

Purpose of the Regulation

The Department is proposing to make permanent the adoption of Rule 1300.67.02. The purpose of the proposed regulation is to interpret, implement and make specific the requirements of health plans for the appropriate transfer of patients between healthcare facilities to address the continued surge of COVID-19 cases due to variants and low vaccination rates and to take appropriate responsive measures to ensure medically necessary services are available to enrollees throughout California. The proposed regulation is identical to the emergency regulation adopted by the Department on January 15, 2021.

Summary of State and Federal Law

Under existing law, the Knox-Keene Act provides for the licensure and regulation of health plans by the Department and makes a willful violation of the Knox-Keene Act a crime. The Knox-Keene Act requires health care service plans to provide all basic health care services, to make services readily available at reasonable times, to employ and utilize the allied health workforce to provide services, and to furnish services in a manner providing continuity of care and ready referral of patients, consistent with good professional practice.

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The Centers for Disease Control (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. On March 13, 2020, former President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak.

On March 4, 2020, Governor Gavin Newsom declared an emergency in the state of California in

response to the outbreak of respiratory illness due to the novel coronavirus known as COVID-19. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, a stay-at-home order to protect Californians and slow the "rapid spread" of COVID-19. Some stay-at-home directions were subsequently modified, but Governor Newsom announced reinstatement of some restrictions to slow the spread and address the spike in new COVID-19 cases.

Broad Objective and Benefits of the Regulation

The broad objective of the Department in permanently adopting Rule 1300.67.02 is to implement and make specific the requirements for health plan transfer or enrollees from the most highly impacted hospitals receiving an influx of patients with the SARS-CoV-2 virus, which causes COVID-19 (hereinafter COVID-19), to hospitals with more available capacity. This regulation will benefit California by allowing health plans the ability to transfer patients from one facility to another facility to ensure hospitals are able to handle the influx of patients and ensure enrollees are able to receive access to medically necessary services in a timely manner. The ability of COVID to mutate and develop different strains, such as the more easily transmitted Delta variant, continues to impact the California hospital systems treating enrollees.

As of August 31, 2021, California has 4,222,663 cases of COVID-19, and California has 65,287 deaths resulting from COVID-19. Both of these numbers are currently rising due to the Delta variant of the COVID virus, which is more transmissible and is leading to breakthrough cases amongst the vaccinated, taxing the already overburdened California hospital system. Delta is now responsible for more than 83% of COVID-19 cases being reported in the U.S. and, with only 48% of the total U.S. population fully vaccinated, conditions are leaning towards the continued evolution and spread of SARS-CoV-2.¹ As concerning, a number of people who have been fully vaccinated for COVID-19 are experiencing breakthrough cases of COVID-19 with the Delta variant, which also appears to be impacting children at a much higher rate.² The American Academy of Pediatrics has released information showing that cases amongst children have risen from about 38,000 cases a week near the end of July, with the week ending August 19 seeing more than 180,000 cases in children.³

According to the most recent data available as of August 31, 2021, there are 8,766 people hospitalized

¹ <https://asm.org/Articles/2021/July/How-Dangerous-is-the-Delta-Variant-B-1-617-2>.

² https://gis.cdc.gov/grasp/covidnet/COVID19_5.html.

³ <https://www.cnn.com/2021/08/25/health/us-coronavirus-wednesday/index.html>.

in California with COVID-19. This is an increase of 87 from August 30, 2021. There are currently a total of 2,172 patients in ICU beds with COVID-19, and there are 1,696 ICU beds available throughout the state, a decrease of 44 beds from August 30, 2021.⁴ Cumulatively, among 5.1 million L.A. County residents who are fully vaccinated, 0.53% have tested positive, 0.014% have been hospitalized and 0.0013% — or 68 people — have died.⁵ The hospitalization rate among unvaccinated adults 50 and older has risen to a new summertime high: For every 100,000 unvaccinated older adults, nearly 60 were in the hospital with a COVID-19 infection.⁶

This increase has led to a large numbers of California hospitals having a strain on their ability to provide adequate medical care to patients in their region. The current distribution of COVID-19 hospitalizations is focused on some regions and hospitals, such as LA County, and the burden of care needs to be moved among statewide healthcare resources. If this increase of COVID-19 patients continues due to variants of the virus, hospitals may be unable to provide necessary emergency and critical care to Californians.

The requirements of this regulation will benefit both health plans and consumers by clarifying existing law under the Knox-Keene Act and ensuring that enrollees have access to medically necessary services and health plans understand their obligations regarding the transfer of enrollees between facilities pursuant to a public health order. This regulation will also benefit the state's hospital system by ensuring stability in regions that are experiencing a high volume of COVID-19 patients impacting the available beds in ICUs. By clarifying these requirements, both health plans and consumers will benefit during the COVID-19 pandemic.

The purpose of subdivision (a) is to clarify who is impacted by the regulation. This provision benefits health plans by clarifying the applicability of the regulation only to full-service health plans offering group or individual coverage, including grandfathered health plans. This subdivision also benefits Medi-Cal managed care health plans who are not subject to the proposed regulation by clearly stating this fact to avoid confusion regarding the applicability of the law. The broad objective of this provision is to make clear that the requirements of the regulation apply to full-service health plans thereby benefitting enrollees who receive services from these plans under the terms of their health plan contracts.

The broad purpose of subdivision (b) is to define key terms in the proposed regulation. It is necessary to ensure clarity and consistent application of the proposed regulation, and to ensure health plans understand the scope of the proposed regulation to ensure compliance. This provision will benefit health plans, enrollees and provides by clarifying the meaning of terms used throughout the proposed regulation to ensure its proper application under the Knox-Keene Act.

The broad purpose of subdivision (c) is to specify what must occur when a health plan transfers an enrollee to the receiving facility. This is necessary to ensure the health plan understands what must occur to comply with the regulation in situations where an enrollee is transferred from one facility to another facility to free up available bed space in overcrowded hospitals. The broad objective and benefit of this provision is to better clarify the rights and responsibilities of the parties impacted under the public health order and to ensure enrollees have access to medically necessary hospital services during the COVID-19 pandemic. This provision will benefit all parties by helping to ensure the stability of the hospital system in California.

The broad purpose of subdivision (d) is to clarify that an enrollee shall be liable for no more than the in-network cost the enrollee would have been responsible for had the enrollee not been moved to a receiving facility. This provision is necessary to ensure the enrollee is not financially harmed from being moved from a transferring facility to a receiving facility thereby creating a potential barrier to access to medically necessary health care services. This provision benefits health plans, enrollees and providers by clarifying their rights and responsibilities for payment of services rendered during the COVID-19 pandemic.

CONSISTENCY AND COMPATIBILITY
WITH STATE REGULATIONS
(Govt. Code § 11346.5(a)(3)(D))

The Department compared the proposed regulation to existing state regulations. The proposed regulation is neither inconsistent nor incompatible with existing state regulations. The Department evaluated the proposed amendments to the regulations for any related regulations in this area and found that these are the only regulations that deal with the transfer of enrollees between facilities pursuant to a public health order under the Knox-Keene Act.

⁴<https://covid19.ca.gov/state-dashboard/#todays-update>. Data obtained on August 23, 2021.

⁵<https://www.latimes.com/california/story/2021-08-23/la-me-young-adults-hit-by-covid-19-breakthrough-infections>.

⁶ *Ibid.*

COMPARABLE FEDERAL LAW
(Govt. Code § 1346.5(a)(3)(B))

The DMHC has determined there are no existing comparable federal regulations or statutes.

LOCAL MANDATE

The Department has determined the regulations will not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ALTERNATIVES CONSIDERED

Pursuant to Government Code Section 11346.5(a)(13), the Department 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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the requirements of the proposed regulations during the written comment period.

REPORTING REQUIREMENT

There is no reporting requirements resulting from the proposed regulation.

SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Costs to private persons or businesses directly affected: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.

DETERMINATIONS

The Department has made the following initial determinations:

The Department has determined the regulation will not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code. As specified in Section 6 of AB 2179, no reimbursement is required.

The Department has determined the regulation will have no significant effect on housing costs.

The Department has determined the regulation does not affect small businesses. Health care service plans are not considered a small business under Government Code Section 11342.610(b) and (c).

The Department has determined the regulation will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined the regulation will not significantly affect the creation of new businesses or the elimination of existing businesses within the State of California.

The Department has determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that this regulation will have no cost or savings in federal funding to the state.

**RESULTS OF THE
ECONOMIC IMPACT ANALYSIS**
(Government Code § 11346.3(b))

A. Creation or Elimination of Jobs Within the State of California

The proposed regulation is identical to the recently enacted emergency regulations amending title 28 of the California Code of Regulations regarding the transfer of enrollees pursuant to a public health order. This regulation details the requirements of health plans related to the transfer of enrollees between facilities pursuant to a public health order and is consistent with existing requirements of the Knox-Keene Act. This regulation does not impose any requirements that do not already exist under state law and is providing clarification of existing health plan obligations. Given the nature of the proposed regulation already adopted as an emergency, the regulation will not create or eliminate jobs within the State of California.

B. Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

This proposed regulation will neither create new businesses nor eliminate existing businesses. This regulation details the requirements of health plans related to the transfer of enrollees between facilities pursuant to a public health order and is consistent with existing requirements of the Knox–Keene Act. This regulation will benefit California by ensuring that enrollees receive the care they need when hospitalized during the pandemic as already required by the Knox–Keene Act. This regulation does not impose any requirements that do not already exist under state law. Therefore, the regulation creates no additional requirements that would affect the creation of new or elimination of existing businesses in California.

C. Expansion of Businesses Currently Doing Business Within the State of California

This regulation is intended to clarify existing state law for health plans under the Knox–Keene Act. This regulation does not create any new requirements and only updates the existing law and provides further clarification regarding the transfer of enrollees between facilities pursuant to a public health order. Therefore, the Department determined this regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

D. Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

The proposed regulatory action will provide health plans with their obligations to enrollees during the pandemic consistent with state law and benefits the health and welfare of California residents during the pandemic. The Department does not anticipate this regulatory action will have any impact on worker safety, or the state’s environment.

BUSINESS REPORT

This regulation details the requirements of health plans related to the transfer of enrollees between facilities pursuant to a public health order and benefits the health and welfare of California residents during the COVID–19 pandemic. This regulation is necessary for the health, safety or welfare of the people of the State of California.

GENERAL PUBLIC INTEREST

AIR RESOURCES BOARD

NOTICE OF CHANGE TO HEARING START TIME

PROPOSED AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR IN–USE DIESEL–FUELED TRANSPORT REFRIGERATION UNITS (TRU) AND TRU GENERATOR SETS, AND FACILITIES WHERE TRUs OPERATE

By notice dated July 13, 2021, and published in the July 30, 2021, California Regulatory Notice Register, Register 2021, Number 31–Z, the California Air Resources Board (CARB or Board) announced it would conduct a public hearing to consider approving for adoption the proposed amendments to the Airborne Toxic Control Measure for In–Use Diesel–Fueled TRU and TRU Generator Sets, and Facilities Where TRUs Operate. The hearing previously was scheduled for September 23, 2021, with a start time of 12:30 p.m.

Please Be Advised that the hearing start time has changed to the following:

Date: September 23, 2021
Time: 9:00 a.m.

No other details are changed from the previously posted Notice dated July 13, 2021.

This public hearing may continue at 8:30 a.m., on September 24, 2021. Please consult the public agenda, which will be posted ten days before the September 23, 2021, Board Meeting, for important details, including, but not limited to, the order in which this item will be considered, how to participate remotely via Zoom, and any other appropriate direction regarding a remote–only Board Hearing.

The original 45–Day Notice, the Initial Statement of Reasons, and all subsequent regulatory documents, are available on CARB’s website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2021/tru2021>.

Written Comment Period and Submittal of Comments

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing during the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period will not be extended. The public comment period for this regulatory action began on July 30, 2021. Written comments not submitted

during the hearing must be submitted on or after July 30, 2021, and **received no later than September 13, 2021**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

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

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

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

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

Special Accommodation Request

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

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

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

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

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

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al cotb@arb.ca.gov o (916) 322-

5594 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2021-078-001-R1

Project: Round Valley Meadow Restoration Project

Location: Tehama County

Applicant: Sheli Wingo, US Fish & Wildlife Service

Background:

Project Location: The Round Valley Meadow Restoration Project (Project) is located at Township 28 North, Range 4 East, Section 35; and Township 27 North, 4 East, Section 03 — Round Valley Meadow and Round Valley Creek, Tehama County, California, at a site owned by Sierra Pacific Industries, Inc., and Collins Pine Timber. The Project affects Round Valley Creek and Round Valley Meadow which support populations of Cascades frog.

Project Description: Applicant proposes to enhance or restore habitat within Round Valley Meadow and Creek to provide a net conservation benefit for Cascades frog (*Rana cascadae*). The Project includes the following components: (1) conducting pre-Project biological surveys and simultaneously flagging areas of project construction avoidance; (2) constructing process-based restoration (PBR) structures in the meadow and stream reaches to raise the water surface elevation, consisting of hand-placed, native materials harvested on-site and sterile posts. Structure types will include post-reinforced small conifer jams, one-rock weirs, channel-spanning brush jams, and beaver dam analogues; (3) conducting post-Project monitoring inspections to evaluate Project quality and completeness; and (4) maintaining the structures until they meet Project objectives.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.03 acre and 321 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of approximately 642 cubic yards of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) native plant material including wood and herbaceous material; (2) sterile untreated 2–inch softwood posts; and (3) native rock, and incidental gravels and soils.

Project Timeframes:

Start date: August 2021

Completion date: July 2026

Work window: August–January; April–June

Water Quality Certification Background: Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California, the Central Valley Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 5A52CR00214). The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to Cascades frog.

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

On August 19, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 20, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Regulatory Notice File Number Z–2021–0820–02 on September 3, 2021. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non–habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board’s Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), describe species protection measures for Cascades frog and restricts vehicles to existing roads only. The specific avoidance and minimization requirements are found in the NOI, and in the supplemental Species Protection Measures spreadsheet submitted to CDFW.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters. Specific requirements of the plan are found in the NOI and the attachment, *NOI Project Description*.

Notice of Completion

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

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

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

Project Authorization

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

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

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
Lost River Road Upgrade Project
(Tracking Number: 1653–2021–080–001–R1)
Mendocino County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on September 3, 2021, that Sanctuary Forest proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the upgrading of four failing culvert crossings that currently present risk of potential sediment delivery to Lost River. The proposed project will be carried out on Lost River, three miles south of Whitethorn, Mendocino, California.

On June 7, 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 Lost River Road Upgrade 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. 1B21134WNME; ECM PIN No. CW–874507) for coverage under the General 401 Order on August 18, 2021.

Sanctuary Forest 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, Sanctuary Forest 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, Sanctuary Forest will have the opportunity to submit under Fish and Game Code section 1652.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

PROPOSED AMENDMENTS TO ARTICLE 6 CLEAR AND REASONABLE WARNINGS

CANNABIS (MARIJUANA) SMOKE AND DELTA–9–TETRAHYDROCANNABINOL (DELTA–9–THC) EXPOSURE WARNINGS

Pursuant to the requirements of Government Code section 11346.8(c), Title 1, section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes made to the proposed regulations, Title 27, California Code of Regulations, sections 25607.38–25607.47. These proposed regulations were originally the subject of a Notice of Proposed Rulemaking issued on March 19, 2021. A public hearing was held on May 10, 2021. Oral comments were received at the hearing and written comments were received during the public comment period that ended on May 24, 2021.

This modification of text is being proposed in response to public comments received requesting a delayed effective date for the regulations and a sell through period for items previously labeled with compliant warnings. The modifications to the proposed regulation will provide a one-year delayed effective date to allow businesses to transition to the new warnings if they choose to use them and provide an unlimited sell-through period for products manufactured prior to the effective date of the regulation that were labeled using the general safe harbor warning content in Section 25603 of the existing regulations.

A copy of the revised proposed regulatory text is attached. Amendments to the proposed text are shown in double-underline (example) or single strike-out (~~example~~). The original proposed text that was not amended is shown in single underline.

This notice announces the availability of the modified proposed regulatory text and supporting document for public comment. Comments regarding the proposed changes to the text of regulations will be accepted by OEHHA between **September 17, 2021, through October 4, 2021**. OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments>, rather than in paper form. Comments submitted in paper form can be mailed or delivered in person to the address below.

All written comments must be submitted to OEHHA by mail, or hand-delivery, by **October 4, 2021**, and addressed to:

Monet Vela
Office of Environmental Health Hazard
Assessment
Mailing Address: P.O. Box 4010
Sacramento, California 95812-4010
Street Address: 1001 I Street, 23rd Floor
Sacramento, California 95814
Telephone: (916) 323-2517

OEHHA encourages all commenters to submit their comments in a format compliant with Section 508 of the federal Rehabilitation Act, Web Content Accessibility Guidelines 2.0¹ and California Government Code sections 7405 and 11135, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

Inquiries concerning the action described in this notice may be directed to Monet Vela, in writing, at the address given above, or by telephone at (916) 323-2517.

¹<https://www.w3.org/WAI/standards-guidelines/wcag/>.

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**(Pursuant to title 1, section 270, of the
California Code of Regulations)**

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Kevin D. Hull, Senior Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Christopher Harbridge, K-61356
R.J.D. Correctional Facility
480 Alta Road
San Diego, California 92179

Agency contact:

Renee Rodriguez
Department of Corrections and Rehabilitation
Regulation and Policy Management Branch
Post Office Box 942883
Sacramento, California 94283-0001

Please note the following timelines:

Publication of Petition in Notice Register:
September 17, 2021
Deadline for Public Comments: October 18, 2021
Deadline for Agency Response: November 1, 2021
Deadline for Petitioner Rebuttal: No later than 15
days after receipt of the agency's response
Deadline for OAL Decision: January 18, 2022

The attachments are not being printed for practical reasons or space consideration. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or Margaret.Molina@oal.ca.gov.

**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 Health Benefit Exchange
File # 2021-0827-02
SHOP Eligibility and Enrollment

This emergency action amends regulations for the Small Business Health Options Program (SHOP) regarding employer and employee application requirements, eligibility and enrollment requirements and processes, premium payments, availability of employer and employee options for metal tiers and associated health plans, application standard, the employee minimum participation rate, and administrative processes. This is a deemed emergency pursuant to Government Code section 100504(a)(6)(A).

Title 10
Amend: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6538, 6542, 6550
Filed 09/07/2021
Effective 09/07/2021
Agency Contact:
Courtney Leadman (916) 281-2562

California Department of Tax and Fee
Administration
File # 2021-0719-02
Reporting Methods for Grocers

In this action, the Department amends its regulation to change the term “board” to “department” and to replace the phrase “federal food stamp” with “CalFresh benefits.” This action is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b).

Title 18
Amend: 1602.5
Filed 09/07/2021
Effective 09/07/2021
Agency Contact: Kim DeArte (916) 309-5227

California Alternative Energy and Advanced
Transportation Financing Authority
File # 2021-0811-03
Affordable Multifamily Energy Efficiency Financing
Program

This action without regulatory effect changes the name of the Affordable Multifamily Energy Efficiency Financing Program to the GoGreen Affordable Multifamily Energy Financing Program, which may be referred to publicly as “GoGreen Multifamily.”

Title 04
Amend: 10093.1
Filed 09/07/2021
Agency Contact: Susan Mills (916) 651-3760

California Horse Racing Board
File # 2021-0726-02
Non-Substantive Changes to Race Meet Applications

This change without regulatory effect revises two forms to correct minor grammatical and typographical errors.

Title 04
Amend: 1433
Filed 09/07/2021
Agency Contact: Rick Pimentel (916) 263-6000

Department of Toxic Substances Control
File # 2021-0326-03
Hazardous Waste Facility Permitting Criteria —
Other Authorities

The Department of Toxic Substances Control (DTSC) is adding language to clarify that DTSC retains authority to issue, deny, revoke, suspend, or modify any hazardous waste facility permit, registration, or certification and that the regulations for Violations Scoring Procedure do not alter this authority.

Title 22
Amend: 66271.50
Filed 09/07/2021
Agency Contact:
Gary Hammond (916) 322-2833

State Water Resources Control Board
File # 2021-0721-01
San Diego Regional Water Quality Control Plan
Update

This action amends the Water Quality Control Plan for the San Diego Region (Basin Plan). On December 8, 2020, the San Diego Regional Water Quality Control Board adopted Resolution No. R9-2020-0254 to make nonsubstantive amendments to Chapters 2, 3, and 4 of the Basin Plan. The State Water Resources Control

Board approved the amendments under Resolution No. 2021-0013 on April 20, 2021.

Title 23

Amend: 3983

Filed 09/01/2021

Effective 09/01/2021

Agency Contact:

Michelle Santillan

(916) 521-3369

Acupuncture Board

File # 2021-0402-01

Substantial Relationship Criteria and Rehabilitation Criteria for Denials, Suspensions and Revocations

In this action, the Acupuncture Board adopts criteria used in determining whether a crime, professional misconduct, or other act is substantially related to the professional practice of its licensees for purposes of license denial, suspension, or revocation. The action also adopts criteria for determining whether an applicant or licensee has been rehabilitated subsequent to a criminal conviction, professional misconduct, or other act for purposes of license denial, suspension, or revocation.

Title 16

Adopt: 1399.469.4, 1399.469.5, 1399.469.6

Filed 09/02/2021

Effective 09/02/2021

Agency Contact:

Kristine Brothers

(916) 923-2204

California Energy Commission

File # 2021-0727-02

Portable Electric Spas

This rulemaking action by the California Energy Commission updates the test procedure for portable electric spas to ANSI/APSP/ICC-14 2019, American National Standard for Portable Electric Spa Energy Efficiency, and updates existing labeling requirements.

Title 20

Amend: 1602, 1604, 1605.3, 1606, 1607

Filed 09/08/2021

Effective 01/01/2022

Agency Contact: Corrine Fishman (916) 654-4976

**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.