



# California Regulatory Notice Register

REGISTER 2021, NUMBER 40-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

OCTOBER 1, 2021

## PROPOSED ACTION ON REGULATIONS

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

*Conflict-of-Interest Codes — Notice File Number Z2021-0921-04* ..... 1367

### AMENDMENT

MULTI-COUNTY: Sacramento Regional County Sanitation District  
STATE AGENCY: Franchise Tax Board

### ADOPTION

MULTI-COUNTY: Central Delta-Mendota Groundwater Sustainability Agency

### TITLE 2. STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

*Conflict-of-Interest Code — Notice File Number Z2021-0917-01* ..... 1368

### TITLE 14. DEPARTMENT OF CONSERVATION

*Conflict-of-Interest Code — Notice File Number Z2021-0921-05* ..... 1368

### TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

*Safer Consumer Products: Priority Products List — Notice File Number Z2021-0921-06* ..... 1369

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND WILDLIFE

*Consistency Determination Request for Horse Creek Off-channel  
Alcove Project, Tracking Number: 1653-2021-082-001-R1, Siskiyou County* ..... 1376

### DEPARTMENT OF FISH AND WILDLIFE

*Consistency Determination Request  
No. 1653-2021-077-R1, China Creek Wood Loading Project* ..... 1377

(Continued on next page)

***Time-  
Dated  
Material***

DEPARTMENT OF FISH AND WILDLIFE  
*Consistency Determination Request for Safe Harbor Agreement for Amargosa Vole  
Translocation and Reintroduction in Shoshone, California, 2089–2021–001–06, Inyo County* ..... 1379

DEPARTMENT OF FISH AND WILDLIFE  
*Consistency Determination Request for Upper Sugar Creek Accelerated Wood  
Recruitment Project, Tracking Number: 1653–2021–083–001–R1, Siskiyou County* ..... 1379

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
*Public Meeting and Business Meeting on November 18, 2021* ..... 1379

**PROPOSITION 65**

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT  
*Announcement of the Developmental and Reproductive Toxicant Identification Committee Meeting  
Scheduled for December 14, 2021; Notice of Availability of Hazard Identification Materials for  
Perfluorononanoic Acid (PFNA) and Perfluorodecanoic Acid (PFDA) and Their Salts* ..... 1380

**DECISION NOT TO PROCEED**

DEPARTMENT OF CANNABIS CONTROL  
*Medicinal and Adult–Use Cannabis Regulation Application Process Requirements* ..... 1381

**SUMMARY OF REGULATORY ACTIONS**  
Regulations filed with Secretary of State ..... 1381

---

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.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328–4880. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON REGULATIONS**

*Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.*

**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: Sacramento Regional County Sanitation District  
 State Agency: Franchise Tax Board

**ADOPTION**

Multi-County: Central Delta-Mendota Groundwater Sustainability Agency

A written comment period has been established commencing October 1, 2021 and closing on November 15, 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 15, 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. STATE COUNCIL ON  
DEVELOPMENTAL DISABILITIES**

NOTICE OF INTENTION TO AMEND  
CONFLICT-OF-INTEREST CODE

NOTICE IS HEREBY GIVEN that the State Council on Developmental Disabilities, 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 October 1 and closing on November 19, 2021. All inquiries should be directed to the contact listed below.

The State Council on Developmental Disabilities 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 addition of the revised "Chief Deputy Director" position and also makes other technical changes.

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

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than November 19, 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 November 5, 2021.

The State Council on Developmental Disabilities 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:

Brian Weisel  
Legal Counsel  
(916) 263-8122  
[brian.weisel@scdd.ca.gov](mailto:brian.weisel@scdd.ca.gov)

**TITLE 14. DEPARTMENT OF  
CONSERVATION**

NOTICE OF INTENTION TO AMEND  
CONFLICT-OF-INTEREST CODE

NOTICE IS HEREBY GIVEN that the **Department of Conservation**, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendments to its conflict-of-interest code. A comment period has been established commencing on October 1, 2021 and closing on November 15, 2021. All inquiries should be directed to the contact listed below.

The **Department of Conservation** 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 amendments carry 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: removing job classifications no longer used by the Department, adding new job classifications the Department added since the last time it amended its code, revising disclosure categories for a small number of positions (certain positions in the Office of Legislative and Regulatory Affairs, and in Fiscal Services), and also other technical changes. Full details on the code amendments are available on the Department's intranet site.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than November 15, 2021, or at the conclusion of the public hearing, if requested, which-

ever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than November 1, 2021.

The **Department of Conservation** 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:

Graham St. Michel  
 Senior Staff Counsel, Department of Conservation  
 (916) 858-9747  
[graham.stmichel@conservation.ca.gov](mailto:graham.stmichel@conservation.ca.gov)

**TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

SAFER CONSUMER PRODUCTS REGULATIONS — LISTING NAIL PRODUCTS CONTAINING TOLUENE AS A PRIORITY PRODUCT

DEPARTMENT OF TOXIC SUBSTANCES CONTROL REFERENCE NUMBER: R-2019-04

**NOTICE IS HEREBY GIVEN** that the Department of Toxic Substances Control (DTSC) proposes to amend the California Code of Regulations, title 22 (22 CCR), Division 4.5, Chapter 55, section 69511.6. This proposed amendment pertains to identification of a Priority Product under the Safer Consumer Products (SCP) regulations, approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013 (effective date: 10/01/2013; OAL Regulatory Action Number: 2013-0718-03).

**WRITTEN COMMENT PERIOD**

Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC

in either electronic or hard-copy formats. Written comments may be submitted electronically through the SCP Information Management System, CalSAFER at: <https://calsafes.dtsc.ca.gov/>. Please direct questions or concerns about CalSAFER to Christine Papagni at (818) 717-6541 or [Christine.Papagni@dtsc.ca.gov](mailto:Christine.Papagni@dtsc.ca.gov). While DTSC prefers that comments be submitted through the CalSAFER system, interested persons may also submit their comments in an email to: [SaferConsumerProducts@dtsc.ca.gov](mailto:SaferConsumerProducts@dtsc.ca.gov).

Written comments may also be submitted electronically through the DTSC regulations email address at [regs@dtsc.ca.gov](mailto:regs@dtsc.ca.gov) or please direct hard-copy written comments to the Office of Legislation and Regulatory Review, as specified below.

The written comment period will close on November 15, 2021. Only comments received at the DTSC office by that date and time will be considered. Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard copy formats. DTSC will only consider comments received on or before this date and time.

**PUBLIC HEARING**

A public hearing has not been scheduled for this rulemaking. However, DTSC will conduct a hearing if a written request for a public hearing is received from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

**Notice Pertaining to Accessibility and Reasonable Accommodation**

All documents related to these regulations can be made available in alternate format (i.e., Braille, large print, etc.) or in another language, as requested, in accordance with State and Federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability-related reasonable accommodations and/or translator/interpreter needs, upon request. For assistance, please contact a staff person from office below. Note: the range of assistive series available may be limited if requests are made less than 10 business days prior a public hearing.

Office of Legislation and Regulatory Review  
 Department of Toxic Substances Control  
 P.O. Box 806  
 Sacramento, California 95812-0806  
 e-mail: [regs@dtsc.ca.gov](mailto:regs@dtsc.ca.gov)  
 Fax Number: (916) 324-1808

TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.



**AUTHORITY AND REFERENCE**

**Authority**

This regulation is being adopted under the following authorities:

- Health and Safety Code (HSC) section 25252 authorizes and requires DTSC to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered a Chemical of Concern. This section also directs DTSC to reference and use available information from various sources but does not limit DTSC to use only this information.
- HSC section 25253 authorizes and requires DTSC to adopt regulations that establish a process for evaluating Chemicals of Concern in consumer products, and their potential alternatives, to determine how best to limit exposure to or to reduce the level of hazard posed by a Chemical of Concern.
- HSC section 58012 (added by Governor’s Reorganization Plan No. 1, §146, effective July 17, 1991) grants DTSC authority to adopt regulations to execute its duties.

**Reference**

This regulation implements, interprets, or makes specific the following statutes:

- HSC sections 25252 and 25253.

**INFORMATIVE DIGEST**

**Policy Statement Overview**

Background and Effect of the Proposed Regulatory Action:

The SCP regulations were adopted in October 2013 to meet the statutory requirements outlined in HSC sections 25252 and 25253. The regulations outline a science-based process for evaluating Chemicals of Concern in consumer products and safer alternatives by:

- Establishing a list of Candidate Chemicals and specifying criteria by which these may be designated Chemicals of Concern;
- Establishing a process to identify and prioritize product and Candidate Chemical combinations that may be listed as Priority Products;
- Requiring manufacturers to notify DTSC when their product is listed as a Priority Product;
- Requiring manufacturers of a Priority Product to perform an Alternatives Analysis (AA) to determine how best to reduce exposures to, or the level of adverse public health or environmental

impacts posed by, the Chemical(s) of Concern in the product;

- Requiring DTSC to identify and require implementation of Regulatory Responses following completion of an AA; and
- Creating a process for persons to petition DTSC to add chemicals to the Candidate Chemicals list, add or remove Candidate Chemicals lists in their entirety, or to add or remove a product–chemical combination from the Priority Products List.

DTSC proposes to amend section 69511 and add section 69511.6 to Article 11 of the SCP regulations. The proposed action will add nail products containing toluene as a Priority Product on the Priority Products List.

The listing applies to any nail product, including nail coatings and nail polish thinners, that is placed into commerce in California that contains toluene. For the purposes of this regulation, DTSC defines nail coatings as any clear or colored paint, polish, lacquer, enamel, or gel product marketed or sold for application to fingernails or toenails.

There are two types of nail coatings: solvent-based nail coatings and UV gel nail coatings.

“Solvent-based nail coatings” are clear or colored nail coatings that form a hard coating on nails upon evaporation of their solvents. Subproducts include nail polishes, lacquers, enamels, base coats, undercoats, top coats, and gel nail polishes.

- “Nail polish” is a varnish or paint applied to the fingernails or toenails to color them or make them shiny.
- “Lacquer” or “enamel” is a coating that dries by means of solvent evaporation.
- “Base coat” or “undercoat” is a clear or milky-colored coating that is used before applying other coatings to the nail. It may be marketed for strengthening or protecting the nail, restoring moisture to the nail, or helping other coatings to adhere to the nail.
- “Top coat” is a clear coating that is used after applying other coatings to the nail. It may be used to protect underlying coatings or to add shine, gloss, or matte to the nail.
- “Gel nail polish” or “gel polish” is a gel varnish coating with a look and feel similar to UV gel nail coatings but that does not require an ultraviolet (UV) or a light-emitting diode (LED) lamp to dry. Gel nail polish typically contains color but can also be a clear nail coating.

“UV gel nail coatings” are clear or colored gel nail coatings that are cured or hardened on nails using a UV or an LED lamp rather than solvent evaporation. Subproducts include UV gel nail polish, UV gel topcoat, UV gel base coat, hard gel, and Shellac.

- “UV gel nail polish” or “UV gel” or “Gel” or “nail gel” is a premixed coating that is hardened using a UV or an LED lamp. UV gel nail polish typically contains color but can also be a clear coating.
- “UV gel base coat” is a clear coating that is used before applying other UV gel coatings to the nail; it is cured using a UV or an LED lamp.
- “UV gel top coat” is a clear coating that is used after applying other UV gel coatings to the nail; it is cured using a UV or an LED lamp.
- “Hard gel” is a premixed coating with high solvent resistance; it is hardened using a UV or an LED lamp. It can be applied directly onto natural nails to provide additional strength or sculptured using nail enhancements.
- “Shellac” is the brand name for a nail product created by Creative Nail Design. It is a hybrid which is a combination of nail polish and gel. Shellac is applied directly onto natural nails, and it is cured through UV light.

Nail coatings include “nail art paint,” which is any decorative paint including various solvent-based or UV gel nail coating overlays of nail polish, UV gel, or hybrid coatings like Shellac or airbrush paint applied to fingernails, toenails, or both by any technique. “Airbrush nail art paint” is a subcategory of “nail art paint.”

- “Airbrush nail art paint” means a nail art paint that is designed or intended to be sprayed onto the nail by a device using compressed air. This product may also be labeled as ink, polish, paint, or pigment for airbrush nail art.

“Nail polish thinner” is defined as any liquid product that is marketed or sold for the use of reducing viscosity of nail coatings. It is also included in this regulation when marketed for the use of increasing the fluidity or restoring the consistency of nail coatings. Following extensive review of the scientific literature and analysis of the known hazard traits of toluene, DTSC determined there is potential for workers and consumers to be exposed to toluene in nail products. This exposure contributes to or causes significant or widespread adverse impacts including neurotoxicity, developmental toxicity, neurodevelopmental toxicity, respiratory toxicity, nephrotoxicity, dermatotoxicity, immunotoxicity, ocular toxicity, and ototoxicity. DTSC based this determination on an evaluation of available, reliable scientific information pertinent to the regulatory criteria.

### **Benefits of the Proposed Regulatory Action**

A primary goal of the SCP regulations is to mitigate widespread adverse health and environmental impacts of toluene in commerce, as well as the overall costs of these impacts to the State of California. By listing

nail products containing toluene as a Priority Product, DTSC encourages manufacturers to evaluate whether toluene is necessary in nail products or whether there are functionally safer alternatives that would reduce human exposure to toluene during manufacturing, use, or disposal of nail products containing toluene. Reduction of toluene in consumer products and the environment means safer homes, workplaces, and a more sustainable environment. Reducing exposure to toluene could reduce nervous system effects, adverse effects of developing fetuses, respiratory tract effects, harm to the kidney toxicity, impacts to the immune system, and vision and hearing impairment in the general population of California. Expanded use and development of new, safer alternatives benefits California’s entire population and environment.

Another primary goal of the SCP regulations is to protect public health by reducing exposures to potentially harmful chemicals. By listing nail products containing toluene as a Priority Product, DTSC sets in motion a strategy to reduce human exposure to toluene from the manufacturing, use, and end-of-life of this product category. A reduction in exposure to toluene from nail products could benefit the health of California’s residents and wildlife. The development of safer alternatives benefits California workers, consumers, employers, and environment.

DTSC cannot pre-determine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC will maximize the use of alternatives of least concern and give preference to those that provide the greatest level of inherent protection. In general, economic benefits to California workers and business owners may include expanded employment opportunities in the fields of consulting, worker and consumer education, and marketing. Additional benefits may accrue because of increased research and product development collaboration between manufacturers and California-based research entities. Institutional and corporate financial support of chemical and material science programs focused on developing safer alternatives to toluene could advance the field. These research initiatives could provide manufacturers with employees that are highly skilled in the research and design of products for newly emerging global markets.

### **Existing Laws and Regulations**

The SCP regulations established a unique approach to regulating Chemicals of Concern in consumer products that grants DTSC authority to take actions to protect people and the environment when such actions are outside the scope of other regulatory programs. There are no equivalent federal or state regulations that require product manufacturers to determine if the

chemical in their product is necessary and whether there is a safer alternative, with the goal of protecting consumers and the environment from adverse effects associated with a product throughout its lifetime.

Nails products, as cosmetics, are regulated by the U.S. Food and Drug Administration (FDA), and toluene is regulated by the U.S. Environmental Protection Agency (EPA), the U.S. Occupational Health and Safety Administration (OSHA), the California Division of Occupational Safety and Health (Cal/OSHA), and the California Department of Public Health (CDPH), California Safe Cosmetics Program. The proposed regulation does not duplicate or conflict with any of these regulations, which are discussed below.

#### *U.S. Food and Drug Administration*

The U.S. Food and Drug Administration (FDA) is authorized by the Federal Food, Drug, and Cosmetic Act (FDCA) to oversee the safety of food, drugs, and cosmetics. The FDCA does not authorize the FDA to require safety testing of cosmetics, and there is no approval process for cosmetics products prior to sale in the U.S. (except for color additives). However, the FDA can and does inspect cosmetics manufacturing facilities to ensure that cosmetics are not adulterated.

While cosmetic product manufacturers are legally responsible for ensuring the safety of their products, neither the FDCA nor FDA regulations require specific tests to demonstrate the safety of individual products or ingredients, and manufacturers are not required to share their safety information with the FDA. However, the FDA can pursue enforcement action against products on the market that it determines are not in compliance with the FDCA or the Fair Packaging and Labeling Act (FPLA), or against firms or individuals who violate these laws.

#### *Federal Food, Drug, and Cosmetic Act*

The FDCA is a set of laws passed by Congress in 1938 giving authority to the FDA to oversee the safety of food, drugs, and cosmetics. The FDCA defines cosmetics as “articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body ... for cleansing, beautifying, promoting attractiveness, or altering the appearance.” As noted above, the FDA does not pre-approve cosmetic products. However, cosmetic products must be properly labeled and safe for consumers under labeled or typical conditions of use. The FDCA prohibits the marketing of adulterated or misbranded cosmetics in interstate commerce, and the FDA can remove cosmetics from the market that contain unsafe ingredients or that are mislabeled.

#### *Fair Packaging and Labeling Act*

The Fair Packaging and Labeling Act (FPLA) requires each package of household consumer

products (including cosmetic products) to bear a label that includes a statement identifying the commodity (detergent, sponge, etc.); the name and place of business of the manufacturer, packer, or distributor; and the net quantity of contents in terms of weight, measure, or count (in both metric and English units). The FPLA is designed to facilitate value comparisons and to prevent unfair or deceptive packaging and labeling of many household consumer commodities.

The specific labeling requirements for cosmetic products are specified in regulation in Title 21 of the Code of Federal Regulations, parts 701 and 740. Cosmetic products produced or distributed for retail sale to consumers for their personal care are required to bear an ingredient declaration. Cosmetic products not typically distributed for retail sale (e.g., nail products used by professionals on customers at their places of work) are exempt from this requirement provided these products are not also sold to consumers at professional establishments or workplaces.

#### *U.S. Environmental Protection Agency*

Toluene is listed under the Toxic Substances Control Act (TSCA) of 1976, which was enacted by Congress to test, regulate, and screen all chemicals produced in or imported into the United States. TSCA requires any chemical that reaches the consumer marketplace to be tested for possible toxic effect prior to commercial manufacture. Under Section 8, TSCA requires reporting and record keeping by persons who manufacture, import, process, and/or distribute chemical substances in commerce. Under Section 8(e), any person who manufactures (which includes importing), processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment should immediately inform the U.S. Environmental Enforcement Agency (EPA), except in situations where EPA has been adequately informed of such information.

Toluene is listed as a hazardous air pollutant under the Clean Air Act.

Toluene is listed as an organic hazardous air pollutant under Federal Code of Regulations 40 C.F.R., Section 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

#### *U.S. Occupational Health and Safety Administration*

The U.S. Occupational Health and Safety Administration (OSHA) has set a permissible exposure limit (PEL), an enforceable limit to protect workers against the health effects of exposure to hazardous substances, of 200 parts per million (ppm) for toluene in air averaged over an eight-hour workday. OSHA acknowledges that many of its PELs are outdated and



inadequate to ensure protection of worker health. Most of OSHA’s PELs were issued shortly after adoption of the Occupational Safety and Health Act in 1970 and have not been updated since then. The OSHA PEL for toluene was set in 1971.

Nevertheless, as noted above, changes to occupational exposure limits for a chemical are not among the regulatory response options that DTSC might eventually impose for toluene-containing nail products.

*California Division of Occupational Safety and Health, Cal/OSHA*

In 2012, the California Division of Occupational Safety and Health (DOSH), also known as Cal/OSHA, set a PEL for workers of 10 ppm (37.6 mg/m<sup>3</sup>) for toluene in air averaged over an eight-hour workday. Listing toluene-containing nail products as a Priority Product would not affect existing occupational exposure limits like the PEL. DTSC might eventually impose one or more regulatory responses on manufacturers of toluene-containing nail products. However, regulatory responses must be selected from among seven options described in Article 6 of the SCP regulations; changes to occupational exposure limits for a chemical are not among these options.

*California Department of Public Health, California Safe Cosmetics Program*

The California Department of Public Health (CDPH) created the California Safe Cosmetics Program (CSCP) in response to the passage of the California Safe Cosmetics Act. Beginning in 2009, cosmetic manufacturers with aggregate sales greater than \$1 million must report to CSCP products they sell in California which have intentionally added chemical ingredients identified as known or suspected carcinogens or reproductive or developmental toxicants by authoritative bodies.

While the intention of the Safe Cosmetics Act is to improve access to information about potentially harmful ingredients in cosmetics and to influence the reformulation of some products toward safer alternatives, it does not duplicate the SCP regulations. The Safe Cosmetics Act requires manufacturers to report certain chemical ingredients in products, but it does not require manufacturers to evaluate those products for safer chemical alternatives.

**Comparable Federal Regulation or Statute**

This regulation is not based on, identical to, or in conflict with any federal regulations.

OTHER APPLICABLE REQUIREMENTS  
PRESCRIBED BY STATUTE

**California Environmental Quality Act (CEQA) Compliance**

DTSC has determined that this rulemaking would be exempt from CEQA (Public Resources Code Section 21000, et seq.) under the “feasibility or planning study” and “data collection” exemptions outlined in California Code of Regulations, title 14, sections 15262 and 15306, respectively. A draft Notice of Exemption (NOE) is available for review during the public comment period upon request and will be filed with the State Clearinghouse if the regulation is finalized.

**California Environmental Policy Council Review**

Under the provisions of HSC section 25252.5, the California Environmental Policy Council (CEPC) reviewed the framework SCP regulations prior to their adoption in October 2013 (the CEPC Resolution may be viewed at: <http://www.calepa.ca.gov/cepc/>). Under HSC Section 25252.5(f), the CEPC determined that the proposed regulations would not have any significant adverse impact on public health or the environment and could be adopted by DTSC without undergoing a multimedia life cycle evaluation.

DTSC determined that further review by the CEPC is not warranted for this rulemaking because the requirements of HSC section 25252.5 apply only to the creation of the SCP program and not regulations that may be required to implement this program.

**Peer Review**

DTSC requested an external scientific peer review of the scientific basis of the proposed regulation pursuant to Health and Safety Code section 57004. The result of the external scientific peer review is posted to DTSC’s rulemaking website at: <https://dtsc.ca.gov/regs/>.

MANDATE ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS

DTSC determined that adoption of this regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

COST OR SAVINGS TO STATE OR LOCAL  
AGENCIES OR SCHOOL DISTRICTS  
SUBJECT TO REIMBURSEMENT

DTSC determined that adoption of this regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500

of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

**Costs or Savings to Any State Agency**

DTSC will absorb additional costs associated with reviewing Notifications, Abridged AA Reports, or two-stage AA Reports submitted by manufacturers of nail products containing toluene by reallocating staff to this new task. DTSC estimates that the total fiscal costs to state government for reviewing all Notifications, Abridged AA Reports, and two-stage AA reports submitted by manufacturers will range from \$653,269 to \$2,367,735.

**Local Agencies**

DTSC determined that adoption of this regulation will not impose a local mandate or result in costs or savings for any local agency subject to reimbursement pursuant to Part 7 of Division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

**School Districts**

DTSC determined that adoption of this regulation would not result in costs or savings for any school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code.

**Federal Funding to the State**

DTSC determined that adoption of this regulation would not result in costs or savings in federal funding to the state. DTSC determined that no fiscal impact to federal funding or state program exists.

**DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT**

DTSC determined the proposed regulatory action has no significant statewide adverse economic impact directly affecting business. Following a review of available nail products market data and survey of affected manufacturers and industry organizations, DTSC determined the proposed regulation is not a major regulation and is unlikely to have a significant adverse impact on business.

**Types of Businesses Affected:** Manufacturers of nail products containing toluene have the principal duty to comply with the notification and reporting requirements.

**Projected Reporting, Recordkeeping, or other Compliance Requirements:** In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), DTSC found that the reporting requirements of the proposed regulatory action, which apply to businesses, are necessary for the health, safety, and welfare of the people of the State of California. The specific reporting requirements and forms are:

- Priority Product Notification [section 69503.7]

- Removal/Replacement Notifications:
  - Chemical of Concern Removal Intent Notification [section 69505.2]
  - Chemical of Concern Removal Confirmation Notification [section 69505.2]
  - Product Removal Intent Notification [section 69505.2]
  - Product Removal Confirmation Notification [section 69505.2]
  - Product-Chemical Replacement Intent Notification [section 69505.2]
  - Product-Chemical Replacement Confirmation Notification [section 69505.2]
  - Product Cease Ordering Notification [section 69501.2(b)(2)(B)]
- AA Notifications and Reports:
  - AA Threshold Notification [section 69505.3]
  - AA Extension [section 69505.1(c)]
  - Preliminary AA Report [section 69505.4(a)(2), section 69505.5, section 9505.1(b)(2)(A), section 69505.7]
  - Final AA Report [section 69505.4(a)(3), section 69505.6, section 69505.1(b)(2)(B), section 69505.7]
  - Abridged AA Report [section 69505.4(b)]
  - Alternate AA Work Plan [section 69505.4(c)]
  - Previously completed AA [section 69505.4(d)]

The reports and forms that will be submitted by a manufacturer depend on several factors including the Priority Products produced, the availability of viable alternatives, and business decisions made by the manufacturer.

The reporting requirements applicable to manufacturers may be fulfilled by a consortium, trade association, public-private partnership, or other entity acting on behalf of, or in lieu of, one or more manufacturer. This does not apply to the Priority Product Notification or AA Threshold Exemption Notification requirements [section 69501.2(a)(2)].

DTSC has made an initial determination that the adoption of this regulation will not exert a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DTSC has considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- i. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

- ii. Consolidation or simplification of compliance and reporting requirements for businesses.
- iii. The use of performance standards rather than prescriptive standards.
- iv. Exemption or partial exemption from the regulatory requirements for businesses.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

DTSC relied on a variety of sources to estimate the number of California-based manufacturers potentially impacted by this proposed regulation. DTSC searched lists of manufacturers provided in D&B Hoovers and United States Census Bureau County Business Patterns for manufacturers of nail products containing toluene. DTSC then searched manufacturers' websites and safety data sheets (SDS) to refine the list of companies manufacturing these products. Based on the data collected from these sources, DTSC estimates there are 11 manufacturers of nail products containing toluene in California that would be potentially affected by this regulation. DTSC estimates that costs could range from \$112,960 to \$304,960 for individual manufacturers to fulfill the SCP regulatory requirements to submit a Priority Product Notification and complete an Alternatives Analysis report. Total estimated costs to California-based businesses range from \$1,242,000 to \$3,354,560.

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

**Creation of New Businesses or Elimination of Existing Businesses**

DTSC determined that it is:

- Unlikely that this proposal will eliminate or create businesses or jobs in the manufacturing of nail products;
- Possible that this proposal could create an unknown number of businesses to assist manufacturers of nail products containing toluene in meeting regulatory obligations including consulting services, chemical and material science research services, and product development support;
- Possible that this proposal could create an unknown number of public or private sector jobs in consulting services, product research and design, chemical and material science research and support and marketing.

**Expansion of Businesses Currently doing Business**

DTSC determined that it is possible that this proposal could result in the expansion of businesses currently doing business within the state, particularly those engaged in regulatory consulting services,

chemical and material science research and support, product research and design and marketing.

**Effect on Housing Costs**

DTSC has made a determination that the proposed regulation will have no significant effect on housing costs.

**Effect on Small Businesses**

DTSC made an initial determination that the adoption of this regulation may affect small businesses. DTSC estimates that 8 of the 11 potentially impacted manufacturers are small businesses. Costs to submit Priority Product Notifications and AA Reports are expected to be the same for all impacted businesses. Moreover, DTSC estimates that it will take each manufacturer a maximum of 16 hours at \$60/hour to complete a Priority Product Notification, or a total of \$960. DTSC estimates that the cost to each manufacturer for the Priority Product Notification, AA report, and responding to DTSC's AA report review will be \$112,960 to \$182,960 for an Abridged AA, and \$139,960 to \$304,960 for a two-stage AA. These are one-time notification and reporting requirements that manufacturers are expected to complete within one year of adoption of the proposed regulation; therefore, there are no ongoing costs.

**Benefits of the Regulation on the Health and Welfare of California Residents, Worker Safety, and the State's Environment**

DTSC made an initial determination that the adoption of this regulation may positively affect the health and welfare of California residents, worker safety, and the State's environment. A reduction in exposure to toluene could benefit the health of California's residents. The development of safer alternatives benefits California workers, consumers, employers, and the environment. DTSC cannot predetermine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC will maximize the use of alternatives of least concern and give preference to those that provide the greatest level of inherent protection. In general, economic benefits to California workers and business owners may include expanded employment opportunities in the fields of consulting and marketing. Additional benefits may accrue because of increased research and product development collaboration between manufacturers and California-based research facilities. Institutional and corporate financial support of chemical and material science programs focused on developing safer alternatives to toluene in nail products could advance the field. These research initiatives could provide manufacturers with employees that are highly skilled in the research and design of products for newly emerging global markets.



**CONSIDERATION OF ALTERNATIVES**

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC 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.

**CONTACT PERSONS**

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Ms. Christine Papagni of DTSC at (818) 717-6541 or, if unavailable, Nancy Ostrom of DTSC at (916) 445-3077. However, such oral inquiries are not part of the rulemaking record.

A public comment period for the rulemaking has been established commencing on October 1, 2021 and closing on November 15, 2021. Statements, arguments, or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or presented orally or in writing at a public hearing, if a hearing is requested, in order for them to be considered by DTSC before it adopts, amends, or repeals these regulations.

DTSC will accept statements, arguments or contentions, and/or supporting documents regarding this rulemaking submitted in writing either through CalSAFER or by mail, or they may be presented orally or in writing at a public hearing, if a hearing is requested.

**AVAILABILITY OF TEXT OF  
PROPOSED REGULATIONS, INITIAL  
STATEMENT OF REASONS AND OTHER  
RULEMAKING DOCUMENTS**

Copies of the Notice of Proposed Action, Initial Statement of Reasons, all the information upon which its proposal is based, and the express terms of the proposed regulation (also known as the proposed regulatory text) are posted to DTSC's Internet website at <https://dtsc.ca.gov/regs/>.

After the close of the comment period, DTSC may adopt the proposed regulation. If substantial, sufficiently related changes are made to the regulatory text, the modified full text (with the changes clearly indicated) will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulation, attend a public hearing, if a hearing is requested, or provide

written comments on this specific regulation will be sent a copy of the modified text if substantial, sufficiently related changes are made.

Once DTSC finalizes the regulatory text, DTSC will prepare a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments, and includes other materials. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at <https://dtsc.ca.gov/regs/>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulation.

**ALL OTHER QUESTIONS/COMMENTS/  
INQUIRIES/UPDATES**

Please direct all written comments, procedural inquiries, and requests for documents by mail, e-mail, or fax to Office of Legislation and Regulatory Review, as specified above. To be included in this regulation package's mailing list and to receive updates of this rulemaking, please visit <https://dtsc.ca.gov/dtsc-e-lists/> and subscribe to the applicable E-List or e-mail: [regs@dtsc.ca.gov](mailto:regs@dtsc.ca.gov).

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND  
WILDLIFE**

**FISH AND GAME CODE SECTION 1653  
CONSISTENCY DETERMINATION  
REQUEST FOR  
Horse Creek Off-channel Alcove Project  
(Tracking Number: 1653-2021-082-001-R1)  
Siskiyou County**

California Department of Fish and Wildlife (CDFW) received a Request to Approve on September 15, 2021, that U.S. Fish and Wildlife Service (Service) proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves constructing an alcove off Horse Creek and adding one engineered log jam to create fish refugia. The proposed project will be carried out on Horse Creek, approximately 1.5 miles from the confluence with the Klamath River near Hamburg, Siskiyou, California.

On July 27, 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. 1A21169WNSI; ECM PIN No. CW-875491) for coverage under the General 401 Order on September 15, 2021.

The Service is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the Service 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, the Service will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF FISH AND WILDLIFE**

**HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2021-077-001-R1**

**Project:** China Creek Wood Loading Project  
**Location:** Siskiyou  
**Applicant:** Mid Klamath Watershed Council (MKWC)  
**Notifier:** James Peterson

**Background**

*Project Location:* The China Creek Wood Loading Project (Project) is located along Highway 96, at the confluences of China Creek and Klamath River, in the County of Siskiyou. The Project will occur on the Assessor Parcel Number (APN) 016-280-500-000, which is owned by Jocelyn Pena. China Creek is a tributary to Klamath River and supports populations of Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), and steelhead (*O. mykiss*).

*Project Description:* MKWC (Applicant) proposes to enhance or restore habitat within China Creek to provide a net conservation benefit for Chinook salmon, coho salmon, and steelhead. The conservation benefits from the proposed project will improve fish

passage and increase the area of thermal refugia within the Klamath River at the mouth of China Creek to enhance winter and summer rearing habitat. The placement of up to 4 (four) wood structures will be installed within the stream channel above the mouth to add cover complexity and assist in gravel retention and floodplain connectivity. In addition, a new stream channel will be excavated to a size of 65 feet by 12 feet and a maximum depth of 6 feet.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 0.04 acres and 200 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

*Project Associated Discharge:* Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) approximately 17 logs, and (2) 25 cubic feet of native vegetation slash material.

*Project Timeframes:*

Start date: August 31, 2021  
 Completion date: October 31, 2026  
 Work window: August 31–October 31  
 Number of Workdays: Approximately 6 days

*Water Quality Certification Background:* Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage and function to China Creek, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1A21167WNSI, Electronic Content Management Identification (ECM PIN) No. CW-875477 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to fish (Chinook salmon, coho salmon, and steelhead), plants, mammals, and birds.

*Receiving Water:* China Creek, Klamath River.

*Filled or Excavated Area:*

Permanent area impacted: Approximately 0.04 acres.  
 Temporary area impacted: Approximately 0.04 acres.  
 Length temporarily impacted: 200 linear feet.  
 Length permanently impacted: 200 linear feet.

*Dredge Volume:* None.

*Discharge Volume:* Approximately 17 logs and 25 cubic feet of native vegetation slash material.

*Project Location:* Within the APN 016–280–500–000, the coordinates for the Project are Latitude 41.7825° North, Longitude 123.3169° West for the site.

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

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

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 18, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2021–0819–05) 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 meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

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

#### **Avoidance and Minimization Measures**

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

maintenance and monitoring. The specific avoidance and minimization requirements are found in an attachment to the NOI.

#### **Monitoring and Reporting**

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

#### **Notice of Completion**

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

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

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

#### **Project Authorization**

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

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

**DEPARTMENT OF FISH AND  
WILDLIFE**

**CONSISTENCY DETERMINATION**

**REQUEST FOR**

Safe Harbor Agreement for Amargosa Vole  
Translocation and Reintroduction in Shoshone,  
California  
2089-2021-001-06  
Inyo County

The California Department of Fish and Wildlife (CDFW) received a notice on September 15, 2021, that Susan Sorrells (Landowner) proposes to rely on a federal safe harbor agreement to carry out a project that may provide a net conservation benefit for Amargosa vole (*Microtus californicus scirpensis*), a species protected by the California Endangered Species Act. The proposed project involves the translocation of wild (non-captive) Amargosa voles from a source population, informed by genetic analyses, to reintroduce and establishing a self-sustaining population of Amargosa voles within its historical range on Landowner lands. The proposed project will occur on two parcels totaling 467 acres owned by the Landowner in Shoshone, Inyo County, California.

The notice requested a CDFW determination pursuant to California Fish and Game Code Section 2089.22, that the safe harbor agreement dated July 7, 2021 and permit number ES84163D issued by the U.S. Fish and Wildlife Service to the Landowner on August 3, 2021, are consistent with the California State Safe Harbor Agreement Program Act (CSSHAPA) for purposes of the proposed Project. If CDFW determines the federal safe harbor agreement is consistent with CSSHAPA for the proposed Project, the Landowner will not be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

**DEPARTMENT OF FISH AND  
WILDLIFE**

**FISH AND GAME CODE SECTION 1653**

**CONSISTENCY DETERMINATION**

**REQUEST FOR**

Upper Sugar Creek Accelerated Wood  
Recruitment Project  
(Tracking Number: 1653-2021-083-001-R1)  
Siskiyou County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 9/21/2021, that Scott

River Watershed Council proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves placing pieces of large and small wood within a 1.89 mile reach of Sugar Creek over five years. The proposed project will be carried out on Sugar Creek, approximately 1.6 miles upstream of the confluence with the Scott River, Siskiyou, California.

On 9/6/2021, 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 Upper Sugar Creek Accelerated Wood Recruitment 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. 1A21191WNSI; ECM PIN No. CW-876225) for coverage under the General 401 Order on 9/21/2021.

Scott River Watershed Council 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, Scott River Watershed Council 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, Scott River Watershed Council will have the opportunity to submit under Fish and Game Code section 1652.

**OCCUPATIONAL SAFETY AND  
HEALTH STANDARDS BOARD**

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

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



PUBLIC MEETING

On **November 18, 2021**, at 10:00 a.m. via the following:

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

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

BUSINESS MEETING

On **November 18, 2021**, at 10:00 a.m. via the following:

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

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

**DISABILITY ACCOMMODATION NOTICE:**

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

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

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)**

**ANNOUNCEMENT OF THE  
DEVELOPMENTAL AND REPRODUCTIVE  
TOXICANT IDENTIFICATION COMMITTEE  
MEETING SCHEDULED FOR DECEMBER  
14, 2021; NOTICE OF AVAILABILITY OF  
HAZARD IDENTIFICATION MATERIALS  
FOR PERFLUORONONANOIC ACID (PFNA)  
AND PERFLUORODECANOIC ACID (PFDA)  
AND THEIR SALTS**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) will convene a meeting of the Developmental and Reproductive Toxicant Identification Committee (DARTIC) for possible listing of perfluorononanoic acid (PFNA) and its salts, and perfluorodecanoic acid (PFDA) and its salts, under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65)<sup>1</sup>. OEHHA is also opening a 45-day public comment period on the hazard identification document for these chemicals. **The public comment period will end on Monday, November 15, 2021.** A copy of the document is available on OEHHA's website at <https://oehha.ca.gov/proposition-65>. The document may also be requested from OEHHA's Proposition 65 Implementation Office by calling (916) 445-6900.

**Background**

OEHHA is the lead agency for implementation of Proposition 65. The DARTIC advises and assists OEHHA in compiling the list of chemicals known to the state to cause reproductive toxicity as required by Proposition 65<sup>2</sup>. The DARTIC serves as the state's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity.

A request for relevant information on the potential reproductive toxicity of several chemicals, including PFNA and its salts and PFDA and its salts, opened on March 26, 2021 and closed on May 10, 2021. No

<sup>1</sup>Health and Safety Code section 25249.5 et seq.

<sup>2</sup>Health and Safety Code section 25249.8.



submissions were received on PFNA and its salts or on PFDA and its salts.

**Public Meeting and Public Comment Period**

PFNA and its salts and PFDA and its salts will be considered for possible listing under Proposition 65 as causing reproductive toxicity (male reproductive endpoint) at a public meeting scheduled for **Tuesday, December 14, 2021**. The meeting, which will be held virtually, will begin at 10:00 a.m. and last until all business is conducted or until 5:00 p.m. The agenda for the meeting and instructions on how to participate will be provided in a future public notice published in advance of the meeting.

The public may provide oral comments at the meeting on December 14, 2021. These comments will be limited to five minutes per commenter, except for those commenters who make a request by November 15, 2021, and receive approval from the Chair of the DARTIC for longer comments. Please submit a request for additional time, with an estimate of the time you will need and the reason you are requesting additional time, to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov) or call the Proposition 65 Implementation Office at (916) 445-6900 by November 15, 2021.

OEHHA must receive written comments no later than **November 15, 2021**, the designated close of the written comment period, and strongly recommends that information be submitted electronically, rather than in paper form. **Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>**. All timely filed public comments will be provided to DARTIC members in advance of the meeting and will be posted on the OEHHA website at the close of the comment period. Comments submitted in paper form can be mailed or delivered in person to the address below.

All non-electronic submissions should be directed to:

Tyler Saechao  
Office of Environmental Health Hazard  
Assessment  
1001 I Street  
P.O. Box 4010, MS-12B  
Sacramento, California 95812-4010  
Telephone: 916-445-6900

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and e-mail may be available to third parties.

If you have any questions, please contact Tyler Saechao at [Tyler.Saechao@OEHHA.ca.gov](mailto:Tyler.Saechao@OEHHA.ca.gov) or (916) 445-6900.

**DECISION NOT TO PROCEED**

**DEPARTMENT OF CANNABIS CONTROL**

Pursuant to Government Code Section 11347

RE: NOTICE OF PROPOSED RULEMAKING  
MEDICINAL AND ADULT-USE CANNABIS  
REGULATION APPLICATION  
PROCESS REQUIREMENTS

Pursuant to Government Code section 11347, the Department of Cannabis Control (formerly Bureau of Cannabis Control) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on October 16, 2020. The proposed rulemaking concerned Application Process Requirements. (OAL Notice File Number Z-2020-1006-06.)

Any interested person with questions concerning this rulemaking should contact Kaila Fayne either by email at [regulations@cannabis.ca.gov](mailto:regulations@cannabis.ca.gov) or by telephone at (916) 465-9025.

The Department of Cannabis Control will also post this Notice of Decision Not to Proceed on its website.

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE SECRETARY OF STATE**

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

Superintendent of Public Instruction  
File # 2021-0810-02

Foster Youth Local Compliant Time Line

In this regulatory action, the State Superintendent of Public Instruction makes permanent the adoption of a regulation to create an exception to the one-year timeframe established in section 4630 of title 5 of the California Code of Regulations. Section 4630 requires Uniform Complaint Procedures (UCP) complaints to be filed no later than one year from the date the alleged

violation occurred. The exception to this time frame applies to UCP complaints related to the educational rights of foster youth.

Title 05  
Adopt: 4630.5  
Filed 09/22/2021  
Effective 09/22/2021  
Agency Contact: Lorie Adame (916) 319-0860

Department of Pesticide Regulation  
File # 2021-0915-02  
Registration Fees

This emergency action increases the annual renewal fee for the registration of a pesticide product with the Department of Pesticide Regulation from \$1,150 to \$1,525 and makes several changes without regulatory effect to the applicable regulations and a related form.

Title 03  
Amend: 6170, 6170.5, 6216  
Filed 09/27/2021  
Effective 10/01/2021  
Agency Contact: Lauren Otani (916) 445-5781

California Debt Limit Allocation Committee  
File # 2021-0913-02  
Readopting 5231 to Correct Typographical Error  
(Construction Type)

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

Title 04  
Adopt: 5231  
Filed 09/23/2021  
Effective 09/25/2021  
Agency Contact: Emily Burgos (916) 952-7161

Department of Managed Health Care  
File # 2021-0914-01  
Summary of Dental Benefits and Coverage  
Disclosure Matrix

The Department of Managed Health Care submitted this emergency file and print action to readopt a regulation originally adopted in OAL Matter No. 2021-0115-01E that implements Health and Safety Code section 1363.04, which requires the department to develop a uniform benefits and coverage disclosure matrix that must be used by health care service plans that issue, sell, renew, or offer a contract that covers dental services. This action is exempt from OAL review pursuant to Health and Safety Code section 1363.04(f)(2).

Title 28  
Adopt: 1300.63.4  
Filed 09/22/2021  
Effective 09/24/2021  
Agency Contact: Pamela Stone (916) 669-6987

California Horse Racing Board  
File # 2021-0902-01  
Jockey's Riding Fee

The California Horse Racing Board submitted this action pursuant to California Code of Regulations, title 1, section 100 to increase jockey losing mount fees provided in a regulation based on a statutory requirement to increase losing mount fees by the percentage increase of the state minimum wage from 2021 to 2022.

Title 04  
Amend: 1632  
Filed 09/23/2021  
Effective 01/01/2022  
Agency Contact: Rick Pimentel (916) 263-6000

Board of Vocational Nursing and Psychiatric  
Technicians  
File # 2021-0413-01  
Substantial Relationship and Rehabilitation Criteria

In this action, the Board of Vocational Nursing and Psychiatric Technicians adopts criteria to be 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 adopts criteria for determining whether an applicant for a license, or for reinstatement of a license, or for the modification or termination of probation of a license, has been rehabilitated subsequent to a criminal conviction, professional misconduct, or other act. The action also adopts criteria for determining whether a licensee has been rehabilitated, subsequent to a criminal conviction, professional misconduct, or other act, when considering whether to suspend or revoke their license.

Title 16  
Amend: 2578, 2579  
Filed 09/24/2021  
Effective 09/24/2021  
Agency Contact: Doris Pires (916) 263-7864

California Horse Racing Board  
File # 2021-0812-03  
Thyroxine Restricted

This action adopts a new regulation to restrict the use of Thyroxine and any other thyroid hormone or thyroid hormone analog in horse racing.

Title 04  
 Adopt: 1866.4  
 Filed 09/23/2021  
 Effective 01/01/2022  
 Agency Contact:  
 Nicole Lopes–Gravelly (916) 263–6397

Office of Environmental Health Hazard Assessment  
 File # 2021–0513–02  
 Naturally Occurring Levels of Lead in Candy

This rulemaking action by the California Office of Environmental Health Hazard Assessment adopts levels of naturally–occurring lead in candies flavored with chili and/or tamarind pursuant to Health and Safety Code section 110552.

Title 27  
 Adopt: 28500  
 Filed 09/22/2021  
 Effective 09/22/2022  
 Agency Contact: Kristi Morioka (916) 322–5624

Office of Spill Prevention and Response  
 File # 2021–0416–01  
 Nontank Vessel Fee Increase

An owner or operator of a vessel is required to demonstrate the financial ability to pay for cleanup costs and damages associated with potential oil spills to marine waters. A vessel owner or operator must apply for and obtain a certificate of financial responsibility issued by the Office of Spill Prevention and Response (“OSPR”) Administrator. The Administrator is required to establish a barrel fee assessed against tank vessels and a fee assessed against non–tank vessels. The non–tank vessel fee is collected with each application to obtain a certificate of financial responsibility and every two years thereafter with the certificate renewal. In this regular rulemaking, OSPR is increasing the fee for non–tank vessels and amending the “Application for Certificate of Financial Responsibility for Owners or Operators of Nontank Vessels (300 GT or Greater)”, which is incorporated by reference in the California Code of Regulations.

Title 14  
 Amend: 791.7, 793, 870.17  
 Filed 09/23/2021  
 Effective 10/01/2021  
 Agency Contact: Christine Kluge (916) 327–0910

State Water Resources Control Board  
 File # 2021–0817–01  
 Lahontan Region Water Quality Control Plan Update

The State Water Resources Control Board submitted this action to amend the Water Quality Control Plan for the Lahontan Region (Basin Plan). The amendments add definitions for three new beneficial uses to the Basin Plan. The beneficial uses added to the Basin Plan are Tribal Traditional Culture (CUL), Tribal Subsistence Fishing (T–SUB), and Subsistence Fishing (SUB).

Title 23  
 Adopt: 3959.10  
 Filed 09/22/2021  
 Effective 09/22/2021  
 Agency Contact: Daniel Sussman (916) 542–5466

**PRIOR REGULATORY  
 DECISIONS AND CCR  
 CHANGES FILED WITH THE  
 SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit [www.oal.ca.gov](http://www.oal.ca.gov).