



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: Red Bluff Joint Union High School District
 State Agency: Board of Pilot Commissioners

ADOPTION

Multi-County: Alta Vista Public Charter, Inc.
 Desert Sands Public Charter, Inc.
 Crescent View South, Inc.
 Western Educational Corp.

A written comment period has been established commencing on October 29, 2021 and closing on December 13, 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 December 13, 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 8. DIVISION OF WORKERS'
COMPENSATION**

DEPARTMENT OF INDUSTRIAL RELATIONS

QUALIFIED MEDICAL
EVALUATOR REGULATIONS
(SECTION 36.7)

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation (hereafter "Administrative Director"), proposes to adopt a regulation to implement the provisions of Labor Code sections 139.2, 4060, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.3, 4062.5, 4067, and 4600 regarding the examination, and the procedures regarding Qualified Medical Examiner (QME) medical-legal evaluations, that are used to resolve disputes in the workers' compensation system. This action is taken pursuant to the authority vested in the Administrative Director by Labor Code sections 53, 133, 139.2, 4060, 4061, 4062, 4062.1, 4062.2 and 5307.3.

When adopted, the proposed regulation will constitute title 8, California Code of Regulations, Division 1, Chapter 1, Article 3 sections 36.7. The regulation implements a process by which medical-legal reports and supporting documents maybe served electronically.

PROPOSED REGULATORY ACTION

The Department of Industrial Relations, Division of Workers' Compensation, proposes to adopt the following regulation in Division 1, Chapter 1, Article 3, of Title 8, California Code of Regulations, Section 36.7. The proposed change is a substantive change; although it is making permanent what was originally adopted as an emergency regulation. A comprehensive summary of the proposed change is set out in the Initial Statement of Reasons, which is not printed here

but will be available at no charge upon written request made to Regulations Coordinator below or via the web at: <http://www.dir.ca.gov/dwc/DWCrulemaking.html>.

TIME AND PLACE OF VIRTUAL
PUBLIC HEARING

A public hearing via the ZOOM meeting platform has been scheduled in lieu of an in-person public hearing to permit all interested persons the opportunity to present oral statements or arguments with respect to the proposed adoption of title 8 CCR Section 36.7 on the following date:

Date: Friday, December 17th, 2021
Time: 10:00 a.m. to 5:00 p.m., or until
conclusion of business

Access Information

Join from PC, Mac, Linux, iOS or Android: <https://dir-ca-gov.zoom.us/j/89606154017>

Or Telephone:
Dial:
USA 216 706 7005
USA 8664345269 (US Toll Free)
Conference code: 956474

Find local AT&T

Numbers: <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=2167067005&accessCode=956474>

Alternate formats, assistive listening systems, sign language interpreters, or other types of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Maureen Gray, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require, that any persons who make oral comments at the ZOOM format public hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant

to the proposed amendment to modify existing regulations, related to the Medical–Legal Fee Schedule to the Department of Industrial Relations, Division of Workers’ Compensation. The written comment period closes on Friday, December 17, 2021. The Division of Workers’ Compensation will only consider comments received at the Department of Industrial Relations, Division of Workers’ Compensation by that date. Again, equal weight will be accorded to oral comments presented at the ZOOM format public hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to the DWC contact person:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142

Written comments may be submitted via facsimile transmission (FAX), addressed to the above–named contact person at (510) 286–0687. Written comments may also be sent electronically (via e–mail) using the following e–mail address: dwcrules@dir.ca.gov.

Ms. Gray must receive all written comments no later than 11:59 p.m. on Friday, December 17, 2021.

CONTACT PERSON

Inquiries concerning this proposed action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed amendments to the regulation, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers’ Compensation
P.O. Box 420603
San Francisco, CA 94142
Email: mgray@dir.ca.gov

BACKUP CONTACT PERSON

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

Nicole Richardson, Industrial Relations Counsel
Department of Industrial Relations
Division of Workers’ Compensation
P.O. Box 420603
San Francisco, CA 94142
(email: nrichardson@dir.ca.gov)

The telephone number of the backup contact persons is (510) 286–7100.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code sections 53, 133, 139.2, 4060, 4061, 4062, 4062.1, 4062.2 and 5307.3.

Reference is made to Labor Code sections 139.2, 4060, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.3, 4062.5, 4067 and 4600.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of his or her employment. The adjudication of workers’ compensation claims requires the use of written reports of QMEs.

Objective and Anticipated Benefits of the Proposed Amendments to the Regulations:

The Administrative Director of the Division of Workers’ Compensation adopt 36.7 of Title 8 of the California Code of Regulations. The proposed change adds functionality to the regulatory scheme by instituting a system for electronic service of medical–legal reports and allow for expedited adjudication of QME discipline actions. A fuller summary of the proposed changes is provided in the Initial Statement of Reasons.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Administrative Director has determined that these proposed amendments to the regulations are not inconsistent or incompatible with existing regulations.

The Administrative Director now proposes to adopt a regulation related to the administration of the Qualified Medical Evaluator program. The proposed regulations implement, interpret, and make specific Labor Code sections 139.2, 4060, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.3, 4062.5, 4067 and 5307.3 as follows:

Article 3. Assignment of Qualified Medical Evaluators, Evaluation Procedure (§36.7)

Section 36.7 is added to the regulations to allow for electronic service of medical legal reports.

DISCLOSURES REGARDING THIS PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- **Determination regarding whether this rulemaking imposes a Local Mandate:**
None is imposed by this proposed regulation because no new program or higher level of service to the public is required. The regulation provide technical detail on procedures used to regulate Qualified Medical Evaluators and the procedures for obtaining reports from QMEs, and impose the same requirements on all employers in California. Local government and districts as employers, like all other employers in California, are already required by law to have workers’ compensation coverage, or otherwise to self administer or contract for another entity to administer the workers’ compensation claims of their employees and to conform to the Labor Code in using the medical dispute resolution procedures involving QMEs and AMEs.
- **Significant statewide, adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:** None.
- **Effect on Housing Costs:** None.
- **Cost Impacts Incurred By Private Persons or Businesses:** The Administrative Director has determined that the proposed regulation will not have any significant cost impact on private persons or businesses. 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.
- **Other impacts on Jobs and Businesses:** The Administrative Director has determined that the change proposed in this rulemaking will not: (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses in the State of California. There are no anticipated benefits of the regulation to the health and welfare of California residents and workers safety. There might be some state environment benefit in the reduction of paper usage.

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that this rulemaking will not have any significant impact on small business.

Physicians appointed as Qualified Medical Evaluators fall within the definition of small business, and already are required by existing law to comply with the statutes and regulations governing Qualified Medical Evaluators. Physicians are required to meet certain criteria in order to be certified as QMEs. Once appointed, Physicians serve a two–year term, and must be reappointed at the end of that term. The Administrative Director is required to issue panels listing three Qualified Medical Evaluators when requested by a party to resolve a disputed issue (Labor Code §§ 139.2(h), 4062.1, 4062.2, and 139.2(h)(3).) In compiling the panel of three QMEs, from which to select randomly, the Administrative Director must include only evaluators who do not have a conflict–of–interest as defined by the Administrative Director in regulations adopted pursuant to Labor Code section 139.2(o) and are in the specialty designated by the party holding the legal right to select the specialty. (Labor Code § 139.2(h)(3)(A).) One selected from the panel of three, the physician examines the injured worker and issues a medical–legal evaluation. Physicians can also issue follow–up medical legal evaluations and supplemental medical legal reports.

The proposed regulation relates to the processes that govern the administration of the QME program.

The administrative director has determined that there is either no, or a *de minimus* amount of, added expense to the QME by virtue of the proposed regulation. Therefore, the Administrative Director has concluded there is no significant adverse economic impact on QMEs as small businesses by the adoption of these proposed regulation.

At the current time, the best estimate by the Division of Workers’ Compensation indicates that employers will not be affected in any substantial pecuniary fashion by the proposed regulations and amendments to the existing regulations.

FISCAL IMPACTS

- **Costs or savings to state agencies or costs/savings in federal funding to the State:** None.
- **Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of division 4 of the Government Code:** None. (See Local Mandate bullet above)
- **Other nondiscretionary costs/savings imposed upon local agencies:** None. (See Local Mandate bullet above)

CONSIDERATION OF ALTERNATIVES

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

The Administrative Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

The text of the draft proposed regulation was made available for pre-regulatory public review and comment for at least ten days through the Division’s Internet website (the “DWC Forum”), as required by Government Code section 11346.45.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE/INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the Regulations Coordinator named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, the proposed text of the regulations, pre-rulemaking comments and the Form 399. Also included are the documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of the regulations being proposed may be accessed and downloaded from the Division’s website at www.dir.ca.gov. To access them, click on the “Proposed Regulations — Rulemaking” link and scroll down the list of rulemaking proceedings to find the Qualified Medical Evaluator Regulations link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any

supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers’ Compensation, 1515 Clay Street, 18th Floor, Oakland, California 94612, between 9:00 a.m. and 4:30 p.m., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the Regulations Coordinator.

CONTACT PERSON FOR GENERAL QUESTIONS

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray
 Regulations Coordinator
 Department of Industrial Relations
 Division of Workers’ Compensation
 P.O. Box 420603
 San Francisco, CA 94142
 E-mail: mgray@dir.ca.gov

The telephone number of the contact person is (510) 286-7100.

CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person above is unavailable, or for questions regarding the substance of the proposed regulations, inquiries should be directed to:

Nicole Richardson, Industrial Relations Counsel
 Department of Industrial Relations
 Division of Workers’ Compensation
 Post Office Box 420603
 San Francisco, CA 94142
 E-mail: nrichardson@dir.ca.gov

The telephone number of this contact person is (510) 286-7100.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulation as a result of the public hearing and public comment received, the modified text with changes clearly shown will be made available for

public comment for at least 15 days prior to the date on which the regulation is adopted.

**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 contact person named in this notice or may be accessed on the Division's website at www.dir.ca.gov.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons and the text of the regulation, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulation with any final amendments will appear in title 8 of the California Code of Regulations, section 36.7. The text of the final regulations also may be available through the website of the Office of Administrative Law at www.oal.ca.gov.

TITLE 13. HIGHWAY PATROL

**DIVISION 2, CHAPTER 6.5, ARTICLE 9,
AMEND SECTION 1294
CHILD SAFETY ALERT SYSTEMS
(CHP-R-2020-06205)**

In compliance with the requirements of Section 28160 of the California Vehicle Code (CVC), the California Highway Patrol (CHP) proposes to amend regulations in Title 13, California Code of Regulations (CCR), Division 2, Chapter 6.5, Article 9, Section 1294, to be consistent with the specifications, installation, and use of child safety alert systems (CSAS).

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

On September 17, 2018, Governor Brown signed Assembly Bill (AB) 1840 (Chapter 426, Statutes of 2018) into law. Assembly Bill 1840 was an education budget trailer bill which included a provision relating to CSAS devices. A CSAS is a device located at the rearmost portion of the interior of a vehicle that required the driver to either manually contact or scan the device before exiting the vehicle, thereby prompting the driver to inspect the entirety of the interior of the vehicle before exiting. The CSAS is an electronic, mechanical, or electro-mechanical device which requires manual, electronic, or a combination of manual and electronic contact for deactivation.

Additionally, the State Legislature amended Section 28160 CVC to reflect changes to the effective dates for carriers required to use the CSAS.

The proposed rulemaking action will make substantive changes to repeal outdated or obsolete provisions, make conforming and clarifying changes, and make other nonsubstantive changes. Amending or repealing these regulations will ensure necessary specifications, installation, and use of the CSAS pursuant to Section 28160 CVC. The changes are intended to provide clarity specific to the activation/deactivation of the CSAS, and to remove repetitive statements which contribute to confusion for both the public and enforcement personnel. This proposed action conforms to the Legislative intent contained in AB 1840 as enacted in the 2018 legislative session.

Anticipated Benefits of the Proposed Regulations:

This amendment will continue to provide nonmonetary benefits by protecting the health, safety, and welfare of individuals transported on specified vehicles by ensuring necessary specifications, installation, and use of the CSAS. The proposed regulations provide the regulatory authority for enforcement efforts as they relate to requirements of the CVC, and clarity of currently adopted regulations.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The CHP has determined the proposed regulations are neither inconsistent, nor incompatible, with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the CHP has concluded that these are the only regulations that concern the CSAS.

PUBLIC COMMENTS

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

California Highway Patrol
Enforcement and Planning Division
Commercial Vehicle Section
Attention: Officer Kasonja Pochop
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until December 13, 2021.

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 (the rulemaking file), and the proposed regulations text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile to (916) 322–3154, or by calling the CHP, CVS, at (916) 843–3400. All requests for information should include the following information: 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 requester’s information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, CVS, 601 North 7th Street, Sacramento, CA 95811. Interested parties are advised to call for an appointment.

Documents regarding the proposed action are available through the CHP’s website at www.chp.ca.gov/news-alerts/regulatory-actions.

Once it has been prepared, the Final Statement of Reasons will be made available through the contact information above or the CONTACT PERSONS below.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations, or questions regarding the substance of the proposed regulations, should be directed to Motor Carrier Safety Program Manager Craig Weaver or Officer Kasonja Pochop, of the CHP, CVS, 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 nonsubstantive 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 DISCLOSURES AND RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will impose no new mandate upon local agencies or school districts; (3) will involve no nondiscretionary costs or savings to any local agency; (4) will have no effect on cost to any local agency or school district requiring reimbursement pursuant to Gov. Code esc. 17500 et seq.; (5) will have no effect

on cost or savings to any state agency; (6) will have no effect on cost or savings in federal funding to the state; (7) will neither create or eliminate jobs in the State of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California; (8) will continue to provide a nonmonetary benefit to the protection, health, safety, and welfare of workers and individuals transported on specified vehicles by ensuring necessary specifications, installation, and use of the CSAS; (9) will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states; and (10) will have no adverse impact to the state’s environment.

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 not identified any significant adverse effect on small businesses. The proposed regulations do not increase any requirements upon small businesses. The proposed regulatory amendment to Title 13, CCR, Section 1294, is already applicable and enforceable on businesses subject to state jurisdiction pursuant to Section 28160, CVC.

ALTERNATIVES

In accordance with Section 11346.5(a)(13) of the California Government Code, the CHP must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The CHP invites interested persons 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 28160, CVC.

REFERENCE

This action implements, interprets, or makes specific Sections 28160 and 34506, CVC.

TITLE 14. OFFICE OF SPILL PREVENTION AND RESPONSE

FUND ADMINISTRATION
(SECTIONS 870.15 AND 870.17)

Notice is hereby given that the Department of Fish and Wildlife, Office of Spill Prevention and Response (OSPR) proposes to amend sections 870.15 and 870.17 of subdivision 4 of title 14 of the California Code of Regulations. These sections pertain to the fees collected for the OSPR program. OSPR invites interested persons to present comments, statements, or arguments with respect to the regulations during the written comment period.

PUBLIC HEARING

OSPR has not scheduled a public hearing on this proposed action. However, pursuant to Government Code section 11346.8, OSPR will hold a public hearing if a written request is received at the address below from any interested person or his or her authorized representative no later than fifteen (15) calendar days before the end of the 45-day comment period.

SUBMISSION OF WRITTEN COMMENTS

Any interested person or his or her authorized representative may submit to OSPR written comments relevant to the proposed regulatory action. **The written comment period closes at 11:59 p.m. (Pacific Standard Time) on Monday, December 13, 2021.** All written comments must be received by OSPR by then in order to be considered. Written comments may be submitted by mail or e-mail, as follows:

Department of Fish and Wildlife
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, CA 94244-2090
E-mail: OSPRRegulations@wildlife.ca.gov

AUTHORITY AND REFERENCE

Government Code section 8670.39 grants the Administrator of OSPR the authority to adopt regulations and guidelines for proposed regulations. The proposed regulations implement, interpret and make specific Government Code sections 8670.38, 8670.39, 8670.40, and 8670.41.

INFORMATIVE DIGEST

Existing Law

The *Lempert-Keene-Seastrand Oil Spill Prevention & Response Act (LKS Act) of 1990* requires owners of crude oil and petroleum products to pay a per-barrel fee upon delivery of the oil to a marine terminal or refinery. In 2021, Assembly Bill 148 (AB 148), among other things, raised the fee from \$0.065 cents per barrel to \$0.085 cents per barrel effective October 1, 2021, and made renewable fuels subject to this fee beginning January 1, 2022. AB 148 also established a process for the fee to be annually adjusted administratively based on the consumer price index [see bill Sections 11-13, 65, and 83-96].

This rulemaking revises the regulations text regarding the per-barrel fee. This rulemaking repeals unnecessary text that is redundant to the statute, and instead refers back to the statutory provisions. These changes align the text with the changes made by AB 148 without merely repeating the statutory text.

This rulemaking also revises the text regarding OSPR's nontank vessel fee by repealing unnecessary, redundant, potentially contradictory text. There is no substantive change.

Policy Statement Overview and Anticipated Benefits of the Proposed Action

Adoption of these regulations accomplish cleanup of long-standing regulatory text. These changes simplify the text.

These proposed regulations eliminate possible confusion or contradiction by simplifying the text and referring the reader to the primary source on the topic.

Evaluation of Inconsistency or Incompatibility with Existing Regulations

After conducting a review for any state or federal regulations or statutes that would relate to or affect this area, OSPR has determined that this proposed regulation is not inconsistent or incompatible with existing state or federal regulations or statutes. The California Department of Tax and Fee Administration (CDTFA) has extensive regulations regarding the process and logistics of collecting the per-barrel fee. This rulemaking in no way touches upon the provision of CDTFA's regulations. [Ref. Revenue & Taxation Code §§ 46001-46751, and Title 18 Code of Regulations §§ 2240, 2241, 2242, 2250-2257]

DETERMINATIONS REGARDING THE PROPOSED ACTION

OSPR has made the following determinations, as required by Government Code section 11346.5(a) (5), (6), (7) and (9) and State Administrative Manual section 6601:

- (a) *Mandate upon local agencies and school districts:* None.
- (b) *Costs or savings to any state agency:* None.
- (c) *Costs or savings to any local agency:* None.
- (d) *Costs or savings to any local agency or school districts which must be reimbursed in accordance with part 7, division 4 (commencing with section 17500) of the Government Code:* None.
- (e) *Other non-discretionary costs or savings imposed upon local agencies:* None.
- (f) *Costs or savings in federal funding to the state:* None.
- (g) *Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:* None. Any economic impact on a person or business is the result of the statutory amendments to Government Code section 8670.40; not this rulemaking.
- (h) *Cost a representative private person or business would necessarily incur in reasonable compliance:* None. OSPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Any economic impact on a person or business is the result of the statutory amendments to Government Code section 8670.40; not this rulemaking.
- (i) *Significant effect on housing costs:* None.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

Pursuant to Government Code sections 11346.2 and 11346.3, and State Administrative Manual section 6601, with regard to the proposed regulations, OSPR determines the following:

- *Whether this is a “major regulation”, having an economic impact on businesses and individuals exceeding \$50,000,000 in any 12-month period between the date the regulation is estimated to be filed with the Secretary of the State through 12 months after the regulation is fully implemented.* This is not a “major regulation”. This rulemaking is simplifying the regulatory text, is conforming with a statutory amendment (AB 148), and is otherwise making nonsubstantive changes. Any economic impact on businesses is the result of the statutory amendments to Government Code section 8670.40; not this rulemaking.
- *Effects of the regulation on the creation or elimination of jobs within the State of California.* None. This rulemaking is simplifying the regulatory text, is conforming with a statutory

amendment (AB 148), and is otherwise making nonsubstantive changes. Any effect on jobs is the result of the statutory amendments to Government Code section 8670.40; not this rulemaking.

- *Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State of California.* None. This rulemaking is simplifying the regulatory text, is conforming with a statutory amendment (AB 148), and is otherwise making nonsubstantive changes. Any effect on the creation or elimination of businesses is the result of the statutory amendments to Government Code section 8670.40; not this rulemaking.
- *Effects of the regulation on the expansion of businesses currently doing business within the State of California.* None. This rulemaking is simplifying the regulatory text, is conforming with a statutory amendment (AB 148), and is otherwise making nonsubstantive changes. Any effect on the expansion of businesses is the result of the statutory amendments to Government Code section 8670.40; not this rulemaking.
- *Benefits of the regulation to the health and welfare of California residents.* This rulemaking does not relate to public health or welfare.
- *Benefits of the regulation to worker safety.* This rulemaking does not relate to worker safety.
- *Benefits of the regulation to the State’s environment* This rulemaking does not directly relate to the environment. But the per-barrel fee funds the state’s oil spill prevention, preparedness, and response program. (OSPR).
- *Business Reporting Requirement* This rulemaking does not require any reports to be created, maintained, or submitted.
- *Effect on small business* None. This rulemaking is simplifying the regulatory text, is conforming with a statutory amendment (AB 148), and is otherwise making nonsubstantive changes. Any effect on small businesses is the result of the statutory amendments to Government Code section 8670.40, not this rulemaking.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), OSPR must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention

of OSPR, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

There is no reasonable alternative for this rulemaking. This rulemaking is simplifying the regulatory text, is conforming with a statutory change (AB 148), and is otherwise making nonsubstantive changes. However, OSPR invites interested persons to present reasonable alternatives to the proposed regulations during the written comment period.

**AVAILABILITY OF DOCUMENTS/OSPR
CONTACT PERSON**

OSPR will have the entire rulemaking file available for inspection and copying at its office at the address below by appointment only. As of the date this notice is published in the California Notice Register, the rulemaking file consists of this notice, the proposed modified text (“express terms”) of the regulations, the Initial Statement of Reasons, and the Economic and Fiscal Impact Statement (Form STD 399). Please direct inquiries concerning the regulatory process or requests for copies of the proposed modified text (“express terms”) of the regulations, the Initial Statement of Reasons, or other information upon which the rulemaking is based to the following:

Department of Fish and Wildlife
Office of Spill Prevention and Response
Attention: Christine Kluge
1010 Riverside Parkway
West Sacramento, CA 95605
Phone: (916) 827-6553
Email: Christine.Kluge@wildlife.ca.gov

The backup contact person is Ryan Todd at the same address, or by email at Ryan.Todd@wildlife.ca.gov, or by phone at (916) 698-0036

**AVAILABILITY OF
DOCUMENTS ON THE INTERNET**

This notice and related rulemaking documents identified above can be accessed on OSPR’s website at www.wildlife.ca.gov/OSPR/Legal/Rulemakings/OSPFAF.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

At the close of the 45-day comment period, and considering all timely and relevant comments

received, OSPR may adopt the proposed regulations substantially as described in this notice. If OSPR makes modifications which are sufficiently related to the originally proposed text, the modified text (with the changes clearly indicated) shall be made available to the public for at least 15 days before OSPR adopts the regulations as revised. Any such modifications will also be posted on OSPR’s website. Please send requests for copies of any modified regulations to the attention of the contact person(s) as indicated above. OSPR will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available on OSPR’s website and may be requested from the contact person(s) named in this notice.

TITLE 16. BOARD OF PHARMACY

**CONCERNING: NOTIFICATION OF
TEMPORARY CLOSURE**

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (board) proposes taking 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 December 13, 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 that person’s 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 4032 and 4312 of the BPC.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, hospital pharmacies, clinics, wholesalers, third-party logistics providers, and outsourcing facilities. The board's mandate and its mission is to protect the public (BPC § 4001.1).

Existing pharmacy law does not establish a requirement for pharmacy licensees to notify the board of a temporary closure of a licensed facility. For the past several years, typically in response to declared disasters, but also in response to construction issues, board licensed facilities must temporarily close. More recently, regrettably, a significant number of pharmacies were damaged or destroyed due to civil unrest. In many cases the damages occurred to several pharmacies in the same region. This can interrupt patient care by limiting access to prescription medication.

This proposal will require each permit holder to notify the board of any temporary closure of a facility as soon as any closure exceeds three consecutive calendar days. Further, it specifies that the closure status will be public information.

ANTICIPATED BENEFITS OF THE
PROPOSED REGULATIONS

Requiring notifications will ensure consistent reporting requirements for businesses licensed by the board and will allow the board to plan inspection activity and ensure licensees, other healthcare practitioners, and consumers have current operational status information when searching for a licensed facility on the board's website. Additionally, the notification will allow the board to maintain a more accurate operational history of its licensees.

CONSISTENCY AND COMPATIBILITY
WITH EXISTING STATE REGULATIONS

While 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: The proposed regulations may result in an increase in reports of facility closures to the board. In 2020, the board received approximately 300 reports of closures.

According to the board, a Staff Services Manager I, Specialist (SSMI) typically takes ten minutes to process each report of closure and ten minutes for each reopening at a cost of approximately \$15 per report or \$30 total (closing and opening), which results in total costs of approximately \$9,000 per year for 300 closures per year.

The proposed regulation will not have an impact on federal funding to the State or other State agencies.

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 determined that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting businesses and/or employees, including the ability of California businesses to compete with businesses in other states. 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 in numerous Board and committee meetings. Additionally, the board determined that the notification can be as simple as an email or a statement faxed or mailed to the board once the facility has been closed for three consecutive days. As a result, no additional costs are anticipated for businesses operating in the state.

Cost Impact on Representative Private Person or Business:

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

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 will not have a significant adverse

economic impact directly affecting small businesses. The board determined that the notification can be as simple as an email or a statement faxed or mailed to the board once the facility has been closed for three consecutive days. As a result, no additional costs are anticipated for businesses.

**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 may impact the health and welfare of California residents. The proposal establishes the requirement for licensees to notify the board when the facility will be closed for more than three consecutive days. This will be public information, which California residents can obtain from our website. This can help ensure that California residents can find an open licensed facility to obtain patient care. The proposal will not impact worker safety or the state's environment.

BUSINESS REPORTING REQUIREMENT

The board finds that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative that it considered to the regulation or that has otherwise been identified and brought to its attention would 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 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, Ste. 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: https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

**TITLE 16. DENTAL HYGIENE
BOARD OF CALIFORNIA**

**REPORTING DENTAL RELATIONSHIPS
BETWEEN REGISTERED DENTAL
HYGIENISTS IN ALTERNATIVE PRACTICE
AND LICENSED DENTISTS, SECTION 1117**

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (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 **5:00 p.m. on Tuesday, December 14, 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

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1905, 1906, and 1930, and to implement, interpret, or make specific BPC sections 1905 and 1930, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

BPC sections 1905 and 1906 authorize the Board to adopt, amend, and revoke regulations to implement the statutory requirements of Article 9 of Chapter 4, BPC sections 1900 through 1967.4, regarding dental hygienists. The Board, a constituent agency within the Department of Consumer Affairs (DCA), regulates registered dental hygienists, registered dental hygienists in alternative practice (RDHAPs), and registered dental hygienists in extended functions (collectively RDHs). The Board’s highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The Board’s core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH educational programs, and monitoring licensees placed on disciplinary probation by the Board.

This proposal would adopt language to define reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services

- **Add Section 1117 to Title 16 of the California Code of Regulations.**

BPC section 1930 requires an RDHAP to provide documentation to the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services. The Board proposes to make BPC section 1930 specific by defining reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services. This proposal will adopt Title 16, section 1117 to provide requirements for RDHAPs to report a relationship to the Board. These will include: (1) providing documentation to the Board upon application of an RDHAP license of a relationship with at least one licensed dentist located in California for referral, consultation, and emergency services; (2) providing documentation to the Board of a current relationship with at least one licensed dentist at every biennial license renewal; (3) reporting any termination of the existing dentist relationship to the Board within 30 calendar days of the termination and providing documentation of establishment of a new relationship with a licensed dentist; (4) requiring that at all times during the relationship between the RDHAP and the dentist, the dentist’s license must be current, active, and not under discipline prohibiting practice by the Dental Board of California (DBC); and (5) requiring termination of the RDHAP–licensed dentist

relationship upon learning of any discipline prohibiting practice of the dentist's license by the DBC.

The proposed regulation would utilize proposed form "Documentation of Registered Dental Hygienist in Alternative Practice (RDHAP) Relationship with Dentist" (Form RDHAP-01 (New 07-2021)) which is incorporated by reference at proposed section 1117(f).

Anticipated Benefit(s) of the Proposed Amended Regulation:

Section 1117 will do the following:

- First, the requirements ensure RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the licensee's practice. This will enhance patient safety and ensure continuity of care for RDHAPs' patients.
- Second, requiring RDHAPs to provide the Board with notice of a current relationship with at least one licensed dentist at every biennial license renewal and in the event of termination will ensure continuity of the dentist relationship.
- Third, requiring that the dentist's license must be current, active, and not under discipline prohibiting practice by the DBC at all times ensures that the dentist is legally able to practice and provide safe, necessary care to patients the RDHAP refers.
- Fourth, requiring termination of the RDHAP-licensed dentist relationship upon learning of any discipline prohibiting practice of the dentist's license will ensure that the RDHAP only maintains a relationship with dentists that provide safe, necessary care to patients.

Determination of Inconsistency and Incompatibility with Existing State Regulations:

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

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

The Board indicates a Staff Services Analyst will take approximately 45 minutes to review and process each RDHAP's document submission, as specified, at a cost of approximately \$66 per submission.

The Board receives approximately 45 initial license applications and 300 renewal license applications per year, which would result in a fiscal impact of \$22,770 per year and up to \$227,700 over a ten-year period.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to any Local Agency or School District for which Government Code Sections 17500 through 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 business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

The proposed regulation would simply define reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services.

Cost Impacts on a Representative Private Person or Businesses:

This proposed regulation will not have any significant adverse economic impact on businesses. This initial determination is based on the following facts:

The proposed form incorporated by reference, Form RDHAP-01 (New 07-2021), incorporates the reporting requirements proposed within the regulation for uniformity of information reported to the Board and requires minor expenditure of effort to complete.

The Board estimates initial RDHAP applicants and renewing RDHAP licensees will take 20 minutes to complete and submit the required documentation at a cost of \$15 per submission. The Board receives approximately 45 initial license applications and 300 renewal license applications per year, which would result in an economic impact of \$5,175 per year and up to \$51,750 over a ten-year period.

Significant Effect on Housing Costs: None.

Business Reporting Requirement:

The regulation will require businesses to file a report with the Board. The change in regulatory language will require the RDHAP to provide documentation to the Board (Form RDHAP-01 (New 07-2021)) of a relationship with at least one licensed dentist located in California (1) upon application of an RDHAP license and (2) at every biennial license renewal. It will also require reporting any termination of the existing dentist relationship to the Board within 30 calendar days of the termination and providing documentation of establishment of a new relationship with a licensed dentist. It is necessary for the health, safety, and

welfare of the people of the state that the regulation apply to businesses.

Results of the Economic Impact Analysis/Assessment:

Impact on Jobs/Businesses: The Board has determined that this regulatory action will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California as the proposed language in the regulation would define reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services.

Benefits of the Proposed Action: This regulatory proposal benefits the health and welfare of California residents as the proposed language in the regulation would clarify RDHAP reporting requirements (1) to ensure the RDHAP has a dental resource to refer their patients for further, more comprehensive treatment outside the scope of the licensee’s practice, thereby increasing safety and ensure continuity of care for the patients of RDHAPs; (2) to require RDHAPs to provide the Board with notice of a current relationship with at least one licensed dentist at every biennial license renewal and in the event of termination will ensure continuity of the dentist/RDHAP relationship; (3) to require that the dentist’s license be current, active, and not under discipline prohibiting practice by the DBC at all times ensures that the dentist is legally able to practice and provide safe, necessary care to patients the RDHAP refers; and (4) to require termination of the RDHAP–licensed dentist relationship upon learning of any discipline prohibiting practice of the dentist’s license will ensure that the RDHAP only maintains a relationship with dentists that provide safe, necessary care to patients.

This regulatory proposal does not benefit worker safety or the state’s environment because it does not affect worker safety or the environment.

Effect on Small Business: The Board has determined that this regulatory action would have a minor impact on small businesses within the State of California as the proposed language in the regulation would define reporting requirements for RDHAPs starting their personal dental hygiene practice to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services. Completion of form RDHAP–01 (New 07–2021) provides for uniformity of information to be reported to the Board and will require expenditure of minimal additional effort to complete.

CONSIDERATION OF ALTERNATIVES

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

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

CONTACT PERSONS

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California
 Attn: Adina A. Pineschi–Petty DDS
 2005 Evergreen Street, Suite 1350
 Sacramento, CA 95815
 Phone: (916) 576–5002
 Email: adina.petty@dca.ca.gov

Backup Contact Person:

Attn: Anthony Lum
 2005 Evergreen Street, Suite 1350
 Sacramento, CA 95815
 Phone: (916) 576–5004
 Email: anthony.lum@dca.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Dr. Pineschi–Petty at the above address. In her absence, please contact the designated back–up contact person.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Dr. Pineschi-Petty at the address above.

AVAILABILITY OF 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 Dr. Pineschi-Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi-Petty at the address above or by accessing the website listed below.

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the ISOR, and all of the information on which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815, or by accessing the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions, the Initial Statement of Reasons, Forms Incorporated by Reference, and the text of the regulations can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

TITLE 27. OFFICE OF
ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986

PROPOSITION 65

AMENDMENT TO SECTION 25705
SPECIFIC REGULATORY LEVELS POSING
NO SIGNIFICANT RISK:

1,3-DICHLOROPROPENE
(ORAL AND INHALATION EXPOSURES)

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to adopt Proposition 65¹ No Significant Risk Levels (NSRLs) for 1,3-dichloropropene by amending Title 27, California Code of Regulations, section 25705(b)². The proposed NSRLs for oral and inhalation exposures to 1,3-dichloropropene are 3.7 micrograms per day.

PUBLIC COMMENTS

To be considered, **OEHHA must receive comments by December 13, 2021**, the designated close of the written comment period. All written comments will be posted on the OEHHA website at the close of the public comment period.

OEHHA strongly recommends that the public submit written information electronically, rather than in paper form. Comments may be submitted electronically through our website at <https://www.oehha.ca.gov/comments>. Comments submitted in paper form may still be mailed (see below), but delays may occur if staff are unable to timely access them.

Esther Barajas-Ochoa
Office of Environmental Health Hazard
Assessment
1001 I Street, 12th Floor
P.O. Box 4010
Sacramento, California 95812-4010
Telephone: 916-322-2068

¹The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq., referred to herein as "Proposition 65" or "The Act."

²All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated.

OEHHA encourages all commenters to submit their comments in a format compliant with the accessibility requirements of the Americans with Disabilities Act, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

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.

PUBLIC HEARING

A public hearing on these proposed regulatory amendments will only be scheduled upon request. The hearing would be web-based due to the COVID-19 emergency³. To request a hearing, send an e-mail to Esther Barajas-Ochoa at esther.barajas-ochoa@oehha.ca.gov or to the address listed above by no later than **November 29, 2021**. If one is scheduled, OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA website at least ten days before the public hearing date. The notice will provide the date, time, and instructions for participating in the hearing.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Esther Barajas-Ochoa at (916) 322-2068, or by e-mail to esther.barajas-ochoa@oehha.ca.gov. Kristi Morioka is a back-up contact person for inquiries concerning processing of this action and is available at (916) 322-5624 or kristi.morioka@oehha.ca.gov.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposition 65 prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual⁴. The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where

such chemical passes or probably will pass into any source of drinking water⁵.

For carcinogens, an exemption from the warning requirement is provided by the Act when the exposure for which the person is responsible can be demonstrated to produce no significant risk, or when a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water⁶. A determination that a level of exposure poses no significant risk may be made utilizing regulations that have previously been adopted by OEHHA (Sections 25701-25721). Section 25701 describes alternative methods for making such a determination. Section 25705 sets forth the process for determining “no significant risk” levels for purposes of Proposition 65 and establishes those levels for certain listed chemicals.

Details on the basis for the proposed NSRLs for 1,3-dichloropropene are provided in the Initial Statement of Reasons for this regulatory amendment, which is available on request from Esther Barajas-Ochoa at esther.barajas-ochoa@oehha.ca.gov and is posted on the OEHHA website at www.oehha.ca.gov.

This proposed amendment to section 25705 would add NSRLs for 1,3-dichloropropene by amending Section 25705(b) as follows (addition in underline):

(b) Chemical name	Level (micrograms per day)
Acrylonitrile	0.7
...	
<u>1,3-Dichloropropene</u>	<u>3.7 (oral)</u> <u>3.7 (inhalation)</u>
...	

To develop the proposed NSRL for 1,3-dichloropropene by the oral route, OEHHA relied on the 1985 National Toxicology Program (NTP) report entitled, “Toxicology and Carcinogenesis Studies of Telone II (Technical-Grade 1,3-dichloropropene [CAS No. 542-75-6] Containing 1.0% Epichlorohydrin as a Stabilizer) in F344/N Rats and B6C3F₁ Mice (Gavage Studies)”⁷. To develop the proposed NSRL for the inhalation route, OEHHA relied on inhalation studies of technical-grade 1,3-dichloropropene conducted

³ Executive Orders N-25-20 and N-29-20.

⁴ Health and Safety Code section 25249.6.

⁵ Health and Safety Code section 25249.5.

⁶ Health and Safety Code sections 25249.9 and 25249.10.

⁷ National Toxicology Program (NTP, 1985). Toxicology and carcinogenesis studies of Telone II (technical-grade 1,3-dichloropropene [CAS No. 542-75-6] containing 1.0% epichlorohydrin as a stabilizer) in F344/N rats and B6C3F₁ mice (gavage studies). TR No. 269. US Department of Health and Human Services, Public Health Service, National Institutes of Health, Bethesda, MD. Available from: https://ntp.niehs.nih.gov/ntp/htdocs/It_rpts/tr269.pdf.

in mice by Stott et al. (1987)⁸. The NSRLs are based upon the results of the most sensitive scientific studies deemed to be of sufficient quality⁹. The derivation of the NSRLs is discussed in more detail in the Initial Statement of Reasons for this proposed regulatory amendment.

Anticipated Benefits of the Proposed Regulation

Some businesses may not be able to afford the expense of establishing an NSRL and therefore may be exposed to litigation for a failure to warn or for a prohibited discharge of the listed chemical. By providing NSRLs, this regulatory proposal spares businesses the expense of calculating their own NSRL and may also enable them to reduce or avoid litigation costs. In addition, the NSRLs do not require, but may encourage, businesses to reduce exposures to the listed chemical to a level that does not cause a significant exposure, thereby providing a public health benefit to Californians. This in turn may reduce resident, worker and environmental exposures to exposure to 1,3-dichloropropene.

No Inconsistency or Incompatibility with Existing Regulations

After conducting an evaluation on any related regulations in this area, OEHHA has found that these are the only regulations dealing with Proposition 65 NSRLs for 1,3-dichloropropene. Therefore, OEHHA has determined that the proposed regulation is neither inconsistent nor incompatible with existing state regulations. The proposed regulation does not impose any mandatory requirements on businesses, state or local agencies and does not address compliance with any other law or regulation.

RESULTS OF ECONOMIC IMPACT ANALYSIS (Gov. Code section 11346.3(b))

Impact on the Creation, Elimination, or Expansion of Jobs/Businesses in California

This regulatory proposal will not affect the creation or elimination of jobs within the State of California. Proposition 65 requires businesses with ten or more employees to provide warnings prior to exposing people to chemicals that are known to cause cancer. The law also prohibits the discharge of listed chemicals into sources of drinking water. 1,3-dichloropropene is listed under Proposition 65; therefore, businesses must provide a warning if their product or activity exposes the public or employees to significant amounts of 1,3-

dichloropropene. The regulatory proposal does not create additional compliance requirements, but instead provides a “safe harbor” value that aids businesses in determining whether a warning is required for a given exposure.

The proposed NSRLs provide compliance assistance to businesses subject to the Act, but do not impose any mandatory requirements on those businesses. Therefore, OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Benefits of this regulation include sparing businesses the expense of calculating their own NSRL and possibly enabling them to reduce or avoid litigation costs. By providing an NSRL, it may encourage businesses to reduce exposures to the listed chemical to a level that does not cause a significant exposure, thereby providing a public health benefit to Californians. This in turn may reduce resident, worker and environmental exposures to 1,3-dichloropropene.

PEER REVIEW

This notice, the proposed regulatory change, and the Initial Statement of Reasons are being provided to the OEHHA Science Advisory Board’s Carcinogen Identification Committee for review and comment¹⁰.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Because Proposition 65 expressly¹¹ does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

⁸Stott WT, Johnson KA, Calhoun LL, Weiss SK, Frauson LE (1987). Telone* II soil fumigant: 2-year chronic toxicity-oncogenicity study in mice. Dow Chemical Company. (DPR Vol. 50046-029, Record No. 060675).

⁹Section 25703(a)(4).

¹⁰Title 27, Cal. Code of Regs., section 25701(e).

¹¹See Health and Safety Code section 25249.11 (b).

COSTS OR SAVINGS TO STATE AGENCIES

Because Proposition 65 expressly¹² does not apply to any State agency, OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

Because Proposition 65 expressly¹³ does not apply to any federal agency, OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs because it provides compliance assistance to businesses subject to Proposition 65 but does not impose any mandatory requirements on those businesses.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

Because the proposed regulatory levels provide compliance assistance to businesses subject to Proposition 65, but do not impose any mandatory requirements on those businesses, OEHHA has made an initial determination that the adoption of 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.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The proposed NSRLs were developed to provide compliance assistance for businesses in determining whether a warning is required, or a discharge is prohibited. The NSRLs provide a level of exposure at or below which a warning is not required, and a discharge is not prohibited. Use of the NSRLs is not mandatory. The implementing regulations allow a business to calculate its own level and provide guidance in order to assist businesses in doing so¹⁴. However, conducting such a process can be expensive

and time consuming, and the resulting levels may not be defensible in an enforcement action. OEHHA 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

OEHHA has determined that the proposed regulation will not impose any mandatory requirements on small business. Rather, the proposed NSRLs will provide compliance assistance for small businesses subject to Proposition 65 because they will help businesses determine whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition of Proposition 65.

CONSIDERATION OF ALTERNATIVES

Government Code section 11346(a)(13) requires that a rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the information upon which the regulation is based, and the text of the regulation. A copy of the Initial Statement of Reasons, the text of the regulation and the documents relied on to develop the proposed regulation are available upon request from OEHHA at the address and telephone number indicated above. These documents are also posted on OEHHA's website at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who

¹² See Health and Safety Code section 25249.11 (b).

¹³ See Health and Safety Code section 25249.11 (b).

¹⁴ Title 27, Cal. Code of Regs., section 25701 et seq.

testified or submitted written comments at the public hearing, if held, or whose comments were received by OEHHA during the public comment period, and anyone who requests notification from OEHHA of the availability of such changes. Copies of the notice and the changed regulation will also be available on the OEHHA website at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons for this regulatory action may be obtained, when it becomes available, from OEHHA at the address and telephone number indicated above, and on the OEHHA website at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING BY THE REAL ESTATE COMMISSIONER: ANNUAL FEE REVIEW — REQUIRED BY STATUTE

Real Estate Commissioner Douglas R. McCauley proposes to consider whether the fees charged by the Department of Real Estate (“DRE”) should be lower than the maximum amount allowed pursuant to California Business and Professions Code (“the Code”) Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011. The Commissioner’s consideration will include all comments, objections and recommendations regarding such fees.

PUBLIC HEARING ANNOUNCEMENT

Sections 10226 and 11011 of the Code require, among other things, that at least one regulation hearing be held each calendar year to determine if fees lower than those authorized under Section 10226.5 (b) of the Code should be prescribed. The hearing referred to below shall serve as the regulation hearing for the purpose of satisfying the requirement of Sections 10226 (a) and 11011(a) of the Code. DRE may present, at this hearing, relevant data compiled by the DRE, and other sources, if appropriate, that have been used or which may be used in making the determination if fees should be lower. There is no proposal to adopt, amend and/or repeal any sections of the California Code of Regulations (CCR) at this time. However, the Commissioner wishes to consider all comments, objections and recommendations regarding such fees.

DRE will hold a public hearing starting at 10:00 a.m., on Tuesday, December 14, 2021, at the DRE’s Sacramento Office, located at 1651 Exposition Boulevard, Sacramento, California. The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

DRE is also making this year’s hearing available online via the Zoom App. Members of the public may register in advance at:

<https://us06web.zoom.us/meeting/register/tZApceuvrj0iGdFgZHLTdmrkJmTVI06-FR9H>.

Registrants will receive a confirmation email with information about joining the meeting.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to DRE’s fee structure. The written comment period closes on December 14, 2021. All written comments must be received by 5:00 p.m. on that date at DRE’s Sacramento Office as follows:

Daniel E. Kehew, Real Estate Counsel
California Department of Real Estate
P.O. Box 137007
Sacramento, CA 95813-7007
Email: DRE.RegComments@dre.ca.gov
Telephone: (916) 576-7842

Backup contact person for this proposed action is Stephen M. Lerner at (916) 576-8100.

DRE will mail or deliver a copy of this Hearing Notice to DRE’s list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with DRE.
2. The Secretary of the Business, Consumer Services and Housing Agency.
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.) DRE has no way of knowing which licensees are small businesses.
4. The California Association of Realtors (a real estate licensee trade organization) and the California Building Industry Association (a home builders trade organization).
5. A substantial number of land developers. Not small businesses by definition, they may, nevertheless, be affected by any fee adjustment. (To restate: This announcement involves no such adjustment.)

DEPARTMENT OF FISH AND
WILDLIFE

CALIFORNIA STATE SAFE HARBOR
AGREEMENT PROGRAM ACT
CONSISTENCY DETERMINATION
NUMBER 2089-2021-001-06

Project: Reintroduction of the Amargosa Vole
(*Microtus californicus scirpensis*) in
Shoshone, California

Location: Shoshone, Inyo County

Applicant: Susan Sorrells

Background

Ms. Susan Sorrells (Landowner) is voluntarily undertaking a federal Safe Harbor Agreement (SHA) for the Amargosa vole (*Microtus californicus scirpensis*) for the purpose of implementing conservation measures for the Amargosa vole through the translocation and reintroduction of the subspecies to suitable habitat on lands owned and managed by the Landowner, and to maintain habitat for the subspecies on Landowner lands. The United States Fish and Wildlife Service (USFWS) issued a federal SHA and a federal 10(a)(1)(A) enhancement of survival permit (No. ES84163D) (Permit) on March 8, 2021, in effect for 30 years. The Permit authorizes take of Amargosa vole that is likely to occur incidental to management actions associated with the translocation and reintroduction of Amargosa vole (Beneficial Management Activities) and other management actions on the Landowner's property. The Beneficial Management activities have been developed with the intent to establish a self-sustaining population of Amargosa voles, providing a net conservation benefit to the subspecies.

The Landowner's property (Enrolled Lands) is located in the community of Shoshone, Inyo County, and consists of two parcels: (1) APN 046-120-26 (220 acres) and (2) APN 046-120-25 (247 acres), totaling 467 acres. While the federal SHA covers the entire 467 acres, Beneficial Management Activities will only occur in approximately 0.5 acres of marsh habitat within the Enrolled Lands where restoration activities have previously been implemented by the Landowner to return the habitat to its natural condition. This area (Core Area) consists of three connected marsh sites on the west side of State Route (SR) 127 near the north end of Shoshone. It is bordered on the east by Old State Highway CA 127 and lies south of the community swimming pool at the Shoshone Trailer RV Park.

The purpose of designating a distinct Core Area within the broader Enrolled Lands is to: (1) authorize incidental take of Amargosa voles in marsh habitat where Beneficial Management Activities will

occur (i.e., Core Area); and (2) authorize incidental take in areas adjacent to the Core Area that may contain suitable habitat but may not be consistently supplied with water from Shoshone Spring, where other management activities will occur, and where Amargosa voles could migrate through or into.

Amargosa voles currently do not occur in Shoshone, although Shoshone is the type locality for the subspecies and is within its historical range. Key factors in the USFWS's determination that the Core Area will serve as high-quality habitat for Amargosa vole reintroduction include:

- It is within the historical range of the Amargosa vole and constitutes a portion of the subspecies type locality;
- It will receive consistent, sufficient, and stable water from Shoshone Spring to support marsh vegetation; and
- It is geographically isolated from disease threats identified in other portions of the subspecies' range.

In November 2013, the Bureau of Land Management (BLM) established an informal ad hoc Amargosa Vole Recovery Team that includes the USFWS, the Landowner, and the Cooperators (California Department of Fish and Wildlife [CDFW], UC Davis, BLM's Barstow field office, and Shoshone Village, as well as UC Berkeley and the United States Geological Survey [USGS]), which has met regularly to identify and characterize threats, and to discuss, advise, strategize, fund and implement recovery actions for the subspecies.

The federal SHA was developed to identify activities the Landowner can implement to promote the conservation and recovery of the Amargosa vole in collaboration with the USFWS and the ad hoc Amargosa Vole Recovery Team partners who will perform vole translocation, monitoring, and research.

These activities are summarized below and are fully described in the following documents:

- Safe Harbor Agreement for the Reintroduction of the Amargosa vole (*Microtus californicus scirpensis*) in Shoshone, California, Susan Sorrells and United States Fish and Wildlife Service (USFWS)
- Safe Harbor Agreement Federal Permit ES84163D. USFWS. Signed March 3, 2021

Covered Activities

Beneficial Management Activities have been designed in a collaborative effort with multiple agencies, organizations and private entities including the Landowner, the USFWS, CDFW, the USGS, UC Davis, and BLM and include the following:

- *Translocation and Reintroduction of Amargosa voles to the Core Area.* The general methods

for translocating Amargosa voles to the Core Area are described in Appendix 2 of the federal SHA. Reintroduction activities are expected to continue for 10 years or longer until a sustainable population of Amargosa voles is established.

- *Restoration Activities.* Restoration activities will continue to be implemented to conserve intact native habitats, to allow for the establishment of native plant species, and to potentially expand the amount of available habitat for the Amargosa vole. Active restoration efforts within the Core Area and near or within the proposed reintroduction sites will include control and eradication of cattail (*Typha latifolia*) growth, planting of Olney's three-square bulrush (*Schoenoplectus americanus*), and monitoring of spring dynamics considered influential to maintaining viable vole habitat.
- *Biological Monitoring and Research Activities.* Biological monitoring for habitat suitability and for the presence of Amargosa voles will be conducted annually for five years from the initiation of reintroduction activities and at minimum of every five years thereafter. The Landowner will also coordinate with the USFWS and the ad hoc Amargosa Vole Recovery Team partners to evaluate translocated populations for density and time to extinction at a target timeframe of every five years post-translocation to ensure that new populations become sustainable and can persist without continual augmentation.
- *Compliance Monitoring Activities.* The USFWS will be allowed reasonable access to the Core Area and broader Enrolled Lands in order to monitor compliance with the implementation of Management Activities and avoidance and minimization measures in the federal SHA.
- *Incidental Take Monitoring and Reporting Activities.* The USFWS and ad hoc Amargosa Vole Recovery Team partners will be allowed reasonable access to the Core Area and broader Enrolled Lands to monitor for incidental take of Amargosa voles, and for reporting of incidental take if and when it occurs.
- *Adaptive Management Actions.* The USFWS and ad hoc Amargosa Vole Recovery Team partners will be allowed reasonable access to the Core Area and broader Enrolled Lands to develop and implement adaptive management protocols and processes.

Other management activities include activities that could occur in the Core Area and activities that could occur outside of the Core Area within the Enrolled Lands.

Other activities within the Core Area include the following:

- Other habitat restoration activities (e.g., trash removal)
- Retiring, maintaining, improving, and creating walking trails for recreational and educational use
- Remedial erosion and flooding management
- Installation of interpretive/educational signage
- Interpretive/educational events
- Maintenance activities for pupfish habitat
- Activities considered to be force majeure (e.g., law enforcement and emergency response including patrols, incident response, human or fish/wildlife injury, or search and rescue of lost visitors)

Other activities that could occur outside of the Core Area but within the Enrolled Lands include those described in the Core Area and also include the following:

- Retiring, maintaining, improving, and creating trails and roads
- Maintaining and improving existing facilities, or creating new facilities such as campgrounds and/or parking lots in previously developed areas
- Law enforcement and emergency response
- Remedial erosion and flooding management
- Limited sampling for research activities, including archaeological investigations and cultural site protection projects
- Recreational activities on approved trails or areas that could include hiking, horseback riding, bicycling, camping, and picnicking activities
- Wildfire fuel modification activities around existing buildings
- Special events
- Continued public use

Consistency Determination Request

The federal SHA is expected to result in a net conservation benefit to the Amargosa vole over the 30-year term by re-establishing a population within their historical range; providing areas where suitable habitat for the Amargosa vole will be maintained, protected, and remain relatively undisturbed; increasing population redundancy within the subspecies' range; and reducing the potential for local extirpation and extinction due to stochastic events (e.g., wildfire, disease) within the subspecies' limited existing occupied habitat, while giving assurances to the Landowner that no additional future regulatory restrictions will be imposed as a result of conservation actions.

On September 15, 2021, the Director of CDFW received a letter from Landowner requesting a

determination pursuant to California Fish and Game Code Section 2089.22 that the federal SHA and its related federal 10(a)(1)(A) enhancement of survival permit are consistent with the California State Safe Harbor Agreement Program Act (CSSHAPA) for Amargosa vole on the Enrolled Lands (Cal. Reg. Notice Register 2021, No. 40–Z, p. 1379).

Determination

CDFW has determined that the federal SHA, including Permit No. ES84163D, with proposed incidental take of the Amargosa vole, is consistent with CSSHAPA because the conservation, avoidance, and minimization measures contained in the federal SHA and its related federal 10(a)(1)(A) enhancement of survival permit meet the conditions set forth in California Fish and Game Code section 2089.6 for authorizing incidental take of species listed under the California Endangered Species Act. Specifically, CDFW finds that: (1) take of the Amargosa vole will be incidental to an otherwise lawful activity; (2) implementation of the federal SHA is reasonably expected to provide a net conservation benefit to the Amargosa vole; (3) the Project will not jeopardize the continued existence of the Amargosa vole; (4) the Landowner has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized by the federal SHA, including returning to baseline conditions; (5) the federal SHA has established an approved monitoring program; (6) CDFW has determined that sufficient funding is ensured to complete surveys on the property and there is sufficient funding to carry out management actions and monitoring for the duration of the federal SHA; and (7) implementation of the federal SHA is not in conflict with a CDFW–approved conservation or recovery program for the Amargosa vole.

Avoidance and Minimization Measures

The avoidance and minimization measures in the federal SHA include, but are not limited to, the following:

- Clearly marked work areas will be established prior to project activities within Amargosa vole habitat;
- Human access to the Core Area will be allowed only when necessary to carry out Management Activities or for recreational use of existing walking trails;
- Existing trails will be used as much as possible to enter the Core Area;
- When existing trails are not available, the Landowner will designate clearly marked footpaths to be used to access the Core Area; and
- Dogs will be kept on leashes at all times, and signs indicating this will be clearly posted in

campgrounds and other public use areas in the Core Area and Enrolled Lands.

Monitoring and Reporting Measures

- The Landowner will coordinate with the USFWS and the ad hoc Amargosa Vole Recovery Team partners to conduct annual habitat assessment surveys in the Core Area for a five–year period following the initial translocation and reintroduction of Amargosa vole. After the annual five–year survey has been fulfilled, surveys will be conducted at a minimum of once every five years for the remainder of the Permit term, or as deemed necessary by the Landowner, USFWS, and the ad hoc Amargosa Vole Recovery Team partners. Surveys will follow the most recent protocols and guidance.
- The Landowner will coordinate with the USFWS and the ad hoc Amargosa Vole Recovery Team partners to conduct annual visual surveys for Amargosa voles in the Core Area for a five–year period following the initial translocation and reintroduction of Amargosa voles. After this five–year survey period has been fulfilled, surveys will be conducted at a minimum of once every five years for the remainder of the Permit term, or as deemed necessary.
- The Landowner will coordinate with the USFWS and the ad hoc Amargosa Vole Recovery Team partners to conduct trapping surveys for population monitoring of Amargosa voles in the Core Area as it is determined to be beneficial for evaluating and managing the establishment of a new population, and as funding appropriation allows. Trapping surveys will be conducted under the auspices of section 10(a)(1)(A) recovery permits that have been previously issued by the USFWS to the ad hoc Amargosa Vole Recovery Team partners, and will implement all avoidance and minimization measures contained in the permits.
- The Landowner will provide an annual report to the USFWS, due January 31 for the prior calendar year, for the duration of the Permit. The annual report should include a summary of all Management Activities and Avoidance and Minimization Measures that were implemented during the period covered by the report, as well as a summary of all results from habitat, visual, and trapping surveys that were conducted.
- The Landowner will allow reasonable access by the USFWS or other agreed–upon parties into the Core Area for purposes related to the federal SHA, including confirmation of Amargosa voles occupying Core Area marsh habitat and the

capture and translocation of Amargosa voles for purposes described in the federal SHA.

Although not a condition of the federal SHA, CDFW requests that the Landowner coordinate with the USFWS and CDFW at regular intervals, agreed upon by all parties, to evaluate and implement potential adaptive management procedures if necessary.

Financial Assurances

Funding of this Agreement will be provided by the Landowner and supplemented, if possible, with any grant funding obtained to assist in defraying the cost of the development and implementation of the federal SHA.

Incidental Take Authorization

Pursuant to Fish and Game Code section 2089.22(a), if a federal SHA is approved pursuant to applicable provisions of federal law and the federal SHA includes species that are both federal and State listed, no further approval under the State Safe Harbor Agreement Program Act (Fish & G. Code, § 2089.2 et seq.) is required for incidental take of those species provided the Landowner implements the Project and future land and water use and management practices as described in the approved federal SHA and CDFW determines the federal SHA is consistent with applicable criteria. Additionally, the Landowner must adhere to all measures contained in the approved federal SHA and comply with other conditions described in the federal 10(a)(1)(A) enhancement of survival permit.

If there are any substantive changes to the federal SHA or if the USFWS amends or replaces the federal 10(a)(1)(A) enhancement of survival permit, the Landowner shall be required to obtain a new consistency determination from CDFW (see generally Fish & Game Code, §§ 2081.1, 2081, subdivisions (b) and (c)). Any CDFW authorization pursuant to Fish and Game Code section 2089.22(a) to take species identified in a federal SHA shall terminate immediately upon the expiration or termination of the federal SHA.

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 **December 16, 2021**, at 10:00 a.m. via the following:

- Video-conference at 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 **December 16, 2021**, at 10:00 a.m. via the following:

- Video-conference at 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.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE SECRETARY OF STATE

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

State Water Resources Control Board
 File # 2021-1007-03
 Waste Discharge Requirement Fees — Winery Process Water

This emergency regulatory action by the State Water Resources Control Board is the annual adjustment to fees assessed to persons issued waste discharge permits. These fees are adjusted each fiscal year to conform to the revenue levels set forth in the Budget Act. Pursuant to Water Code section 13260(f)(2), this action is a statutorily deemed emergency, is not subject to review by the Office of Administrative Law, and shall remain in effect until revised by the state board.

Title 23
 Amend: 2200
 Filed 10/18/2021
 Effective 10/18/2021
 Agency Contact: Glen Osterhage (916) 341-5032

California Gambling Control Commission
 File # 2021-0830-03
 Update for Non-Commission Forms

In this regular rulemaking, the California Gambling Control Commission (the "Commission") is updating references to non-Commission forms.

Title 04
 Amend: 12112, 12114, 12492, 12500, 12503
 Filed 10/18/2021
 Effective 01/01/2022
 Agency Contact: Josh Rosenstein (916) 274-5823

California Prison Industry Authority
 File # 2021-0811-01
 Inmate Pay Rates, Schedule and Movement (Remove the Word Work)

This action by the California Prison Industry Authority (CALPIA) amends Section 8006 to remove the word "work" from phrases in the text and add terms necessary to make clear that inmates in all types of CALPIA assignments are compensated as CALPIA has educational, vocational training, and work programs.

Title 15
 Amend: 8006
 Filed 10/20/2021
 Effective 01/01/2022
 Agency Contact: Moira Doherty (916) 413-1140

Commission on Peace Officer Standards and Training
 File # 2021-0504-02
 Removal of "PAM" from Commission Regulations and Procedures

This proposed rulemaking action by the Commission on Peace Officer Standards and Training eliminates references to the POST Administrative Manual ("PAM"), removes the reference to the Public Safety Dispatchers' Basic Course in section 1059, and revises terminology to improve consistency.

Title 11
 Amend: 1001, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1014, 1015, 1016, 1018, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1070, 1080, 1081, 1082, 1083, 1084, 1950, 1953, 1954, 1955, 1956, 1959, 1960
 Filed 10/15/2021
 Effective 01/01/2022
 Agency Contact: Katie Strickland (916) 227-2802

Department of Corrections and Rehabilitation
 File # 2021-0914-04
 PREA

Consistent with the Prison Rape Elimination Act (PREA), this action amends section 3411 of Title 15 of the California Code of Regulations to specify that employees or contractors of the Department of Corrections and Rehabilitation have a continuing duty to report having engaged in sexual abuse in any prison or other facility and any conviction or administrative or civil determination of having engaged or attempted to engage in sexual activity in the community facilitated by force, threat, or coercion, or where the victim did not or could not consent.

Title 15
Amend: 3411
Filed 10/20/2021
Effective 01/01/2022
Agency Contact: Renee Rodriguez (916) 445-2217

Franchise Tax Board
File # 2021-0907-02
Penalty for Failure to File Return upon Notice and Demand

This action by the Franchise Tax Board (Board) allows the Board to impose the demand penalty allowed by Revenue and Taxation Code section 19133 when taxpayers fail to file a tax return upon notice and demand by the Board. This action allows the Board to impose the demand penalty on individual taxpayers who received a proposed assessment of tax after receiving, and failing to respond to, a request for tax return or a demand for tax return for one of the four taxable years immediately preceding the subject taxable year.

Title 18
Amend: 19133
Filed 10/19/2021
Effective 10/19/2021
Agency Contact: Jay Gottman (916) 845-4576

Public Employment Relations Board
File # 2021-0823-02
Case Processing Procedures and SMCS Update

In this regular rulemaking, the Public Employment Relations Board (the "Board") is updating regulations that govern (1) the circumstances requiring Board members and employees to recuse themselves from proceedings; (2) the filing of exceptions to Proposed Decisions; (3) the use of discovery and motions in formal hearings; and (4) standards for obtaining continuances of a formal hearing. Additionally, the Board is adopting regulations that update the fee structure for facilitation services by the State Mediation and Conciliation Service (SMCS).

Title 08
Adopt: 32312
Amend: 32056, 32060, 32110, 32121, 32140, 32150, 32155, 32170, 32180, 32190, 32205, 32300, 32310, 32720, 32792, 32998, 32999, 93000, 93025, 93030, 93045, 93055, 93070, 93075
Filed 10/20/2021
Effective 01/01/2022
Agency Contact:
J. Felix De La Torre (916) 327-8381

State Lands Commission
File # 2021-0616-02
Marine Invasive Species Program Standards

In this regular rulemaking, the State Lands Commission (the "Commission") is (1) changing the compliance dates for the Commission's interim and final ballast water discharge regulations, (2) incorporating the federal ballast water discharge standards into the Commission's regulations, (3) establishing requirements to monitor the functionality of ballast water treatment systems, (4) prescribing procedures for the Commission to obtain ballast water and sediment samples for research purposes and compliance assessment, and (5) imposing recordkeeping requirements.

Title 02
Adopt: 2295, 2296, 2297
Amend: 2291, 2292, 2293, 2297 (renumbered to 2294)
Repeal: 2294, 2295, 2296
Filed 10/14/2021
Effective 01/01/2022
Agency Contact: Patrick Huber (916) 574-0728

California Horse Racing Board
File # 2021-0907-01
Intra-articular Injections Restricted

This action establishes requirements and restrictions for administering and receiving treatment by intra-articular joint injection.

Title 04
Adopt: 1866.3
Amend: 1588
Filed 10/19/2021
Effective 10/19/2021
Agency Contact: Zachary Voss (916) 263-6036

**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.