



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. DEPARTMENT OF FINANCE

NOTICE OF INTENTION TO AMEND THE
CONFLICT-OF-INTEREST CODE OF THE
DEPARTMENT OF FINANCE

NOTICE IS HEREBY GIVEN that the Department of Finance pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on December 3, 2021 and closing on January 17, 2022. All inquiries should be directed to the contact listed below.

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

Changes to the conflict-of-interest code include changes in assigned reporting categories. The changes will bring the conflict-of-interest code current with the existing organizational structure of the Department of Finance.

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

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than January 17, 2022, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than January 2, 2022.

The Department of Finance has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under

Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Larissa Stockton, Chief of Administrative Services, 916-445-3368 x3402, larissa.stockton@dof.ca.gov.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION 3. ECONOMICS
CHAPTER 1. FRUIT AND VEGETABLE
STANDARDIZATION
SUBCHAPTER 3. EGGS
SECTION 1354. MARKING
REQUIREMENTS

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will 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 before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5334 or by e-mail to michael.abbott@cdfa.ca.gov. The written comment period begins on December 3, 2021 and closes on January 17, 2022. The Department will consider only comments received at the Department by that time. Submit comments to:

Michael Abbott, Supervising Environmental Scientist
Meat Poultry and Eggs Safety Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5062; Fax: (916) 900-5334

AUTHORITY AND REFERENCE

Food and Agricultural Code (FAC) section 14 authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the FAC grants the Department Secretary the authority to amend or repeal rules and regulations.

FAC section 407 authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the FAC which the Secretary is directed or authorized to administer or enforce.

FAC section 27531 specifies, in part, that the director may adopt regulations relating to the preparation for market and marketing of shell eggs as they determine are reasonably necessary to carry out the purposes of the chapter including the requirements for marking containers, displays and advertising of eggs sold in California, or any other matter necessary to accomplish the purpose of this chapter

FAC section 27521 specifies, in part, that the purpose of the chapter is to ensure the orderly marketing of shell eggs in a uniform manner and to prevent the marketing of deceptive or mislabeled containers of eggs.

FAC section 27573 specifies the purposes of the Shell Egg Food Safety Committee which include the quality of shell eggs and uniformity of inspection.

FAC section 27631 provides that it is unlawful to violate any provision of the chapter or any regulation adopted pursuant to it.

FAC section 27637 provides, in part, that it is unlawful for any person to make any statement about the quality, size, weight, source, origin, or any other matter relating to eggs which is false, deceptive or misleading.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action proposed to amend the California Code of Regulations (CCR), Title 3, Division 3, section 1354. Specifically, this rulemaking action clarifies and makes specific the requirements to label consumer containers of eggs as “cage free”.

The Department’s Egg Safety and Quality Management (ESQM) Program is responsible for the regulatory authority for shell eggs and egg products

produced, shipped, or sold in California. This includes the marketing and truth in labeling of shell eggs or egg products.

Benefits of the Proposed Action: This proposed regulatory action will assure the Consumers of California that when they purchase eggs that are labeled “cage free” that they meet minimum standards outlined in the cage free definition. Producers will have a consistent standard applied equally across the industry for eggs sold to California consumers.

CONSISTENCY EVALUATION

The Department has determined that this proposed regulatory action is not inconsistent with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the marketing of shell eggs.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or Savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with the Government Code section 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This is more consistent with the Administrative Procedure Act (APA) language of Government Code section 11346.5(a)(9).

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is: (1) likely that the proposal will not create or eliminate jobs and not eliminate existing business; (2) likely that this proposal will not create new business or expand current business opportunities; (3) likely that this proposal will not lead to the expansion of businesses currently doing business within the state; (4) Also, enhanced

enforcement activities will protect consumers and the industry, and assure that they are provided an accurate and standardized definition of “cage free”. Finally, this proposed rulemaking will have no impact on the general public, protection of public health and safety, worker safety or the environment.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Department has initially determined that the proposed changes to the regulations would have no significant impact directly affecting small businesses. These regulations do not require any additional costs or outputs for small businesses. These regulations do not establish any new limitations on small businesses. All egg producers would be operating under the same regulatory structure with regards to the regulatory changes.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department 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 alternative to not pursue this regulatory action would result in deceptive or fraudulent labeling and an unfair marketing of the eggs. The adoption of a different definition from the one proposed here could cause conflict and confusion as this definition supports the most common understanding of cage free.

CONTACT PERSONS

Michael Abbott, Supervising Environmental Scientist
Department of Food and Agriculture
Animal Health & Food Safety Services Meat, Poultry, and Egg Safety Branch
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5103
E-mail: michael.abbott@cdfa.ca.gov

The backup contact person is:

Andrew Halbert, Staff Services Manager
Department of Food and Agriculture
Animal Health & Food Safety Services
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5372
E-mail: andrew.halbert@cdfa.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Michael Abbott at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at: 2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Michael Abbott at the address or phone number listed previously.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may amend the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Maria Tenorio at the address listed above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Michael Abbott at the address listed previously.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the

regulations in underline and strikethrough can be accessed through the Department's website at: <http://www.cdfa.ca.gov/ahfss/regulations.html>

TITLE 4. ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

NOTICE IS HEREBY GIVEN that the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA" or the "Authority") proposes to amend Sections 10031 through 10036 of Article 2, Division 13, Title 4 of the California Code of Regulations concerning the implementation of the Sales and Use Tax Exclusion Program after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Authority has not scheduled a public hearing on this proposed action. However, a public hearing will be held if any interested person, or his or her duly authorized representative, requests a public hearing to be held relevant to the proposed action by submitting a written request to the Agency Contact Person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Authority. The written comment period for the proposed regulations ends on **January 18, 2022**. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time in order for them to be considered by the Authority.

In the event that substantial changes are made to the regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for fifteen (15) calendar days after the date on which such regulations, as changed or modified, are made available to the public pursuant to Title 1, Chapter 1, Article 2, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

AUTHORITY AND REFERENCE

Authority: Public Resources Code (PRC) Sections 26009 and 26011.8. Revenue and Taxation Code Section 6010.8. Public Resources Code Section 26009

authorizes CAEATFA to adopt necessary regulations relating to its authority established by the Act, and Public Resources Code Section 26011.8 provides the authority to develop the Sales and Use Tax Exclusion Program. Revenue and Taxation Code Section 6010.8 provides CAEATFA the ability to provide financial assistance in the form of a sales and use tax exclusion.

Reference: Section 26011.8 of the Public Resources Code. This regulation will implement, interpret, and make specific Section 26011.8 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA") and requires CAEATFA to establish programs to provide Financial Assistance to Participating Parties for Projects related to alternative energy sources and advanced transportation.

Existing law authorizes CAEATFA to provide a sales and use tax exclusion ("STE") to certain types of manufacturers and recyclers to promote the creation of California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. (PRC Section 26011.8(a).)

Existing law specifies criteria by which CAEATFA shall evaluate Project Applications, including the extent to which the Project will create new, permanent full-time jobs in California; the extent of unemployment in the area in which the Project is proposed to be located; and, to the extent feasible, the extent to which the Project, or the product produced by the Project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by federal or state law or regulation; and any other factors the Authority deems appropriate in accordance with Section 26011.8. (PRC Section 26011.8(d).)

In October 2019, Governor Newsom signed into law Assembly Bill 176 (Cervantes, Chapter 672, Statutes of 2019), which adds to the Application evaluation criteria the extent to which a Project will result in the loss of permanent, full-time jobs in California, including the average and minimum wage for each classification of full-time employees proposed to be hired or not retained. Existing law also limits the amount of STE CAEATFA may grant for each calendar year to \$100 million. (PRC Section 26011.8(h).)

Existing Program regulations establish eligibility and evaluation criteria by which Applications are re-

viewed in accordance with PRC Section 26011.8(d). Current Program regulations provide that CAEATFA will accept Applications on a rolling, first-come-first-serve basis until the Program becomes oversubscribed, and that the Board may limit the number of meetings at which Applications will be considered. As part of the Application, existing Program regulations require Applicants to submit information on the Applicant's business, the proposed Project, and the product(s) to be manufactured.

Previous STE Program regulations limited Applicants to receiving \$20 million in STE per calendar year based on the average statewide sales and use tax rate at the time of application. If any STE from the \$100 million cap was available at the end of the calendar year after all Applications submitted for that calendar year had been considered, capped Applicants were able to submit a revised Application for consideration by CAEATFA to seek additional STE. Previous STE Program regulations required that any STE remaining from the \$100 million cap be split evenly among Applicants CAEATFA approved to receive additional STE.

Now, existing STE Program regulations establish a competitive process whereby Applications are ranked based on specific criteria to determine the order of priority for consideration by CAEATFA if the Program becomes oversubscribed in a given month.

Existing STE Program regulations require approved Applicants to execute a Regulatory Agreement with CAEATFA that sets out the terms of using the award. Previous STE Program regulations required approved Applicants to purchase at least 15% of the total Qualified Property amount approved within one year of approval and did not provide the CAEATFA Board the ability to waive or extend this requirement.

Existing STE Program regulations require Applicants to pay fees to cover the cost of reviewing Applications and administering the Program. Previous regulations required Applicants to pay a \$500 fee for requests for the CAEATFA Board to modify the Regulatory Agreement or authorizing resolution.

For the first time in STE Program history, CAEATFA exhausted the \$100 million STE cap by the July 2019 Board meeting rather than the December CAEATFA Board meeting. Also for the first time, the Program's Competitive Criteria were used to determine which Applicants would be considered. Given the limited resources and recent competitive nature of the STE Program, the CAEATFA Board requested that Staff re-evaluate Program goals and priorities to determine how best to effectuate the purpose of the Program. Additionally, Staff had been identifying lessons learned throughout Program implementation.

At the November 19, 2019, CAEATFA Board meeting, Staff presented proposed amended regulations

reflecting feedback from the CAEATFA Board and Staff's stakeholder outreach. The modified regulations made incremental changes to address more immediate STE Program priorities at the time, while reserving some of the more complex issues for when Staff could take more time to solicit input and thoughtfully consider the issues and policy trade-offs.

After the initial emergency regulations were approved by the Office of Administrative Law and became effective on December 16, 2019, CAEATFA began accepting STE Applications for the 2020 calendar year. By the first application deadline, the STE Program was oversubscribed for the 2020 calendar year. In March 2020, the CAEATFA Board approved 18 Applications, fully awarding the \$100 million in STE. Six Applicants requesting approximately \$10 million in STE remained on the waitlist.

Subsequently, the COVID-19 pandemic spread throughout the world, affecting purchase timeframes, financing, feedstock supply, revenue, construction, and operations for previously approved Applicants. However, the ultimate market impact of the COVID-19 pandemic remains unknown.

Given the significant STE Program and market changes since the December 2019 emergency regulations first took effect, CAEATFA conducted additional stakeholder outreach and discussions to determine what lessons learned could be applied to the regulations going forward. Proposed amended regulations reflecting feedback from the CAEATFA Board and Staff's stakeholder outreach were presented and approved by the CAEATFA Board at the September 15, 2020, CAEATFA Board meeting. The December 2019 emergency regulations expired on October 15, 2020.

The September 2020 proposed Emergency Regulations addressed the STE Program's oversubscription for the last three years, addressed the unprecedented economic impact of the COVID-19 pandemic, and incorporated the lessons learned from program implementation.

After the September 2020 Emergency Regulations took effect on November 4, 2020, CAEATFA began accepting Applications for consideration in calendar year 2021. CAEATFA received 31 Applications by the first deadline of November 20, 2020, for consideration in January 2021, requesting over \$102 million in STE. Given the number of Applications received and the time needed to implement the different pools of STE and the competitive process, the first Applications were considered at the March 2021 CAEATFA Board meeting.

At the March 2021 CAEATFA Board meeting, the CAEATFA Board approved 29 Applications, leaving an estimated STE value of \$7,020,745 in the STE Program's general pool. The Applications considered in March resulted in an oversubscription of the

\$20 million in STE set-aside for small Projects requesting \$2 million or less in STE and a competitive process for that particular pool. The general pool of STE was not oversubscribed based on the complete Applications received by the deadline for consideration, and, therefore, all Applications under that pool were brought before the CAEATFA Board in order of receipt. Subsequently, one of the Applicants approved in March 2021 did not move forward with a Regulatory Agreement with CAEATFA, restoring \$433,011 in STE to the Small-Project Pool.

After the March 2021 CAEATFA Board meeting, CAEATFA had eight Applications in the queue for the remaining 2021 calendar year STE. The remaining STE was awarded to three Applicants at the May 2021 CAEATFA Board meeting. Based on the amount of STE available in both the Small-Project Pool and the general pool, the two complete Applications received by the December 2020 application deadline were considered in order of receipt, with one of the Applicants receiving the remaining STE from the Small-Project Pool. The two Applications received by the January 2021 application deadline were ranked based on the Competitive Criteria, and the Application with the greater point-score was the third and final Application considered at the May 2021 CAEATFA Board meeting. CAEATFA has continued to accept Applications for the 2021 calendar year waiting list, which currently has 15 applications requesting approximately \$56 million in STE.

CAEATFA Staff assessed the benefits and challenges of the regulations modifications, and at the October 19, 2021, CAEATFA Board meeting, the Authority approved modified regulations to improve and streamline the STE Program administration and incorporate lessons learned from Program implementation.

The proposed regulations address the Program's oversubscription for the last three years, the unprecedented economic impact of the COVID-19 pandemic, implement the statutory changes under AB 176, and incorporate lessons learned from Program implementation. The proposed amendments and objectives for each modification are described below.

These regulations incorporate proposed regulations that were initially adopted under the emergency regulation process on November 4, 2020 (OAL File Numbers 2020-1026-02(E) and 2021-0820-04(EE)), as well as modifications that were approved at the October 19, 2021, CAEATFA Board meeting.

The proposed regulations will allow the Authority to continue to offer Financial Assistance to Alternative Source, Advanced Transportation, Advanced Manufacturing, and Recycled feedstock Projects. By promoting these types of Projects the Authority promotes California-based manufacturing, California-based jobs, the reduction of greenhouse gases, and

the reduction of air and water pollution or energy consumption.

Anticipated Benefits of the Proposed Regulation

The broad objective of the regulation is to allow the Authority to continue to offer Financial Assistance to Alternative Source, Advanced Transportation, Advanced Manufacturing, and recycling Projects. By promoting these types of Projects the Authority promotes California-based manufacturing, California-based jobs, the reduction of greenhouse gas emissions, and the reduction of air and water pollution and energy consumption.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

Government Code Section 11346.5(a)(3)(D) requires that the notice of emergency rulemaking include, "[an] evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations." CAEATFA's Staff reviewed the California Code of Regulations and found no existing regulations dealing with this issue. Therefore, CAEATFA believes that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Executive Director of the Authority has made the following determinations regarding the effect of the regulations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The proposed regulations increase Program fees to help cover the costs of ongoing Program operations and maintenance.

Current regulations provide that the Application Fee is not refundable unless an Application is not reviewed by Staff due to the STE Program being oversubscribed. Because the proposed regulations switch the STE Program to specific application periods that will enable CAEATFA to know whether the Program is oversubscribed before a subsequent application period, CAEATFA will no longer accept Applications if there is no STE available to award. Therefore, all Applications will at least be reviewed to determine Competitive Criteria scores. Determining the Competitive Criteria score of an Application requires Staff to review the Qualified Property list, estimated number of employees, and production-related information provided in the Application. To reflect the amount of time spent on this initial review of the Application, the proposed regulations provide that 75% of the Application Fee will be refunded if the Application is (1) reviewed to only determine its Competitive Criteria ranking and (2) not fully reviewed

by Staff due to the Applicant’s Competitive Criteria ranking and the oversubscription of the Statutory Cap.

Current regulations require an Applicant to pay a \$500 fee for any modification made to an existing award (e.g. name changes, award transfers, extension of the timeframe to meet the 15% purchase requirement, and extension of the three–year initial term to purchase all Qualified Property). To adjust the fees to better reflect the amount of time spent reviewing and processing requests for extensions and Board consideration, and to account for the additional years of reporting and administration, the proposed regulations increase the Administrative Fee to \$1,500 for requests to extend the 15% purchase requirement timeframe, to \$2,000 for requests to extend the three–year initial term to use the STE award, and to \$2,250 if an Applicant requests extensions the 15% purchase requirement timeframe and the three–year initial term for consideration at the same CAEATFA Board meeting.

Aside from certain savings for CAEATFA, there are no other costs or savings to any other state agency.

The assumptions for these savings are further explained in an attachment to the Economic and Fiscal Impact Statement, Std. Form 399, which is available for viewing on the CAEATFA website or by contacting the Agency Contact Person.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None.

Other non–discretionary cost or savings imposed on local agencies: None. While the sales and use tax that is excluded could be seen as “lost revenue,” the Program regulations limit the Financial Assistance to those Applications/Projects that are anticipated to have a net fiscal and environmental benefit for the State. Additionally, the proposed regulations do not expand CAEATFA’s authority to provide an STE nor increase the amount of STE that CAEATFA may grant, which is capped by statute.

Cost or savings in federal funding to the state: None.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: The Authority has made the determination that the proposed regulations 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. Participation in the Program is voluntary for California businesses. For those businesses that choose to apply and are awarded a sales and use tax exclusion, the Program provides an incentive, which reduces their capital purchasing costs. In fact, the Authority finds that the proposed regulation will have

a positive effect on certain businesses that are awarded Financial Assistance and on the State’s economy and environment generally as a result of the increased economic activity of Advanced Manufacturing and Recycled Resource Extraction Projects and production of Alternative Source and Advanced Transportation products. This determination is based on a review of the public comments received in previous rulemaking proceedings and analysis performed by the consultant hired by the Authority to assist with the development of the Program.

RESULTS OF ECONOMIC IMPACT ANALYSIS

Creation or Elimination of Jobs within the State of California

The regulations help provide an incentive to California manufacturers and, therefore, are not anticipated to eliminate jobs within the State of California. The Authority finds that the proposed regulations are likely to create an unknown number of manufacturing jobs based on stakeholder comments received and analysis performed by the consultant hired by the Authority to assist with the development of the proposed regulations.

Creation of New or Elimination of Existing Businesses within the State of California

The regulations help provide an incentive to California manufacturers and, therefore, are not anticipated to eliminate existing businesses within the State of California. The Authority finds that the proposed regulations will have a positive effect on certain businesses that are awarded Financial Assistance, including new businesses, based on stakeholder comments received and analysis performed by the consultant hired by the Authority to assist with the development of the proposed regulations but are unlikely to significantly affect the creation of new businesses within the State of California.

Expansion of Businesses Currently Doing Business within the State of California

The Authority finds the proposed regulations will have a positive effect on certain businesses that are awarded Financial Assistance, including businesses currently doing business within the State of California, based on stakeholder comments received and analysis performed by the consultant hired by the Authority to assist with the development of the proposed regulations. This determination is unquantifiable at this time.

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

The regulations may benefit the health and welfare of California residents and the State’s environment by

incentivizing Advanced Manufacturing, recycling, and the manufacturing and production of Alternative Source products and Advanced Transportation technologies. The development of such manufacturing projects in California is anticipated to benefit the health and welfare of California residents and the State's environment through reduction of waste, emissions, and fuel and energy consumption. The regulations may also benefit worker safety by incentivizing the deployment of advanced manufacturing systems and techniques that could provide a safer work environment.

Cost impact on a representative private person or business: The Authority is not aware of any cost impacts that a representative private person would incur as a result of compliance with the proposed action. Business entities applying for the Program would incur costs associated with applying for financial assistance and complying with the proposed regulations, however, these costs would constitute a small fraction of the amount of Financial Assistance awarded.

Small Business: The proposed regulations will not have an adverse impact on small businesses in California and will not affect small businesses since the proposed regulations do not impose additional restrictions or costs on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13) the Authority must determine that no reasonable alternative to the regulations considered by the Authority or that have otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the regulations are 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 person and equally effective in implementing the statutory policy or other provision of law.

The Authority invites interested persons to present statements with respect to alternatives to the regulations during the written comment period.

AGENCY CONTACT PERSON

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

Matthew Jumps, Analyst
CAEATFA
915 Capitol Mall, Room 538
Sacramento, California 95814
Telephone: 916-651-5103
Email: mjumps@treasurer.ca.gov

The backup contact is:

Ashley Emery, Program Manager
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915 Capitol Mall, Room 538
Sacramento, California 95814
Telephone: 916-651-5100
Email: aemery@treasurer.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF THE PROPOSED REGULATIONS

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 801 Capitol Mall, Room 220, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the Regulations. Copies of these items are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at: <https://www.treasurer.ca.gov/caeatfa/ste/regulations/index.asp>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the public hearing and the written comment period ends, the Authority may adopt the regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed regulations, as modified. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

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

All the information upon which the proposed regulations are based, including studies or documents relied upon, is contained in the rulemaking file, which is available for public inspection by contacting the Agency Contact Person designated in this Notice. Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or at the Authority's website at <https://www.treasurer.ca.gov/caeatfa/ste/regulations/index.asp>.

**TITLE 4. HEALTH FACILITIES
FINANCING AUTHORITY**

The California Health Facilities Financing Authority (Authority or CHFFA) proposes to adopt the regulation amendments described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

The Authority has not scheduled a public hearing on this proposed action. However, the Authority will 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 before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Authority. Comments may also be submitted by email at chffa@treasurer.ca.gov. The written comment period closes at 5:00 p.m. on January 20, 2022. The Authority will consider only comments received by the Authority office by that time and date. Please submit comments to:

Bianca Smith
Program Manager II
California Health Facilities Financing Authority
915 Capitol Mall, Room 435
Sacramento, CA 95814
(916) 653-2408

Following the written comment period, the Authority may thereafter adopt the proposed regulations substantially as described below or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the

exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposed regulations will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at www.treasurer.ca.gov/chffa/imhwa/index.asp. Additionally, all information that the Authority considered as the basis for these proposed regulations is available for public reading/perusal at the address listed below.

Following the public comment period, copies of the Final Statement of Reasons will be available from the office listed below:

California Health Facilities Financing Authority
915 Capitol Mall, Room 435
Sacramento, CA 95814
Telephone: (916) 653-2799
Email: chffa@treasurer.ca.gov

AUTHORITY AND REFERENCE CITATIONS

The Authority adopts these regulations under the authority granted in Sections 5848.5 and 5848.6 of the Welfare and Institutions Code, and cites the following reference: Section 5848.5 of the Welfare and Institutions Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Authority was established in 1979 and operates pursuant to the California Health Facilities Financing Authority Act in the Government Code Sections 15430-15463.

Welfare and Institutions Code (WIC) Section 5848.5 was expanded with the passage of SB 833 (Chapter 30, Statutes of 2016, Section 20) to charge the Authority with the responsibility for development of regulations to establish specific selection criteria for Grant awards, define eligible costs, and determine minimum and maximum Grant amounts for the purpose of increasing capacity for:

- a. Crisis stabilization
- b. Crisis residential treatment
- c. Mobile crisis support teams
- d. Family respite care

for children and youth ages 21 years and under and/or their families as appropriate (WIC Section 5848.5, subdivisions (f)(1) and (f)(2)).

The Legislature also charged the Authority, through Section 5848.5, subdivisions (b)(8)(D) and (b)(8)(E) to ensure that the objectives of adding “at least 200 mobile crisis support teams” and “at least 120 crisis stabilization services and beds and crisis residential treatment beds to increase capacity at the local level” is achieved.

To comply with the statutory mandate, these regulations provide the framework for eligible parties to apply for grant funds to expand mental health crisis services for children and youth ages 21 years of age and under, throughout California. These regulations include relevant definitions, descriptions of eligible applicants, projects, costs, maximum grant amounts by county, the application process, the evaluation criteria the Authority will use to make grant award determinations, the process by which allocations will be made, the terms and conditions grant recipients will need to agree to, and other provisions related to the administration of the Program. Emergency regulations were submitted to the Office of Administrative Law (OAL). OAL approved the emergency regulatory action that became effective on November 26, 2018. The Certificate of Compliance was completed and filed with the Secretary of State on May 20, 2019.

The regulations now being proposed will redefine the term “Application” to (1) delete reference to the written Application, Form Number CHFFA 7 CY-01 (09/2018), and (2) refer only to an online Application, Form Number CHFFA 7 CY-01A (11/2021). Other changes have been made to the regulations to delete procedures applicable to the submission of the written Application and establish the online Application as the only recognized Application for requesting Grant funds.

No changes have been made to the information requested in the online Application. The formatting of the online Application appears different as “drop-down boxes” requesting specific information only appear when the Applicant is required to provide such information based on specific factors, including but not limited to:

1. Is the Application for “Counties Applying Jointly”? If so, additional information on the co-applicant(s) such as county(ies) names, addresses, and contact information is required.
2. “Programs to be funded with Grant” – Three programs are currently available for Grant funding: specifically, Crisis Residential Treatment (CRT), Crisis Stabilization and Mobile Crisis Support Teams. Applicants may request funding for one, two, or all three programs. For each program for which funding is requested, Applicants are required to identify the specific amount of funding requested for eligible costs, such as purchase of property, construction/

renovation, furnishings and equipment, etc. “Drop-down boxes” will only appear for the program(s) for which funding is requested. For example, if an Applicant is not applying for Grant funds for a CRT Program, the request for specific information regarding funding for a CRT Program will not appear on that Applicant’s Application screen.

3. The written version of the Application, Form Number CHFFA 7 CY-01 (09/2018) limited the narrative portion of the Application to 25 pages in 12 point font. The online Application does not contain any language limiting the narrative portion. The only limitation in the online Application is the Summary Information. The “Project Brief Summary Description” is limited to 300 characters.

The online Application is part of a grant management software platform that will allow CHFFA to track and manage all aspects of each grant, including reviewing and scoring of Applications, disbursement forms, and submission of supporting documents and closeout forms, thus eliminating the reliance on hard-copies. As all elements of the Grant program are shifted to “paperless” there will be benefits in caseload management as it will be easy to transfer grants between staff as well as entire grant caseloads when a staff member leaves CHFFA, or when teleworking requirements are in place.

CHFFA has implemented the submission of Applications online in two other programs: the Bond Financing Program and the HELP II Loan Program. CHFFA will be gradually converting all programs under its auspice to online Applications.

DOCUMENTS INCORPORATED BY REFERENCE

Investment in Mental Health Wellness Grant Program for Children and Youth Application, Form Number CHFFA 7 CY-01A (11/2021)

STATEMENT OF NECESSITY

Section 7313 — Definitions

This section provides definitions for terms. The definition for subsection (b), “Application” is being amended to eliminate reference to the Investment in Mental Health Wellness Grant Program for Children and Youth Application, Form Number CHFFA 7-CY-01 (09/2018). By definition, the term “Application” will only refer to the online request for a Grant, referred to as the Investment in Mental Health Wellness Grant Program for Children and Youth Application Form Number CHFFA 7 CY-01A (11/2021), which is being incorporated into the regulations by reference. Form

Number CHFFA 7 CY-01A (11/2021) will be the only acceptable Application by which Applicants may request Grant funds.

Section 7316 — Grant Application

This section is being amended to remove reference to the written request for a Grant, specifically, the Investment in Mental Health Wellness Grant Program for Children and Youth Application, Form Number CHFFA 7-CY-01 (09/2018) as well as the procedures for submitting this form to the Authority.

The proposed regulations reference only the online Application and provide Applicants with information, including but not limited to: (1) availability of the Application; and (2) the Authority is not responsible for transmittal delays/failures.

AN EVALUATION OF WHETHER OR NOT
THE PROPOSED REGULATIONS ARE
INCONSISTENT OR INCOMPATIBLE WITH
EXISTING STATE REGULATIONS

The Authority evaluated whether or not there were any other regulations concerning the use of an online Application. The only other Grant program that exists for the purpose of providing funds to counties or Counties Applying Jointly for the provision of crisis mental health services is the Investment in Mental Health Wellness Grant Program that provides Grant funds for programs and services to meet the mental health needs of eligible individuals. This program was established in 2013, SB 82 (Chapter 34, Statutes of 2013, Section 21), and codified in WIC Section 5848.5 to increase capacity for client assistance and services in crisis intervention, crisis stabilization, crisis residential treatment, rehabilitative mental health services, and mobile crisis support teams. This program is no longer accepting applications as the funding allocated to this specific program has been depleted.

Both Grant programs are under the auspice of CHFFA. The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DESCRIPTION OF THE BENEFITS OF THE
PROPOSED ACTION WHICH INCLUDES
NONMONETARY BENEFITS SUCH AS
PROTECTION OF THE PUBLIC HEALTH
AND SAFETY, WORKER SAFETY, THE
ENVIRONMENT, ETC.

The Investment in Mental Health Wellness Act of 2013, was expanded in 2016 to specifically address a continuum of crisis services for child and youth, 21 years of age and under, regardless of where they live

in the state. The regulations provide the mechanism whereby Grants from CHFFA are disbursed to California counties or to their nonprofit or public agency designees to support capital improvement, expansion and limited start-up costs to fund four mental health programs – crisis residential treatment, crisis stabilization, mobile crisis support teams, and family respite care specific to children and youth, 21 years of age and under, and their families.

The proposed regulations amend only two sections of the regulations, Section 7313, Definitions and Section 7316, Grant Application. The amendments are necessary to establish the online Application as the only Application applicable to the Investment in Mental Health Wellness Grant Program for Children and Youth. Section 7316, Grant Application is amended to delete reference to the written Application and amend subsections (d) to be applicable only to the online Application. The ability to submit Applications online provides advantages to Applicants that include, but are not limited to the following:

1. Reduces the administrative burden by allowing Applicants to import responses to similar questions from previous internal applications and upload budget spreadsheets instead of cutting and pasting data into an online application.
2. Facilitates those partnership applications in which two or more counties (“Counties Applying Jointly”, defined in Section 7313(j) as counties that submit an Application together to deliver crisis services.) and their nonprofit designated grantees can collaborate in filling out the Application, by giving all parties access to the Application.
3. Provides an instant response that the Application has been submitted and does not necessitate follow ups to ensure that the Application has been received by the Authority in a timely manner.

COST ESTIMATE

1. Cost or Savings to State Agencies: No impact.
2. Cost to Local Agencies or School District Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No impact.
4. Federal Funding to State Agencies: No impact.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. There are no “state-mandated local costs” in these regulations which

require reimbursement under Section 17500 et seq. of the Government Code.

FISCAL IMPACT

These regulations do not impose any costs to any local agency or school district requiring reimbursement pursuant to section 17500 et seq. of the Government Code, nor do these regulations identify any costs or savings to any state agency, other nondiscretionary costs or savings to be imposed upon local agencies, or costs or savings in federal funding to the state.

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

CHFFA has not identified any significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT**

The adoption of these regulations does not have an impact on the creation or elimination of jobs within the state. As a result of the adoption of these regulations, new businesses will not be created, and current businesses will not be eliminated within the state. The adoption of these regulations will not provide for the expansion of businesses currently doing business within the state. Additionally, neither benefits nor detriments are expected to worker safety or the state's environment due to the adoption of these regulations.

The impact of these regulations is only to those counties and Counties Applying Jointly applying for Grant funds, as the written Application is being eliminated and requests for Grant funds shall be made using the online Application as defined in Section 7313, subsection (b).

**COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS**

The only entities that may apply for Grant funds under the Investment in Mental Health Wellness Act of 2013 for Children and Youth are counties, Counties Applying Jointly, or a private nonprofit corporation or public agency designated as a co-Applicant by either a county or Counties Applying Jointly. Therefore, CHFFA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT

The regulations will not affect small businesses as these regulations are specific to counties, Counties Applying Jointly, and private nonprofit corporations or public agencies if designated by a county or Counties Applying Jointly to be a co-Applicant with a county or Counties Applying Jointly.

CONSIDERATION OF ALTERNATIVES

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

In developing the regulatory action, the Authority itself did not consider any alternatives because no reasonable alternatives have been presented to it. The Authority invites interested persons to submit comments and alternatives with respect to the proposed regulations during the public comment period.

**CHFFA REPRESENTATIVE
REGARDING THE RULEMAKING
PROCESS OF THE PROPOSED REGULATIONS**

Contact Person: Bianca Smith (916) 653-2408
Backup: Sondra Jacobs (916) 651-0032

**TITLE 8. OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

**CHAPTER 3.5. SUBCHAPTER 1
SECTION 411
APPLICATIONS FOR
PERMANENT VARIANCES**

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

PLEASE NOTE: In accordance with section 11133 of the Government Code, the January Board Meeting will be conducted via teleconference.

The Board will hold a public hearing starting at 10:00 a.m. on **January 20, 2022** 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 this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **December 3, 2021** and closes at 5:00 p.m. on **January 20, 2022**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code section 143.2 establishes the Board's authority to adopt, amend, or repeal rules of practice and procedure pertaining to hearings on applications for permanent variances, variance appeals, and other matters within its jurisdiction. The proposed regulation will implement, interpret, and make specific the provisions of Labor Code section 143.2.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Pursuant to Labor Code section 143.2, the Board has adopted a number of regulations that govern Board consideration of permanent variances and appeals from temporary variances from occupational safety and health standards. These regulations govern the Board's procedures for filing an application for a permanent variance, prehearing proceedings, and the hearing and decision process. The Board has determined that one of these regulations, related to the filing of a variance application, requires a change in order to update and modernize the permanent variance application process for those reasons and benefits described below.

The Board proposes to amend section 411 by allowing employers to file one variance application (instead of one original and six copies) and one copy of any photographs, blueprints, or other illustrative materials (instead of six), due to the feasibility and ease of electronic copy distribution. Rather than mailing out physical copies of applications mailed by an applicant to the Board, the Board may scan a single copy and provide access to the document via online storage or email. The elimination of the requisite six copies saves printing and shipping costs for the applicant.

The Board evaluated the proposed amendments pursuant to Government Code section 11346.5, subdivision (a)(3)(D) and has determined that the changes to the regulation are not inconsistent or incompatible with existing state regulations.

Section 411 is a state regulation that is part of a federal system of occupational safety and health regulations that requires: (1) state regulations to be at least as effective as their federal counterparts; and (2) all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board). Therefore, this proposal is intended to ensure consistency and compatibility with that system's component regulations.

Anticipated Benefits

The Board's objective in the change in rule is to make the application process less burdensome and expensive for applicants by requiring only one, rather than six, copies of an application be submitted to the Board.

The proposed change has a number of benefits. A single application is less costly to print and ship for the applicant, and requiring one application rather than six copies will result in fewer applications being rejected for failing to provide the requisite number of copies. The result is that the process becomes easier for parties to navigate. The change will also require the Board dedicate less physical space to filing and storing hardcopy variance applications, as only one, rather than six, copies of each application will be sent to the Board. Amending the regulation to require that only one variance application and one copy of illustrative materials be submitted will reduce delays in processing variance applications and modernize the regulation consistent with current practices.

The specific changes are as follows:

Section 411. Applications for Permanent Variances.

Section 411 specifies the requirements for permanent variance applications.

In subsections (b) and (b)(9), the Board proposes to allow employers to submit one variance application (instead of one original and five copies) and one copy of any photographs, blueprints, or other illustrative materials (instead of six). Due to advancing technology, the Board can scan and electronically distribute the

applications to various individuals involved in the evaluation and review process.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

Mandate on Local Agencies or School Districts: None.

Cost or Savings to State Agencies: None.

Cost to Any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

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

Cost Impact on a Representative Private Person or Business:

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

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

The proposed amendment will have no effect on the regulated public. Permanent variance applicants are already adhering to this requirement; the amendment will simply reduce the number of copies required when submitting variance applications and illustrative materials.

Significant Affect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments will not affect small businesses. There is no negative economic impact anticipated, since the amendments eliminate the copy requirement for permanent variance applications and reduce the requirement of six copies to one copy for other materials.

**RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

This rulemaking action will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion

of existing California businesses. The amendments will reduce the number of copies required when submitting variance applications and illustrative materials, which will ultimately provide a benefit to the state's environment. Amending the regulation to require that only one variance application and one copy of illustrative materials be submitted will reduce delays in processing variance applications, which will benefit the health and welfare of California residents and worker safety by guaranteeing elevators are installed and permitted in a timely manner.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed 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 than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the back-up contact person, Lara Paskins (Staff Services Manager) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Shupe or Ms. Paskins at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Ms. Paskins at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shupe or Ms. Paskins at the address or telephone number listed above or via the internet.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

TITLE 11. DEPARTMENT OF JUSTICE

DIVISION 5. FIREARMS REGULATIONS
CHAPTER 3. CERTIFICATES OF
ELIGIBILITY AND CHAPTER 11. FIREARM
PRECURSOR PARTS

The Department of Justice (Department) proposes to amend sections 4031, 4035, 4036 of Title 11, Division 5, Chapter 3 and adopt sections 4300, 4301, 4310, 4311, 4312, 4313, and 4314 of Title 11, Division 5, Chapter 11 of the California Code of Regulations concerning firearm precursor part vendor licenses.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written

request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on January 18, 2022 at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Kelan Lowney
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2377
bofregulations@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Penal Code sections 26710, 30485, 30490, and 30495.

Reference: Penal Code sections 16532, 26700, 26710, 30400, 30405, 30406, 30412, 30414, 30442, 30445, 30447, 30448, 30450, 30452, 30454, 30470, 30485, 30490 and 30495

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Existing law generally limits the sale of ammunition to a person whose information matches an entry in the Automated Firearms System and who is eligible to possess ammunition, to a person who has a current certificate of eligibility issued by the Department, or to a person who purchases or transfers the ammunition in a single ammunition transaction. The sale or transfer of ammunition is generally required to be conducted through a licensed ammunition vendor. A person or business must have a valid ammunition vendor license to sell more than 500 rounds of ammunition in any 30-day period.

In 2019, the Legislature passed Assembly Bill (AB) 879 (Chapter 730, Statutes 2019) to require firearm precursor parts to be sold or transferred through a licensed firearm precursor part vendor in a similar process to the laws governing ammunition purchases.

It would further create a registry of these vendors and a new crime for, among other things, the transfer of firearm precursor parts without the involvement of a licensed firearm precursor part vendor.

Beginning April 1, 2022, AB 879 requires the Department to begin accepting applications for firearm precursor part vendor licenses. AB 879 requires each firearm precursor part vendor to have a valid Certificate of Eligibility and prohibits the firearm precursor part vendor, agent, or employee from handling, selling, delivering, or having in their custody and control a firearm precursor part unless that person has obtained a Certificate of Eligibility from the Department.

Commencing July 1, 2022, state law will generally limit the sale of firearm precursor parts to: (1) an individual who is exempt from Department approval; (2) an individual whose information matches an entry in the Automated Firearms System and who is eligible to possess a firearm; (3) an individual who has a valid Certificate of Eligibility issued by the Department; or (4) an individual who purchases or transfers the firearm precursor part in a single transaction and is eligible to possess a firearm. It will also require the transfer and sale of firearm precursor parts to be conducted by a licensed firearm precursor part vendor. Further, it will generally require a person or business to have a valid firearm precursor part vendor license to sell more than one firearm precursor part in any 30-day period.

Effect of the Proposed Rulemaking:

The proposed regulations would enable firearm precursor part vendors to comply with statutorily-mandated licensing requirements for the sale of firearm precursor parts by establishing application and renewal requirements and the timeframe for submitting updated permit and license information to the Department.

Anticipated Benefits of the Proposed Regulations:

Generally, these regulations protect public health and safety because they provide the basis for the July 1, 2022 implementation of restrictions on the transfer and sale of firearm precursor parts. Currently, people who are prohibited from possessing a firearm are able to lawfully purchase precursor firearm parts off the Internet and then can build a homemade firearm. By implementing a new licensing structure for firearm precursor part vendors pursuant to AB 879, these regulations help keep firearms out of the hands of those prohibited from possessing firearms.

Specifically, the proposed regulations would enable firearm precursor part vendors in California to comply with statutorily-mandated licensing requirements for the sale of firearm precursor parts beginning April 1, 2022. Future rulemaking would establish regulations to implement provisions of AB 879 that require a background check on firearm precursor part purchasers beginning July 1, 2022.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations. However, the United States Department of Justice's Bureau of Alcohol, Tobacco and Firearms and Explosives (ATF) has recently proposed regulations that, for purposes of the federal Gun Control Act, would expand the definition of firearms to include unfinished frames and receivers. (Docket Number ATF 2021R-05; AG Order Number 5051-2021.)

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern firearm precursor parts.

Forms Incorporated by Reference:

1. Application for Firearm Precursor Part Vendor License (Non-Firearms Dealer or Ammunition Vendor), BOF 1106 (Orig. 04/2022).
2. Firearm Precursor Part Vendor License Renewal Fee Transmittal, BOF/PPV 0012 (Orig. 07/2022).

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The Department estimates that its costs to license firearm precursor part vendors will be \$5,069 each year. The Department will recover its costs from an annual licensing fee of \$101 that will be paid by an estimated 50 firearm precursor part vendors that are not also firearms dealers or ammunition vendors, which are both automatically deemed firearm precursor part vendors. The Department anticipates the licensing fee will generate annual revenue in the amount of \$5,050.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on representative person or business: Firearm precursor part vendors who are not also firearms dealers or ammunition vendors will be subject to a fee of \$101 at the time of application and every July 1, or the next business day.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete: The Department has made an initial determination that the proposed action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Assessment (EIA):

The Department has determined that it is (1) unlikely that the proposal would create or eliminate jobs within the state, (2) unlikely that the proposal would create new businesses or eliminate existing businesses within the state, and (3) unlikely that the proposal would result in the expansion of businesses currently doing business within the state.

Benefits of the proposed action:

- (1) Generally, these regulations protect public health and safety because they provide the basis for the July 1, 2022 implementation of restrictions on the transfer and sale of firearm precursor parts. Currently, people who are prohibited from possessing a firearm are able to lawfully purchase firearm precursor parts off the Internet and then can build a homemade firearm. By implementing a new licensing structure for firearm precursor part vendors pursuant to AB 879, these regulations help keep firearms out of the hands of those prohibited from possessing firearms.

Specifically, the proposed regulations would enable firearm precursor part vendors in California to comply with statutorily-mandated licensing requirements for the sale of firearm precursor parts beginning April 1, 2022. Future rulemaking would establish regulations to implement provisions of AB 879 that require a background check on firearm precursor part purchasers beginning July 1, 2022.

- (2) The proposal does not directly benefit worker safety.
- (3) The proposal does not directly benefit the environment.

Business report requirement: None.

Small business determination: The Department has determined that the proposed action affects small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has been brought to the attention of the Department would be more effective in carrying out the purpose for which this action is

proposed or would be as effective and less burdensome to affected private persons than this proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that the proposed regulations are the most effective way to implement a firearm precursor part vendor licensing program. The proposed regulations are modeled after existing regulations governing the licensing of ammunition vendors. By modeling existing processes, the proposed regulations efficiently implement AB 879 in a way that is already familiar to the regulated community.

CONTACT PERSONS

Inquiries concerning this proposed administrative action may be directed to:

Kelan Lowney
 Department of Justice
 P.O. Box 160487
 Sacramento, CA 95816
 (916) 210-2377
bofregulations@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Timothy Mulligan
 Department of Justice
 P.O. Box 160487
 Sacramento, CA 95816
 (916) 210-2153
bofregulations@doj.ca.gov

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the “express terms” of the regulations), program forms, the Initial Statement of Reasons, Economic and Fiscal Impact Statement (STD 399), and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, program forms, the Initial Statement of Reasons, and any information upon which the

proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/firearms/regs>. Please refer to the contact information listed above to obtain copies of these documents.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this Notice or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department 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, a copy of the Final Statement of Reasons will be available on the Department's website at <https://oag.ca.gov/firearms/regs>. Please refer to the contact information listed above to obtain a written copy of the Final Statement of Reasons.

**AVAILABILITY OF
DOCUMENTS ON THE INTERNET**

Copies of this Notice, the express terms, program forms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/firearms/regs>.

**TITLE 15. DEPARTMENT
OF CORRECTIONS AND
REHABILITATION**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to amend Sections 3000, 3269, 3269.1 and 3375.2, and to adopt Sections 3269.2, 3269.3 and 3269.4 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, regarding Inmate Housing and Program (SNY/NDPF).

PUBLIC COMMENT PERIOD

The public comment period begins **December 3, 2021** and closes on **January 21, 2022**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code Section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

CONTACT PERSONS

Primary Contact

Renee Rodriguez
Telephone: (916) 445-2220
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (916) 445-2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Steve Jimenez
Telephone: (916) 324-7956
Division of Adult Institutions
P.O. Box 942883
Sacramento, CA 94283-0001

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050**

provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend Sections 3000, 3269, 3269.1 and 3375.2, and to adopt Sections 3269.2, 3269.3 and 3269.4 of the California Code of Regulations (CCR) Title 15, by which custodial staff process and review inmate placement and designation for Sensitive Needs Yard (SNY) and Non-Designated Programming Facility (NDPF) housing.

The department's Sensitive Needs Yard (SNY) designation policy was implemented in 1999 and originally intended to house inmates designated with 'sensitive-needs' separate from the general population based on documented and verified information that presented a need for safety or security of the inmate. The current departmental SNY designation policy does not require custody staff to evaluate or verify if an inmate requesting SNY designation has safety concerns. Rather, a classification committee approves an inmate's SNY designation upon their request, as current departmental policy directs staff to take a liberal approach when approving SNY designation. The current designation processes have contributed to the growth of the inmate SNY population. In addition to the increase of the inmate SNY population, the department witnessed a substantial increase in violent incidents within the inmate SNY population, including the inception of SNY gangs and gang activity.

The department has developed proposed regulations to establish inmate SNY designation and the establishment of a more inclusive housing model,

called the Non-Designated Programming Facility, supporting rehabilitation objectives and societal expectations, while mitigating labels that create division. The proposed regulations specify criteria to deny an inmate's request for SNY designation or remove an inmate's SNY designation. The proposed regulations provide that the department may deny or remove an inmate from SNY designation when the inmate's uncorroborated personal report, the nature of their commitment offense, incarcerated behavior, or a record of their prior designation and housing, or their current designation and housing, is the primary basis for inmate's SNY designation and placement.

The establishment of Non-Designated Programming Facility (NDPF) is predicated on equal access for all inmates, regardless of SNY or Non-SNY designations. The NDPF mission is to provide a departmental environment for inmates to participate in enhanced programming and job opportunities, free from the influence of gang pressure and criminal activity. NDPF is defined as an integrated housing facility or institution established for inmates demonstrating a willingness to participate in rehabilitative programs and conform to departmental policies.

The proposed regulations establish criteria to provide the department with the means to exclude or remove an inmate from NDPF. The proposed criteria for excluding or removing an inmate from NDPF placement is when an inmate either commits a violent act listed under CCR section 3341.9(e)(1)-(3) or (9), or commits any serious offense on behalf of a gang. The objective of the proposed criteria is to ensure the safety of NDPF inmate population and protect the overall integrity of the NDPF mission.

This action will:

The purpose of this regulatory action is to establish inmate Sensitive Needs Yard designation and the establishment of a more inclusive housing model, called the Non-Designated Programming Facility, supporting rehabilitation objectives and societal expectations, while mitigating labels that create division.

DOCUMENTS INCORPORATED BY REFERENCE

None.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The proposed regulatory action will have an immediate benefit to inmates and staff alike, by establishing uniform criteria for the process by which the department manages the Sensitive Needs Yard

(SNY) and Non-Designated Programming Facility (NDPF) inmate population.

The proposed SNY regulations provide the department with uniform criteria to manage the increase in violence and gang behavior on SNY facilities. This will be accomplished by approving SNY designation by identifying only those inmates with documented and verified systemic safety concerns. Conversely, this criteria will benefit those SNY designated inmates by denying or removing inmates who genuinely do not have systemic safety concerns.

The proposed NDPF regulations provide inmates with the opportunity of lower-security level institutions and provide enhanced personal freedom of movement, improved access to rehabilitative programs, and successful reintegration upon their return to society. By proposing regulations for NDPF to exclude those inmates who commit violent acts and serious offenses on behalf of gangs, the department increases safety for NDPF inmate population and protects the overall integrity of the NDPF mission.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern Sensitive Needs Yard and Non-Designated Program Facilities.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500-17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*.
- Cost to any local agency or school district that is required to be reimbursed: *None*.
- Other nondiscretionary cost or savings imposed on local agencies: *None*.
- Cost or savings in federal funding to the state: *None*.

EFFECT ON HOUSING COSTS

The department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because it places no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulations will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations will benefit public safety because the establishment of SNY and NDPF provides a formal process to appropriately house affected inmates, and provide incentives for those inmates to focus more on rehabilitation efforts, which will ultimately better prepare them for society upon release.

CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department 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 regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed during the written comment period or at a scheduled hearing should one be scheduled.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the department’s contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department’s website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department’s contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or department), proposes to

amend section 3190 into Title 15, Division 3, Chapter 1, regarding Religious Personal Property.

PUBLIC COMMENT PERIOD

The public comment period begins **December 3, 2021** and closes on **January 21, 2022**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

CONTACT PERSONS

Primary Contact

R. Ruiz
Telephone: (916) 445-2244
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (916) 445-2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Charles Richey
Telephone: (916) 203-9384

AUTHORITY AND REFERENCE

Government Code section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC section 5055 provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR.

PC section 5058 authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

PC section 5058.3 authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The First and Fourteenth Amendments of the United States Constitution, the federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 United States Code sections 2000cc et seq., and section 5009 of the Penal Code (PC) sets out a legislative intent that “prisoners shall be afforded reasonable opportunities to exercise religious freedom.” The RPPM itemizes and standardizes the authorized religious personal property that inmates may possess for use in the practice of their religious faith while keeping with security and safety considerations that must be maintained in a correctional setting. The RPPM is updated to include additional religious personal property items per recent case law, and items that the department determined do not pose a threat to the safety and security of the institution. For additional clarity, the RPPM is reorganized into alphabetical order and corrects grammatical and typographical errors.

This action will:

- Adopt new subsection 3190(c) to include religious personal property regulations.
- Update the Religious Personal Property Matrix to include additional items as requested by inmates and approved by the Statewide Religious Review Committee and the Director of the Division of Adult Institutions.

- Incorporate by reference CDCR Form 2279 (Rev. 10/21), Religious Personal Property Matrix Request for Additional Item.

DOCUMENTS INCORPORATED BY REFERENCE

Religious Personal Property Matrix (Rev. 12/3/21*)
*Note: subject to change upon final approval of CDCR Form 2279 (Rev. 10/21), Religious Personal Property Matrix Request for Additional Item

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The proposed regulatory action will continue to benefit inmates and CDCR staff by expanding upon the current list of allowable religious personal property items, minimizing further litigation against the department, continuing to aid in eliminating inconsistencies among institutions while providing inmates opportunities to exercise religious freedom. Implementation of this proposed regulation will also ensure the continued safety and security of the institutions by restricting gang colors, placing limitations on the sizes and substance of items that could be used as weapons or as a means of introducing contraband into an institution, benefiting the health and welfare of California residents. The regulations do not directly affect the state’s environment.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code section 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations that concern Authorized Religious Personal Property in California Institutions.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code sections 17500–17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*.
- Cost to any local agency or school district that is required to be reimbursed: *None*.

- Other nondiscretionary cost or savings imposed on local agencies: *None*.
- Cost or savings in federal funding to the state: *None*.

EFFECT ON HOUSING COSTS

The department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because it places no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The proposed regulations will benefit worker safety as the proposed regulations aid in eliminating inconsistencies among institutions while providing inmates opportunities to exercise religious freedom. Implementation of this proposed regulation will also ensure the continued safety and security of the institutions by restricting gang colors, placing limitations on the sizes and substance of items that could be used as weapons or as a means of introducing contraband into an institution, benefiting the health and welfare of California

residents. The regulations do not directly affect the state's environment.

CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department 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 regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed during the written comment period or at a scheduled hearing should one be scheduled.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department's website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the department may adopt the proposed regulations substantially as described in this Notice. If the department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The department will accept written comments on the

modified regulations for at least 15 days after the date on which they are made available.

TITLE 18. FRANCHISE TAX BOARD

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE FRANCHISE TAX BOARD

NOTICE IS HEREBY GIVEN that the Franchise Tax Board, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on December 3, 2021 and closing on January 17, 2022. All inquiries should be directed to the contacts listed below.

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

Changes to the conflict-of-interest code include:

As a result of changes in the Information Technology related positions, the position titles on many designated positions needed to be updated. There are also other technical changes.

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

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than January 17, 2022, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than December 13, 2021.

The Franchise Tax Board has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.

6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to either Dennis Haase, Attorney V, (916) 845-3187 and dennis.haase@ftb.ca.gov or to Melody Scullary, Tax Counsel IV, (916) 845-4978 and melody.scullary@ftb.ca.gov.

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

DIVISION 9. PREHOSPITAL EMERGENCY MEDICAL SERVICES

NOTICE IS HEREBY GIVEN that the Emergency Medical Services Authority (EMSA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the proposed action at a public hearing to be held at the Emergency Medical Services Authority, 10901 Gold Center Drive, Suite 400, Rancho Cordova, CA 95670, at 10:00 a.m., or as soon as practicable thereafter, on January 18, 2022. Written comments, including those sent by mail, facsimile, or e-mail to addresses listed under Contact Person in this Notice, must be received by EMSA at its office January 17, 2022, or must be received by EMSA at the public hearing. EMSA may thereafter adopt the proposal substantially as described below or may modify the proposal 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: Health and Safety Code Sections 1797.107, 1830, and 1831 authorizes EMSA to adopt the proposed regulations, which would implement, interpret, clarify, or make specific Sections 1797.72, 1797.76, 1797.102, 1797.105, 1797.107, 1797.112, 1797.117, 1797.172, 1797.194, 1797.202, 1797.206, 1797.208, 1797.227, 1797.250, 1797.252, 1797.254, 1801, 1811, 1812, 1813, 1830, 1831, 1832, 1833, 1835, 1840, 1841, 1842, 1843, 1851, 1852, 1853, 1854, 1855, 1856, and 1857 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (Health and Safety Code Division 2.5) created EMSA and outlined its authorities, duties, and responsibilities. Included in the act are the authority and procedures for promulgating regulations (Health and Safety Code section 1797.107), and requiring new regulations be developed for the Community Paramedicine and Triage to Alternate Destination programs (Health and Safety Code sections 1830 and 1831), providing minimum medical protocols (Health and Safety Code section 1832), providing plan review for either program or both (Health and Safety Code section 1835), providing the minimum stands for training and accreditation and the processes necessary for either or both programs (Health and Safety Code Sections 1852 and 1853), as well as providing for discipline (Health and Safety Code Section 1855), as well as other necessary processes and procedures as it pertains to a Community Paramedicine and/or Triage to Alternate Destination as authorized by Assembly Bill 1544 (Statutes 2020, Chapter 138) [hereafter AB 1544].

EMSA established an advisory workgroup per the requirements of AB 1544 that began meeting in February of 2021. The workgroup reviewed an original draft and provided input resulting updates and revisions throughout and numerous additions. The material provided by a committee of the advisory workgroup is included as a report that was relied upon by EMSA in the creation of this proposed regulatory action.

These regulations seek to address these various issues. The proposal provides clarification and specification on how a Local EMSA Agency (LEMSA) shall apply for approval from EMSA to operate one or more programs and how to renew that approval. It provides for procedures for establishing programs and training programs, as well as the minimum requirements for training programs in these areas. Additionally, this provides the process for Emergency Medical Services (EMS) personnel to obtain accreditation and how that status is to be maintained. These regulations also require various data and information be collected and submitted both for general health purposes as well as for reporting results to the legislature in 2023 as required by AB 1544.

Specifically, the regulatory proposal is as follows:

1. **Adopt section 100181 of Division 9 of Title 22 of the California Code of Regulations**
This section provides only LEMSAs-approved training programs may offer necessary training for either Community Paramedicine and/or

Triage to Alternate Destination. It also provides the method for an out-of-state paramedic to temporarily operate in a LEMSAs and for verification that a paramedic is qualified by the employer, and a requirement for reporting issues with specific paramedics.

2. **Adopt section 100181.1 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the roles, responsibilities, and requirements for the LEMSAs.
3. **Adopt section 100181.2 of Division 9 of Title 22 of the California Code of Regulations**
This section allows LEMSAs to establish fees to cover the costs of the program and for collection of funds to be remitted to EMSA.
4. **Adopt section 100182 of Division 9 of Title 22 of the California Code of Regulations**
This section provides the requirements for a Community Paramedicine site, as well as oversight by the LEMSAs and procedures for withdrawing or disciplining the sites by the LEMSAs.
5. **Adopt section 100182.1 of Division 9 of Title 22 of the California Code of Regulations**
This section provides the same requirements as section 100182, but for Triage to Alternate Destination sites.
6. **Adopt section 100183 of Division 9 of Title 22 of the California Code of Regulations**
This section provides the requirements for a LEMSAs to obtain approval from EMSA to operate a establish a Community Paramedicine and/or Triage to Alternate Destination program.
7. **Adopt section 100183.1 of Division 9 of Title 22 of the California Code of Regulations**
This section provides the authority and procedures for EMSA to suspend or revoke a previously approved program.
8. **Adopt section 100184 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes an EMS Plan Annex for reviewing approved programs as part of the annual EMS plan.
9. **Adopt section 100185 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes Quality Improvement and Evaluation Process requirements for approved programs.
10. **Adopt section 100186 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes requirements for record keeping, collection, submission, and maintenance of data and information for these programs.

- 11. Adopt section 100187 of Division 9 of Title 22 of the California Code of Regulations**
This section provides for the procedures for capture and submission of records and information collected by the providers of the Community Paramedicine program.
- 12. Adopt section 100188 of Division 9 of Title 22 of the California Code of Regulations**
This section provides for the procedures for the capture and submission of records and information collected by the facilities that are part of the Triage to Alternate Destination program.
- 13. Adopt section 100189 of Division 9 of Title 22 of the California Code of Regulations**
This section provides for the procedures for the capture and submission of records and information collected by the paramedics specific to either or both of these programs.
- 14. Adopt section 100190 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the duties and responsibilities of the LEMSAs for approving and overseeing training programs within its geographical area. It also provides the minimum standards a program must meet to be approved. Additionally, it provides procedures for taking action against a training program as might be necessary.
- 15. Adopt section 100191 of Division 9 of Title 22 of the California Code of Regulations**
This section provides the minimum requirements for medical director, program director, and instructors for Community Paramedicine training programs. It also provides a list of required duties for the program director.
- 16. Adopt section 100191.1 of Division 9 of Title 22 of the California Code of Regulations**
The section establishes the minimum educational standards for a Community Paramedicine training programs.
- 17. Adopt section 100191.2 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the minimum requirements for completion of the Community Paramedicine training programs.
- 18. Adopt section 100192 of Division 9 of Title 22 of the California Code of Regulations**
This section provides the minimum requirements for medical director, program director, and instructors for Triage to Alternate Destination training programs. It also provides a list of required duties for the program director.
- 19. Adopt section 100192.1 of Division 9 of Title 22 of the California Code of Regulations**
The section establishes the minimum educational topics for a Triage to Alternate Destination training programs.
- 21. Adopt section 100192.2 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the minimum requirements for completion of the Triage to Alternate Destination training programs.
- 22. Adopt section 100193 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the scope of practice for paramedics in these programs.
- 23. Adopt section 100194 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the accreditation for a Community Paramedicine paramedic including the LEMSAs's responsibilities and the duration of an accreditation.
- 24. Adopt section 100194.1 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the process and requirements for a paramedic to receive an initial accreditation for Community Paramedicine.
- 25. Adopt section 100194.2 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the process and requirements for a paramedic to renew an accreditation for Community Paramedicine.
- 26. Adopt section 100194.3 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the process and requirements for a paramedic to reinstate an expired accreditation for Community Paramedicine.
- 27. Adopt section 100195 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the accreditation for a Triage to Alternate Destination paramedic including the LEMSAs's responsibilities and the duration of an accreditation.
- 28. Adopt section 100195.1 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the process and requirements for a paramedic to receive an initial accreditation for Triage to Alternate Destination.
- 29. Adopt section 100195.2 of Division 9 of Title 22 of the California Code of Regulations**
This section establishes the process and requirements for a paramedic to renew an accreditation for Triage to Alternate Destination.

30. Adopt section 100195.3 of Division 9 of Title 22 of the California Code of Regulations

This section establishes the process and requirements for a paramedic to reinstate and expired accreditation for Triage to Alternate Destination.

31. Adopt section 100196 of Division 9 of Title 22 of the California Code of Regulations

This section establishes discipline guidelines and licensing requirement for paramedics in these programs.

Anticipated Benefits of the Proposed Regulations:

These regulations will provide clarity and specificity in the implementation of the EMS system standards and guidelines required by the Community Paramedicine or Triage to Alternate Destination Act commencing with section 1800 of the Health and Safety Code (HSC). This allows LEMSAs to adopt either or both of these programs as alternatives to address community needs for additional health care options (Community Paramedicine) or allow ambulances to take appropriate patients to specified alternate destinations thereby decreasing emergency room volume, decreasing transfers of these types of patients, which would increase the availability of local ambulances to respond to calls. The regulations provide a basic framework of procedures for approving programs, requirements for training programs, and creates a new accreditation for paramedics who are trained to participate in these programs. All of these will benefit the health and welfare of Californians by creating more access to healthcare, more efficient response time, and ensure proper training of the personnel within the programs.

Consistency and Compatibility with Existing State Regulations

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

FORM INCORPORATED BY REFERENCE

CP/TAD Annex (8/2021)

DISCLOSURES REGARDING THE PROPOSED ACTION

Cost or savings to any state agency: EMSA is not aware of any significant cost impacts that a state agency would incur in reasonable compliance with the proposed action. Under statutory law, a LEMSA is not required to implement any of these programs. It is optional. However, those LEMSAs choosing to

implement one or both of these programs are required to meet minimum standards for the programs and training to be established by EMSA. These regulations establish those standards as well as necessary procedures for implementation.

Cost or savings in federal funding to the state: None.

Local mandate: None.

Nondiscretionary costs or savings to local agencies: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500–17630: None.

Cost impact on a representative private person or business: EMSA is not aware of any costs impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations represent an option for LEMSAs to establish these programs, not a requirement. Furthermore, persons or businesses who might wish to participate will also be opting into the programs, not required.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Significant effect on housing costs: None.

Effect on small businesses: The proposed regulations may affect small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Economic Impact Assessment:

The Authority concludes that it is: (1) unlikely that the proposal will eliminate any jobs or LEMSAs; (2) unlikely the proposal will create any new jobs initially at the local and state level but may result in new jobs over time at the local and state level as the EMS systems grow and mature; (3) unlikely the proposal will create any new businesses or LEMSAs; (4) unlikely the proposal will eliminate any existing businesses or LEMSAs; and (5) unlikely the regulations will result in the expansion of businesses or LEMSAs currently operating in the state.

Setting the standards for these programs will ensure a foundation for all Californians and provide guidance to LEMSAs wishing to establish these programs. The programs could promote access to healthcare, particularly for underserved populations, and allow ambulances not to spend as much time at emergency departments waiting to offload patients, which would increase the number of ambulances available to respond to emergency calls. Both of these are beneficial to the health and welfare of residents. The regulations will have no impact on worker safety or the environment.

CONSIDERATION OF ALTERNATIVES

EMSA must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or 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 with respect to alternatives to the proposed regulations during the written comment period or at the scheduled hearing.

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

Copies of the proposed text, any document incorporated by reference, and the initial statement of reasons may be obtained by contacting the person named below.

All 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.

A copy of the final statement of reasons can be obtained once it has been completed, by making a request to the contact person named below or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text are available on the EMSA website at https://emsa.ca.gov/public_comment/

CONTACT PERSON

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

Name: Kent Gray, Regulations Manager
EMS Authority
Address: 10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670
Telephone: (916) 384-1476
Fax: (916) 324-2875
E-Mail: Kent.Gray@emsa.ca.gov

The backup contact person is:

Name: Jennifer Lim, Deputy Director of
Legislative, Regulatory, and
External Affairs
EMS Authority
Address: 10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670
Telephone: (916) 431-3700
Fax: (916) 324-2875
E-Mail: Jennifer.Lim@emsa.ca.gov

GENERAL PUBLIC INTEREST

OFFICE OF ADMINISTRATIVE LAW

NOTICE OF CHANGE OF DATE OF REGULATORY HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD CONCERNING ELECTRONIC SUBMISSION OF NOTICES OF PROPOSED ACTION, REGULATORY ACTIONS, AND CHANGES WITHOUT REGULATORY EFFECT

NOTICE IS HEREBY GIVEN that the Office of Administrative Law (OAL) is rescheduling the hearing and extending the comment period noticed in its November 19, 2021, Notice of Proposed Rulemaking Action.

RESCHEDULED PUBLIC HEARING

The virtual public hearing originally scheduled to begin at 9:00 a.m. on January 7, 2022, is **rescheduled to January 20, 2022, beginning at 9:00 a.m.** Call-in details in the Notice of Proposed Rulemaking Action remain the same and are included below for your convenience.

Attendees may participate via Microsoft Teams online meeting platform or telephone conferencing. To participate via Microsoft Teams online meeting platform please email Eric Partington at eric.partington@oal.ca.gov or (916) 323-6225 by 4:30 p.m. on January 19, 2022, to request a link to the meeting. A link to the meeting will also be posted under the "Announcements" heading on the homepage of the OAL website no later than 8:00 a.m. the day of the hearing. To participate by telephone, call 1-916-282-3524 and enter Conference ID: 439 922 79#.

As a reasonable ADA accommodation, limited in-person seating may be available at the hearing in the OAL Training Room, 300 Capitol Mall, Suite 1210, Sacramento, CA 95814. Attendees must comply with all COVID-19 safety protocols. Please contact

Eric Partington at eric.partington@oal.ca.gov or (916) 323-6225 by 4:30 p.m. on January 19, 2022, if an accommodation is necessary.

Participants will be given instructions on how to provide oral comment once they have accessed the hearing. The hearing will proceed on the date noted above until all testimony is submitted or 12:00 p.m., whichever is later. At the hearing, any person may present oral or written statements or arguments relevant to the proposed action described in the Informative Digest. OAL requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony via email.

EXTENSION OF WRITTEN
COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Office of Administrative Law
Attention: Eric Partington
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 323-6826 or by e-mail to eric.partington@oal.ca.gov. **The written comment period closes on January 20, 2022.** To ensure OAL will consider your comment it must be received by January 20, 2022. When commenting, please indicate the proposed rulemaking action to which your comment refers.

CONTACT PERSONS

Inquiries concerning the proposed rulemaking action may be directed to:

Eric Partington
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Phone: (916) 323-6225
Email: eric.partington@oal.ca.gov

The backup contact person for these inquiries is:

Lindsey McNeill
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Phone: (916) 323-6225
Email: lindsey.mcneill@oal.ca.gov

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, can be accessed via OAL's website at www.oal.ca.gov.

DEPARTMENT OF FISH AND
WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
LOWER FLYNN CREEK
INFILTRATION PILOT PROJECT
(TRACKING NUMBER:
1653-2021-084-001-R1)
MENDOCINO COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 11/17/2021, that Trout Unlimited proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves multiple channel and floodplain treatments with the objective of slowing, raising, and spreading surface water in lower Flynn Creek. The proposed project will be carried out on Flynn Creek and a connected unnamed tributary, west of Navarro, Mendocino County, California.

On 3/19/2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Lower Flynn Creek Infiltration Pilot Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 1B21051WNME; ECM PIN Number CW-872982) for coverage under the General 401 Order on 11/16/2021.

Trout Unlimited is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, Trout Unlimited will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake

or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, Trout Unlimited will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
STRAWBERRY CREEK AT CLAM
BEACH FISH PASSAGE
IMPROVEMENT PROJECT
(TRACKING NUMBER:
1653-2021-085-001-R1)
HUMBOLDT COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 11/17/2021, that Trout Unlimited proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves retrofitting the concrete channel and constructing corner baffles to increase roughness and decrease water velocities. The proposed project will be carried out on Strawberry Creek, located at the intersection of Hwy 101 and Central Avenue, 9 miles north of Arcata, Humboldt County, California.

On 9/3/2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Strawberry Creek at Clam Beach Fish Passage Improvement Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 1B21192WNHU; ECM PIN Number CW-876231) for coverage under the General 401 Order on 11/8/2021.

Trout Unlimited is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, Trout Unlimited will not be required to obtain an incidental take permit under Fish and

Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, Trout Unlimited will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

CESA CONSISTENCY DETERMINATION
REQUEST FOR
CULTIVATION PROJECT AT
7369 HIGHWAY 246
2080-2021-013-05
SANTA BARBARA COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on November 19, 2021, that Sun Valley Ranch, LLC proposes to rely on a consultation with a federal agency to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves cannabis cultivation on 65 acres of active agricultural land. Proposed activities will include, but are not limited to, disking and tilling of agricultural fields, use of drip irrigation, use of hoop structures, and planting of cannabis plants both in ground and in pots or grow bags. The proposed project will occur at 7369 Highway 246, Lompoc, California.

The U.S. Fish and Wildlife Service (Service) issued a federal incidental take permit (Permit Number: ES78131D, version 2) (ITP) under the General Conservation Plan (GCP) for Cultivation Activities in Santa Barbara County to Sun Valley Ranch, LLC on October 28, 2021, which considered the effects of the proposed project on state threatened and federally endangered Santa Barbara County distinct population segment of California tiger salamander (*Ambystoma californiense*).

Pursuant to California Fish and Game Code section 2080.1, Sun Valley Ranch, LLC, is requesting a determination that the ITP under the associated GCP is consistent with CESA for purposes of the proposed project. If CDFW determines the ITP under the associated GCP is consistent with CESA for the proposed project, Sun Valley Ranch, LLC will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

<p>SUMMARY OF REGULATORY ACTIONS</p>

**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.

Department of Food and Agriculture
File # 2021-1011-01
Oak Mortality Disease

This certificate of compliance action makes permanent the emergency regulations to add Del Norte County to the regulated area for Oak Mortality Disease (see OAL File Numbers 2020-1026-01 and 2021-0820-02).

Title 03
Amend: 3700
Filed 11/17/2021
Effective 11/17/2021
Agency Contact: Karen Olmstead (916) 403-6879

CalSavers Retirement Savings Board
File # 2021-1108-06
CalSavers Retirement Savings Program Regulations
Amendments

This action readopts emergency regulations regarding the CalSavers Retirement Savings Program to change the default investment option, clarify the process for enforcing employer compliance, reduce the minimum contribution amounts for non-payroll contributions, and amend the frequency for recurring non-payroll contributions. This is a deemed emergency under Government Code section 100048.

Title 10
Adopt: 10008
Amend: 10000, 10005, 10006, 10007
Filed 11/17/2021
Effective 11/24/2021
Agency Contact: Eric Lawyer (916) 653-1748

Air Resources Board
File # 2021-1108-02
Conflict-of-Interest Code

This is a conflict-of-interest code that has been approved by the Fair Political Commission and is being

submitted for filing with the Secretary of State and printing.

Title 17
Amend: 95000
Filed 11/23/2021
Effective 11/23/2021
Agency Contact:
Bradley Bechtold (916) 322-6533

Labor and Workforce Development Agency
File # 2021-1028-05
Conflict-of-Interest Code

This is a conflict-of-interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing.

Title 02
Amend: 58800
Filed 11/23/2021
Effective 12/23/2021
Agency Contact: Marc Pilotin (916) 653-9939

Fair Political Practices Commission
File # 2021-1022-04
Behested Payment Reporting

This action by the Fair Political Practices Commission adopts a regulation concerning behested payment reporting.

Title 02
Adopt: 18424.3
Filed 11/22/2021
Effective 12/22/2021
Agency Contact: Daniel Vo (916) 322-5660

Commission on Peace Officer Standards and Training
File # 2021-1014-01
Minimum Standards for Training

This action by the Commission on Peace Officer Standards and Training updates the document incorporated by reference entitled "Training and Testing Specifications for Peace Officer Basic Courses" to re-order a list of learning objectives in Learning Domain 24.

Title 11
Amend: 1005, 1007
Filed 11/23/2021
Agency Contact:
Raymund Nanadiego (916) 227-2852

Contractors State License Board
File # 2021-1008-02
Checklist for Homeowners

In this change without a regulatory effect, the Board amends its regulation to remove references to Business and Professions Code section 7159.3, which has been repealed by Senate Bill 30 (Statutes 2004, chapter 566.).

Title 16
Amend: 872.1
Filed 11/22/2021
Agency Contact: Betsy Figueroa (916) 255-3369

Department of Fish and Wildlife
File # 2021-1008-01
Fees for Lake and Streambed Alteration Agreements

The Department of Fish and Wildlife submitted this action as one without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to amend a regulation that establishes fees for lake and streambed alteration agreements. Annual changes to the fees are required by Fish and Game Code section 1609 by applying the index to determine an increase or decrease in the fees as specified in Fish and Game Code section 713. The amended fees will be effective January 1, 2022.

Title 14
Amend: 699.5
Filed 11/18/2021
Effective 01/01/2022
Agency Contact:
Suzanne Gilmore (916) 926-3517

Fish and Game Commission
File # 2021-1028-01
Klamath River Basin Sport Fishing (Spring)

This action without regulatory effect relocates the provisions of Title 14 California Code of Regulations section 7.40(b)(51) into section 7.40(b)(50) so as to unite all seasons, size, and bag and possession limits for Chinook Salmon in the Klamath River Basin.

Title 14
Amend: 7.40
Filed 11/22/2021
Agency Contact:
Sherrie Fonbuena (916) 653-4899

Board of Chiropractic Examiners
File # 2021-0719-01
Denial of Application, Revocation or Suspension of
Licensure: Criminal

In this regular rulemaking, the Board of Chiropractic Examiners (the "Board") is amending criteria to be

used in determining whether a crime, act, or professional misconduct is substantially related to the qualifications, functions, or duties of a licensed chiropractor. The Board is also amending criteria to be used in determining whether an applicant or licensee has made a showing of rehabilitation related to a crime, act, or professional misconduct when considering denial, reinstatement, or reissuance of a license. Lastly, the Board is adopting criteria to be used in considering whether a crime, professional misconduct or act is substantially related to the qualifications, functions, or duties of a licensed chiropractor. These changes implement amendments to the Business and Professions Code made by Assembly Bill 2138 (Statutes 2018, chapter 995).

Title 16
Adopt: 316.5, 327
Amend: 326
Filed 11/22/2021
Effective 11/22/2021
Agency Contact: Kristin Walker (916) 263-5365

California Prison Industry Authority
File # 2021-0816-01
Inmate Worker, Hiring Standards and Requirements

This action by the California Prison Industry Authority amends inmate educational requirements for CalPIA inmate assignments. The amendments permit a Developmentally Disabled Program inmate to submit a Certificate of Attendance and Participation in lieu of a high school diploma or general education diploma.

Title 15
Amend: 8000, 8004.1, 8004.2
Filed 11/18/2021
Effective 01/01/2022
Agency Contact: Moira Doherty (916) 413-1140

Department of Fair Employment and Housing
File # 2021-1007-01
Fair Housing Regulations

The Fair Employment and Housing Council of the Department of Fair Employment and Housing (DFEH) is adding military or veteran status as a protected class and the prohibition on discrimination based on aggregate income and the use of a government rent subsidy. This action provides information about reasonable modifications for individuals with disabilities. DFEH is also adding multiple definitions. DFEH makes other changes in this action related to housing discrimination.

Title 02
 Adopt: 12040, 12041, 12042, 12050, 12051, 12052,
 12140, 12141, 12142, 12143, 12181
 Amend: 12005, 12120, 12155, 12176, 12177, 12178,
 12179, 12180
 Filed 11/19/2021
 Effective 01/01/2022
 Agency Contact: Adam Romero (916) 207-2662

Department of Food and Agriculture
 File # 2021-0611-01
 Cannabis Appellations Program

The Department of Food and Agriculture (Department) is adopting the Cannabis Appellations Program. An appellation of origin is a protected designation that identifies the geographical origin of a product and how that product was produced. This action establishes a process for licensed cultivators to petition the Department to create or amend appellations of origin and establishes procedures and criteria for the review and approval of petitions.

Title 03
 Adopt: 9000, 9100, 9101, 9102, 9103, 9104, 9105,
 9106, 9107, 9200, 9201, 9202, 9203
 Filed 11/23/2021
 Effective 11/23/2021
 Agency Contact: Keir Furey (916) 247-0187

Department of Justice
 File # 2021-1006-01
 Charitable Trusts Registry Fees

This rulemaking action increases fees for filing with the Registry of Charitable Trusts.

Title 11
 Amend: 300, 301, 303, 305, 308, 311, 411, 415, 418
 Filed 11/23/2021
 Effective 01/01/2022
 Agency Contact: Kevin Sabo (916) 210-7639

State Allocation Board
 File # 2021-1021-01
 Leroy F. Greene School Facilities Act of 1998;
 Successor Charter Schools

In the event a Charter School is no longer using a facility funded under the Charter School Facilities Program (the "Program"), paragraph (2) of subdivision (b) of Section 17078.62 of the Education Code permits a qualifying successor Charter School to meet its facility needs by occupying the Program-funded facility on equal terms to as the prior occupant. In this regular rulemaking, the State Allocation Board is adopting regulations to specify how a qualifying successor Charter School is selected.

Title 02
 Amend: 1859.171
 Filed 11/22/2021
 Effective 01/01/2022
 Agency Contact: Lisa Jones (916) 376-1753

State Water Resources Control Board
 File # 2021-1005-03
 Reconsideration of the Santa Monica Bay Debris
 TMDL and Machado Lake Trash TMDL

On March 14, 2019, the Los Angeles Regional Water Quality Control Board adopted Resolution Number R19-004 to amend the Water Quality Control Plan to reconsider the Total Maximum Daily Load (TMDL) for Trash in Machado Lake and the Total Maximum Daily Load for Debris in Nearshore/Offshore Santa Monica Bay (Basin Plan Amendment). The Basin Plan Amendment was approved by the State Water Resources Control Board under Resolution Number 2020-0001 on January 21, 2020.

Title 23
 Amend: 3939.43, 3939.30
 Filed 11/17/2021
 Effective 11/17/2021
 Agency Contact: Jun Zhu (916) 576-6691

State Water Resources Control Board
 File # 2021-1007-02
 State Wetland Definition, Procedures for Discharges
 of Dredge or Fill

This action by the State Water Resources Control Board amends the state wetland definition and procedures for discharges of dredged or fill materials to waters of the State for inclusion in the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California for waters of the United States and adopts these procedures as a state policy for water quality control for all waters of the state.

Title 23
 Adopt: 2926
 Amend: 3013
 Filed 11/18/2021
 Effective 11/18/2021
 Agency Contact: Elizabeth Payne (916) 341-5579

**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.