



# California Regulatory Notice Register

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## PROPOSED ACTION ON REGULATIONS

### TITLE 2. SECRETARY OF STATE

*Petition Processing, Signature Verification, Ballot Processing, and Ballot Counting Notice — Notice File Number Z2021-1130-02* ..... 1687

### TITLE 2. STATE PERSONNEL BOARD

*Appeal of Disqualification from a Failed Drug Test — File Number Z2021-1130-01*..... 1691

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND WILDLIFE

*Rock Creek Meadow Shasta Crayfish Habitat Augmentation (Tracking Number: 1653-2021-086-001-R1), Shasta County*..... 1693

### DEPARTMENT OF FISH AND WILDLIFE

*CESA Consistency Determination Request for Hidden Valley Ranch Safe Harbor (Tracking Number: 2081-2021-002-01), Siskiyou County* ..... 1694

### FISH AND GAME COMMISSION

*Notice of Receipt of Petition to List Temblor Legless Lizard (Anniella alexanderae) as a Threatened or Endangered Species* ..... 1694

## ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

### OFFICE OF ADMINISTRATIVE LAW

*Amended Notice for Z2021-1116-01* ..... 1695

## SUMMARY OF REGULATORY ACTIONS

Regulations filed with Secretary of State ..... 1695

***Time-Dated Material***

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. SECRETARY OF STATE**

**PETITION PROCESSING, SIGNATURE VERIFICATION, BALLOT PROCESSING, AND BALLOT COUNTING**

NOTICE IS HEREBY GIVEN that the Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the SOS at its office not later than **January 24, 2022**.

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

Public Comment Period: December 10, 2021, through January 24, 2022.

**AUTHORITY AND REFERENCE**

Authority cited: Sections 3026, and 14314, Elections Code; and Section 12172.5, Government Code.

Reference cited: Sections 100, 100.5, 101, 102, 103, 104, 105, 106, 107, 108, 303.3, 333, 354.5, 2035, 2102, 2116, 2150, 2201, 2220, 2221, 2222, 2223, 2224, 2225,

2226, 2227, 3009, 3010, 3011, 3017, 3019, 3020, 3026, 3106, 8806, 8451, 9001, 9008, 9009, 9010, 9011, 9012, 9013, 9014, 9015, 9020, 9021, 9022, 9108, 9109, 9602, 11045, 11046, 11108, 11303, 13204, 14201, 14287, 14310, 14311, 14314, 14420, 15154, 15208, 15210, 15342, and 15342.5, Elections Code.

Section 12172.5, Government Code.

Sections 19062(o), 19076, 19091(c), 19093, and 19094, Title 2, Division 7 of the California Code of Regulations.

Help America Vote Act of 2002 — 52 U.S.C. 21081(a)(6).

Section 203 of the Federal Voting Rights Act of 1965 — 52 U.S.C. 10503.

**INFORMATIVE DIGEST**

*A. Informative Digest*

The signature verification, ballot processing, and ballot counting regulations were adopted as an emergency prior to the November 3, 2020, General Election. The emergency regulations provide clear and uniform guidance to California’s 58 counties’ elections officials for consistent practices relating to signature verification, ballot processing, and ballot counting.

These regulations are intended to make the emergency regulations permanent, as well as to add regulations related to the processing of elections-related petitions.

County elections officials continuously review election-related petitions, which includes comparing a voter’s signature on a petition with the signature(s) included in the voter’s registration record. These regulations address the processing of elections-related petitions by creating uniform practices by elections officials. These uniform practices were developed over time by a subcommittee of a group that all county elections officials are members and participants of: the California Association of Clerks and Elections Officials (CACEO). The CACEO has a petition subcommittee that created a document entitled “Petition Signature Verification Guidelines.” While these guidelines were helpful, they had no force of law or regulation to ensure uniform application throughout the state. To ensure uniform application of petition review, which includes signature verification, those guidelines have been put into these draft regulations.

All California active registered voters now will receive a vote-by-mail ballot for each election. Casting a vote-by-mail ballot requires that the voter properly complete the ballot, insert the ballot into the provided vote-by-mail identification envelope, properly complete the outside of the vote-by-mail identification envelope (which includes the signature of the voter), and timely deliver the voted ballot to their

county elections official. The signature provided by the voter on the vote-by-mail identification envelope is compared to the signature(s) in the voter's registration record by the county elections official to ensure that the voter returned their own ballot. These regulations are intended to eliminate the possibility of a ballot not being counted due to a mistake made by the voter, or if the voter's signature does not compare to the signature in the voter's registration record. The regulations create standards for all of California's 58 counties' elections officials (and their staff) to follow when reviewing signatures on a vote-by-mail identification envelope or a provisional ballot envelope, and also processing all voted ballots. Without uniform application of these standards, the risk of disenfranchisement grows significantly. This must be avoided at all costs.

In addition, as required by the Help America Vote Act of 2002 (52 U.S.C. 21081(a)(6)), each state is required to "... adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State." The Secretary of State has met this requirement by creating a document titled "Uniform Vote Counting Standards"; however this document does not have the force of law or regulation. As with the importance of uniform standards for reviewing signatures on vote-by-mail identification envelopes and provisional ballot envelopes as mentioned above, uniform standards for counting votes is vital for each election. The uniform vote counting standards provided by these regulations will reduce the chances that a voter's ballot will be deemed invalid, which would disenfranchise the voter.

Under Elections Code section 3026, the Secretary of State "shall promulgate regulations establishing guidelines for county elections officials relating to the processing of vote by mail ballots." In addition, under Elections Code section 14314, the Secretary of State "shall promulgate regulations establishing guidelines for county elections officials relating to the processing of provisional ballots." The processing of vote-by-mail ballots and provisional ballots involves comparing the signature on the vote-by-mail identification envelope or provisional ballot envelope with the signature(s) in the voter's registration record. The signature must compare in order for the ballot be opened for tabulation. There are currently no standards in California statutes or regulations that provide for signature verification techniques, which can lead to differing signature verification throughout the state. These regulations will address that glaring issue.

Another part of the processing of vote-by-mail and provisional ballots is to enter the return status of the ballot into their local elections management system (which will send the data to the statewide voter registration database) in accordance with Sections

19091(c) (for vote-by-mail ballots) and 19093 (for provisional ballots) of Title 2 of the California Code of Regulations. These sections became effective on August 27, 2020.

In addition, county elections officials must enter the final status information of the ballot, which includes inputting the appropriate reason code describing the disposition of the ballot into their local elections management system (which will send the data to the statewide voter registration database), as required by Sections 19092 (for vote-by-mail ballots) and 19094 (for provisional ballots) of Title 2 of the California Code of Regulations. These sections also became effective on August 27, 2020.

Requiring elections officials to follow Sections 19091(c), 19092, 19093, and 19094 when processing vote-by-mail and provisional ballots ensures that uniform information relating to those ballots throughout the state. The Elections Code mandates that a voter have the ability to find out the final disposition of their vote-by-mail ballot or provisional ballot, so these regulations will help ensure that the reason for the final disposition is uniform throughout the state, and voters will understand the reason for the final disposition of their ballot.

During the development of these regulations, the Secretary of State's office has worked, for several years, closely with county elections officials and several voting advocacy groups to ensure that there is agreement with the need and content of these regulations.

The purpose of these regulations is as follows:

1. Provide uniform application of procedures for elections officials to follow when examining election-related petitions, and when processing voted ballots.
2. Establish guidance for use by elections officials examining election-related petitions for instances when the content of the petition deviates from the required elements for that petition found in the Elections Code. The guidance assists counties in determining when a signature on a petition shall be included in a raw count, and when the elections official will compare the signature on the petition to the signatures(s) retained the voter's registration record.
3. Establish guidance for use by elections officials examining election-related petitions for instances when there is an issue with the placement or content of a voter's signature on a petition. The guidance assists counties in determining when a signature on a petition shall be included in a raw count, and when the elections official will compare the signature on the petition to the

- signatures(s) retained the voter’s registration record.
4. Establish guidance for use by elections officials examining election–related petitions for instances when there is an issue with the residence address provided by the voter on a petition. Under the provisions of the Elections Code the voter is to provide their residence address when signing a petition. The guidance assists counties in determining when a signature on a petition shall be included in a raw count, and when the elections official will compare the signature on the petition to the signatures(s) retained the voter’s registration record.
  5. Establish guidance for use by elections officials examining election–related petitions for instances when a voter’s residence address and/or registration status changes at or near the time the voter signs a petition. The residence address or registration status changes can be made by the voter, via an automatic update provided by the Elections Code, or via action by the county elections official. The guidance assists counties in determining when a signature on a petition shall be included in a raw count, and when the elections official will compare the signature on the petition to the signatures(s) retained the voter’s registration record.
  6. Establish guidance for use by elections officials examining election–related petitions for instances when the content of a declaration of circulator deviates from the required elements for that petition found in the Elections Code. The guidance assists counties in determining when a signature on a petition shall be included in a raw count, and when the elections official will compare the signature on the petition to the signatures(s) retained the voter’s registration record.
  7. Establish clear criteria for use by elections officials when the elections official is comparing a signature on a petition, vote–by–mail ballot identification envelope, or a provisional ballot envelope. There are no such criteria under California law.
  8. Establish guidance for use by elections officials examining election–related petitions for instances when a voter has submitted a written request to withdraw their name from a signed petition. The guidance assists counties in determining when a signature withdrawal request is valid, and when a withdrawal request may be invalid.
  9. Establish uniform vote counting standards for use by California’s 58 county elections officials. These standards will ensure that all county elections officials follow the same procedures for the counting of ballots. Counting of ballots may differ by county, depending on the voting system used by the county.
  10. Establish uniform standards for the processing of vote–by–mail ballots and provisional ballots. The processing includes comparing the signature on the vote–by–mail identification envelope or provisional ballot envelope to the signature(s) in the voter’s registration record. In the event the voter does not sign the envelope, the elections official is required to contact the voter to provide the voter with an opportunity to cure the defect applicable to them. In addition, these uniform standards provide guidance for elections officials to follow when entering the status of a voted vote–by–mail ballot or provisional ballot into their local elections management system, which sends the status to the statewide voter registration system. Finally, the standards include guidance for valid and invalid vote–by–mail ballots and provisional ballots.
- B. Policy Statement Overview/Anticipated Benefits of Proposal*
- The proposed regulations were drafted for the purpose creating uniform processes for California’s 58 county elections officials to follow when processing elections–related petitions, comparing signatures on elections–related petitions, vote–by–mail identification envelopes, provisional ballot envelopes, ballot processing, and ballot counting. The regulations also help to ensure that a voter is not disenfranchised for specified mistakes made when casting a ballot. Finally, the regulations will help ensure transparency of these processes, which will enhance the public’s trust of the elections process.
- C. Consistency/Compatibility with Existing State Regulations*
- After conducting an evaluation of regulations in this area, the SOS has determined that these are the only regulations related to petition processing, signature verification, ballot processing, and ballot counting. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.
- D. Documents Incorporated by Reference:*
- None.
- E. Documents Relied Upon in Preparing the Regulations:*
- CACEO Petition Signature Verification Guidelines — this document may be found on the California Association of Clerks and Elections Officials website at: <https://www.caceo58.org/assets/documents/Petitions%20Signature%20>

[Verification%20Guidelines%20\(Rev\\_2018%20Dec%2012\)%20FINAL.pdf](#)

- Secretary of State Uniform Vote Counting Standards — this document may be found on the Secretary of State’s website at: <https://elections.cdn.sos.ca.gov/pdfs/uniform-vote-count.pdf>
- Senate Bill 503 (Chapter 319 of the Statutes of 2021). [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=20210220SB503](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=20210220SB503)

### DISCLOSURES REGARDING THE PROPOSED REGULATIONS

*The SOS has made the following initial determinations:*

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate on Local Agencies and School Districts: None.

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

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

Cost Impact on Representative Private Person or Business: The Secretary of State 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 Effect on Housing Costs: None.

Effect on Small Business: These regulations will have no effect on small businesses. These regulations reflect existing processes carried out by California’s 58 county elections officials.

### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The SOS has determined that the proposed regulations are (1) unlikely to create or eliminate any jobs in California, (2) unlikely to create or eliminate any California businesses, and (3) unlikely to result in the expansion of businesses currently doing business within California. The proposed regulations reflect existing processes carried out by California’s 58 county elections officials. These regulations do not significantly change existing business practices such that jobs or businesses would be created or eliminated.

Benefits of the Proposed Regulations: The benefits of the regulation to the health and welfare of California

residents lie in the fact that these regulations will provide greater confidence in the conduct of California’s election activities by providing uniform guidance for petition processing, signature verification, ballot processing, and ballot counting. These regulations will ultimately benefit California residents as they will have access to information on how California’s 58 elections officials process election-related petitions, verify signatures on elections-related petitions, vote-by-mail identification envelopes, provisional ballot envelopes, and the processing of voted ballots. The regulations do not provide any benefits for worker safety or the state’s environment.

### CONSIDERATION OF ALTERNATIVES

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

The SOS has determined that there are no reasonable alternatives to these regulations. There are currently no regulations for petition processing, signature verification, ballot processing, or ballot counting.

Any interested person may present statements or arguments relevant to the above determinations.

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

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

Copies of the express language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the SOS contact or on the website listed below.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of

the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

#### CONTACT PERSONS

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

Robbie Anderson  
Secretary of State  
1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 657-2166  
[aanderso@sos.ca.gov](mailto:aanderso@sos.ca.gov)

The backup contact person is:

Raj Bathla  
Secretary of State  
1500 11<sup>th</sup> Street, Room 495  
Sacramento, CA 95814  
(916) 657-2166  
[rbathla@sos.ca.gov](mailto:rbathla@sos.ca.gov)

*Website Access:* Materials regarding this proposal can be found at: <https://www.sos.ca.gov/administration/regulations/proposed-regulations/>.

#### TITLE 2. STATE PERSONNEL BOARD

**Notice is hereby given** that the State Personnel Board (Board) proposes to amend Section 213.6 to clarify the criteria and process concerning the appeal of a disqualification resulting from a failed drug test or background investigation report. (Cal. Code Regs., title 2, § 213.6.)

#### PUBLIC HEARING

A public hearing regarding the proposed regulatory action will be held on January 25, 2022, at 10:00 a.m. via WebEx. In order to participate in the public hearing, please see the following options:

- Via Video (Online)

You may click, or copy and paste into your web browser, the following link: <https://spb-meetings.webex.com/spb-meetings/j.php?MTID=m9b6731f378dee43a290f37b448ea4782>

Then enter the following information to gain access to the hearing:

Meeting Number: 2555 488 9635

Meeting password: 33F9GbqXAWM

- Via Telephone

You may also participate by dialing the phone number first and then the participant code listed below:

Phone Number: +1-408-418-9388

Participant Code: 25554889635

The telephonic conference to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make specific arrangements, if necessary.

#### WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below.

Lori Gillihan, Chief  
Policy Division  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814  
Email: [lori.gillihan@spb.ca.gov](mailto:lori.gillihan@spb.ca.gov)

The written comment period closes on January 24, 2022. Only written comments received by that time shall be reviewed and considered by the Board before it adopts, amends, or repeals a regulation.

#### AUTHORITY AND REFERENCE

The Board proposes to amend Section 213.6 of Title 2, Chapter 1 of the California Code of Regulations pursuant to the authority vested in it by the California Constitution, article 7, section 3, and Government Code section 18701. The proposed regulation will implement, interpret, and make specific the provisions of Government Code sections 18654, 18670, 18671, 19675, and 18930.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is a constitutional body responsible for enforcing California's civil service statutes. (Cal. Constitution article VII, §§ 1, subdivision (b), & 3; Gov. Code, § 18660.) In addition, the Board, by majority vote of all its members, prescribes probationary periods and classifications, adopts other rules authorized by statute, and reviews disciplinary actions imposed against state employees. (*Ibid.*)

Regulations adopted by the Board are exempt from the Administrative Procedure Act (APA), except as expressly specified. (Gov. Code, §§ 18211, 18215, & 18216.) Regulations concerning Board hearing

procedures related to disciplinary and merit matters are not exempt from the APA. (Gov. Code, § 18215, subdivision (a)(2).)

The purpose of this regulatory action is to update the Board's regulations to clarify the grounds for appealing a disqualification based on a failed drug test. Applicants will have a clear explanation of when an appeal is allowable if they fail a drug test in the examination process.

The benefits of this regulatory change are that the grounds for appealing a disqualification based on a failed drug test will become clearer. The two grounds will be: 1) that the drug was used legally; or 2) that there has been a violation of test protocol or chain of custody procedures that caused a false positive test; or 3) that an irregularity caused a false positive test result.

In reviewing other state regulations, the Board found that the instant regulatory proposal is consistent and compatible with existing state regulations.

#### FISCAL IMPACT ON PUBLIC AGENCIES

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Cost or savings to any State agency: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the State: None

#### SIGNIFICANT EFFECT ON HOUSING COSTS

None.

#### ECONOMIC IMPACT ON BUSINESS

- Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.
- Effect on small business: None. The proposed regulations only set standards related to state civil service appeals procedures. Accordingly, it has been determined that the adoption of the proposed regulations would not affect small businesses in any way.

#### COST IMPACT ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action since the regulatory change only impacts the Board's appeals procedures.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT

Adoption of these regulations will not:

1. Create or eliminate jobs within California.
2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect worker safety or the state's environment.

#### CONSIDERATION OF ALTERNATIVES

The Board has initially determined that no reasonable alternatives it has considered or that have been otherwise identified and brought to the attention of the Board would be more effective in carrying out the purposes for which the instant 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.

#### CONTACT PERSONS

Inquiries concerning the proposed regulatory action, including questions regarding procedure, comments, or the substance of the proposal, may be directed to:

Lori Gillihan, Chief  
Policy Division  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814  
Phone: (916) 651-1043  
Email: [lori.gillihan@spb.ca.gov](mailto:lori.gillihan@spb.ca.gov)

The backup contact person for these inquiries is:

Carlos Gomez, Analyst  
Policy Division  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814  
Phone: (916) 651-8350  
Email: [carlos.gomez@spb.ca.gov](mailto:carlos.gomez@spb.ca.gov)



Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Policy Division Chief, Lori Gillihan, at the above address.

#### AVAILABILITY OF RULEMAKING FILE

The Board is maintaining a rulemaking file for the proposed regulatory action, which as of the date of this notice contains the following:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~ and underline;
2. A copy of this notice and statement of reasons for the proposed adoption; and
3. Any factual information upon which the proposed rulemaking is based.

If written comments, data or other factual information, studies or reports are received, they will be added to the rulemaking file. The file is available for public inspection during normal working hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814. Items 1 through 3 are also available on the Board's website at [www.spb.ca.gov](http://www.spb.ca.gov) under "What's New?" Copies may be obtained by contacting the person via the address, email, or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After 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 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 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the person at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and ~~strikeout~~ can be accessed on the Board's website at [www.spb.ca.gov](http://www.spb.ca.gov) under "What's New?"

### GENERAL PUBLIC INTEREST

#### DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653  
CONSISTENCY DETERMINATION  
REQUEST FOR  
ROCK CREEK MEADOW SHASTA  
CRAYFISH HABITAT AUGMENTATION  
(TRACKING NUMBER:  
1653-2021-086-001-R1)  
SHASTA COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 11/29/2021, that Spring Rivers Ecological Sciences, LLC proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project intends to create additional habitat for the Shasta crayfish by adding gravel to the Rock Creek streambed. The proposed project will be carried out on Rock Creek Meadow, near the town of Cassel, Shasta, California.

On 10/19/2021, the Central Valley 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 Rock Creek Meadow Shasta Crayfish Habitat Augmentation project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 5A45CR00611) for coverage under the General 401 Order on 11/18/2021.

Spring Rivers Ecological Sciences, LLC 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, Spring

Rivers 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, Spring Rivers will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF FISH AND  
WILDLIFE**

**CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
HIDDEN VALLEY RANCH SAFE HARBOR  
2081-2021-002-01  
SISKIYOU COUNTY**

California Department of Fish and Wildlife (CDFW) received a notice on November 30, 2021, that Hidden Valley Ranch LLC (Landowner) proposes to rely on a federal safe harbor agreement to carry out a project that may provide a net conservation benefit for the Southern Oregon Northern California Coast (SONCC) coho salmon evolutionarily significant unit (ESU) (*Oncorhynchus kisutch*), a species protected by the California Endangered Species Act. The proposed project involves routine agricultural activities implemented according to avoidance and minimization measures, as well as beneficial management actions such as increased water delivery and habitat improvements intended to provide conservation benefits to the SONCC coho salmon ESU in the Shasta River. The proposed project will occur on two parcels totaling 431 acres in central Siskiyou County, California.

The notice requested a CDFW determination pursuant to California Fish and Game Code Section 2089.22, that the template safe harbor agreement dated February 24, 2021, the Site Plan Agreement dated February 24, 2021 and the enhancement of survival permit number 23285 issued by the National Marine Fisheries Service to the Landowner on February 24, 2021, are consistent with the California State Safe Harbor Agreement Program Act (CSSHAPA) for purposes of the proposed Project. If CDFW determines the federal safe harbor agreement is consistent with CSSHAPA for the proposed Project, the Landowner

will not be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

**FISH AND GAME COMMISSION**

**NOTICE OF RECEIPT OF PETITION**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission (Commission), on November 18, 2021, received a petition from the Center for Biological Diversity to list Temblor legless lizard (*Anniella alexanderae*) as threatened or endangered under the California Endangered Species Act.

The Temblor legless lizard is only found in a few locations in the San Joaquin Valley in central California. The lizard is restricted to a small range estimated at only 1,720 square kilometers along the east side of the Temblor Mountains, from the western edge of Kern County north to western Fresno County. The lizard's preferred habitat is a sandy alkali desert scrub with plenty of loose soil and leaf litter for burrowing and hunting. Currently, the lizard is known to exist at only four sites, three of which are on private land.

Pursuant to Section 2073 of California Fish and Game Code, on November 29, 2021, the Commission transmitted the petition to the California Department of Fish and Wildlife (Department) for review pursuant to Section 2073.5 of said code. The Commission will receive the petition at its December 15-16, 2021 meeting, which will be held via teleconference and webinar. It is anticipated that the Department's evaluation and recommendation relating to the petition will be received by the Commission at its April 20-21, 2022, meeting.

For information about the petition or to submit information to the Department relating to the petitioned species, interested parties may contact Neil Clipperton, CESA Conservation Unit Supervisor, California Department of Fish and Wildlife, by mail at P.O. Box 944209, Sacramento, California 94244-2090, telephone at (916) 373-6620, or email at [wildlifemgt@wildlife.ca.gov](mailto:wildlifemgt@wildlife.ca.gov).

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

**OFFICE OF ADMINISTRATIVE LAW**

ACCEPTANCE OF PETITION TO REVIEW  
ALLEGED UNDERGROUND REGULATIONS  
(Amended)

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

The Office of Administrative Law has accepted for consideration a petition challenging the State Council on Developmental Disabilities' statement that "[a]ll appointments of Authorized Representatives will be limited to periods not to exceed one year, subject to renewal if requested and approved by the SCDD" contained in the document entitled "STATE COUNCIL ON DEVELOPMENTAL DISABILITIES, Appointment of Authorized Representative." Please send your comments to:

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

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

Petitioner:

Marco Coelho  
487 McClatchy Way  
Sacramento, California 95818

Agency contact (*Amended*):

Brian Weisel, Legal Counsel  
State Council on Developmental Disabilities  
3831 North Freeway Boulevard, # 125  
Sacramento, CA 95834

Please note the following timelines:

Original Publication of Petition in Notice Register:  
November 26, 2021  
Deadline for Public Comments: December 27,  
2021  
Deadline for Agency Response: January 10, 2022  
Deadline for Petitioner Rebuttal: No later than 15  
days after receipt of the agency's response  
Deadline for OAL Decision: March 28, 2022

The petition is not being published in the California Regulatory Notice Register; however, if you would like to view the complete petition and attachments, please contact Margaret Molina at (916) 324-6044 or [Margaret.molina@oal.ca.gov](mailto:Margaret.molina@oal.ca.gov).

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH THE  
SECRETARY OF STATE**

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

Board of Parole Hearings  
File # 2021-1018-04  
Comprehensive Risk Assessments

This rulemaking action makes permanent the Board of Parole Hearings' (Board's) emergency amendments to section 2240 of title 15 of the California Code of Regulations (CCR) which excuse the Board from the requirement to prepare Comprehensive Risk Assessments (CRAs) prior to initial or subsequent parole consideration hearings or subsequent parole reconsideration hearings scheduled to occur between April 1, 2021 and June 30, 2022 (or which were previously scheduled to occur between April 1, 2021 and June 30, 2022, but were postponed or rescheduled to occur after June 30, 2022). The exception to the requirement to prepare CRAs as described above applies to inmates designated as Security Level IV as of January 1, 2021, and who received two or more serious Rules Violation Reports, as specified by section 3315(a) of title 15 of the CCR, for which the Department of Corrections and Rehabilitation found the inmate guilty at a disciplinary hearing between January 1, 2018 and January 1, 2021. The action also makes permanent related emergency provisions concerning notice to affected inmates and the ability of, and process for, inmates to challenge the Board's determination or to obtain a CRA for other reasons. As part of the action to make its emergency amendments to section 2240 permanent, the Board further amended the regulation to excuse the Board from the requirement to prepare CRAs for any inmate placed on medical parole supervision on the date of the hearing and who is not otherwise entitled to a CRA pursuant to Penal Code section 3053.9.

Title 15  
Amend: 2240  
Filed 12/01/2021  
Effective 12/01/2021  
Agency Contact:  
Christopher Hoeft (916) 247-2548

California Alternative Energy and Advanced  
Transportation Financing Authority  
File # 2021-1118-02  
Sales and Use Tax Exclusion Program

In this emergency readopt of OAL Matter No. 2021-0820-04EE, the California Alternative Energy and Advanced Transportation Financing Authority is amending the Sales and Use Tax Exclusion Program to revise definitions, application requirements, eligibility requirements, and compliance deadlines, and update cross-references and numbering.

Title 04  
Amend: 10031, 10032, 10033, 10034, 10035, 10036  
Filed 11/29/2021  
Effective 12/01/2021  
Agency Contact: Matt Jumps (916) 651-5103

California Department of Tax and Fee  
Administration  
File # 2021-1101-02  
Drop Shipments

In this action, the Department amends its drop shipments regulations deleting some definitions and by adding definitions for “marketplace,” “marketplace facilitator,” “marketplace seller,” “true retailer” and “retailer engaged in business in this state.” This action is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b).

Title 18  
Amend: 1706  
Filed 11/30/2021  
Effective 11/30/2021  
Agency Contact: Kim DeArte (916) 309-5227

Department of Insurance  
File # 2021-1014-05  
CLCA Plan of Operations

The Department of Insurance submitted this file and print action to amend the California Automobile Insurance Low Cost Program Plan of Operations (CLCA). This action is exempt from the Administrative Procedure Act pursuant to California Insurance Code section 11620(c).

Title 10  
Amend: 2498.6  
Filed 11/29/2021  
Effective 11/29/2021  
Agency Contact: Michael Riordan (415) 538-4226

Department of Justice  
File # 2021-1108-03  
Department of Financial Protection and Innovation  
Bond Form

This action by Department of Justice amends section 31.11, Bond of Residential Mortgage Lender and/or Servicer, in the title 11 listing of approved surety bonds for the Department of Financial Protection and Innovation.

Title 11  
Amend: 31.11  
Filed 11/30/2021  
Effective 11/30/2021  
Agency Contact: Sarah L. Fabian (415) 510-3517

Division of Workers' Compensation  
File # 2021-1102-01  
Workers' Compensation — Official Medical Fee  
Schedule — Inpatient Hospital

This action by the Division of Workers' Compensation within the Department of Industrial Relations amends the Official Medical Fee Schedule — Inpatient Hospital located within section 9789.25 in title 8 of the California Code of Regulations. This action was submitted to OAL for filing and printing only pursuant to Labor Code section 5307.1, subdivision (g)(2).

Title 08  
Amend: 9789.25  
Filed 12/01/2021  
Effective 12/01/2021  
Agency Contact: Karen Pak (510) 932-9286

State Personnel Board  
File # 2021-1015-04  
Promotions In Place

This action amends regulations concerning promotions in place. These regulations are exempt from the Administrative Procedure Act pursuant to Gov. Code, section 18211.

Title 02  
Amend: 242  
Filed 11/30/2021  
Effective 01/01/2022  
Agency Contact: Lori Gillihan (916) 651-1043

State Personnel Board  
 File # 2021-1015-05  
 Application and Interview Rating Criteria

This action adopts definitions and amends regulations related to applications and interview rating criteria. These regulations are exempt from the Administrative Procedure Act pursuant to Gov. Code, section 18211.

Title 02  
 Adopt: 13  
 Amend: 26, 78, 78.1, 249, 250, 250.1  
 Filed 11/30/2021  
 Effective 01/01/2022  
 Agency Contact: Lori Gillihan (916) 651-1043

Board of Psychology  
 File # 2021-1013-05  
 SB 801 Regulatory Clean-Up

The Board of Psychology submitted this action without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to amend and repeal regulations pertaining to licensure of psychologists and registered psychological associates that are affected by Senate Bill (SB) 801 (Stats.2021, chapter 647). The proposed amendments also change gendered pronouns to gender-neutral pronouns.

Title 16  
 Amend: 1382.3, 1387, 1387.1, 1387.3, 1387.6, 1388.6, 1391, 1391.1, 1391.3, 1391.5, 1391.6, 1391.7, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1, 1396.4  
 Repeal: 1382.6, 1387.7, 1390, 1390.1, 1390.2, 1390.3  
 Filed 11/29/2021  
 Effective 01/01/2022  
 Agency Contact: Jason Glasspiegel (916) 574-7137

Board of Forestry and Fire Protection  
 File # 2021-1008-04  
 Southern Subdistrict and Broadcast Burning Amendments

This action revises the definition of "Broadcast Burning" and lifts the prohibition on Broadcast Burning within the Southern Subdistrict of the Coast Forest District.

Title 14  
 Amend: 895.1, 916.9, 917.2, 917.3, 917.4, 936.9, 937.2, 956.9, 957.2  
 Filed 12/01/2021  
 Effective 01/01/2022  
 Agency Contact: Jane VanSusteren (916) 619-9795

Department of Child Support Services  
 File # 2021-0930-02  
 Complaint Resolution and State Hearing Amendment

In this regular rulemaking action the Department of Child Support Services amends regulations related to the complaint resolution and state hearings processes.

Title 22  
 Adopt: 110242, 110250, 110251, 110252, 111544, 120223  
 Amend: 110160, 110602, 110778, 111542, 111544, 120100, 120101, 120102, 120103, 120105, 120106, 120201, 120202, 120203, 120204, 120205, 120206, 120207, 120210, 120211, 120213, 120216, 120217, 120218, 120220, 120221  
 Repeal: 111543, 120108  
 Filed 11/30/2021  
 Effective 06/01/2022  
 Agency Contact: Susan Sirk (916) 464-6652

Department of Corrections and Rehabilitation  
 File # 2021-1014-02  
 Gassing and Restricted Housing

The California Department of Corrections and Rehabilitation in this regulatory action is establishing and defining the act of aggravated battery on a non-inmate by means of gassing and the act of battery on an inmate by means of gassing. Additionally, the definition of the term "Same and Similar Behavior" is amended as it relates to serious misconduct which may mitigate or aggravate a Security Housing Unit (SHU) term. There are other changes made regarding determine SHU assessments and retention of inmates in Administrative Segregation.

Title 15  
 Amend: 3000, 3323, 3336, 3338, 3341.9, 3375.3, 3375.4, 3375.5  
 Filed 11/30/2021  
 Effective 01/01/2022  
 Agency Contact: Josh Jugum (916) 445-2266

Physical Therapy Board of California  
 File # 2021-0629-01  
 Substantial Relationship Criteria

This action by the Physical Therapy Board adopts criteria to be used in determining whether a crime, act, or professional misconduct is substantially related to the qualifications, functions, or duties of a licensee, or when a licensee has made a showing of rehabilitation related to a crime, act, or professional misconduct when considering denial, suspension, or revocation of a license or registration. This action implements amendments to the Business and Professions Code made by Assembly Bill 2138 (Stats. 2018, chapter 995).

Title 16  
Amend: 1399.20, 1399.21, 1399.22  
Filed 11/30/2021  
Effective 11/30/2021  
Agency Contact: Elsa Ybarra (916) 561-8262

California Prison Industry Authority  
File # 2021-1119-01  
Prohibition on Use of Nonpublic Information

In this regular rulemaking action, the California Prison Industry Authority adopts one section prohibiting employees from using nonpublic information at auctions.

Title 15  
Adopt: 8122  
Filed 11/30/2021  
Effective 01/01/2022  
Agency Contact: Moira Doherty (916) 413-1140

Department of Corrections and Rehabilitation  
File # 2021-1102-02  
Return and Transfer of Parole

In this regular rulemaking, the Department of Corrections and Rehabilitation is amending regulations in response to recent changes to Penal Code section 3003 (amended by Stats. 2019, chapter 497, sec. 206 (Assembly Bill 991) effective January 1, 2020), which now permits specified inmates to be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in

which the inmate has family, social ties, or economic ties and access to reentry services, unless return to that location would violate any other law or pose a risk to the inmate's victim.

Title 15  
Amend: 3741, 3742, 3743, 3744, 3745, 3746, 3748  
Filed 11/30/2021  
Effective 01/01/2022  
Agency Contact:  
Renee Rodriguez (916) 446-2244

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

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