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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 4. GAMBLING CONTROL COMMISSION

**COMMISSION FEES
MODERNIZATION PROJECT
CGCC-GCA-2021-07-R/C**

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period. To be eligible for the Commission’s consideration, all written comments must be **received at its office no later than midnight on February 8, 2022. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.** Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person.

PUBLIC HEARING

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under Contact Persons no later than 15 days prior to the close of the written comment period.

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19811, 19823, 19824, 19826, 19827, 19840, 19841, 19850, 19850.5, 19850.6, 19851, 19853, 19854, 19860, 19862, 19864, 19876, 19912, 19915, 19950, 19951, 19952, and 19984 of the Business and Professions Code, and sections 326.3 and 326.5 of the Penal Code; and to implement, interpret or make specific sections 19801, 19805, 19811, 19823, 19824, 19826, 19841, 19850, 19850.5, 19850.6, 19851, 19852, 19853, 19854, 19855, 19856, 19857, 19860, 19862, 19864, 19865, 19866, 19867, 19868, 19876, 19878, 19880, 19883, 19890, 19893, 19910, 19912, 19915, 19951, 19982, and 19984 of the Business and Professions Code, section 12012.25 of the Government Code, and sections 326.5 and 330.8 of the Penal Code; the Commission is proposing to adopt the following changes to Chapters 1, 2, 3, 4, and 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Commission is the state agency charged with the administration and implementation of the California Gambling Control Act (“Act”).¹ Under the Act, the Commission is authorized to determine fees, and the Department of Justice, Bureau of Gambling Control (Bureau) is required and authorized to collect fees and determine and collect certain deposits. These fees and deposits are required for many purposes, such as to recover the costs associated with conducting an investigation of an applicant’s background.

During Fiscal Year (FY) 2018–2019, at the request of the California Legislature’s Joint Legislative Audit

¹Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

Committee (JLAC), the California State Auditor (CSA) conducted an audit on the Commission and the Bureau. On May 16, 2019, the CSA released their findings and recommendations in the published report 2018–132 (CSA Report). As outlined in the CSA Report, the CSA made the following recommendations to both the Commission and the Bureau:

To better align the revenue in the Gambling [Control] Fund with the costs of the activities that the fund supports, the [B]ureau and the [C]ommission should conduct cost analyses of those activities by July 2020. At a minimum, these cost analyses should include the following: The entities' personnel costs, operating costs, and any program overhead costs. Updated time estimates for their core and support activities, such as background investigations. The cost of their enforcement activities. Using this information, the [B]ureau and [C]ommission should reset their regulatory fees to reflect their actual costs.

In May 2019, the Commission and Bureau began the process of contracting with a qualified vendor to analyze the State's costs compared to the fees collected. While mostly reflecting costs of the Commission and Bureau, other agencies also have administrative costs over the controlled gambling industry. For brevity, this document will often refer to the costs of the Commission and Bureau; however, this is not intended to exclude the appropriate costs of other agencies that are included in this process. The resulting report² (MGT Report), included with this proposed action as a document relied upon (along with noted attachments), identified that the Commission and Bureau's regulatory fee structure indeed does not match with its personnel costs, operating costs, and program overhead costs. Pursuant to the MGT Report, the Commission has determined that some fees and deposits collected are in excess of what is required for the associated costs to the Commission and Bureau while others are being collected at an insufficient level for the associated costs.

As such, the Commission is proposing to adjust certain fees and deposits collected to align them with the administrative and functional needs of the Commission and Bureau. Additionally, for the annual fees collected from Third-Party Providers of Proposition Player Services (TPPPS) business licensees, the Commission is proposing a new annual fee determination methodology that would include an annual calculation process.

²MGT Consulting Group. 2021. Department of Justice's Bureau of Gambling Control and California Gambling Control Commission Fee Study Report of Findings.

EXISTING LAW:

Business and Professions Code section 19840 provides the commission may adopt regulations for the administration and enforcement of this chapter. To the extent appropriate, regulations of the commission and the department shall take into consideration the operational differences of large and small establishments.

Business and Professions Code section 19841 provides the regulations adopted by the Commission shall prescribe the manner and method of collection and payment of fees and issuance of licenses.

Business and Professions Code section 19876 provides if an owner licensee submits an application for renewal of the gambling license after the deadline set in subdivision (b) but before the original expiration date of the license, the commission may assess reasonable delinquency fees not to exceed three times the usual application fee.

Business and Professions Code section 19915 provides the fee for a Commission-issued work permit will not be less than \$25 or more than \$250.

Business and Professions Code section 19951 provides every application for a license or approval shall be accompanied by a nonrefundable fee adopted by regulation and must not exceed \$1,200. The fee for initial issuance of a state gambling license will be an amount determined by the Commission in accordance with regulations adopted pursuant to the Act. The provision also provides fee schedules for the renewal of a state gambling license and the annual fee for holding said license.

Business and Professions Code section 19984 provides the Commission shall establish reasonable criteria for, and require the licensure and registration of, any person or entity that provides proposition player services at gambling establishments pursuant to this section, including owners, supervisors, and players. Those employed by a TPPPS, including owners, supervisors, observers, and players, shall wear a badge which clearly identifies them as proposition players whenever they are present within a gambling establishment. The Commission may impose licensing requirements, disclosures, approvals, conditions, or limitations concerning a TPPPS business, endorsee, supervisor, or worker licensee as it deems necessary to protect the integrity of controlled gambling in this state, and may assess, and the Bureau may collect, reasonable fees and deposits as necessary to defray the costs of providing this regulation and oversight.

Penal Code section 326.5 provides in accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure of, any person that directly or indirectly manufactures, distributes, supplies, vends,

leases, or otherwise provides card-minding devices or other supplies, equipment, or services related to card-minding devices designed for use in the playing of bingo games by any nonprofit organization.

EFFECT OF REGULATORY ACTION:

This proposed action, utilizing the MGT Report, will address the disconnect between those regulatory fees collected and the Commission and Bureau’s actual costs by adjusting the fees included in regulation by the Commission and collected by the Bureau to correspond with the costs necessary to complete those actions that accompany the request for which the fee has been collected.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of ensuring that the Commission and Bureau do not collect, through fees provided in the Commission’s regulations, more or less funds than are necessary for the associated functions and State operational costs for which the fees have been collected.

SPECIFIC PROPOSAL:

This proposed action will make changes within California Code of Regulations, Title 4, Division 18 as follows:

CHAPTER 1. GENERAL PROVISIONS.

ARTICLE 4. FEES

Adopt 12090. Schedule of Fees Required for Applications, Approvals, and Registrations.

Section 12090 provides a single place where most of the fees and deposits associated with the various applications and requests can be found. This central location makes it easy for an applicant to find and reference what costs will be required when submitting an application for a license, work permit, or registration; requesting a replacement badge; requesting the review of a TPPPS contract or playing book; or, requesting an alteration to the number of tables a cardroom is authorized to operate. Further, this proposed action implements appropriate fee and deposit amounts charged for various services provided by the Commission and Bureau as determined by the MGT Report.

CHAPTER 2. LICENSES AND WORK PERMITS

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Amend 12108. Replacement of a Badge.

Section 12108 provides the process a licensee can use to request a replacement badge should one be lost or if a person’s name has changed.

Subsection (a) provides the specific conditions that must be met for a replacement badge to be issued. Paragraph (2) provides that the form Badge Replacement Request, CGCC-CH2-01, must be submitted. The form date is proposed to be amended.

1. The instructions of the form have been amended to remove the \$8 fee and replace it with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090.
2. Section 2 of the form is amended to add cardroom business licensee and TPPPS business licensee (natural persons only) to the types of approvals that can be indicated. In rare cases, cardrooms and TPPPS business licensees are operated as a sole proprietorship and therefore the business licensees, and not endorsees, are required to have badges.

Additionally, reference to the fee required in Section 12090 has been added. Currently, the fee is required on the form; however, like in other instances in this proposed action, it has been moved to Section 12090.

ARTICLE 2. INITIAL AND RENEWAL LICENSES AND WORK PERMITS

Amend 12112. Initial License Applications; Required Forms.

Section 12112 provides the documents a person applying for an initial Commission approval must submit to the Bureau.

Subsection (a) provides that either the form Application for Employee Category License, CGCC-CH2-04, or the form Application for Owner Category License, CGCC-CH2-05, must be submitted. The form dates are proposed to be amended.

1. The form Application for Employee Category License, CGCC-CH2-04, is amended as follows:
 - Section 2B is amended to remove the \$164 fee for all license types, along with the additional temporary license fee of \$30, and replaces it with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090.
 - Section 2B is amended to provide better instructions for when each of the fees need to be paid, clarifying that the application fee is mandatory while the temporary license fee need only be paid if selected.
2. The form Application for Owner Category License, CGCC-CH2-05, is amended as follows:
 - Section 2B is amended to remove the \$164 fee for all license types, along with the additional temporary license fee of \$30, and the delinquency fee, and, replace it with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090.
 - Section 2B is amended to include direction to pay the TPPPS business licensee first issuance annual fee as provided in Section 12252. This provides clear instruction to

the applicant that this fee is required, if applicable. See Section 12252 for further discussion on this fee.

- Section 2B is amended to provide better instructions for when each of the fees needs to be paid, clarifying that the application fee is mandatory while the temporary license fee need only be paid if selected and is notably an additional \$30 under Section 12090.

Additionally, references to the fees required in Section 12090 and the deposits required pursuant to Section 2037 have been added. Currently, the fees and deposits are required on the forms; however, like in other places in this proposed action they have been moved to Section 12090.

Paragraph (d)(1) provides that, if an applicant is a California resident, they must submit a Request for Live Scan Service. The provision is modified to inform the applicant that any fees required to complete the form are the responsibility of the applicant.

Amend 12114. Renewal License Applications; Required Forms.

Section 12114 provides the documents an applicant applying for a renewal of their Commission approval must submit to the Bureau.

Subsection (c) provides for the documents required for a complete application, as applicable.

1. Paragraph (1) provides that either the form Application for Employee Category License, CGCC-CH2-04 or the form Application for Owner Category License, CGCC-CH2-05 must be submitted. The form dates are proposed to be repealed as this form is attached to Appendix A for this chapter in Section 12112.

Additionally, references to the fees required in Section 12090 and the deposits required pursuant to Section 2037 are required. Currently, the fee and deposit are required on the forms themselves; however, like in other places in this proposed action they have been moved to Section 12090.

2. Paragraph (4) provides that, if a California resident, an applicant must submit a Request for Live Scan Service. The provision is modified to inform the applicant that any fees required to complete the form are the responsibility of the applicant.

Additionally, the form date is proposed to be repealed as this form is attached to Appendix A for this chapter in Section 12112(d)(1).

3. Paragraph (5) provides that the form Spousal Information, CGCC-CH2-12, must be submitted and makes reference to the form Application for Owner Category License, CGCC-CH2-05. The form dates are proposed to be repealed as these

forms are attached to Appendix A for this chapter in Section 12112.

Amend 12120. Findings of Suitability Associated with a Tribal Compact.

Section 12120 is amended to clarify that applicants who are Tribal key employees, gaming resource suppliers, and financial sources are not required to pay any fees required to complete the form.

ARTICLE 3. TEMPORARY LICENSES AND WORK PERMITS.

Amend 12122. General Provisions.

Section 12122 provides general provisions for temporary licenses.

Subsection (c) provides the duration that a temporary license or temporary Commission work permit will be in effect. The duration of a temporary license is currently two years while the duration of a temporary Commission work permit is specifically separated out and is only effective for 120 calendar days. This proposed action would repeal the separate effective periods and replace the provision with a consistent two-year effective period.

CHAPTER 3. CONDITIONS OF OPERATION FOR TPPPS BUSINESSES

ARTICLE 1. GENERAL PROVISIONS

Amend 12250. Definitions.

Section 12250 provides the definitions that pertain only to Chapter 3. The Commission is proposing to add 13 new definitions to this section. All existing definitions are renumbered accordingly, which is a non-substantive change.

Paragraph (b)(1) provides the definition of “Active Licensee” to mean a TPPPS business licensee or cardroom business licensee who has generated revenue for at least the last year as reported in Section 12313. This means that if a TPPPS business licensee or cardroom business licensee has reported revenue in the previous year’s financial statement, they are considered active.

Paragraph (b)(2) provides the definition of “Annual Fee” to mean the amount a TPPPS business licensee is required to pay to cover Non-Application Costs pursuant to Section 12252.1.

Paragraph (b)(3) provides the definition of “Application Cost” to mean all costs, including the deposit, an applicant pays for the processing of their application.

Paragraph (b)(6) provides the definition of “Cost Pool 1” or “Even Across All” to mean a cost allocation for all non-application costs that are not directly attributed to an application fee or deposit, and allocated as a cost to all TPPPS business licensees and cardroom business type licenses equally. This includes all costs associated with, but may not be limited to, administration, information technology,

and legislative and regulatory workload. This describes the portion of the Commission and Bureau's operational and other costs that are not linked to the payment of a fee or deposit, such as for the review of an application, and are related to the Commission and Bureau's general work related to the oversight of the controlled gambling industry.

Paragraph (b)(7) provides the definition of "Cost Pool 2" or "Application Split" to mean a cost allocation for all non-application costs on a per-application basis that relate to both TPPPS business licensees and cardroom business licensees that have a direct connection to the processing of applications for the controlled gambling industry, and are not directly attributed to an application fee or deposit. This includes such costs associated with, but may not be limited to, responding to general phone calls, and the processing of electronic and regular mail. This describes costs generally associated with the processing of applications, but cannot be directly linked to the fee or deposit associated with the review of an application.

Paragraph (b)(8) provides the definition of "Cost Pool 3" or "Entity Split" to mean a cost allocation for all non-application costs generated by non-Commission actions that relate to both TPPPS business licenses and cardroom business licensees. This includes costs associated with, but may not be limited to, compliance and enforcement, financial audits, calls for service, and incident reports born separately amongst TPPPS business licensees and cardroom business licensees.

Paragraph (b)(9) provides the definition of "Cost Pool 4" or "Commission Actions" to mean a cost allocation for all non-application costs and generated by matters requiring Commission action that relates to TPPPS business licensees or cardroom business licensees. This includes such costs associated with, but may not be limited to, administrative hearings and decisions, and Commission meetings.

Paragraph (b)(10) provides the definition of "Cost Pool 5" or "Cardroom Only" to mean a cost allocation for all non-application costs that are specific to cardroom business licensees but not directly linked to a Commission approval, such as, but not limited to, compliance reviews of games, reviews of reports, and ordinance reviews.

Paragraph (b)(11) provides the definition of "Cost Pool 6" or "TPPPS Only" to mean a cost allocation for all non-application costs that are specific to TPPPS business licensees but not directly linked to a Commission approval, such as, but may not be limited to, contract renewal notices and non-investigation industry inquiries or correspondence.

Paragraph (b)(18) provides the definition of "Non-Operational Licensee" to mean a TPPPS business licensee or cardroom business licensee that maintains

a valid license but did not generate revenue in the past year as reported in Section 12313. This means that if a TPPPS business licensee or cardroom business licensee has not reported revenue in the previous year's financial statement they are considered non-operational.

Paragraph (b)(19) provides the definition of "New Business Licensee" to mean a TPPPS business licensee or cardroom business licensee who became licensed prior to August 31 of the year the invoices were created.

Paragraph (b)(20) provides the definition of "Non-Application Cost" to mean all costs other than application costs borne by the Commission, Department of Justice, and all other State operations expenditures for the administration and enforcement of the Act.

Paragraph (b)(26) provides the definition of "Surrendered or Revoked Licensee" to mean a former TPPPS business licensee or cardroom business licensee who stopped operating and ceased to maintain a valid license prior to August 31 of the year the invoices were created.

Amend 12252. TPPPS Annual Fee.

Section 12252 provides the process and timelines for a TPPPS business licensee to submit their annual fee.

Subsection (a) provides that no later than September 1 of each year, a TPPPS business licensee must submit to the Bureau its annual fee. This provision is amended to require that by October 1 of each year an invoice in an amount determined by the Commission pursuant to Section 12252.1 will be sent by the Bureau to each TPPPS business licensee and that the TPPPS business licensee will have until January 1 of the following year to submit the invoiced annual fee to the Bureau.

Subsection (b) provides that the TPPPS annual fee is equal to \$2,800 for each associated TPPPS endorsee licensee and TPPPS employee type licensee. This provision is repealed and the new calculation to determine a TPPPS' annual fee is replaced with Section 12252.1.

Subsection (c), renumbered to subsection (b), provides that the annual fee may be paid in installments if the TPPPS business licensee submits a written request to the Bureau. This provision is amended to add a 30-day deadline from the date the invoice was mailed.

New subsection (c), once a part of existing subsection (c), which was renumbered to subsection (b), provides that once approved for installment payments, a TPPPS business licensee will provide its payments by September 1, December 1, and March 1 of the payment year, with each payment being one-third of the total invoiced amount. This provision is amended to change

the payment dates to January 1, April 1, and June 30 of the payment year.

Subsection (d) provides that should the TPPPS business licensee see a reduction in the number of associated TPPPS endorsee licensees and TPPPS employee category licensees after the TPPPS annual fee has been determined, no refund of the paid TPPPS annual fee will be provided. This provision is repealed.

Subsection (e) provides that following the assessment of the TPPPS annual fee, if the TPPPS business licensee increases the number of its associated licenses above the number that was used to determine the TPPPS annual fee, the TPPPS business licensee must submit to the Bureau an additional per associated license fee within 30 days of the increase. Additionally, this provision provides that for new TPPPS business licensees, an initial year annual fee must be submitted upon the issuance of the new license. This subsection is repealed.

New subsection (d), once a part of existing subsection (e), provides that the TPPPS certificate will not be issued until the Bureau has received the TPPPS annual fee, or has approved the TPPPS business licensee for installment payments. This provision has proposed non-substantive amendments to clarify the existing requirement.

Subsection (f), renumbered to subsection (e), provides that any renewal application for a TPPPS business licensee may not be approved if the TPPPS business licensee has any outstanding annual fees. This provision has proposed non-substantive amendments to clarify the existing requirement.

New subsection (g) provides the invoice amounts for TPPPS business licensees when they first receive their licenses.

1. Paragraph (1) provides that upon the first issuance of a TPPPS business license, either as a temporary or a permanent license, the Bureau will issue an invoice in the amount determined in Section 12252.1(b), the TPPPS business licensee must submit to the Bureau the annual fee within 30 days from the date the invoice was mailed. This provision provides a replacement to existing paragraph (e)(2).
2. Paragraph (2) provides that for the first full calendar year of licensure, a TPPPS business licensee will be invoiced the unadjusted annual fee, as if they were a TPPPS business licensee whose average gross gaming revenue was less than \$1.5 million as determined in Section 12252.1(a)(6)(A)(1). For the invoice period, if the TPPPS business licensee has had their license issued prior to October 1, their invoice will be issued alongside all other TPPPS business licensee invoices, on October 1. If the TPPPS business licensee has had their license issued after October 1, their invoice will

be issued alongside their partial year invoice required in paragraph (1).

Adopt 12252.1. TPPPS Annual Fee Calculation.

Section 12252.1 provides the calculation method of the TPPPS annual fee. The TPPPS annual fee is determined using a step-by-step calculation method that begins with the Commission's and Bureau's operation costs, which are not directly related to any charged fee or deposit, to determine how each type of operation cost relates to the TPPPS industry and divides the costs into cost pools dependent on the average annual revenue of a TPPPS business licensee to determine an annual fee.

Subsection (a) provides the six-step calculation method for the Commission to follow when determining the TPPPS annual fee amounts.

1. Paragraph (1) provides the first step in the calculation method. The Commission and Bureau will collect their cost data from the previous and current fiscal years. The Commission will analyze the information and divide the allocation of costs into the six cost pools, as they are defined in Section 12250. If necessary, other costs may be included in specific cost pool(s) as the Commission determines is required for administrative and enforcement of the Act based on the responsibilities of the Commission and Bureau pursuant to Business and Professions Code sections 19823 and 19826.

Additionally, should it be determined, for whatever reason, that a previous year's TPPPS annual fees were inaccurate, an additional sum either added or subtracted to the appropriate cost pool(s) will be included as a carry forward to reconcile the previous year(s).

2. Paragraph (2) provides the second step of the calculation method. The Commission will calculate the percentage of total applications for TPPPS business licensees compared to the total of all applications for TPPPS business licensees and cardroom business licensees and multiply it by cost pool 2. This ratio allows cost pool 2 to be divided between the two industries to determine the percentage of effort that was spent on TPPPS business licensees.
3. Paragraph (3) provides the third step of the calculation method. The Commission will determine the percentage of active and non-operational TPPPS business licensees compared to the total of all active and non-operational TPPPS business licensees and cardroom business licensees and multiply it by cost pool 3. This ratio allows cost pool 3 to be divided between the two industries to determine the general percentage of effort spent on each industry.

4. Paragraph (4) provides the fourth step of the calculation method. The Commission will determine the percentage of total Commission actions for TPPPS business licensees and cardroom business licensees using the average number of applicable Commission actions over the previous three fiscal years and multiply the percentages by cost pool 4. This ratio allows cost pool 4 to be divided between the two industries to determine the general effort spent on each industry.
 - Clause 3 provides that surrendered or revoked TPPPS business licensees will not receive an invoice.
 - Clause 4 provides that active TPPPS business licensees, who had previously been identified to have an average gross gaming revenue equal to or above \$1,500,000, will be invoiced an annual fee that is a proportional amount of the remainder of the total fees to be paid based upon the TPPPS business licensee’s proportional three-year average gross gaming revenue when compared to all other active TPPPS business licensees who had previously been identified to have an average gross gaming revenue equal to or above \$1,500,000.
 5. Paragraph (5) provides the fifth step of the calculation method. The Commission will add the TPPPS business licensee values determined in steps 2 through 4 along with the value of cost pool 6. These are the total fees to be paid by all active and non-operational TPPPS business licensees. The Commission will then divide the total annual fee by the total average annual number of Commission actions from the last three fiscal years for TPPPS business licensees to determine the unadjusted annual fee amount.
 6. Paragraph (6) provides the sixth step of the calculation method. The Commission will determine for each TPPPS business licensee if they are an active licensee, surrendered or revoked licensee, or non-operational licensee. Additionally, for each active licensee, the Commission will determine their annual average gross gaming revenue based upon the TPPPS business licensee’s previous three fiscal years as reported pursuant to Section 12313. If three years of gross gaming revenue data is unavailable, such as if the TPPPS business licensee has not been operating for the previous three years, the Commission will utilize however many years are available to create the average. Using this average, the Commission will separate the active licenses into two groups, those whose average is below \$1,500,000 and those whose average is equal to or above \$1,500,000.
 - Subparagraph (A) provides the instructions to the Bureau for the final determinations of the amounts to be invoiced by the Bureau pursuant to subsection (a) of Section 12252.
 - Clause 1 provides that active TPPPS business licensees whose average gross gaming revenue was determined to be below \$1,500,000 will be billed an amount equal to the baseline per-licensee annual fee determined in paragraph (5).
 - Clause 2 provides that non-operational TPPPS business licensees pay half the amount of the baseline per-licensee annual fee determined in paragraph (5).
 - Clause 3 provides that surrendered or revoked TPPPS business licensees will not receive an invoice.
 - Clause 4 provides that active TPPPS business licensees, who had previously been identified to have an average gross gaming revenue equal to or above \$1,500,000, will be invoiced an annual fee that is a proportional amount of the remainder of the total fees to be paid based upon the TPPPS business licensee’s proportional three-year average gross gaming revenue when compared to all other active TPPPS business licensees who had previously been identified to have an average gross gaming revenue equal to or above \$1,500,000.
- Subsection (b) provides that for TPPPS business licensees who receive an approval of their application for licensure, either temporary or permanent, will be required to pay a proportional amount of the unadjusted annual fee required of TPPPS business licensees whose three-year average gross gaming revenue is less than \$1,500,000 based on the number of months remaining in the current calendar year.

ARTICLE 2. PLAYING BOOKS

Amend 12261. Review of Playing Book Forms.

Section 12261 provides general information and requirements about the review and approval of both hardcopy and electronic playing book systems. Additionally, this section provides the process for requesting the approval of a hardcopy playing book.

Subsection (b) provides which documents and fees are required to be submitted to the Bureau in order to request the review of their hardcopy playing book. This includes the form Application for Playing Book Approval, CGCC-CH3-01. The form date is proposed to be amended.

- Section 7 of the form provides the nonrefundable fee amounts for the review of initial and amended playing books for both hardcopy playing books and electronic playing book systems at \$75 for both initial and amended hardcopy playing books, \$1,200 for an initial electronic playing book systems, and \$94 for amended electronic playing book systems. The specific dollar amounts of the fees have been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090.
1. Paragraph (1) provides that an initial or amended hardcopy playing book must include a \$75 fee. The specific dollar amounts of the fees have

been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090.

2. Paragraph (1) is amended to add the requirement of a deposit. This deposit is provided in Section 12090. Additionally, the amendment provides that the Chief of the Bureau may request additional money in addition to the initial deposit required in Section 12090 if it is necessary to pay for the final costs of the review. The Commission has adopted the Bureau’s deposit language from Section 2037(a), which includes a 15–day payment requirement, the refund of any excess deposits received, and a final itemized accounting of the costs incurred by the Bureau.

Amend 12264. Review and Certification of Electronic Playing Book Systems.

Section 12264 provides the process by which an electronic playing book system is reviewed prior to its use.

Subsection (a) provides which documents and fees are required to be submitted to the Bureau in order to request the review of their electronic playing book system. Subsection (a) provides that the TPPPS business licensee must submit form Application for Playing Book Approval, CGCC–CH3–01. The form date is proposed to be repealed as the form is already attached to Appendix A for this chapter in Section 12261(b).

1. Paragraph (1) includes a processing fee of \$1,200 or an amendment fee of \$94. The specific dollar amounts of the fees has been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090.
2. Paragraph (1) is amended to add the requirement of a deposit. This deposit is provided in Section 12090. Additionally, the amendment provides that the Chief of the Bureau may request additional money in addition to the initial deposit required in Section 12090 if it is necessary to pay for the final costs of the review. The Commission has adopted the Bureau’s deposit language from Section 2037(a), which includes a 15–day payment requirement, the refund of any excess deposits received, and a final itemized accounting of the costs incurred by the Bureau.

ARTICLE 3. TPPPS CONTRACTS

Amend 12272. Review and Approval of TPPPS Contracts.

Section 12272 provides the standard process by which TPPPS business licensees can request their TPPPS contract be reviewed.

Subsection (a) provides that proposition player services may only be provided pursuant to a written TPPPS contract that has been approved in advance by the Bureau. Additionally, the provision provides what requirements must be met in order for the Bureau to issue an approval.

1. Subparagraph (2)(A) provides that the TPPPS business licensee must submit form Application for Contract Approval to Provide Proposition Player Services, CGCC–CH3–02. The form date is proposed to be amended. This is a non–substantive change and corresponds to the amendment of the form.

- Section 3 of the form provides the nonrefundable fee amounts of \$57 for the review of requests for a new or extended contract, an expedited review, and an amendment to an existing contract. Additionally, the form provides for an expedited processing fee of \$150. The specific dollar amounts of the fees have been removed from this provision, and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non–substantive change.
- Section 3 of the form requires the submittal of form Appointment of Designated Agent, CGCC–CH1–04. The form date is proposed to be repealed. This form is attached to Appendix A for Chapter 1 in Section 12080(a), and therefore the form date is unnecessary on form Application for Contract Approval to Provide Proposition Player Services. As the Commission has adopted form Appointment of Designated Agent into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re–referral to the version date is unnecessary as both Section 12080(a) provides it and the most recent version of the form can be found in the CCR.

Additionally, the citation of the form as being referenced in paragraph (2) is proposed to be amended to instead attach the form to Appendix A of Chapter 3. This is the first citation in the Commission’s regulations to the forms, and as currently drafted provides a citation to this provision. Additionally, the two other references to this form found in the Commission’s regulations both indicated that this provision is the proper citation for this form. This is a non–substantive change.

2. Subparagraph (D) requires a nonrefundable fee of \$57. The specific dollar amount of the fee has been removed from this provision and replaced

with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.

Amend 12274. Expedited Review and Approval of TPPPS Contracts.

Section 12274 provides a process by which TPPPS business licensees can request their TPPPS contract be reviewed under a faster timeline than normal.

Subsection (c) provides which documents and fees are required to be submitted to the Bureau in order to make the request to amend an existing contract.

1. Paragraph (1) provides that the TPPPS business licensee must submit form Application for Contract Approval to Provide Proposition Player Services, CGCC-CH3-02. The form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12272(a)(2), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12272(a)(2) provides it and the most recent version of the form can be found in the CCR.
2. Paragraph (4) requires a nonrefundable fee of \$57. The specific dollar amount of the fee has been removed from this provision, and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.
3. Paragraph (5) requires an expedited processing fee of \$150. The specific dollar amount of the fee has been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.

The reference to a sum of money as determined by the Chief of the Bureau pursuant to Business and Professions Code section 19867 has been replaced with a reference to Section 2037. Section 2037 is the regulation section through which the Bureau implements and makes specific the provisions of Business and Professions Code section 19867. Specifically, the Bureau provides for a deposit amount of \$750 in Section 2037(a)(2)(A) for expedited contract approval. Additionally, the reference to Section 2037 is consistent with how other similar provisions reference the Bureau's authority to require deposits.

Amend 12276. Review and Approval of Amendments to TPPPS Contracts.

Section 12276 provides a process by which a TPPPS business licensee can request approval of amendments to an existing contract.

Subsection (a) provides which documents and fees are required to be submitted to the Bureau in order to make the request to amend an existing contract. Subsection (a) includes a nonrefundable fee of \$57. The specific dollar amount of the fee has been removed from this provision and replaces it with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.

Amend 12278. Extension of TPPPS Contracts.

Section 12278 provides a process by which a TPPPS business licensee can request approval to have an existing TPPPS contract extended.

Subsection (a) provides which documents and fees required to be submitted to the Bureau in order to make the request to extend an existing TPPPS contract.

1. Paragraph (1) provides that the TPPPS business licensee must submit form Application for Contract Approval to Provide Proposition Player Services, CGCC-CH3-02. The form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12272(a)(2), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12272(a)(2) provides it and the most recent version of the form can be found in the CCR.
2. Paragraph (2) provides that the cardroom must submit a nonrefundable application fee of \$57. The specific dollar amount of the fee has been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.

CHAPTER 4. GAMBLING EQUIPMENT MANUFACTURERS OR DISTRIBUTORS

Amend 12309. Forms; Fees.

Section 12309 provides a process by which a person can apply for registration as a gambling equipment manufacturer or distributor.

Subsection (a) provides that an applicant must submit the form Application for Registration of Manufacturers or Distributors of Gambling Equipment, BCG-025. The form date is proposed to be amended. This is a non-substantive change and corresponds to the amendment of the form. Additionally, the form

number is changed to BGC-025, which corresponds to the form number provided on the form.

- Item 11 of the information required by the form provides that an application fee of \$32 is required for a Class A registration. The specific dollar amount of the fee has been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.
- The final paragraph of the form includes a direction to where the Commission's regulations can be found on the Commission's website. This is proposed to be repealed. The local direction of "under 'Laws and Regulations'" is incorrect as the Commission has amended its website since this form had been last updated. The Commission does not want to be in the position of being required to amend its regulations any time it chooses to reorganize or re-categorize its website.

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS

ARTICLE 1. GENERAL PROVISIONS

Amend 12364. Relocation of Gambling Establishment.

Section 12364 provides a process by which a cardroom can inform the Commission and Bureau of its intent to relocate to a different gambling establishment.

Subsection (b) provides that the cardroom must notify the Bureau of the planned relocation at least 90 days in advance of the intended commencement of gambling operations in the new location. This notification is provided by using the form Notice of Relocation, CGCC-CH7-02. The form date is proposed to be amended. This is a non-substantive change and corresponds to the amendment of the form.

Section 4 of form CGCC-CH7-02 provides that prior to requesting its site visit, the Bureau will request a deposition amount as required by its regulations. Currently, the form provides the specific amount required by the Bureau at \$600. The form is proposed to be amended to remove the specific dollar amount, leaving only the reference to the Bureau's regulation Section 2037. The removal of the specific dollar amount ensures that the Commission's form does not inadvertently indicate an incorrect dollar amount due to the Bureau's amendment of its regulations.

ARTICLE 10. GAMING TABLES

Amend 12470. Request for Additional Temporary Tables for Tournaments or Special Events.

Section 12470 provides a process by which a cardroom can request the Commission to increase

temporarily the number of tables for which they are authorized.

Subsection (a) provides the submittal requirements such as when the request must be submitted by and what must be submitted to the Bureau in order to have the request considered.

1. Paragraph (1) provides that the cardroom must submit form Cardroom Business License: Gaming Tables, CGCC-CH7-07. The form date is proposed to be amended. This is a non-substantive change and corresponds to the amendment of the form.

- Section 2 of form CGCC-CH7-07 provides a place for the requestor to inform the Commission and Bureau what type of request is being made, since this form is used in conjunction with four types of requests pertaining to the permanent and temporary increase and decrease in authorized gaming tables.

This section is amended to change the fee reference locations from Sections 12470 and 12472 and replace them with a reference to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.

2. Paragraph (2) provides that the cardroom must submit a nonrefundable application fee of \$164. The specific dollar amount of the fee has been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.

Amend 12472. Request for Additional Permanent Tables.

Section 12472 provides a process by which a cardroom can request the Commission to permanently increase the number of tables for which they are authorized.

Subsection (a) provides which documents and fees are required to be submitted to the Bureau in order to make the request to permanently increase the number of tables for which they are authorized.

1. Paragraph (1) provides that the cardroom must submit form Cardroom Business License: Gaming Tables, CGCC-CH7-07. The form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12470(a)(1), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12470(a)(1) provides

it and the most recent version of the form can be found in the CCR.

2. Paragraph (2) provides that the cardroom must submit a nonrefundable application fee of \$164. The specific dollar amount of the fee has been removed from this provision and replaced with a citation to Section 12090. As previously discussed, the Commission has moved all fees to Section 12090. This amendment is a non-substantive change.

Amend 12474. Reduction in Permanent Tables.

Section 12474 provides a process by which a cardroom can request the Commission permanently reduce the number of tables for which they are authorized.

Subsection (a) provides a reference to form CGCC-CH7-07. The form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12470(a)(1), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12470(a)(1) provides it and the most recent version of the form can be found in the CCR.

Amend 12474.1. Temporary Reduction in Permanent Tables.

Section 12474.1 provides a process by which a cardroom can request to temporarily reduce the number of tables for which they are authorized.

Subsection (a), in paragraphs (1) and (3), provides a reference to form CGCC-CH7-07. The form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12470(a)(1), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12470(a)(1) provides it and the most recent version of the form can be found in the CCR.

CHAPTER 8. BINGO

ARTICLE 2. MANUFACTURERS, DISTRIBUTORS, AND VENDORS OF BINGO EQUIPMENT, DEVICES, SUPPLIES, AND SERVICES

Amend 12492. Interim Licenses; Initial and Renewal; Conditions.

Section 12492 provides the process through which an applicant can apply for an initial or renewal interim license to manufacture, distribute, or provide remote caller bingo equipment, supplies, services or card-minding devices.

Paragraphs (d)(3) and (e)(3) provide that, if a California resident, an applicant must submit a Request for Live Scan Service. These provisions

are modified to inform the applicant that any fees required to complete the form are the responsibility of the applicant. Historically, some license types would provide billing codes for their payment, with the Bureau utilizing the funds paid by the applicant to the Bureau to cover the costs. With the amendment to the Commission's fees, the Bureau will no longer be collecting money earmarked for the payment of applicants' live service fees and so they will be responsible to directly pay the fees themselves.

Additionally, the form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12112(d)(1), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12112(d)(1) provides it and the most recent version of the form can be found in the CCR.

ARTICLE 10. REMOTE CALLER BINGO INTERIM LICENSES AND INTERIM WORK PERMITS

Amend 12500. Interim Licenses; Initial and Renewal; Conditions.

Section 12500 provides the process through which an applicant can apply for an initial or renewal interim license for a fiduciary or caller.

Paragraph (c)(3) provides that, if a California resident, an applicant must submit a Request for Live Scan Service. The provision is modified to inform the applicant that any fees required to complete the form are the responsibility of the applicant. Historically, some license types would provide billing codes for their payment, with the Bureau utilizing the funds paid by the applicant to the Bureau to cover the costs. With the amendment to the Commission's fees, the Bureau will no longer be collecting money earmarked for the payment of applicants' live service fees and so they will be responsible to directly pay the fees themselves.

Additionally, the form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12112(d)(1), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12112(d)(1) provides it and the most recent version of the form can be found in the CCR.

Amend 12503. Interim Work Permits; Initial and Renewal; Conditions.

Section 12503 provides the process through which an applicant can apply for a remote caller bingo initial or renewal interim work permit.

Paragraph (b)(3) provides that, if a California resident, an applicant must submit a Request for Live Scan Service. The provision is modified to inform the

applicant that any fees required to complete the form are the responsibility of the applicant. Historically, some license types would provide billing codes for their payment, with the Bureau utilizing the funds paid by the applicant to the Bureau to cover the costs. With the amendment to the Commission's fees, the Bureau will no longer be collecting money earmarked for the payment of applicants' live service fees and so they will be responsible to directly pay the fees themselves.

Additionally, the form date is proposed to be repealed. This form is attached to Appendix A for this chapter in Section 12112(d)(1), and therefore the form date is unnecessary in this section. As the Commission has adopted this form into its regulations by attaching it to the Appendix, the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12112(d)(1) provides it and the most recent version of the form can be found in the CCR.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

The proposed action is estimated to be cost neutral to the state and a cost savings to industry applicants and licensees overall. The regulations are implemented as a cost recovery model to fund the oversight and enforcement of the industry. The regulatory amendments for the costs decrease the amounts that the industry will pay in licensing and annual fees by \$7,176,757.80. This amount does not reflect the necessary annual fee adjustment for the cardroom which must occur with statutory amendments that are outside the regulatory abilities of the Commission at this time.

There are no costs or savings in Federal funding to the State.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

EFFECT ON HOUSING COSTS:

None.

IMPACT ON BUSINESS:

The Commission has determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony: The Commission built a financial model for the current number of applications by fee type and license type. The findings reflect that the regulatory amendments for the costs decrease the amounts that the industry will pay by \$7,176,757.80. This amount does not reflect the necessary annual fee adjustment for the cardroom which must occur with statutory amendments that are outside the regulatory abilities of the Commission at this time.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

While there are some fee increases, as a whole this package results in a cost savings for most individual applicants and businesses.

For the representative person or business, \$164 is the new price per application. It should be noted that this is actually a savings as the prior application fee ranged between \$250-\$1,000 per application. The difference from \$164 to the former fee of \$250 to \$1,000 of the individual licensee is the actual realized costs savings. Moreover, the annual fees for TPPPS business licensees decreases for most.

As to the annual fees, for TPPPS entities that are active and non-operational, there is an associated annual fee of \$1,509. For TPPPS entities that are active and operational, the following ranges apply based on the last three year average gross gaming revenue (Three Year AGGR):

- Three Year AGGR \$0-\$1,499,999 — Annual Fee \$3,019
- Three Year AGGR \$1,500,000-\$2,999,999 — Annual Fee \$3,020 to \$30,000
- Three Year AGGR \$3,000,000-\$4,999,999 — Annual Fee \$30,001 to \$50,000
- Three Year AGGR \$5,000,000-\$9,999,999 — Annual Fee \$50,001 to \$100,000

- Three Year AGGR \$10,000,000–\$24,999,999 — Annual Fee \$100,001 to \$250,000
- Three Year AGGR \$25,000,000–\$99,999,999 — Annual Fee \$250,001 to \$1,000,000
- Three Year AGGR \$100,000,000–\$275,000,000 — Annual Fee \$1,000,001 to \$2,800,000

EFFECT ON SMALL BUSINESS:

The Commission has made a determination that the proposed regulatory action would not significantly impact small businesses overall. The regulations overall account for small business revenues and expenditures. The Commission calculated the total number of small businesses utilizing the federal Small Business Administration definition. To accomplish this, the Commission calculated the percentage of small businesses along with the average number of owners per designated small business with the data that was provided and available to the Commission. This percentage was leveraged by identifying all entities with an average annual gross revenue of \$30,000,000 per year as that is the threshold amount with NAICS (North American Industry Classification System) codes 713290 and 713210 and dividing that number by the total number of industry-specific entities. This three year average calculation was performed using the available financial data provided wherein the Commission was provided a three year revenue average by Licensees.

As to the annual fee for entities, small business and non-operable businesses were taken into significant consideration. Businesses with revenue less than 1.5 million dollars and not presently in operation also pay a fee no more than half of the unadjusted annual fee costs. The payment brackets are provided in the table above. This proposed action as it pertains to individual licensure of businesses amounts to an average of approximately three applications for each small business. A multiplier of \$164 was applied (price per application) to arrive at the cost per small business. It should be noted that this is actually a savings as the prior application fee for an owner-category license application was \$1,000 per application. The difference from \$164 to \$1,000 is the actual costs savings of each business license application fee. A multiplier of \$164 was applied (price per application) to arrive at the cost per small business.

As it pertains to individual licensure of businesses, the average amounted to approximately three applications for each small business. A multiplier of \$164 was applied (price per application) to arrive at the cost per small business. It should be noted that this is actually a savings as the prior application fee for an owner-category license application was \$1,000 per application. The difference from \$164 to \$1,000 is the actual costs savings of each business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. For this purpose, the definition of a small business as defined by the federal Small Business Administration was utilized.

The basis for this determination is that this proposed action only adjusts fees and specified deposits collected for various functions performed by the Commission and the Bureau, which is unlikely to result in additional or reduced industry participation or performance.

BENEFITS OF PROPOSED REGULATION:

Notwithstanding the adjustment of annual fees for gambling establishments, this regulation aligns all program costs with respective fees to realize a full cost recovery model that does not over or under collect fee amounts. This results in fair and equitable costs to the industry and a balanced Gambling Control Fund for the State.

HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by aiding and preserving the integrity of controlled gambling.

WORKER SAFETY:

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

STATE’S ENVIRONMENT:

It has been determined that the proposed action will not affect the State’s environment because it has nothing to do with environmental issues.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative 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.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected: No reasonable alternative has been developed

or otherwise identified and brought to the attention of the Commission.

**INITIAL STATEMENT OF REASONS,
INFORMATION AND TEXT OF PROPOSAL**

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

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

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the primary contact person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's website listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

Alex Hunter, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499
E-mail: ahunter@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Adrianna Alcala-Beshara, Deputy Director
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-1336
Fax: (916) 263-0499
E-mail: aalcalabeshara@cgcc.ca.gov

WEBSITE ACCESS

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

TITLE 20. ENERGY COMMISSION

PUBLIC UTILITIES AND ENERGY
DIVISION 2. STATE ENERGY
RESOURCES CONSERVATION AND
DEVELOPMENT COMMISSION
CHAPTER 4. ENERGY CONSERVATION
ARTICLE 5. LOAD
MANAGEMENT STANDARDS
SECTIONS 1621 AND 1623
DOCKET NO. 21-OIR-03

INTRODUCTION

Notice is hereby given that the California Energy Commission (CEC) proposes to adopt amendments to the Load Management Standards (LMS) contained in the California Code of Regulations (CCR), Title 20, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The CEC staff will hold a public hearing on the proposed regulations at the date and time listed below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulations at the public hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

Public Hearing
Tuesday, February 8, 2022
10:00 a.m. (Pacific Time)

BUSINESS MEETING

PLEASE TAKE NOTICE that the CEC will consider and possibly adopt the proposed regulations at a CEC Business Meeting at the date and time listed below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulations at the Business Meeting. If the date, time, place, or nature of the proposed adoption changes, the CEC will provide updated information in the rulemaking docket.

California Energy Commission Business Meeting
Wednesday, May 11, 2022
10:00 a.m. (Pacific Time)

The public hearing and business meeting will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

REMOTE ATTENDANCE

The **public hearing** may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password for the workshop listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Public Advisor's Office at publicadvisor@energy.ca.gov or (800) 822-6228.

Zoom Link: <https://energy.zoom.us/j/92614161543?pwd=azNUWUIKNVhlcHJ6SmY2Z2JiNEFXQT09>

Webinar ID: 926 1416 1543
Passcode: 642199

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the telephone, dial *9 to "raise your hand" and *6 to mute/unmute your phone line.

PUBLIC ADVISOR

The CEC's Public Advisor's Office provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at publicadvisor@energy.ca.gov, by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least

five days in advance. The CEC will work diligently to accommodate all requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Public Advisor's Office via email or phone.

MEDIA INQUIRIES

Direct media inquiries to the Media and Public Communications Office to (916) 654-4989 or mediaoffice@energy.ca.gov.

PUBLIC COMMENT PERIOD

The public comment period for the LMS regulations will be held from December 24, 2021, through February 7, 2022. Any interested persons, or their authorized representative, may submit written comments to the CEC for consideration on or prior to February 7, 2022. The CEC appreciates receiving written comments at the earliest possible date. Comments submitted outside this comment period are considered untimely. CEC may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/2020-load-management-rulemaking> which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the "Comment Text" box or attached as a downloadable, searchable document consistent with 20 California Code of Regulations Section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 21-OIR-03 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit
Docket No. 21-OIR-03
715 P Street, MS-4
Sacramento, CA 95814

Pursuant to California Code of Regulations Title 20 section 1104(e), any person may make oral comment on any agenda item at the May 11, 2022, Business Meeting. Please consult the public agenda, which will

be posted ten days before the May 11, 2022, Business Meeting, for important details.

STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25213, 25218(e), and 25403.5 authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, and make specific Public Resources Code Section 25403.5.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Warren–Alquist Act establishes the CEC as California’s primary energy policy and planning agency. Sections 25213, 25218(e) and 25403.5 of the Public Resources Code mandate and authorize the CEC to adopt rules and regulations, as necessary, to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy and to manage energy loads, or demand, to help maintain electrical grid reliability.

The LMS regulations are designed to help balance the supply and demand of electricity in California. The original LMS regulations were adopted in 1979 (CCR, Title 20, Sections 1621–1625) and required the implementation of marginal cost pricing, industrial time–of–use rates, commercial building audits, and residential load control programs. As a result, California electricity customers have participated in load shifting and demand response in response to electricity pricing and other programs for decades.

Today, existing load management resources are largely met by utility incentive programs that reward customers for reducing peak loads. However, these existing demand response programs are incapable of shifting loads to periods of high renewable energy generation, and thus are inadequate for supporting the carbon–free grid of the future. Since the adoption of the original LMS regulations, technologies and markets have evolved substantially, creating significant opportunities for more advanced load management strategies.

Therefore, the CEC proposes to update the LMS regulations to require the five largest electric utilities in California — Los Angeles Department of Water and Power, Pacific Gas and Electric, Sacramento Municipal Utility District, San Diego Gas and Electric, Southern California Edison — and the community choice aggregators (CCAs) located within their service territories to:

Develop retail electricity rates that change at least hourly to reflect locational marginal costs and submit those rates to the utility’s governing body for approval. Update the time–dependent rates in CEC’s Market Informed Demand Automation Server (MIDAS)

database whenever a rate is approved or modified. Implement a single statewide standard method for providing automation service providers with access to their customers’ rate information.

Develop a list of cost–effective automated price response programs for each sector and integrate information about time–dependent rates and automation technologies into existing customer education and outreach programs.

The proposed regulations will form the foundation for a statewide system of time and location dependent signals that can be used by automation enabled loads to provide voluntary and cost–effective load flexibility on the electric grid.

Difference from existing comparable federal regulations or statute

These proposed regulations do not duplicate or conflict with any federal regulations or statute contained in the Code of Federal Regulations.

Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments

The broad objective of the amended LMS regulations is to carry out the CEC’s statutory mandate to establish utility programs that reduce peak electricity demand and help balance the supply and demand of energy in California to ensure grid reliability.

The specific benefits of the proposed LMS regulations would be cost savings to consumers, cost savings to utilities, improved grid reliability, and lower greenhouse gas emissions from energy generation and use. Updated LMS regulations are expected to improve load flexibility by allowing consumers to voluntarily automate flexible loads. The combination of dynamic marginal rates, optimized behind the meter energy storage, and better access to utility load management programs will improve the supply–demand balance. This will reduce both the cost of electricity and greenhouse gas emissions from electricity by shifting use to times when supplies are low or zero carbon and readily available.

Determination of inconsistency or incompatibility with existing state regulations

The CEC has conducted a search for any other regulations in this area and has concluded that these are the only regulations concerning load management rate structures. Therefore, the CEC has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**DOCUMENTS INCORPORATED
BY REFERENCE**

The CEC does not propose to incorporate by reference any documents.

**MANDATED BY FEDERAL
LAW OR REGULATIONS**

None.

OTHER STATUTORY REQUIREMENTS

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: No.
- Cost to any local agency or school district requiring reimbursement pursuant to Government Code Section 17500 et seq.: No.
- Cost or savings to any state agency: Yes.
- Non-discretionary cost or savings imposed upon local agencies: Yes.
- Cost or savings in federal funding to the state: No.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY AFFECTING
BUSINESS, INCLUDING ABILITY OF
CALIFORNIA BUSINESSES TO COMPETE
WITH BUSINESSES IN OTHER STATES**

The CEC has made an initial determination that the proposed regulations are unlikely to have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The CEC proposes to update the LMS regulations to require the five largest electric utilities in California — Los Angeles Department of Water and Power, Pacific Gas and Electric, Sacramento Municipal Utility District, San Diego Gas and Electric, Southern California Edison — and the community choice aggregators (CCAs) located within their service territories:

- Develop retail electricity rates that change at least hourly to reflect locational marginal costs and submit those rates to the utility’s governing body for approval.
- Update the time-dependent rates in CEC’s MIDAS database whenever a rate is approved or modified.

- Implement a single statewide standard method for providing automation service providers with access to their customers’ rate information.
- Develop a list of cost-effective automated price response programs for each sector and integrate information about time-dependent rates and automation technologies into existing customer education and outreach programs.

The proposed regulations will form the foundation for a statewide system of time and location dependent signals that can be used by automation enabled loads to provide voluntary and cost-effective load flexibility on the electric grid.

The proposed regulations do not create the need for a new good or service. Instead, they require the improvement of existing goods in the market. The economic impact on utilities is expected to be small compared to the total sales of these entities, and insufficient to have an adverse economic impact affecting business. While the standards impose new compliance costs on the utilities, the CEC assumes the utilities will pass these costs through to their customers. However, the savings from lower utility bills are anticipated to exceed the increased costs, resulting in overall economic savings.

**THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT**

The CEC concludes that the proposal: (1) may create jobs within California, (2) is unlikely to eliminate jobs within California, (3) is unlikely to create new businesses in California, (4) is unlikely to eliminate existing businesses within California, and (5) may result in the expansion of businesses currently doing business within the state.

Benefit of the Proposed Action: The proposed regulation will benefit the health and welfare of California residents and the state’s environment through cost savings to consumers, cost savings to utilities, grid reliability, and lower greenhouse gas emissions from reduced energy generation and use. Updated LMS regulations are expected to improve load flexibility by allowing consumers to voluntarily automate flexible loads. The combination of dynamic marginal rates, optimized behind the meter energy storage, and better access to utility load management programs will improve the supply-demand balance. This will reduce both the cost of electricity and greenhouse gas emissions from electricity by shifting use to times when supplies are low or zero carbon and readily available.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

Individuals may, but are not required, to participate in a program provided by their utility.

The CEC proposes to update the LMS regulations to require the five largest electric utilities in California — Los Angeles Department of Water and Power, Pacific Gas and Electric, Sacramento Municipal Utility District, San Diego Gas and Electric, Southern California Edison — and the community choice aggregators (CCAs) located within their service territories:

- Develop retail electricity rates that change at least hourly to reflect locational marginal costs and submit those rates to the utility’s governing body for approval.
- Update the time-dependent rates in CEC’s MIDAS database whenever a rate is approved or modified.
- Implement a single statewide standard method for providing automation service providers with access to their customers’ rate information.
- Develop a list of cost-effective automated price response programs for each sector and integrate information about time-dependent rates and automation technologies into existing customer education and outreach programs.

The proposed regulations will form the foundation for a statewide system of time and location dependent signals that can be used by automation enabled loads to provide voluntary and cost-effective load flexibility on the electric grid.

The proposed regulations do not create the need for a new good or service. Instead, they require the improvement of existing goods in the market. The economic impact on utilities is expected to be small compared to the total sales of these entities, and insufficient to have an adverse economic impact affecting business.

While the standards impose new compliance costs on the utilities, the CEC assumes the utilities will pass these costs through to the ratepayer. However, the savings from lower utility bills are anticipated to exceed the increased costs, resulting in overall economic savings.

BUSINESS REPORT

The regulations impose a new reporting requirement for the utilities affected by these regulations.

The CEC developed the MIDAS database where utilities will be required to upload and maintain the accuracy of existing and future time-varying rates. The web-based service provides access to time-dependent rates in a standard machine-readable format. This allows device manufacturers and California customers to automatically access customer rate information for use in automating price responsive load shifting.

It is necessary for the health, safety, or welfare of the people of the state that the regulation, that requires a report, apply to businesses.

SMALL BUSINESS

The proposed regulations may affect small business. However, the CEC is not aware of any significant costs impacts that a small business would incur in reasonable compliance with the proposed action.

CONSIDERATION OF ALTERNATIVES

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

The CEC invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

General questions regarding procedural and administrative issues should be addressed to:

Corrine Fishman, Regulations Manager
Efficiency Division
715 P Street
Sacramento, CA 95814
(916) 805-7452
Corrine.Fishman@energy.ca.gov

Specific questions regarding the substantive and/or technical aspects of the proposed changes should be addressed to:

Gabriel D. Taylor, P.E.
 Senior Engineer and Project Manager
 Efficiency Division
 715 P Street
 Sacramento, CA 95814
 (916) 903-4659
Gabriel.Taylor@energy.ca.gov

AVAILABILITY OF
 DOCUMENTS ON THE INTERNET

The CEC maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared for this rulemaking have been posted on the CEC's website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/2020-load-management-rulemaking>.

COPIES OF THE INITIAL STATEMENT OF
 REASONS, THE EXPRESS TERMS, AND
 RULEMAKING FILE

The CEC 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 is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Initial Statement of Reasons (ISOR), and any documents relied upon. Copies may be obtained by contacting Corrine Fishman above or accessed through the CEC website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/2020-load-management-rulemaking>.

**TITLE 23. STATE WATER RESOURCES
 CONTROL BOARD**

DIVISION 3, CHAPTER 3.5 — URBAN
 WATER USE EFFICIENCY AND
 CONSERVATION

SUBJECT: WATER LOSS
 PERFORMANCE STANDARDS

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) will conduct a public hearing during which any interested person may present statements, arguments, or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

AVAILABILITY OF CHANGES TO
 ORIGINAL PROPOSAL FOR AT LEAST 15
 DAYS PRIOR TO AGENCY ADOPTION/
 REPEAL/AMENDMENT OF
 RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be changed as a result of public comment, staff recommendation, or recommendations from Commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the proposed regulations pursuant to Government Code Section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

NOTICE OF PUBLIC HEARING TO
 CONSIDER THE PROPOSED WATER LOSS
 PERFORMANCE STANDARDS REGULATION
 [Gov. Code, §11346.5(a)(1)]

The State Water Board will conduct a public hearing regarding the subject proposed regulation at the time and place noted below. The public hearing will provide a detailed overview of the proposed regulation, overall framework, timeline, and proposed requirements. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice. The public hearing will be preceded by a staff presentation summarizing the proposed regulation, followed by an opportunity for the public to ask questions. While a quorum of the State Water Board may be present, the Board will not take formal action at the public hearing.

COPY OF THE FINAL
 STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting the CEC website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/2020-load-management-rulemaking> or contacting the contact person listed above.

DATE: February 10, 2022
 TIME: 2:00 p.m.
 PLACE: Remote Participation

As a result of the COVID-19 emergency and the Governor's Executive Orders to protect public health by limiting public gatherings and requiring social distancing, this meeting is scheduled at this time

to occur via remote presence. The hearing will be recorded and will be webcast at <https://video.calepa.ca.gov/>.

For those who only wish to watch the hearing, the customary webcast remains available at <https://video.calepa.ca.gov/> and should be used UNLESS you intend to comment. For those who wish to make oral comments, additional information about participating telephonically or via the remote meeting solution is available here: https://www.waterboards.ca.gov/board_info/remote_meeting/.

This hearing is for the public to provide comments on the proposed regulation. The Board will not take formal action at this public meeting. After consideration of all written and oral comments, the Board is expected to consider adoption of the final regulation in the second quarter of 2022. Additional information regarding State Water Board meetings, hearings, and workshops is available on the Board's internet web page at https://www.waterboards.ca.gov/board_info/calendar/.

The notice and additional information on the agenda are available at the State Water Board's water loss program webpage: https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/water_loss_control.html.

SPECIAL ACCOMMODATION REQUEST

To request special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5600 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

Para solicitar comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 341-5600 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

[Gov. Code, § 11346.4(a), § 11346.5(a)(15)]

Any interested person may submit written comments relevant to the proposed regulatory action to the Clerk to the State Water Board. Any written comments pertaining to the proposed regulation, regardless of the method of transmittal, must be received by the Clerk **by 12:00 p.m. (noon) PST on February 11, 2022**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Written comments may be submitted via any of the following methods:

1. By email to: commentletters@waterboards.ca.gov. The State Water Board requests but does not require that email transmission of comments,

particularly those with attachments, contain the regulation package identifier "**Comment Letter — Proposed Water Loss Performance Standards**" in the subject line to facilitate timely identification and review of the comment;

2. By fax transmission to: (916) 341-5620. The State Water Board requests but does not require that faxed comments contain the subject line "**Comment Letter — Proposed Water Loss Performance Standards**";
3. By mail to: Clerk to the Board, Jeanine Townsend, State Water Resources Control Board, P.O. Box 100, Sacramento, CA 95812-0100; or
4. Hand-delivered to: Clerk to the Board, Jeanine Townsend, State Water Resources Control Board, 1001 I Street, 24th Floor, Sacramento, CA 95814.

The State Water Board requests but does not require that written comments sent by mail or hand-delivered be submitted in triplicate.

The State Water Board requests, but does not require, that, if reports or articles in excess of 25 pages are submitted in conjunction with the comments, the commenter provide a summary of the report or article and describe the reason for which the report or article is being submitted or its relevance to the proposed regulation.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the State Water Board to provide copies of any notices that may be required in future.

Due to the limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by the State Water Board. Therefore, emails larger than 15 MB should be submitted under separate emails or via another form of delivery.

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

If you would like to request a copy of the public comment letters received by the Board for this item, send an email to commentletters@waterboards.ca.gov and identify that you are requesting copies of public comments for Proposed Water Loss Performance Standards.

To be added to the mailing list for this rulemaking and to receive notification of updates for this rulemaking, you may subscribe to the listserv for "**Water Conservation Regulations**" here by selecting "General Interests," then selecting "Water Conservation Regulations."

AUTHORITY AND REFERENCE

[Gov. Code, § 11345.5(a)(2); Cal. Code Regs., title 1, § 14]

Authority: Sections 1058 and 10608.34, Water Code.

References: Article X, Section 2, California Constitution; Section 116275, Health and Safety Code; Section 102, 104, 105, 350, 516, 1122, 1846, 10608.12, and 10608.34, Water Code.

INFORMATIVE DIGEST

[Gov. Code, § 11346.5(a)(3)]

Summary of Existing Law and Regulations

[Gov. Code § 11346.5(a)(3)(A)]

Water Code section 10608.34 (added by Senate Bill (SB) 555 of 2015) requires the State Water Resources Control Board (State Water Board) to develop and adopt performance standards for water loss for urban retail water suppliers¹ (URWS or supplier), while considering lifecycle cost accounting. The proposed Water Loss Performance Standards (WLPS or regulation) aim to reduce water loss, reduce the energy and associated greenhouse gas emissions associated with supplying and treating water that is lost to leakage,² and achieve more efficient water use in California. Additionally, section 10608.34 established water loss reporting for URWS; URWS have been required to report their water loss estimates through annual water loss audits since 2017.

Effect of Proposed Rulemaking

[Gov. Code § 11346.5(a)(3)(A)]

The proposed regulation is designed to bring water losses to levels that are cost-effective and feasible for each URWS, and the proposed regulation will support each URWS in planning and implementing water loss control in a cost-effective manner. The intent of the proposed regulation is to identify and require each supplier to reduce leakage to the level of a specific volumetric standard that is based on its own unique characteristics and is cost-effective, while providing each supplier the flexibility to choose any effective approach best suited for its system and budget to meet its standard. Cost savings may be passed on to customers, and URWS supplying water to disadvantaged communities that face burdensome upfront costs will have additional time to comply if

¹“Urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes (Water Code, § 10608.12).

²California has a high energy consumption associated with water supply, accounting for 20% of total electricity use and 30% of total natural gas consumed in the state (PPIC Water Policy Center, 2016).

their standard requires at least a 25% reduction from their baseline.

Comparable Federal Statute and Regulations

[Gov. Code § 11346.5(a)(3)(B)]

There are no federal regulations or statutes that address the specific subject addressed by the proposed regulation.

Policy Statement Overview

[Gov. Code § 11346.5(a)(3)(C)]

The proposed regulation has the following elements:

- Urban retail water suppliers will be required to comply with individual numeric volumetric standards for real water loss. Compliance will be required by 2028, or by 2031 for suppliers serving disadvantaged communities/residents if their calculated benefit to cost ratio is less than 2 until 2028 and the standard requires at least a 25% reduction in real loss from the baseline. These standards will be calculated using a model developed by the State Water Board that assesses the additional benefits and costs associated with reducing the leakage from current levels. The standard will require leakage reduction only if the net benefit is positive for the supplier, given the system and water resource conditions. If the net benefit is negative, the standard will be increased to the point at which the net benefit is positive, if possible. Otherwise, in cases where a positive net benefit is not possible, the standard will be raised to the point at which the net benefit is positive, if possible. If a positive net benefit is not possible, the supplier must maintain current real water loss.
- Apparent loss standards will be assessed concurrently with real loss standards, with the first assessment by 2028 and every third year after 2028 with three-year averages of reported apparent losses. Urban retail water suppliers will be required to report an inventory of their apparent losses and any calculations and data used to determine apparent losses unless they meet their apparent loss standard. The apparent loss standard for each URWS is equal to the average of the baseline (2017 through 2020) apparent losses plus an allowed variation of 5 gallons per connection per day. The apparent loss standard functions to trigger a reporting requirement only and will not be a cause for noncompliance.
- Suppliers will be required to comply with data submission requirements in 2023, 2024, 2026, and 2027, unless they have existing low leakage levels and high-quality data. The data submissions will help the State Water Board:
 - Improve data quality of water loss estimates

- Better determine the operational and economic feasibility of reducing water loss through means that require larger capital investment, such as pressure management (2023, and updated in 2026) and asset management (2024, and updated in 2027), for individual water distribution systems.
- Suppliers will be required to annually submit their registry of breaks, repairs, and estimated water losses unless they have existing low leakage levels and high-quality data. This data submission will help the State Water Board:
 - Understand the frequency and severity of breaks, repairs, and water losses specific to California suppliers.
 - Provide the public with information on breaks, repairs, and estimated water losses that has not yet been available, which would have great value as a source for research, trend analysis, capital planning, and performance benchmarking for California suppliers.
- The proposed regulation also allows for the following:
 - Adjustments: URWS can provide the State Water Board with individualized data to replace the economic model defaults as each system improves its data accuracy and begins field implementation of water loss control approaches. This updated data leads to an adjustment to the supplier's real loss standard. Suppliers can request these adjustments until July 1, 2023.
 - Variances: In case of natural disasters or other unexpected adverse circumstances, suppliers can request variances at any time, which would provide the supplier with temporary relief regarding compliance with their real loss standard.
 - Variances: Suppliers can request a variance for their apparent loss standard if increases from the average baseline apparent loss level are attributable to improvements in data quality.
 - Variances: Any other adjustment requests can be submitted to the Board at any time and will be considered based on the merits of the proposed change.
 - URWS with existing low losses: Suppliers with existing water losses lower than 16 gallons per service connection per day or the equivalent amount in gallons per mile

per day that also meet data quality criteria will not be required to reduce their water loss further or respond to questionnaires. Suppliers can qualify for this alternative compliance pathway until July 2023.

- Compliance Plan: Suppliers with standards that require a real loss reduction of more than 30 percent from baseline losses can request more time to meet their standard, given they show progress and meet other requirements.

The goal of the proposed regulation is to establish individual water loss standards for each supplier, built on industry-established concepts and an economic analysis of the benefits and costs associated with reducing leakage. Calculation of the standards depends on the accuracy of reported data. Inaccuracies in the reported volumes can introduce significant error into these audits. The accuracy of the reported volumes reflects the supplier's practices for water metering, testing meters for accuracy, and data handling. The data submission requirement regarding practices to improve data quality is intended to improve reliability of reported data, and to encourage data quality improvement during implementation and prior to compliance. The proposed regulation does not prescribe data improvement practices.

The intent of the proposed regulation is to provide each supplier the flexibility to choose any effective approach suited for its system and budget that allows the supplier to reduce leakage to the level of its specific volumetric standard. The State Water Board developed its economic model to calculate the individual volumetric standards; the model focuses on unreported, hidden leakage to ensure flexibility in suppliers' choice of approach because there are many approaches to controlling this type of leakage.

Overall, the proposed regulation is anticipated to reduce statewide water loss by approximately 35 percent. For a typical (average) utility per the Standardized Regulatory Impact Analysis and the economic model results, the proposed regulation would result in 12,655 acre-feet (AF) of water loss reduction and therefore generate total benefits of \$15.5 million in present value over the identified lifecycle. The total amount of water saved at the state level is approximately 3.4 million AF, and the associated total benefit approximately \$4.1 billion.

Reducing water loss can further benefit URWS by delaying the need for additional water supply and reducing the amount of energy needed to treat and supply potable water. Reducing leakage is an effective approach for prolonging the use of existing water resources, thus delaying the need for suppliers to identify and secure additional scarce sources of water supply. Reduction in energy usage due to water loss

control efforts will simultaneously reduce supplier costs and greenhouse gas emissions.

Breaks or large failures in distribution system infrastructure, such as pipelines or hydrants and valves, have adverse impacts such as damage to property and disruptions to water supply, traffic, and essential services. Typically, smaller leaks develop into larger breaks if not detected early (American Water Works Association, 2016). Regular leak detection provides the ability to implement preventive measures prior to the occurrence of large breaks. Similarly, managing pressure to reduce leakage also protects distribution infrastructure and can reduce the occurrence of breaks. Pipeline breaks may also cause intrusion of external contaminants into the pipeline, thus compromising water quality. Proactive water loss control reduces the risk associated with contamination of water in distribution infrastructure through breaks.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

[Gov. Code, § 11346.5(a)(3)(D)]

The State Water Board reviewed its existing general regulations and regulations specific to water loss to evaluate whether the proposed regulation is inconsistent or incompatible with existing state regulations. The State Water Board determined that no other state regulation addressed the same subject matter and that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

MANDATED BY FEDERAL
LAW OR REGULATION
[Gov. Code, § 11346.2(c)]

Adoption of this regulation is not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS
[Gov. Code, § 11346.5(a)(4)]

External Scientific Peer Review

[Health and Safety Code, § 57004(b)]

Health and Safety Code section 57004, subdivision (b) requires that the scientific portions of any regulation proposed by the California Environmental Protection Agency (CalEPA), or any board, department, or office within CalEPA, be submitted to an external scientific peer review entity for evaluation. The State Water Board requested external scientific peer review of the model assumptions and equations. The peer review and the State Water Board’s response to those comments can be found on the State Water Board’s Water Loss Control webpage.

Safe, Clean, Affordable Water

[Water Code, § 106.3]

Water Code section 106.3 states that it is the policy of the state that every human has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. In preparing the proposed regulation, the State Water Board determined the proposed regulation is consistent with this statewide policy. While the proposed regulation may result in increased costs to those served by a water system, that potential cost is expected to render water neither unaffordable nor inaccessible and is outweighed by the benefits of reducing water loss.

Pre-Notice Meeting with Affected Parties

[Gov. Code, § 11346.45(a)]

Government Code section 11346.45, subdivision (a) requires that, prior to publication of the notice of proposed rulemaking, the agency proposing the regulation must involve parties who would be subject to the proposed regulation in public discussions, when the proposed regulation involves complex proposals or a large number of proposals that cannot be easily reviewed during the comment period. The State Water Board provided URWS and other stakeholders opportunities to be involved in public discussions about the proposed regulation in ten workshops on the following topics:³

- Data quality and performance indicators: March 2018
- Water loss control actions: June 2018
- Avoided cost of water, water loss control implementation in California (presented by water suppliers): September 2018
- Staff proposed framework: February 2019
- Assumptions, benefit–cost calculations behind economic framework: June 2019
- First draft of economic model to calculate standards: September 2019 (with 32–day written comment period)
- Data submission requirements: December 2019
- Second draft of economic model to calculate standard, data submission requirements and revised regulatory proposal: May 2020 (with 47–day written comment period)
- Overview of proposed water loss standards and regulatory framework: December 2020
- Overview of peer review and responses: March 2021

³ https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/water_loss_control.html

LOCAL MANDATE
[Gov. Code, § 11346.5(a)(5)]

The proposed regulation would not impose a mandate on local agencies or school districts that requires state reimbursement. The proposed regulation will not be a requirement unique to local government and will apply equally to public and private water systems.

Local agencies and school districts currently incur costs in their operation of URWS. The costs imposed by the proposed regulation are not the result of a “new program or higher level of service” within the meaning of Article XIII B, section 6 of the California Constitution because the proposed regulation applies generally to all individuals and entities that operate URWS in California and does not impose unique requirements on local governments (County of Los Angeles vs. State of California et al., 43 Cal App 3d 46 (1987)). In addition, URWS can pass on the cost of regulation implementation through increasing service fees. Therefore, no state reimbursement of these cost is required (Gov. Code, §17556, subdivision (d)).

FISCAL IMPACT
[Gov. Code, § 11346.5(a)(6)]

Cost to Local Agencies and School Districts Requiring Reimbursement

The costs to local agencies and any possible indirect costs to school districts are not reimbursable by the State because this regulation does not mandate a new program or higher level of service of an existing program, pursuant to Article XIII B, section 6, of the California Constitution and Government Code sections 17500 through 17630.

Costs or Savings to State Agencies

Improved water distribution efficiency from water loss control results in prolonged use of existing water resources, possibly delaying the need for additional or high-cost water suppliers. State agencies, as ratepayers, might see a delayed or reduced increase in water rates over time. Simultaneously, water loss control may result in capital improvements resulting in rate increases. Overall, fiscal impacts to state agencies as ratepayers are expected to be small and positive.

The proposed regulation would have a minor impact on staffing resources and would require one and one-half personnel-years assisting urban retail water suppliers with compliance and modifications to their standards, reviewing supplemental documentation, and enforcement including audits of reported information. The cost of the position is estimated to be \$200,000 annually in 2020 dollars. The total estimated annual cost due to additionally required staff hours would be \$300,000. This additional workload is expected to be absorbed by current staff.

Other Non-discretionary Cost or Savings Imposed Upon Local Agencies

The proposed regulation directly impacts urban retail water suppliers that are public agencies. Among the 265 systems potentially impacted by the proposed regulation, 205 are local public water systems and one is a state or federal water agency. The public water systems are typically operated by cities or local water authorities. The revenues of water agencies come from different sources, including local grants, local taxes, and operating revenues.

The overall fiscal impact to local governments is positive. In the short term, expenditure on leakage detection and repair services, capital investments towards replacing old water pipes and infrastructure could lead to increased annual budgets for public water agencies. In the longer term, the total direct costs to water systems due to the proposed regulation result in annual savings due to water loss reduction and reduced operating costs and increased available resources. The annual total direct costs and benefits of the proposed regulation to public water agencies relative to the baseline are summarized in the Initial Statement of Reasons, Appendix A, Section F.1, Table 18 on page 80.

As the change in water price caused by the proposed regulation is not expected to be significant, the burden from this on local governments will be minimal. It is likely that local governments will experience some fiscal benefits from economic activity induced by the regulatory requirements. They will also benefit from reduced environmental liabilities associated with water loss in their communities.

Costs or Savings in Federal Funding to the State

The State Water Board has determined that the proposed regulation will not create additional costs or savings in federal funding to the state.

HOUSING COSTS
[Gov. Code, § 11346.5(a)(12)]

The State Water Board does not expect that the regulation will have an impact on housing costs.

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA)
[Gov. Code, § 11346.5(a)(10), § 11346.3(c)]

The State Water Board determined that the economic impact of the proposed regulation would likely exceed \$50 million in a 12-month period and would therefore be considered a Major Regulation as defined by California Code of Regulations, title 1, section 2000, subdivision (g). The State Water Board prepared a SRIA as required by Government Code section 11346.3, subdivision (c). For estimating these costs,

the State Water Board adopted the regional economic model developed by the U.S. Bureau of Economic Analysis: the Regional Input–Output Modeling System (RIMS II). The RIMS II model allows the Board to estimate the effect of the regulation on the industries in California.

Creation or Elimination of Jobs within California

The proposed regulation is estimated to result in an overall positive job impact of 4,410 jobs in total over the 30–year time horizon of the regulation. The net employment impacts represent the net change in employments, which consists of positive impacts for some industries and negative impacts for others. These changes in employment represent less than 0.03 percent of baseline California employment.

The proposed regulation is expected to create a net demand for services in the following industries: leak detection services, leak repairing equipment, leak repairing services, and monitoring and reporting. The expected job growth from the final demand change ranges from 95 to 258 jobs per year for the lifetime period of the regulation, primarily due to additional demand for work related to leak detection and repair. Employment will consist of full– and part–time jobs, though the RIMS II data used in this analysis does not capture the difference.

It should be noted that while the job growth in companies that perform support activities on a contract or fee basis for leak detection and repair is captured in the quantitative analysis, there is a possibility that water suppliers themselves may downsize the number of in–house employees if they shift these activities from in–house to outsourcing. Also, for the leak detection and repair service companies, competition could be tougher due to new firms entering. This could drive some small firms out of markets. All these examples would lead to job losses not captured by the RIMS II model. However, it is anticipated that these negative impacts would be dominated by the positive effects on job creation, so that the net impact would be positive.

Creation or Elimination of Businesses Within California

The RIMS II model used for this analysis cannot directly estimate the creation or elimination of businesses. The overall increase in jobs represents the net impact, which can be associated with both creation and elimination. The direct increase occurs in the form of demand for leak detection, repair, and consulting services; this may promote creation of new business to advise URWS on compliance with the proposed regulation. At the same time, new businesses generally promote competition among existing firms, which can result in exiting of less–competitive firms.

In addition, water rates are likely to increase in the short term to cover initial capital investment.

Although the potential increase in water rates on average is not large based on State Water Board calculations, suppliers in various regions may react differently depending on their ability to finance the initial capital costs. Thus, in certain regions with high water use, there could be a relatively higher increase in water rates than the baseline estimate, which may theoretically lead to a possibility of exit or entry of businesses that use water intensively.⁴ However, businesses have absorbed increases in water rates over the years, and are anticipated to do so for future increases as well.

The increase in gross output will not only affect the industries that provide the contracted services, but also all the related equipment manufacturers, maintenance operators, equipment suppliers, and other businesses that provide intermediate services or goods to those leak detection contractors. Therefore, leak detection service contractors and their various suppliers will likely see an increase in demand for their services as a result of the proposed regulation. However, barriers to entry, such as the cost of equipment or innovation needed to provide goods and services for leak detection and repair work, is likely to limit the number of new indirectly impacted service contractor businesses.

The cost of compliance could be a financial burden on smaller businesses. However, there are four mechanisms in the proposed regulation that will help suppliers manage costs: variances are allowed in cases of unexpected adverse conditions, which could prevent exiting of such smaller businesses; adjustments to the volumetric standard can be made if default parameter estimations by the urban retail water suppliers are different from the State’s default values; more time is provided to suppliers struggling to meet their standard if that standard requires a large (more than 30%) reduction in real loss; and flexibility is provided for suppliers serving disadvantaged communities.

Competitive Advantage or Disadvantage for California Businesses

Water service is provided locally and consumers generally don’t have a choice of their water service supplier. As we have discussed, water prices will not change significantly due to this regulation. Water loss control services are labor–intensive and will likely be provided by California–based businesses. The other inputs needed for water loss control, such as trucks or pipes, tend to be provided by sectors that compete across state lines. The regulation will not materially affect the relative competitiveness of California as a place these suppliers decide to locate.

⁴In order to quantify these disparate impacts, information on individuals and businesses served by each water system is required. Due to data limitation, these analyses are not feasible at this stage.

Increase or Decrease in Investment in California

The direct cost impacts mostly consist of increased leak detection and repair services or equipment to meet the requirements of the proposed regulation. The total increase in purchases from these two directly affected industries is approximately \$500 million over the assumed lifetime. The indirect economic effect of this spending is expected to create about \$897 million of gross outputs over the lifetime and \$593 million in value added. This increase in outputs would be associated with higher investment spending. However, this impact of the proposed regulation will be insubstantial compared to California’s roughly \$3 trillion annual economy.⁵

Incentives for Innovation

The proposed regulation would potentially increase incentives for innovation through two channels. First, increased use of leak detection and repair equipment will promote competition and innovation in this sector. Higher demand could increase the competition among equipment producers. If the market is large enough, some producers could have incentives to invest in developing new technologies to improve their productivity and obtain a larger market share. Second, the proposed regulation could increase the incentives for innovation in water-saving appliances related industries. The proposed regulation could increase water price in the short run if water suppliers pass some of the compliance costs to the consumers, which could further increase the demand for water-saving appliances, such as high-efficiency shower heads, toilets, dishwashers, and washing machines and therefore promote innovation in the related industries.

Benefits of the Regulation

The proposed regulation is intended to reduce water losses in the distribution systems of urban retail water suppliers through system-specific performance standards. The main direct benefits are from the value of water saved due to the proposed regulation, which reduces water losses by 35 percent. The saved water results in reduced costs associated with extracting or importing water and then treating and pumping it for distribution. Direct benefits have been quantified in the economic model as a function of system-specific variables (e.g., variable production costs). To evaluate the lifecycle benefit, future benefits are converted to present values through discounting.

There are currently 460 systems that have reported data as URWS. The total monetary benefit to the State is composed of the total values of water loss reduction for all these systems over the 30-year time horizon. The total amount of water saved in response to the

proposed regulation is approximately 3.4 million AF and the associated benefit is \$4.1 billion (in 2020 dollars).

Importantly, the model does not incorporate additional benefits from leak reduction approaches other than leak detection and repair, such as preventative pipe replacement or pressure management. Additional benefits may include the prevention or reduction of:

- Strain on and early deterioration of distribution systems.
- Unexpected main breaks that can cause property damage.
- Water outages.
- Traffic caused by repairs.
- Contamination of water due to defects in infrastructure.
- Carbon emissions associated with water treatment and pumping activities.

Quantifying these benefits involves a high amount of uncertainty, and thus these likely additional benefits are not quantified.

Submission to the Department of Finance

The SRIA was submitted to the Department of Finance (DOF) on October 13, 2021. DOF provided comments to the State Water Board on November 12, 2021. DOF generally concurred with the State Water Board’s methodology for estimating annual impacts and stated that the analysis generally met requirements of the SRIA, with two comments. The two comments, and the State Water Board’s response to those comments, are as follows:

Comment 1: The SRIA should report costs, benefits, and fiscal impacts annually for each year through 12 months after full implementation. Currently, the SRIA only reports impacts for select years. Since full implementation is expected by 2031, the estimates of costs, benefits, and fiscal impacts should be reported for each year through 2032.

Response: The costs, benefits, and fiscal impacts tables in the SRIA have been expanded to include each year through 2032.

Comment 2a: The SRIA must estimate costs, benefits, and fiscal impacts based on a consistent universe of affected entities. Currently, benefits are estimated for 460 systems that have reported water audit data while costs and fiscal impacts are calculated for the 265 potentially impacted systems. Hence benefits are currently inflated and should be corrected to only reflect water loss reduction for the 265 impacted systems or the SRIA should provide a justification and updated costs and fiscal impacts if other systems are also expected to change behavior due to the regulation.

Response: The costs, benefits, and fiscal impacts were estimated based on the same set of 265 impacted

⁵ California Department of Finance, *Gross State Product*, http://www.dof.ca.gov/Forecasting/Economics/Indicators/Gross_State_Product/

systems. The SRIA has been updated to make this clear.

Comment 2b: Similarly, the SRIA should estimate household water bill impacts based on the households served by the affected water systems only or provide a justification for why the current approach of dividing among all 13 million households in the state is appropriate.

Response: We agree that the SRIA should estimate household water bill impacts based on the households served by the affected water systems only. The approach has been updated to divide the household impacts only among the 6.1 million households served by the impacted water systems.

SIGNIFICANT STATEWIDE
ADVERSE ECONOMIC IMPACT
DIRECTLY AFFECTING BUSINESS,
INCLUDING ABILITY TO COMPETE
[Gov. Code, § 11346.3(a), § 11346.5(a)(7),
§ 11346.5(a)(8)]

The State Water Board has determined that the proposed regulatory action would have no significant direct adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

In the first years after the regulation has been implemented, leak detection and repair costs may outweigh benefits from water savings for some URWS. However, by 2025 all but 9 of the 460 systems have positive net benefits, and all systems have positive net benefits by 2032. These net benefits, which total \$3.6 billion statewide over the 30-year time horizon, will be realized by URWS.

The State Water Board recognizes that public water systems often provide water to businesses. Privately owned public water systems may also be businesses, such as a mobile home park or investor owned utilities, which will incur indirect impacts and may include businesses within their service areas.

The State Water Board assumes that a public water system that incurs costs as a result of this regulation will likely pass the costs of compliance onto that system's customers, which may include businesses. In the first year of the regulation, water bills will decrease slightly on average by \$1.27 per customer. By 2028 and for the remainder of the 30-year time horizon, the actual water supply costs will decrease by roughly \$8 to 16 per year per customer, due to the benefits from saved water, which could delay any rise in water prices for individual customers.

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES
[Gov. Code, § 11346.5(a)(9); Cal. Code Regs.,
title 1, § 4(a) and(b)]

The agency is not aware of any direct cost impacts that a representative private person would necessarily incur in reasonable compliance with this regulation. Indirect cost impacts to individuals could occur as a result of suppliers passing on costs or savings to their customers. In the first year of the regulation, water bills will decrease slightly on average by \$1.27 per customer. By 2028 and for the remainder of the 30-year time horizon, the actual water supply costs will decrease by roughly \$8 to 16 per year per customer due to the benefits from saved water, which could delay any rise in water prices for individual customers.

The direct costs of conducting leak detection and repair are calculated based on a unit cost of surveying and repair detected and located leaks for each mile of the distribution system. The calculation of the direct costs is based on input values for each utility over a 30-year period for the time horizon of the economic assessment, and then aggregated up to the state level. A typical utility is then defined as a utility with the average cost and benefit among all the impacted utilities. The initial costs for a typical utility are \$97,728 in 2022. Ongoing costs vary but can be represented by the costs in 2029 of \$74,716.

EFFECT ON SMALL BUSINESS
[Cal. Code Regs., title 1, § 4(a)]

Among the 265 URWS impacted by the proposed regulation (i.e., expected, based on current data, to be required to reduce water loss), 6 of them are identified as small businesses. On average, the regulation would reduce their water loss by 3,786 acre-feet in the 30-year assumed lifetime for these 6 small businesses, with total benefits amounting to 4.6 million dollars. These are much lower than the projected benefits to a typical utility since smaller utilities have smaller water systems, with a lower volume of total leakage that could occur. On average, the total cost is about \$975,363 for these 6 small businesses, less than half of the cost for the typical system. This is mainly because small businesses have smaller water supply systems with shorter pipes and fewer total leaks to repair, which leads to both lower leak detection and repair costs. In addition to these 6 small businesses being directly affected by this regulation, some small businesses that buy water from URWS may experience indirect impacts in the form of changes to their water bills. On average, changes to water bills are expected to be small and provide savings.

REQUIREMENT FOR BUSINESS REPORT
[Gov. Code, § 11346.5(a)(11), § 11346.3(d)]

Government Code subsection 11346.3, subdivision (d) requires that any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for health, safety, or welfare of the people of the state that the regulation apply to businesses. To the extent that this regulation is requiring reporting of businesses, that reporting is necessary for health, safety, or welfare of the people of the state.

It is assumed that each impacted utility would need 1/24 personnel-year of an engineer position to monitor the leak detection and repair progress and report to the State Water Board for compliance in the form of response to questionnaires, annually submitting the breaks and repairs registry, requesting adjustments or variances, submitting apparent losses when required, and preparing data and paperwork. It is anticipated that these tasks could be absorbed by existing employees at water utilities. The cost of this position is assumed to be \$200,000 per year in 2020 with an annual real growth rate of 3.5 percent. This results in a total of monitoring and reporting cost of \$250,000 in present value.

CONSIDERATION OF ALTERNATIVES
[Gov. Code, § 11346.5(a)(13)]

The State Water Board considered two alternatives to the water loss performance standards based on stakeholder comments. The two alternatives were evaluated for costs and benefits, economic impacts, and cost-effectiveness relative to the proposed regulation, and both alternatives were rejected. No reasonable alternative considered by the State Water Board or that has otherwise been identified and brought to the attention of the State Water Board 1) would be more effective in carrying out the purpose for which the action is proposed, 2) would be as effective and less burdensome to affected private persons than the proposed action, or 3) would be more cost-effective to affected private persons and equally effective in implementing the statutory mandate of Water Code section 10608.34.

Alternative 1

The first alternative proposes using a more stringent leak detection survey frequency to calculate the standards, which would lead to quicker reduction in leakage as compared to the proposed regulation. The assumed leak detection survey rates from the proposed regulation were halved for this alternative, meaning that suppliers would be expected to take double the time to survey their systems for this alternative.

Under Alternative 1, 302 URWS systems would be required to conduct leak detection and repair to achieve the water loss levels.

Costs and Benefits

For a typical system, the total cost to comply with Alternative 1 is \$3.08 million in present value. The statewide total cost is about \$931 million. As compared to the proposed regulation, Alternative 1 would incur about 86 percent higher costs. This is consistent with the fact that Alternative 1 would require more frequent leak surveying, which is associated with higher costs. The lifetime benefit from water loss reduction for a typical system is about \$18.9 million in present value, which results in a total of 5.7 billion dollars statewide benefit. This is about 39 percent higher than the proposed regulation. As more frequent leak detection surveying would be able to identify and repair more leaks in time, it would reduce the total water loss further and lead to a higher total benefit. The net benefit is about 35 percent higher than the proposed regulation as well. It should be noted that even though Alternative 1 would generate a larger net benefit, the percentage increase in cost is much higher than the percentage increase in benefit. This implies that the extra benefit is associated with a much larger cost increase.

Economic Impacts

Macroeconomic impacts are also evaluated for Alternative 1. The same approach is adopted using the RIMS II model as for the proposed regulation. Both the lifetime impacts and annual impacts are about 86 percent higher than for the proposed regulation, which is consistent with the fact that the direct cost is about 86 percent higher and the same RIMS-II multipliers are adopted.

Cost-Effectiveness

Cost-effectiveness is measured by the average cost to achieve one AF of water loss reduction. The cost-effectiveness is approximately \$201 per AF of water saved, which is about 34 percent higher than the cost-effectiveness for the proposed regulation. Alternative 1 would achieve higher water loss reduction, but the total cost is much higher than the proposed regulation. Alternative 1 is a less cost-effective alternative compared to the proposed regulation.

Reason for Rejection

Though Alternative 1 could lead to a rapid reduction in leakage, it would increase the annual costs to approximately \$31 million per year. The initial cost per system would increase by about 112 percent compared to the proposed regulation. Even though the long-run benefits are relatively higher than the proposed regulation, the higher initial costs would impose a much larger burden on the suppliers. In addition, the cost-effectiveness analysis shows that

even though the total water loss reduction is higher for Alternative 1, the average cost of reducing water loss is higher than for the proposed regulation by about 34 percent. Therefore, Alternative 1 is rejected.

Alternative 2

Alternative 2 would require a decrease in leakage to a volume equal to the 85th percentile of overall leakage for California averaged over three years instead of individual standards.

Under Alternative 2, 68 URWS systems would be required to reduce their leakage. This is as expected since Alternative 2 would require systems to reduce their leakage less, compared to the proposed regulation, to a much higher level of loss (85th percentile of average losses in California). A majority of systems report leakage that is lower than the threshold for additional water loss requirements proposed through Alternative 2.

Costs and Benefits

For a typical system, the total cost to comply with Alternative 2 is \$515,617 in present value. The total cost on a statewide basis is approximately \$35.1 million. Costs incurred pursuant to this alternative would be about 93 percent lower than those for the proposed regulation. This is consistent with the fact that Alternative 2 would result in less frequent leak surveying and repair, which results in lower costs.

The lifetime benefit from water loss reduction for a typical system is about \$14 million in present value under Alternative 2, which results in a total of \$963 million in statewide benefit. The total benefit is 76 percent lower than that for the proposed regulation. As less frequent leak detection surveying would identify and repair fewer leaks in time, Alternative 2 would reduce the total water loss reduction and lead to a lower total benefit. The net benefit is about 74 percent lower than for the proposed regulation.

Economic Impacts

Macroeconomic impacts have been evaluated for Alternative 2 using the RIMS II model in the same way as the proposed regulation and Alternative 1. Both the lifetime impacts and annual impacts are less than one-tenth of those for the proposed regulation. This is consistent with the fact that the direct cost for Alternative 2 is about 93 percent lower than for the proposed regulation with the same RIMS II multipliers.

Cost-Effectiveness

Cost-effectiveness is measured by the cost to achieve one AF of water loss reduction. For Alternative 2, though the total cost (\$44 per AF of water saved) is 71 percent lower than the proposed regulation, it would achieve significantly lower overall water loss reductions. The cost-effectiveness is much lower than for the proposed regulation. This means that the

average cost of saving one AF of water loss is lower than that for the proposed regulation.

Reason for Rejection

Alternative 2 is rejected because it would not reduce statewide water loss to an economically efficient level. The current median leakage for the state is 26 gallons per connection per day, while the average is 35 gallons per connection per day. The proposed threshold per Alternative 2, i.e., the 85th percentile of statewide leakage, would result in a standard of 57.1 gallons per connection per day for all suppliers regardless of their system-specific characteristics, potential for reducing water loss, or water resilience. The proposed threshold would be twice that of the current median, which would not adequately improve statewide water loss control, reduce potential leakage, or improve maintenance of water infrastructure, and could result in a lapse in ongoing or future water loss control efforts.

Alternative 2 would impose lower costs on urban water suppliers, but the amount of total water loss reduction would be 76 percent lower than under the proposed regulation. Additionally, with inadequate water loss monitoring and maintenance of water supply infrastructure, suppliers and businesses would likely face higher costs in terms of unexpected leaks, water outages, and property damage. Water supply infrastructure has been inadequately maintained and rehabilitated over past decades, which has led to its deterioration and overall higher long-term operational costs, which suggests efforts towards water loss control would be beneficial (Sedlak, 2015). Thus, Alternative 2 would not achieve the goals of adequate water loss control as effectively as the proposed regulation. Therefore, Alternative 2 is rejected.

FORMS OR DOCUMENTS
INCORPORATED BY REFERENCE
[Cal. Code Regs., title 1, § 20(c)(3)]

None.

STATE WATER BOARD CONTACT PERSONS
[Gov. Code, § 11346.5(a)(14)]

Requests for copies of the proposed regulatory text, the Initial Statement of Reasons, subsequent modifications of the proposed regulatory text, if any, or other inquiries concerning the proposed action may be directed to:

Beti Girma
Water Resources Control Engineer
State Water Resources Control Board, ORPP
Email address: beti.girma@waterboards.ca.gov

Charlotte Ely
Senior Environmental Scientist (Supervisor)
State Water Resources Control Board
Email address: charlotte.ely@waterboards.ca.gov

In the event Beti Girma and Charlotte Ely are not available to respond to requests or inquiries, please contact:

Bethany Robinson, PhD.
Water Resources Control Engineer
State Water Resources Control Board, Division of
Drinking Water
Email address:
bethany.robinson@waterboards.ca.gov

Please identify the regulation by using the State Water Board regulation package identifier, “Proposed Water Loss Performance Standards” in any inquiries or written comments.

AVAILABILITY OF INITIAL STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATION AND THE RULEMAKING FILE
[Gov. Code, § 11346.5(a)(16)]

The State Water Board has prepared and has available for public review an initial statement of reasons for the proposed regulation, all the information upon which the proposed regulation is based, the text of the proposed regulation, and all other required forms, statements, and reports. In order to request that copies of these documents or alternative formats of these documents be mailed or emailed to you, please write to or email the Contact Persons. Upon specific request, these documents will be made available in Braille, large print, or CD.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT
[Gov. Code, § 11346.5(a)(16)]

After holding the hearing and considering relevant comments received in a timely manner, the State Water Board may adopt the proposed regulation substantially as described in this notice. If the State Water Board makes modifications that are substantially related to the originally proposed text, the State Board will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the State Water Board adopts the modified regulation. Any such modifications will also be posted on the State Water Board website. Please send requests for copies of any modified regulation to the attention of the contact persons provided above (“Contact Persons”). The State Water Board will accept written comments on the modified regulation for 15 days after the date on which they were made available.

AVAILABILITY OF FINAL
STATEMENT OF REASONS
[Gov. Code, § 11346.5(a)(19)]

The State Water Board will prepare a final statement of reasons pursuant to Government Code section 11346.9 after final adoption of the regulation, and when ready will make the final statement of reasons available. A copy of the Final Statement of Reasons may be obtained from the contact persons or the State Water Board program webpage, listed in the next section.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET
[Gov. Code, § 11346.4(a)(6); § 11346.5(a)(20)]

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulation may be found on the State Water Board’s Water Loss Control webpage.

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

ANNUAL, QUARTERLY, AND MONTHLY
FINANCIAL REPORTING REGULATIONS:
PROPOSED ADOPTION OF RULE 1300.84.03,
THE AMENDMENT AND RENUMBERING OF
RULE 1300.84.06, AND THE AMENDMENTS
OF RULES 1300.84.2 AND 1300.84.3 OF
TITLE 28 OF THE CALIFORNIA CODE OF
REGULATIONS. CONTROL NO. 2021–OFRFR.

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Department), pursuant to the authority of the Director under the Knox–Keene Health Care Service Plan Act of 1975 (Knox–Keene Act), and by sections 1344 and 1384 of the Health and Safety Code, proposes to adopt, amend, or repeal regulations in title 28 of the California Code of Regulations (CCR) clarifying financial reporting requirements for health plans regarding the financial annual report requirement, the quarterly financial report requirement, and the monthly financial report requirement.

This rulemaking action proposes to amend Rules 1300.84.06, 1300.84.2, and 1300.84.3, renumber Rule 1300.84.06 to 1300.84.1, and adopt Rule 1300.84.03, in title 28, CCR. Before undertaking this action, the Director of the Department (Director) will conduct written public proceedings, during which time any

interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative, may submit a written request for a public hearing pursuant to Government Code section 11346.8(a). The written request for a hearing must be received by the Department's contact person, designated below, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments, or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department's Office of Legal Services, **by February 7, 2022**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department's Office of Legal Services, Attention: Fabiola Murillo, Attorney III. Comments may be transmitted by standard U.S. mail and email as follows:

Email: regulations@dmhc.ca.gov
 Mail: Department of Managed Health Care
 Office of Legal Services
 Attention: Fabiola Murillo,
 Attorney III
 980 9th Street, Suite 500
 Sacramento, CA 95814

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

Please identify the action by using the Department's rulemaking title and control number, **Annual, Quarterly, and Monthly Financial Reporting Regulations, Control No. 2021-OFRFR**, in any of the above inquiries.

CONTACTS

Inquiries concerning the proposed rulemaking action may be directed to:

Fabiola Murillo
 Attorney III
 Department of Managed Health Care
 Office of Legal Services
 980 9th Street, Suite 500
 Sacramento, CA 95814
 (916) 255-2395
 (916) 322-3968 fax
Fabiola.Murillo@dmhc.ca.gov

OR

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

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

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

AVAILABILITY OF CHANGED OR
 MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt, amend, and repeal the proposed regulations substantially as described in this notice. If the Department 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. The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days before the date the Department adopts the regulation. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Department will accept comments via standard U.S. mail or email on the modified regulation(s) for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

You may obtain a copy of the Final Statement of Reasons once it has been prepared by contacting the Regulations Coordinator.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

The Notice of Proposed Rulemaking Action, the proposed text of the regulations, and the Initial Statement of Reasons are also available on the Department's website at <https://wpsso.dmhc.ca.gov/regulations/#1>.

AUTHORITY AND REFERENCE

California Health and Safety Code section 1341, subdivision (a), authorizes the Department to regulate health care service plans (health plans). Health and Safety Code section 1341.9 vests the Director of the Department (Director) with all duties, powers, purposes, responsibilities, and jurisdiction as they pertain to health plans and health plan business.

Health and Safety Code section 1344 grants the Director the authority to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of the Knox-Keene Act Health Care Service Plan Act of 1975 (Knox-Keene Act).

Health and Safety Code section 1346 vests in the Director additional powers to administer and enforce the Knox-Keene Act, including but not limited to, the power to prescribe by rule or order the form and contents of financial statements required under the Knox-Keene Act, the circumstances under which consolidated statements shall be filed with the Department, and the circumstances under which financial statements shall be audited.

Health and Safety Code section 1348.95 grants the Director the authority to make rules and regulations specifying the form and content of the enrollment reports, by product type, including the number of enrollees that receive health care coverage under a health care service plan contract that covers individuals and small groups inside and outside of the California Benefit Exchange, large groups, administrative services only business lines, and any other business lines.

Health and Safety Code section 1375.1 requires every health plan to demonstrate to the Director a fiscally sound operation and adequate provision against the risk of insolvency.

Health and Safety Code section 1376 grants the Director authority to adopt rules and regulations as appropriate in the public interest, or for the protection

of health plans, subscribers, and enrollees, to provide safeguards with respect to the financial responsibility of health plans, specifically including but not limited to requiring a minimum capital or net worth, limiting indebtedness, procedures for the handling of funds or assets, including segregation of funds, assets and net worth, maintaining appropriate insurance and a fidelity bond, and the maintenance of a surety bond.

Health and Safety Code section 1377 protects enrollees by imposing more stringent financial regulatory requirements on health plans that incur significant liabilities to non-contracted health care providers, including reporting requirements that require the calculation of estimated liability for reimbursements.

Health and Safety Code Section 1382 gives the Director the authority to conduct an examination of a health plan's fiscal and administrative affairs as often as deemed necessary to protect the interest of subscribers or enrollees.

Health and Safety Code section 1384 grants the Director the authority to make rules and regulations specifying the form and content of the reports and financial statements required under the law, including reports required on a periodic basis of the Director's choosing, as well as special reports as the Director requires.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Purpose of the Proposed Regulations

The Department's regulatory action is being taken under the Knox-Keene Act to implement, interpret and make specific Health and Safety Code sections 1348.95, 1384, and 1385. This rulemaking action proposes to adopt Rule 1300.84.03, and amend Rules 1300.84.06, 1300.84.2, 1300.64.3, in title 28 of the CCR. In addition, the Department is proposing to renumber Rule 1300.84.06 to Rule 1300.84.1 to better align with Rules 1300.84.2 and 1300.84.3.

The purpose of these regulations is to update, clarify, and simplify existing financial reporting regulations. The proposal includes updating existing financial reporting regulations by incorporating health plan financial reporting forms and an instruction manual. The purpose of the updates is to ensure health plan consistency and uniformity in financial reporting, and to ensure the Department has sufficient financial information to adequately assess health plan financial stability. In addition, this regulatory action implements new requirements for reporting enrollment by product type. The proposed amendments build upon existing requirements and clarify previous reporting issues.

Specifically, the regulations amend the two sections of the regulations that set out the requirements for the

reports to be filed on an annual and quarterly basis, respectively. The regulations also modify the existing monthly report section and replace it with two separate sections to address general requirements and specific monthly financial reporting triggers. The first section consists of two subdivisions that are currently in the monthly report regulation, but which have a broader reach than the monthly financial reports. The second section contains requirements for the monthly reports themselves, which propose to amend the existing requirements for monthly reports.

A major component of the proposed regulations is the incorporation by reference of four documents, consisting of three financial reporting forms and an instruction manual, as follows: the “Annual DMHC Financial Reporting Form” (Annual Report), the “Quarterly DMHC Financial Reporting Form” (Quarterly Report), the “Monthly DMHC Financial Reporting Form” (Monthly Report), and the “Annual, Quarterly, and Monthly Reporting Forms Instruction Manual” (Instruction Manual). The Instruction Manual consists of comprehensive directions for health plans to follow when completing and filing the three financial reporting forms with the Department. The revised text of the regulations identifies the frequency with which financial reports must be filed and incorporates by reference the Annual Report, Quarterly Report, Monthly Report, and Instruction Manual. In addition, the monthly report regulations prescribe the requirements a plan must meet in order to discontinue filing monthly reports. The instruction manual advises health plans how to complete the reports and address miscellaneous matters, such as which reports must be audited.

Summary of Existing Laws and Regulations:

The Knox–Keene Act gives the Department authority to obtain financial, enrollment, and other information from health plans on a periodic basis to ensure health plans are financially solvent to provide health care services to enrollees. The Department also has the authority to require health plans to meet various financial thresholds to help ensure the health plans have the necessary resources to provide health care services to enrollees.

Title 28 regulations clarify and make specific the methods of health plan financial reporting. The regulations provide the specific reports the health plans must submit to the department and describe the elements that must be reported in each financial statement.

Broad Objectives and Anticipated Benefits of the Proposed Regulations:

Pursuant to Government Code section 11346.5(a)(3)(C), the broad objectives and benefits of this regulation package are to clarify and make specific state law relevant to health plan financial reporting.

The Department anticipates that these regulations will benefit California residents and protect public health by ensuring that the public has access to reports detailing the financial conditions of health plans. The Instruction Manual is beneficial because it provides comprehensive instructions for the health plans in completing the reports, thereby simplifying the plans’ task. Further, comprehensive instructions will ensure plans are uniformly filling out the reports. The regulations will assist Department staff in performing their oversight function efficiently and effectively. The regulations will also provide policymakers within and outside the Department with information on enrollment and on health plans’ financial status.

The proposed regulations are described in detail in the Initial Statement of Reasons document for this regulation package.

Evaluation of Consistency/Compatibility 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 periodic financial reporting by health plans.

Forms Incorporated by Reference

Pursuant to title 1, California Code of Regulations, section 20(c)(3), and as cited to in the proposed regulations, the Department is incorporating by reference the following four documents:

- Annual, Quarterly, and Monthly Reporting Forms Instruction Manual [Effective Date, OAL Insert]
- Annual DMHC Financial Reporting Form (Form No. 10–072)
- Quarterly DMHC Financial Reporting Form (Form No. 10–071)
- Monthly DMHC Financial Reporting Form (Form No. 10–070)

Federal Regulations or Statutes

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

Other Matters Prescribed by Statute

There are no other requirements prescribed by statute that are applicable to the Department or to any specific regulation or class of regulations.

SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.

- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Costs to Private Persons or Businesses Directly Affected: As explained in the Economic Impact Assessment in the Initial Statement of Reasons for this rulemaking package, the Department anticipates \$62,500 in nominal costs incurred for businesses required to comply with the proposed regulations. Total costs for businesses are estimated to be \$62,500. The Department does not anticipate ongoing costs.
- Effect on Housing Costs: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.

DETERMINATIONS

The Department has made the following determinations:

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

The regulations will have no significant effect on housing costs.

The regulations do not affect small businesses. Health plans are not considered a small business under Government Code section 11342.610(b) and (c).

The 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.

The regulations will have no cost or savings in federal funding to the state.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Creation or elimination of jobs within California

These regulations are designed to simplify and clarify requirements for health care service plans to file financial reports. Health care service plans are currently required to file financial reports. The proposed amendments clarify and make specific existing law for the health care industry and impacted enrollees. The Department has determined that these amendments will not significantly affect the creation or elimination of jobs within the state of California. On the contrary, the amendments will benefit persons with jobs in the impacted industry in California by

updating obsolete provisions and making clear what is required under the current law.

Accordingly, the Department has determined that no new jobs will be created or eliminated in the state of California as a result of the regulation.

Creation or new businesses or elimination of existing businesses within California

The amendments clarify and make specific the updated laws for the health care industry and impacted enrollees; therefore, the Department has determined that the amendments will benefit persons with jobs in the impacted industry in California by updating obsolete provisions and making clear what is required under the current law and will not impact the creation of new businesses or the elimination of current businesses within the State of California.

Expansion of businesses currently doing business within California

These regulations are designed to simplify and clarify requirements for health care service plans to file financial reports. Health care service plans are currently required to file financial reports. The Department has determined that the amendments will not impact the expansion of business within the State of California but in fact will benefit the impacted industry in California by updating obsolete provisions and making clear what is required under the current law.

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

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

The anticipated benefit to the health and welfare of California residents of the proposed amendments is that health plans will maintain and remain financially viable and enrollees can ultimately have greater access to health care. The changes to the annual, quarterly, and monthly regulations will result in the benefit to the health and welfare of California residents by providing greater clarity regarding the Department's expectations of health plans for financial reporting; thereby ensuring that health plans remain viable and enrollees may access health care. The benefit of incorporating the instruction manual by reference is to ensure consistency of health plan reporting across health plans.

In addition, the Department does not anticipate benefits to either worker safety or to the California environment by the proposed action.

Therefore, as described in the paragraphs above, the ultimate benefits to the health and welfare of residents of California from these amendments is increased

protection of the public health and safety, as well as increased transparency in business and business practices.

BUSINESS REPORTING REQUIREMENT

The Department is incorporating by reference the following documents:

- Annual, Quarterly, and Monthly Reporting Forms Instruction Manual [Effective Date, OAL Insert]
- Annual DMHC Financial Reporting Form (Form No. 10-072)
- Quarterly DMHC Financial Reporting Form (Form No. 10-071)
- Monthly DMHC Financial Reporting Form (Form No. 10-070)

The proposed regulations and the reports are necessary for the health, safety, or welfare of the people of the state because they provide clear and consistent financial reporting requirements for health plans to follow. The forms allow the Department to evaluate a health plan’s financial stability and viability to ensure the health plan is able to protect its enrollees against health plan financial insolvency.

ALTERNATIVES CONSIDERED

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency (1) would be more effective in carrying out the purpose for which the action is proposed, (2) would be as effective and less burdensome to affected private persons than the proposed action, or (3) would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. As described in the Initial Statement of Reasons for this rulemaking action, no alternatives were considered by the Department.

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

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

**CHEMICALS LISTED EFFECTIVE
DECEMBER 24, 2021
AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER:
PERFLUOROOCTANE SULFONIC ACID (PFOS) AND ITS SALTS AND TRANSFORMATION AND DEGRADATION PRECURSORS**

Effective December 24, 2021, the Office of Environmental Health Hazard Assessment (OEHHA) is adding perfluorooctane sulfonic acid (PFOS) and its salts and transformation and degradation precursors to the list of chemicals known to the state to cause cancer for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65¹). At a public meeting on December 6, 2021, the Carcinogen Identification Committee (CIC) in its official capacity as the “state’s qualified experts”² determined that perfluorooctane sulfonic acid (PFOS) and its salts and transformation and degradation precursors, were clearly shown by scientifically valid testing according to generally accepted principles, to cause cancer.

A complete, updated Proposition 65 chemical list is available on the OEHHA website at <https://oehha.ca.gov/proposition-65/proposition-65-list>.

¹The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5 et seq.

²See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code Regs., section 25306.

**AVAILABILITY OF
PRECEDENTIAL DECISIONS
INDEX**

**Notice of Index of Precedential Decisions
(Government Code section 11425.60
subdivision (c))**

**BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS**

NOTICE IS HEREBY GIVEN that the Board of Vocational Nursing and Psychiatric Technicians (Board), pursuant to the requirements of section 11425.60 of the Government Code, maintains an index of its precedential decisions. The index and the text of the precedential decisions can be viewed on the Board's website at https://www.bvnpt.ca.gov/about_us/precedential_decisions.shtml and may also be reviewed in the public lobby at the Board's offices at the address listed above during normal business hours. The index is available to the public by e-mail subscription, upon request. A request for subscription may be made by using the index subscription feature on the Board's website or by email at bvnpt@dca.ca.gov.

UNDERGROUND REGULATIONS

(Pursuant to Title 1, section 280, of the California Code of Regulations)

OFFICE OF ADMINISTRATIVE LAW

**SUSPENSION OF ACTION REGARDING
ALLEGED UNDERGROUND REGULATIONS**

On October 7, 2021, the Office of Administrative Law (OAL) received a petition challenging the November 1 annual deadline for Voluntary Disability Plans to submit annual plan text provisions for disability coverage (the "challenged rule") issued by the Employment Development Department (the "Department") as an alleged underground regulation. The challenged rule was communicated via webinar on May 20, 2021, by email to the Voluntary Plan community on October 4, 2021, and posted on the

Department's website. The challenged rule stated the following:

- Annual Plan Text Reports — Due Annually on November 1
- The Voluntary Plan Texts effective January 1, 2022 are due to the Employment Development Department (EDD), Voluntary Plan (VP) Group, on November 1, 2021.

On December 6, 2021, the Department certified to OAL that the Department would not use, issue, enforce, or attempt to enforce the challenged rule. Therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

**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.

Secretary of State
File # 2021-1025-01
Risk Limiting Audits

This certificate of compliance action makes permanent the emergency regulations and makes additional changes to the regulations related to Risk Limiting Audits.

Title 02
Amend: 20110, 20111, 20112, 20113, 20114, 20115, 20116, 20117, 20118, 20119, 20120, 20121, 20122, 20123, 20124, 20125, 20126
Filed 12/09/2021
Effective 12/09/2021
Agency Contact: Taylor Kayatta (916) 695-1530

California Alternative Energy and Advanced
Transportation Financing Authority
File # 2021-1129-02
Sales and Use Tax Exclusion Program

This emergency rulemaking action by the California Alternative Energy and Advanced Transportation Authority (Authority) improves and streamlines the Authority's administration of the Sales and Use Tax Exclusion Program which is available to qualifying

manufacturers and recyclers for projects and products that create California-based manufacturing, jobs, or advanced manufacturing processes or reduce greenhouse gases, air and water pollution, or energy consumption.

Title 04
 Amend: 10031, 10032, 10033, 10036
 Filed 12/09/2021
 Effective 12/09/2021
 Agency Contact: Matt Jumps (916) 651-5103

Department of Toxic Substances Control
 File # 2021-1130-01
 Conditional Exclusion for Chemically Treated Metal Shredder Residue

This action allows for the transportation and disposal of chemically treated metal shredder residue as a nonhazardous waste under a conditional exclusion.

Title 22
 Amend: 66260.10, 66261.4
 Filed 12/10/2021
 Effective 12/10/2021
 Agency Contact: Rick Brausch (916) 251-6398

Department of Corrections and Rehabilitation
 File # 2021-1123-02
 Youth Parole Eligible Date

This action is an Emergency by Operational Necessity, pursuant to Penal Code section 5058.3. The Department adopts regulations to define youth offenders and establish criteria for calculating their Youth Parole Eligible Date (YPED). It further amends regulations to allow the YPED of a youth offender inmate to be advanced based on Educational Merit Credit.

Title 15
 Adopt: 3498.1, 3498.2
 Amend: 3043, 3043.5
 Filed 12/13/2021
 Effective 01/01/2022
 Agency Contact: Sarah Pollock (916) 375-6075

Department of Transportation
 File # 2021-1201-01
 State Route 710 Sales Program

This action makes changes to regulations governing the sales process for properties covered by the State Route 710 (SR 710) Sales Program in Los Angeles County in two ways. First, it makes changes to the sales processes for properties in the City of Los Angeles and City of Pasadena. Second, it makes changes to general provisions applicable to the entire SR 710 program.

Title 21
 Adopt: 1475, 1476, 1477, 1477.1, 1477.2, 1477.4, 1478, 1479, 1480, 1481, 1481.1, 1481.2, 1481.3, 1481.4, 1482, 1483, 1483.1, 1484, 1484.1, 1485, 1485.1, 1486, 1487, 1488, 1489, 1490, 1490.2, 1491
 Amend: 1478.2 (renumbered to 1484.2)
 Repeal: 1475, 1476, 1477, 1478, 1478.1, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491
 Filed 12/13/2021
 Effective 12/13/2021
 Agency Contact: Carolyn Dabney (916) 716-7808

California Department of Tax and Fee Administration
 File # 2021-1116-04
 Access to Public Records Maintained by CDTFA

The California Department of Tax and Fee Administration's (Department's or CDTFA's) request to file with the Secretary of State and print in the California Code of Regulations these regulations concerning public access to the Department's public records is granted. This rulemaking action is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b).

Title 18
 Adopt: 35301, 35302, 35303, 35304, 35305
 Filed 12/13/2021
 Effective 12/13/2021
 Agency Contact: Kim DeArte (916) 309-5227

Department of Industrial Relations
 File # 2021-1207-03
 Civil Penalties for Cal/OSHA Citations

This file and print action by the Department of Industrial Relations amends maximum and minimum civil penalties in accordance with statutory adjustments based upon the annual percentage increase in the applicable Consumer Price Index for All Urban Consumers. The adjustments increase (1) the maximum civil penalties for regulatory, general, and repeat violations; and (2) the minimum and maximum civil penalties for willful violations. These regulations are exempt from the Administrative Procedure Act pursuant to Labor Code sections 6427(b), 6429(a)(2), and 6431(b).

Title 08
 Amend: 336
 Filed 12/15/2021
 Effective 01/01/2022
 Agency Contact: Carl Paganelli (510) 910-9439

Workers Compensation Appeals Board
File # 2021-1109-01
WCAB Rules of Practice and Procedure

In this request for filing and printing pursuant to Government Code section 11343.8, the Workers' Compensation Appeals Board (the "Board" or WCAB) is adopting and amending regulations pertaining to the Board's rules of practice and procedure.

Title 08
Adopt: 10815, 10816, 10817
Amend: 10305, 10400, 10401, 10404, 10462,
10550, 10610, 10615, 10625, 10628, 10635, 10670,
10745, 10750, 10752, 10755, 10756, 10759, 10818,
10832, 10862
Filed 12/15/2021
Effective 01/01/2022
Agency Contact: Anne Schmitz (510) 919-1779

Fair Political Practices Commission
File # 2021-1123-07
Lobbyist Recordkeeping

This action by the Fair Political Practices Commission adopts, amends, and repeals regulations relating to lobbyist recordkeeping.

Title 02
Adopt: 18612
Amend: 18610, 18615
Repeal: 18612
Filed 12/13/2021
Effective 01/12/2022
Agency Contact: Daniel Vo (916) 322-5660

Board of Equalization
File # 2021-1028-02
Random Selection of Counties for Survey or
Representative Sampling

The Board of Equalization (Board) submitted this action without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to revise the period of time in two regulations during which the Board is required by statute to conduct audit surveys, as specified, of counties for representative samplings of property tax assessments. California Code of Regulations, title 18, section 370 is amended to apply to other than calendar years 2016-2025 and California Code of Regulations, title 18, section 370.5 is amended to apply during calendar years 2016-2025, as required by amended legislation in Senate Bill 1473 (Stats.2020, chapter 371).

Title 18
Amend: 370, 370.5
Filed 12/13/2021
Agency Contact: Honey Her (916) 445-6464

Department of Public Health
File # 2021-1027-01
STAKE-Tobacco Military Minimum Age Warning

Retailers of tobacco products are required to post warning signs stating that selling tobacco products to anyone under age 21 is illegal and subject to penalties. The existing regulation provides an exception for U.S. Armed Forces active duty personnel who are at least 18 years of age. In this change without a regulatory effect, the Department amended its regulation to remove the exception.

Title 17
Amend: 6902
Filed 12/08/2021
Agency Contact: David Martin (916) 440-7673

Department of Social Services
File # 2021-0708-02
Address Requirement and Arrest Investigation

The regulations require those subject to criminal record review in connection with the Community Care facilities, including Social Rehabilitation Facilities, Adult Day Programs, Crisis Nurseries, Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Child Care Centers, and Family Child Care Homes, to maintain a valid mailing address with the Department. The regulations also specify requirements for a notice that shall be provided when conducting arrest investigations authorized pursuant to Assembly Bill (AB) 2632, Statutes of 2014.

Title MPP, 22
Amend: 80019, 81019, 82019, 86519, 87355, 87819,
101170, 102370
Filed 12/15/2021
Effective 04/01/2022
Agency Contact:
Trevor Morris-Seekins (916) 657-1808

Landscape Architects Technical Committee
File # 2021-0930-03
Abandonment of Application and Retention of
Candidate Files

In this rulemaking action the Committee adopts a regulation to define terms such as "candidate file," "examination," and "inactive." The regulation further establishes a retention period of five years for candidate files, a period after which the files will be purged. The Committee also amends existing regulations to describe complete applications and abandoned applications.

Title 16
Adopt: 2611.5
Amend: 2611, 2616
Filed 12/13/2021
Effective 04/01/2022
Agency Contact: Stacy Townsend (916) 575-7235

**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.