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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

INFORMATIVE DIGEST/POLICY
OVERVIEW STATEMENT

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TITLE 2. STATE ALLOCATION BOARD

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTION 1859.90.2, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

REGULATION SECTION PROPOSED FOR AMENDMENTS:

- 1859.90.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation section, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation section under the authority provided by Section 17070.35 of the Education Code. The proposal interprets and make specific reference Sections 17070.41, 17071.75, 17072.12, 17072.30, 17073.10, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45 of the Education Code.

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

At its September 22, 2021 meeting, the SAB adopted proposed regulatory amendments that would allow it to waive the priority funding request deadlines for projects that are impacted by proceeds from funding sources other than bond funds that become available unexpectedly. Projects for which the priority funding request deadline is waived are still subject to the other provisions of the priority funding process, including the 90-day apportionments and occurrences of non-participation.

Although the Office of Administrative Law (OAL) approved the emergency regulations with an effective date of October 28, 2021, OAL had a concern that new subsection (e) provided the SAB with too much discretion and required additional criteria by which the SAB can reference and therefore waive the 30-calendar day provision. As part of the Administrative Procedure Act process, OAL requested that the SAB approve language that would provide the clarity needed to address the SAB’s ability to waive the 30-calendar day filing provision.

At its December 7, 2021 meeting, the SAB adopted proposed regulatory amendments that addressed OAL’s concern. These proposed amendments will be processed through the Administrative Procedure Act to become permanent regulations.

Attached to this Notice is the specific regulatory language of the proposed regulatory action, along with the proposed regulatory amendments. The proposed regulation can also be reviewed on OPSC’s website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>. Copies of the proposed regulatory amendments will be mailed to any person requesting this information by using OPSC’s contact information set forth below in this Notice. The proposed regulation amends the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

Background and Problem Being Resolved

Assembly Bill (AB) 130, Chapter 44, Statutes of 2021 [Committee on Budget, Education Finance: Education Omnibus Budget Trailer Bill] was signed by the Governor on July 9, 2021 and included a one-time General Fund appropriation in the amount of \$250 million. The SAB has been charged with allocating the one-time General Fund appropriation to eligible new construction and modernization projects until June 30, 2022. In order to maintain the Priority Funding Process and to align future unexpected funding sources with the current structure of the Priority Funding Process, it is necessary to set forth how that allocation process will work.

The Priority Funding Process is a process by which school districts submit certification requests for projects that have received unfunded approvals and are sitting on the Unfunded List (Lack of AB 55 Loans). Priorities in Funding certification requests are submitted twice a year during two specific 30-day filing periods, are good for six months, and the requests indicate a school district's desire to convert a project's unfunded approval to an apportionment in date order received. For example, one of the 30-day filing periods for school districts to submit certification requests began May 12, 2021 and ended June 10, 2021. The certification requests received during this 30-day filing period are valid from July 1, 2021 through December 31, 2021 for school district projects to be eligible for cash from the Spring 2022 General Obligation Bond sale. The next 30-day filing period for school districts to submit certification requests began November 10, 2021 and ended December 9, 2021. The certification requests received during this 30-day filing period are valid from January 1, 2022 through June 30, 2022 for their projects to be eligible for cash from the Fall 2022 General Obligation Bond sale.

In addition to the method of providing funding to convert unfunded approvals as noted above, the one-time \$250 million General Fund appropriation is an opportunity for cash to be allocated quicker than expected to the first \$250 million in projects placed on the Unfunded List (Lack of AB 55 Loans) and well before the statutory June 30, 2022 deadline. Projects participating in the November 2021 Priority Funding Process normally receive apportionments from the Spring 2022 bond sale. By using the \$250 million for these projects, \$250 million from the Spring bond sale will be unallocated. OPSC will then ask school districts receiving unfunded approvals in January through May 2022 if they wish to receive funding sooner than the Fall Bond sale and requiring those school districts to submit a request outside the normal request time period. By providing the \$250 million as early as the January 2022 SAB meeting, allows for

that funding to be allocated quicker and allows for the application of cash from the Spring Bond sale to fund projects further down the Unfunded List (Lack of AB 55 Loans) thereby maintaining the integrity of the Priority Funding Process as well as equity amongst school district projects.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that there are no other programs or regulations in existence that allow the SAB to allocate General Fund appropriations for the funding of school construction. Therefore, the proposed regulatory amendments are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments will maintain equity amongst school district projects and the integrity of the SFP funding process.

Anticipated Benefits of the Proposed Regulations

The proposed regulatory amendments promote transparency because the process of funding SFP projects with unexpected cash proceeds from sources other than bond funds will be clarified in regulation. There are additional benefits associated with these proposed regulatory amendments. School districts can submit certification requests to convert projects with unfunded approvals to apportionments sooner rather than waiting for a future sale of General Obligation Bonds. Because school districts can receive funding so quickly, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This is a positive impact on the state's economy and may also create an unknown number of jobs.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments aligns with the statute, maintains the integrity of the Priority Funding Process as well as maintains equity amongst school district projects.

Summary of the Proposed Regulatory Amendments

Existing Regulation Section 1859.90.2 authorizes the SAB to establish 30-calendar day certification filing periods to distribute available State school bond funding to school districts that request to convert an unfunded approval to an apportionment. School districts must submit and have in the possession of the OPSC the original signature Form SAB 50-05, "Fund Release Authorization," within 90 calendar days of the Board's approval of the apportionment; failure to make this submittal within 90 calendar days will result in rescission of the project without further

Board action. (For the purposes of this Section, the word “rescission” means the apportionment returns to an unfunded approval status with a new unfunded approval date. The district will not be required to re-submit the application and no further application review will be required.) School districts wishing to participate must provide a written statement signed by an authorized district representative within the 30-calendar day filing period that contains all the following:

- Request to convert the unfunded approval to an apportionment; and
- Concurrence with the 90 calendar day time limit on fund release; and
- Acknowledgement that failure to submit a valid, original signature Form SAB 50-05, and that it be in the physical possession of the OPSC, within the 90 calendar day time limit will result in the rescission of the Apportionment without further Board action; and
- Acknowledgement that by participating in the priority funding round, the district is waiving its right to a standard 18 month timeline for fund release submittal.

The proposed amendments address the process of funding SFP projects with funds made available from unexpected cash proceeds from sources other than bond funds outside of the Priority Funding Process. The SAB can waive the 30-calendar day filing provision at a public meeting for those school districts that wish to receive available funding sooner rather than waiting for a future sale of General Obligation Bond funds. The proposed amendments do not supersede the Priority Funding Process; rather, the amendments only address those instances when unexpected funding is made available to fund projects under the SFP.

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate.

Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

AB 130, Chapter 44, Statutes of 2021 [Committee on Budget. Education Finance: Education Omnibus Budget Trailer Bill] was signed by the Governor on July 9, 2021 and included a one-time General Fund appropriation in the amount of \$250 million. The SAB has been charged with allocating the one-time General Fund appropriation to eligible new construction and modernization projects until June 30, 2022. In order to maintain the Priority Funding Process and to align future unexpected funding sources with the current structure of the Priority Funding Process, it is necessary to set forth how that allocation process will work.

The Priority Funding Process is a process by which school districts submit certification requests for projects that have received unfunded approvals and are sitting on the Unfunded List (Lack of AB 55 Loans). Priorities in Funding certification requests are submitted twice a year during two specific 30-day filing periods, are good for six months, and the requests indicate a school district’s desire to convert a project’s unfunded approval to an apportionment in date order received.

In addition to the method of providing funding to convert unfunded approvals as noted above, the one-time \$250 million General Fund appropriation is an opportunity for cash to be allocated quicker than expected to the first \$250 million in projects placed on the Unfunded List (Lack of AB 55 Loans) and well before the statutory June 30, 2022 deadline. Projects participating in the November 2021 Priority Funding Process normally receive apportionments from the Spring 2022 bond sale. By using the \$250 million for these projects, \$250 million from the Spring bond sale will be unallocated. OPSC will then ask school districts receiving unfunded approvals in January through May 2022 if they wish to receive funding sooner than the Fall Bond sale and requiring those school districts to submit a request outside the normal request time period. By providing the \$250 million as early as the January 2022 SAB meeting, allows for that funding to be allocated quicker and allows for the application of cash from the Spring Bond sale to fund projects further down the Unfunded List (Lack of AB 55 Loans) thereby maintaining the integrity of the Priority Funding Process as well as equity amongst school district projects.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed amendments are neither inconsistent nor incompatible with existing State laws

and regulations. The proposed regulatory amendments are within the SAB's authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulatory amendments do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts, or charter schools to incur additional costs in order to comply with the proposed regulatory amendments.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulatory amendments create no costs to any local agency, school district, or charter school requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulatory amendments create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulatory amendments promote transparency because the process of funding SFP projects with unexpected cash proceeds from sources

other than bond funds will be clarified in regulation. There are additional benefits associated with these proposed regulatory amendments. School districts can submit certification requests to convert projects with unfunded approvals to apportionments sooner rather than waiting for a future sale of General Obligation Bonds. Because school districts can receive funding so quickly, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may be created and/or expand based on the demand on these industries. This is a positive impact on the state's economy and may also create an unknown number of jobs. Further, it is unlikely that the proposed amendments will eliminate new and/or existing businesses, including the elimination of jobs, within California.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments aligns with the statute, maintains the integrity of the Priority Funding Process as well as maintains equity amongst school district projects.

Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment

- The proposed regulatory amendments promote transparency because the process of funding SFP projects with unexpected cash proceeds from sources other than bond funds will be clarified in regulation. There are additional benefits associated with these proposed regulatory amendments. School districts can submit certification requests to convert projects with unfunded approvals to apportionments sooner rather than waiting for a future sale of General Obligation Bonds. Because school districts can receive funding so quickly, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may be created and/or expand based on the demand on these industries. This is a positive impact on the state's economy and may also create an unknown number of jobs. Further, it is unlikely that the proposed amendments will eliminate new and/or existing businesses, including the elimination of jobs, within California.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local educational agencies utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety

of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.

- There is no impact to the State's environment from the proposed regulatory amendments.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulatory amendments will not have a negative impact on small businesses in the ways identified in subsections (a) (1)–(4) of Section 4, Title 1, CCR. The proposed regulatory amendments only apply to school districts, charter schools, and local education agencies for purposes of funding school facility projects. However, because school districts can receive funding so quickly, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This may include new [small] businesses, or the expansion of [small] businesses, which is a positive impact on the state's economy and may also create an unknown number of jobs.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at OPSC no later than February 21, 2022 end of day. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Mailing Address Lisa Jones,
Regulations Coordinator
Office of Public School
Construction
707 Third Street, 6th Floor
West Sacramento, CA 95605
E-mail Address: lisa.jones@dgs.ca.gov
Fax Number: (916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ms. Lisa Jones at (279) 946-8459. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (279) 946-8463.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulation substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulation with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations> then scroll down to School Facility Program, Pending Regulatory Changes, and click on the links named 45-day Public Notice, Initial Statement of Reasons and Proposed Regulatory Text.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB 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. The alternative to these proposed regulatory amendments would be to take no action and not provide transparency in the process of apportioning the \$250 million General Fund appropriation charged to the SAB from the Legislature. Further, without the proposed regulatory amendments, the integrity of the Priority Funding Process could be compromised as well as equity amongst school district projects.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the website listed above.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

MINIMUM TRAINING STANDARDS FOR INSTRUCTORS OF POST-CERTIFIED SPECIALIZED TRAINING AND MINIMUM CONTENT REQUIREMENTS FOR INSTRUCTOR COURSES (FORCE OPTION SIMULATOR)

Commission Regulations 1070 and 1082

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

PUBLIC COMMENTS DUE BY FEBRUARY 21, 2022

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Steve Harding, Law Enforcement Consultant, at steve.harding@post.ca.gov, or by letter to:

Commission on POST
Attention: Rulemaking
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Instructors of any of the specialized subjects listed in California Code of Regulation 1070 (**Minimum Training Standards for Instructors of POST-Certified Specialized Training**) shall successfully complete a training course listed in subsection 1070(b) or complete the equivalency process outlined in subsection 1070(c). California Code of Regulation 1082 (**Minimum Content Requirements for Instructor Course**) addresses minimum content required to be taught in these instructor courses.

The Force Option Simulator Instructor course requires the presenters to teach future instructors how to familiarize themselves with the simulator, scenario applications, safety protocols, along with other required topics. POST does not regulate the type of simulator a presenter may purchase or use. Currently, there are seven different known brands of simulators in use across the state. It is unrealistic for presenters to have a working knowledge of each brand of simulator being used. Vendors of these simulators offer up to 8 hours of instructional training for the application and use of their simulator system.

In 2001 when this regulation was initially approved, there was only one type of simulator, and the content of the instructor course was developed with only this simulator in mind. Since then, technology has evolved, and the choice of simulators has grown tremendously. Agencies have taken advantage of that technology by obtaining simulators that fit specific agency needs.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the State’s environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern the Force Option Simulator Instructor Course requirements for peace officers in California.

BENEFITS ANTICIPATED

The benefits of proposed amendments to the regulation will increase the efficiency of the state

of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the State’s environment.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

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

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500–17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: POST has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: POST has found that the proposed language will not affect small businesses because the Commission sets selection and training standards for law enforcement, which are government entities, and does not have an impact on California businesses, including small businesses. The regulations address the instructor requirements as it pertains to the Force Options Simulator Instructor Course. This only affects individuals associated with participating law enforcement agencies and/or course presenters.

Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

Cost Impacts on Representative Private Persons or Businesses: POST is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: POST has made an initial determination that the proposed regulation would have no effect on housing costs.

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT**
per Gov. Code section 11346.3(b)

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

The benefits of the proposed amendments of regulations to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Steve Harding, Law Enforcement Consultant, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-2816. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

**TITLE 11. COMMISSION ON
PEACE OFFICER STANDARDS AND
TRAINING (POST)**

**MINIMUM TRAINING STANDARDS FOR
INSTRUCTORS OF POST-CERTIFIED
SPECIALIZED TRAINING AND
MINIMUM CONTENT REQUIREMENTS
FOR INSTRUCTOR COURSES (LAW
ENFORCEMENT DRIVING SIMULATOR)**

Commission Regulations 1070 and 1082

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

**PUBLIC COMMENTS DUE BY
FEBRUARY 21, 2022**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Steve Harding,

Law Enforcement Consultant, at steve.harding@post.ca.gov, or by letter to:

Commission on POST
Attention: Rulemaking
860 Stillwater Road, Suite 100
West Sacramento, CA 95605–1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Instructors of any of the specialized subjects listed in California Code of Regulation 1070 (**Minimum Training Standards for Instructors of POST–Certified Specialized Training**) shall successfully complete a training course listed in subsection 1070(b) or complete the equivalency process outlined in subsection 1070(c). California Code of Regulation 1082 (**Minimum Content Requirements for Instructor Course**) addresses minimum content required to be taught in these instructor courses.

Instructors who teach courses using the Law Enforcement Driving Simulator (LEDS) are required by regulation to attend a training course as outlined in California Code of Regulation 1070.

In February 2021, the Commission voted to discontinue the use of the Driving Simulator to fulfill Driver Awareness Perishable Skills. Driver Awareness Perishable Skills is a training mandate for all POST participating law enforcement officers. This decision to remove the use of the simulators to fulfill this training mandate was based on the driving simulators not being a true representation of behind–the–wheel driving. The simulators do not allow students to practice backing and parking in the manner consistent with maneuvering an actual vehicle. The LEDS only allows the use of mirrors when practicing backing. While many peace officers do operate a vehicle during their shifts, this is not the case for every peace officer required to complete perishable skills training. Behind–the–wheel training allows for more time to focus on and engage in realistic and specific skills related to operating a police vehicle including, but not limited to, vehicle dynamics, defensive driving,

intersection exercises, backing/parking, and judgment and decision–making.

As a result of the above decision by the Commission, all four presenters for Drivers Training Simulation Instructor Course have disposed of their driving simulators and no longer teach the curriculum.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the State’s environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern the Drivers Training Simulation Instructor Course requirements for peace officers in California.

BENEFITS ANTICIPATED

The benefits of proposed amendments to the regulation will increase the efficiency of the State of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the State’s environment.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

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

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500-17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: POST has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: POST has found that the proposed language will not affect small businesses because the Commission sets selection and training standards for law enforcement, which are government entities, and does not have an impact on California businesses, including small businesses. The regulations address the instructor requirements as it pertains to the Driver Training Simulation Instructor Course. This only affects individuals associated with participating law enforcement agencies and/or course presenters.

Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

Cost Impacts on Representative Private Persons or Businesses: POST is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: POST has made an initial determination that the proposed regulation would have no effect on housing costs.

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT
per Gov. Code section 11346.3(b)**

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the state of California nor result in the elimination of existing businesses or create or expand businesses in the state of California.

The benefits of the proposed amendments of regulations to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving

peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Steve Harding, Law Enforcement Consultant, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-2816. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

TITLE 11. DEPARTMENT OF JUSTICE

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

ATTORNEY GENERAL
CHAPTER 5. DEPARTMENT OF
JUSTICE TOBACCO GRANT PROGRAM

NOTICE OF PROPOSED RULEMAKING

The Department of Justice (Department) proposes to adopt sections 500, 501, 510, 520, 521, 522, 523, 530, 531, 532, 533, 540, 541, 542, 543, 544, 555, and 546 of Title 11, Division 1, Chapter 5 of the California Code of Regulations concerning grants funded by the Department from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on February 22, 2022 at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Stacy Heinsen
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-7006
TGPREgs@doj.ca.gov

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

AUTHORITY AND REFERENCE

Authority: Section 30130.57, Revenue and Taxation Code.

Reference: Section 30130.57, Revenue and Taxation Code.

Summary of Existing Laws and Regulations:

The Department's Tobacco Grant Program provides annual funds to local law enforcement agencies throughout California. To date, the Tobacco Grant Program has distributed approximately \$124 million dollars in grant funding to approximately 260 grantees through a competitive process.

Funding for the Tobacco Grant Program was a result of the passage of the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 (Proposition 56) increasing taxes on cigarettes and other tobacco products by \$2.00 starting in April 2017. The initiative allocates a portion of annual revenue to the Department, which in turn reimburses local law enforcement programs designed to prevent or reduce illegal sales or marketing of cigarettes and tobacco products to minors and youth.

Effect of the Proposed Rulemaking:

This rulemaking package is initiated to implement the grant program created by section 30130.57 of the Revenue and Taxation Code. The proposed regulations establish general grant provisions, grant project types, specific application requirements, grant evaluation criteria, and necessary administrative procedures for the effective implementation of the program.

Anticipated Benefits of the Proposed Regulations:

The purpose and intent of Proposition 56 included saving the lives of Californians and saving state and local government money in the future by reducing smoking and tobacco use among all Californians, but particularly youth; and funding efforts to reduce cigarette smuggling, tobacco tax evasion, and illegal sales of tobacco products to minors. (Initiative Measure (Prop. 56, § 2, approved Nov. 8, 2016.)

This proposed regulatory action will ensure the Tobacco Grant Program has uniform standards, internal controls, and guidelines to ensure consistent and effective administration of the program. In addition, the regulations will ensure the program funds law enforcement programs designed to prevent or reduce illegal sales or marketing of cigarettes and tobacco products to minors and youth.

Comparable Federal Regulations:

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

Determination of Inconsistency/Incompatibility with Existing State Regulations:

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

the only regulations that concern the Department's Tobacco Grant Program.

Forms and Documents Incorporated by Reference:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

Other non-discretionary costs or savings imposed on local agencies: Local law enforcement agencies are not required to apply for funding from the Department's Tobacco Grant Program. These regulations could result in additional savings to local law enforcement agencies if they choose to participate in the program and are awarded a grant.

The Department is authorized to award up to \$30 million annually pursuant to Revenue and Taxation Code section 30130.57, subdivision (e)(1). Grants are awarded each calendar year, provided funding is available. The grant funding duration is 24 or 36 months, depending on the preference of the applicant. Historically, grant awards have ranged from \$10,000 to \$5.5 million, approximately.

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

Cost impacts on representative person or business: The Department is not aware of any costs impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete: The Department has made an initial determination that the proposed action 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.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT (EIA)

The Department concludes that it is (1) unlikely that the proposal will create or eliminate jobs within the state, (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposal will result in

the expansion of businesses currently doing business within the state.

The Department also concludes that:

- (1) The proposal would benefit the health and welfare of California residents by funding programs that reduce cigarette and tobacco smoking. According to Proposition 57:

Tobacco use is the single most preventable cause of death and disease in California, claiming the lives of more than 40,000 people every year. Each year thousands of Californians require medical and dental treatment as a result of tobacco use. (Initiative Measure (Prop. 56, § 1(a), approved Nov. 8, 2016)

- (2) The proposal would not benefit worker safety because it does not regulate worker safety standards.
- (3) Vast quantities of cigarette butts, foil wrappers, battery, plastic and electronic components of electronic cigarettes, lighters, and cigarette packs, are improperly discarded. This tobacco product waste contaminates waterways, poisons aquatic life, blocks drains, chokes birds, creates unsightly litter, and requires public entities to spend large sums on ongoing clean-up operations. The proposed regulations, to the extent they result in reduced use of tobacco products, will reduce environmental degradation.

Business report requirement: None.

Small business determination: The Department has determined that this proposed action does not affect small businesses because funding is only available for local law enforcement agencies.

CONSIDERATION OF ALTERNATIVES

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

The Department has determined that the proposed regulations are the most effective way to administer the Tobacco Grant Program. The regulations will protect public health and save state and local government money by providing financial assistance to eligible local law enforcement agencies to support the goals

and objectives set by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016. The regulations do not create any burden because the Tobacco Grant Program is a voluntary program intended to supplement an eligible entity's existing budget.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Stacy Heinsen
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-7006
TGPREgs@doj.ca.gov

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

Kevin Sabo
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-7639
regulations@doj.ca.gov

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the "express terms" of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/tobaccogrants>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department's website at <https://oag.ca.gov/tobaccogrants>. Please refer to the contact information listed above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA STATE SAFE HARBOR AGREEMENT PROGRAM ACT
CONSISTENCY DETERMINATION
NUMBER 2089-2021-02-01

Location: Shasta River, Siskiyou County
Applicant: Hidden Valley Ranch LLC
Notifier: Jack Roggenbuck

Background

On February 24, 2021, the National Marine Fisheries Service (NMFS) approved a Template Safe Harbor Agreement for Conservation of Coho Salmon in the Shasta River (TSHA). The TSHA establishes the general requirements for NMFS, under authority of Endangered Species Act section 10(a)(1)(A) and implementing rule and policy, to issue Enhancement of Survival Permits (ESP) to non-federal landowners in the Shasta River Basin for the purpose of promoting the conservation, enhancement of survival, and recovery of Southern Oregon/Northern California Coast (SONCC) evolutionarily significant unit of coho salmon (*Oncorhynchus kisutch*; Covered Species). The TSHA also discusses Covered Species biological requirements, habitat conditions, covered activities and associated avoidance and minimization measures, and the adaptive management program.

NMFS has issued a Site Plan Agreement (SPA), which is an agreement between NMFS and a landowner, and ESP, which authorizes take of a Covered Species, to each individual landowner enrolled under the TSHA (Project). Each SPA and ESP provides specificity to the terms or conditions in the TSHA, or additional terms or conditions beyond what appears in the TSHA, that are applicable to a particular enrolled property. The TSHA, and related SPA and ESP, taken together provide the applicable terms and conditions for an individual landowner (collectively, the ‘federal SHA’).

On February 24, 2021, NMFS issued a SPA and ESP (Permit No. 23285), under the terms of the TSHA, to Hidden Valley Ranch LLC (Permittee) with a term of 20 years¹. Hidden Valley Ranch (Enrolled Property), owned and operated by the Permittee, is located along Big Springs Road in central Siskiyou County (41°34'57" N latitude, 122°26'18" W longitude, APN: 020-050-020 & 020-040-080²). The enrolled property includes a total of approximately 431 acres, with approximately 150 acres under irrigation. The Enrolled Property is generally a cow/calf operation with a small segment of the operation producing sheep. The Enrolled Property uses a combination of water sources for irrigation, diverting water from three springs and from the Shasta River.

Enrolled Property SPA

The Enrolled Property SPA defines Baseline Conditions as the habitat conditions at the time NMFS approved the Enrolled Property SPA, the conditions described in Appendix 1 of the TSHA. The activities required to maintain Baseline Conditions are detailed in Table 2 of the Enrolled Property SPA.

Avoidance and minimization measures are described in detail in Appendix 2 of the TSHA, and those applicable to the Enrolled Property are listed in section G.1 of the Enrolled Property SPA.

Covered Activities include both routine agricultural activities and beneficial management actions, as detailed in Appendix 2 of the TSHA and in sections C, G, and E of the Enrolled Property SPA, as follows:

- Routine Agricultural Covered Activities³ (Section C1)
 - Irrigation management
 - Irrigation maintenance
 - Pasture grazing management
 - Riparian grazing management
 - Fence maintenance
 - Road maintenance
 - Crossing maintenance
 - Herbicide/fertilizer/pesticide use
- Avoidance and Minimization Measures for Routine Agricultural Covered Activities (Section G)
 - A1: Locking head gate and measuring device
 - A2: Fish passage
 - B1: Minimize sediment discharge
 - B2: Inspect and clean fish screen
 - B3: Screen bypass operation
 - B4: Minimize sediments from ditch maintenance
 - B5: Monitor and repair tailwater berms
 - B6: Instream work operation period
 - B7: Notification for fish rescue in ditches
 - B8: Water release from impoundments to minimize impacts
 - E2: Erosion control on roads
 - E3: Instream work operation period
 - F1: Livestock and vehicle crossings
 - F2: Operation of vehicles in streams
- Beneficial Management Actions/Activities (BMAs) (Section E)
 - E.1.a: Increased delivery and irrigation efficiencies; tailwater reduction; and spring water contributions
 - E.1.b: Maintenance of the boulder weir
 - E.1.c: Leave woody debris in stream
 - E.1.d: Crossings and stock watering
 - E.1.e: Maintain riparian fencing
 - E.1.f: Pasture grazing management

¹ESP, pages 1-3

²SPA, page 2

³See TSHA Appendix 2 for full text of covered activities and avoidance and minimization measures.

- E.1.g: Access for scientific studies
- E.2.a: Increase delivery and irrigation efficiency, tailwater reduction, spring water contribution
- E.2.b: Upgrade and maintain fish screen
- E.3.a: Tailwater reduction, participate in flow management strategy, soil moisture monitoring, and spring water contribution
- E.3.b: Beaver management for instream benefit
- E.3.c: Instream habitat complexity, alcove enhancement, and large woody debris
- E.3.d: Riparian function, maintain fencing, participate in plantings, and implement riparian grazing management plan
- E.3.e: Substrate quality, spawning gravel introduction
- E.3.f: Pasture management, install cross fencing in three large pastures
- E.3.g: Provide access for studies, install two flow/temperature monitoring stations
- E.3.h: Participate in salmonid supplementation

Additional Commitments include:

- Avoidance and minimization monitoring (Sections G and G1)
- Implementation and Effectiveness Monitoring Commitments (Section G2)
- Description of potential and existing funding sources and timeline for the Permittee to carry out BMAs, avoidance and minimization measures, and monitoring and reporting requirements (Section E, F, & G)
- Other information consistent with the terms and conditions of the Agreement and ESP including reporting (Sections F, H, & I)

Access

- General. A Permittee will allow NMFS, California Department of Fish and Wildlife (CDFW), or Shasta Watershed Conservation Group (SWCG) to have access to an Enrolled Property to (a) inspect for implementation of Beneficial Management Activities, (b) monitor, stock or remove the Covered Species, or to carry out related management activities, and (c) monitor the effectiveness of each SPA. Such access will be subject to conditions identified in each SPA. Unless specified otherwise in the applicable SPA, such access will be subject to reasonable notice, not less than seven days in advance, and conditioned to avoid interference with commercial and other private uses of the Enrolled Property by the Permittee.

- Special Circumstances. In the circumstances described in TSHA Sections 6.2 and 6.8, a Permittee will allow access to NMFS and CDFW for emergency salvage or relocation of affected Covered Species⁴.

The Permittee will continue to allow access to CDFW to maintain a passive integrated transponder (PIT) tag antenna array to monitor fish movement onto the Enrolled Property. The array is located at the downstream end of the Enrolled Property.

The Permittee will also continue to work with research entities such as University of California–Davis, Shasta Valley Resource Conservation District, CDFW, U.S. Fish and Wildlife Service (USFWS), and NMFS to conduct studies to describe salmonid habitat conditions, life history requirements, and productivity to help inform efforts to improve survival and productivity of coho salmon in the future.

All relevant studies associated with the Covered Species, as specified in the TSHA and Adaptive Management Program⁵ for the agreement that are relevant to the Enrolled Property will be allowed under this agreement for five years, after which the NMFS or CDFW may request an additional period of access for a like specified period of time. All access related to on-going studies will be done in a manner which provides at minimum seven days' notice of intent to access by the NMFS or CDFW. Access will be limited to the specific area of study and may require escort by the Permittee or their representative. The Permittee reserves the right to obtain the results of the study upon completion to assure privacy rights are maintained before publication. The Permittee will allow access for salmonid supplementation and all associated monitoring activities.⁶

Net Conservation Benefit

The federal SHA is expected to result in a net conservation benefit to the Covered Species over the 20-year term by:

- Improving water quality and water quantity for juvenile coho salmon through improved tailwater collection, participation in a reach-wide diversion management strategy, planting up to 0.5 acre of riparian area, releasing additional spring water when irrigation needs are met, implementing a water exchange of 1.5 cubic feet per second with Montague Water Conservation District and bypassing available cold spring water directly to

⁴TSHA 6.3.1 and 6.3.2

⁵TSHA, Appendix 3

⁶SPA, various sections

the Shasta River from June 1 through September 15.

- Improving instream habitat complexity by allowing habitat restoration projects that will create refugia habitat for juveniles within the first 3 years of the federal SHA including enlarging an existing alcove and installing large wood at up to 24 sites. These actions will provide velocity refuge and rearing areas for juveniles.
- Increasing the extent and quality of refugia habitat for juveniles and improved instream habitat complexity within the first 3 years of the federal SHA and for the duration of the federal SHA through development of alcove and installation of large wood at up to 24 sites.
- Improving riparian function by riparian planting projects on up to 0.5 acres within 5 years of federal SHA signing, which will improve shade, provide soil stability, and reduce sedimentation to instream habitat.
- Improving water quality and summer rearing for juveniles starting in 2020 and for the duration of the federal SHA. Reduced tailwater inputs and increased flow releases (3 cubic feet per second) would improve water quality and quantity for the Covered Species and may provide cold water refugia for juveniles in this reach starting in 2020 and for the duration of the federal SHA.⁷

Consistency Determination Request

On November 19, 2021, the Director of CDFW received a letter from Hidden Valley Ranch requesting a determination pursuant to California Fish and Game Code section 2089.22 that the federal TSHA and its related SPA and ESP are consistent with California State Safe Harbor Agreement Program Act for the Covered Species on the Enrolled Lands (Cal. Reg. Notice Register 2021, No. 50–Z, p. 1694.).

Determination

CDFW has determined that the federal SHA, including Permit No. 23285, with proposed incidental take of the Covered Species, is consistent with the California State Safe Harbor Agreement Program Act because the conservation, avoidance, and minimization measures contained in the federal SHA and its related federal 10(a)(1)(A) enhancement of survival permit meet the conditions set forth in California Fish and Game Code sections 2089.22 and 2089.6 for authorizing incidental take of Covered Species. Specifically, CDFW finds that: (1) take of the Covered Species will be incidental to an otherwise lawful activity; (2) implementation of the federal SHA is reasonably expected to provide a net conservation benefit to the Covered Species; (3) the Project will

not jeopardize the continued existence of the Covered Species; (4) the Permittee has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized by the federal SHA, including returning to baseline conditions; (5) the federal SHA has established an approved monitoring program; (6) CDFW has determined that sufficient funding is ensured to complete surveys on the property and there is sufficient funding to carry out management actions and monitoring for the duration of the federal SHA; and (7) implementation of the federal SHA is not in conflict with a CDFW–approved conservation or recovery program for the Covered Species.

Monitoring and Reporting Measures

The Permittee will be responsible for the following monitoring and reporting measures related to implementation of the federal SHA and fulfillment of its provisions:

- SPA Sections G, G1, and G2
- SPA Section H and Appendix F
- TSHA Section 6.6
- TSHA Appendix 2 (Pages 66–101)
- TSHA Appendix 3 — Implementation Monitoring (Pages 108–118)
- TSHA Appendix 3 — Effectiveness Monitoring and Reporting (Pages 119–140)
- TSHA Appendix 3 — Validation Monitoring (Pages 141–142)
- TSHA Appendix 3 — Evaluation (Pages 142–144)
- TSHA Appendix 3 — Monitoring and Reporting Responsibilities (Pages 144–145)
- ESP Condition #7

Funding

Funding will be provided by the Permittee through a \$1,500 annual contribution to effectiveness monitoring. Permittee shall provide such funding to SWCG by February 1 of each year of its ESP. SWCG will then provide such funding directly to parties designated by NMFS to undertake effectiveness monitoring.⁸

Funding for implementing most large BMAs would be obtained via restoration grants while some small-scale BMAs may be funded directly by Permittee. Funding for the fish screen project has been secured by California Trout and the environmental compliance and permits are completed.⁹ Current and future grant funding will ensure sufficient funding for the Property Owners to carry out management actions and for monitoring for the duration of the federal SHA.

⁷NMFS Net Conservation Benefit Finding 11/17/2020

⁸TSHA Section 6.5.3

⁹SPA Section E.2.b

Incidental Take Authorization

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

If there are any substantive changes to the federal TSHA or if NMFS amends or replaces the SPA or ESP, the Permittee shall be required to obtain a new consistency determination from CDFW (see generally Fish & Game Code, §§ 2081.1, 2081, subs. (b) and (c)). Any CDFW authorization pursuant to Fish and Game Code section 2089.22(a) to take species identified in the federal SHA shall terminate immediately upon the expiration or termination of the federal SHA.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY

AIR TOXICS HOT SPOTS PROGRAM

NOTICE OF PUBLIC COMMENT PERIOD
AND WORKSHOP ON DRAFT REFERENCE
EXPOSURE LEVELS FOR 1-BROMOPROPANE

The Office of Environmental Health Hazard Assessment (OEHHA) is releasing a document for public review, summarizing the toxicity and derivation of Reference Exposure Levels (RELs) for 1-Bromopropane (1-BP). RELs are airborne concentrations of a chemical that are not anticipated to result in adverse non-cancer health effects for

specified exposure durations in the general population, including sensitive subpopulations.

OEHHA is required to develop guidelines for conducting health risk assessments under the Air Toxics Hot Spots Program (Health and Safety Code Section 44360(b)(2)). In implementing this requirement, OEHHA develops RELs for many air pollutants.

The draft 1-BP REL document is available today on the OEHHA website at <http://www.oehha.ca.gov>. **The posting of this document commences a 45-day public review period that ends on February 22, 2022.** A remote public workshop will be held virtually on January 26, 2022 at 10:00 a.m. using the Zoom platform. The workshop can be accessed at <https://us02web.zoom.us/j/85741659101?pwd=RFZ1SU9hRDZlYelRwRS9jdm00NitmZz09>. Audio-only access phone numbers are available via the Zoom link. The workshop will also be broadcast on the CalEPA Webcast site: <https://video.calepa.ca.gov/>.

Due to the continuing COVID-19 emergency, the public is strongly encouraged to submit written information via OEHHA's website, rather than in paper form. Comments may be submitted electronically through the following link: <https://oehha.ca.gov/comments>.

Hard-copy comments may be mailed, faxed, or hand-delivered to the address below:

Dr. John Budroe
Chief, Air Toxicology and Risk Assessment
Section
Air and Site Assessment and Climate Indicators
Branch
Office of Environmental Health Hazard
Assessment
1515 Clay Street, 16th Floor
Oakland, CA, 94612
E-mail: John.Budroe@oehha.ca.gov
Telephone: (510) 906-2131
Fax: (510) 622-3210

After the close of the public comment period, the documents will be revised as appropriate by OEHHA, and peer reviewed by the state's Scientific Review Panel on Toxic Air Contaminants. Information about dates and agenda for meetings of the Scientific Review Panel can be obtained from the California Air Resources Board website at <http://www.arb.ca.gov/srp/srp.htm>.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY

NOTICE OF EXTENSION OF THE PUBLIC
COMMENT PERIOD FOR PROPOSED
MODIFICATION OF TEXT

TITLE 27, CALIFORNIA CODE OF
REGULATIONS

PROPOSED AMENDMENTS TO
ARTICLE 6 CLEAR AND REASONABLE
WARNINGS – SHORT FORM

The Office of Environmental Health Hazard Assessment (OEHHA) initiated a modification of text to the proposed rulemaking action to amend California Code of Regulations, Title 27, Section 25602, Consumer Product Exposure Warnings — Methods of Transmission, Section 25603, Consumer Product Exposure Warnings — Content, and Section 25607.2 Food Exposure Warnings — Content. A Notice of Modification to Text of Proposed Regulation was published in the California Regulatory Notice Register on December 17, 2021 (Z-2021-1207-04). The notice initiated a public comment period that was scheduled from December 17, 2021, to January 14, 2022.

At the request of the California Chamber of Commerce, OEHHA hereby extends the public comment period for these proposed changes by an additional 7 days. The comment period will now close on **January 21, 2022**.

The public is strongly encouraged to submit written information through our website at <https://oehha.ca.gov/comments>. In the alternative, comments can be mailed, emailed, or delivered in person to the address below.

Monet Vela
Office of Environmental Health Hazard
Assessment
1001 I Street, 23rd Floor
P. O. Box 4010
Sacramento, California 95812-4010
Telephone: 916-323-2517
monet.vela@oehha.ca.gov

Please direct inquiries concerning this regulatory proposal to monet.vela@oehha.ca.gov or by calling (916) 323-2517.

**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.

Department of Social Services
File # 2021-1108-01
CalWORKs Reporting and Resource Limits

This timely Certificate of Compliance action (2020-1228-01EFP) makes permanent amendments to several sections of the Manual of Policies and Procedures in response to Senate Bill 80 (Chapter 27 of 2019) that increases the Earned Income and Disability-Based Unearned Income Disregards, replaces the 3-tier Income Reporting Threshold, allows recipient Assistance Units to maintain CalWorks eligibility until their gross income exceeds a certain threshold and increases the maximum equity value of any nonexempt motor vehicle.

Title MPP
Amend: 42-201, 42-207, 42-211, 42-213, 42-215,
44-111, 44-113, 44-207, 44-316
Filed 12/23/2021
Effective 12/23/2021
Agency Contact:
Kenneth Jennings (916) 651-8862

Department of Corrections and Rehabilitation
 File # 2021-1208-01
 Staff Misconduct Allegations

This action by the Department of Corrections and Rehabilitation (Department) is submitted to OAL as an emergency of operational necessity pursuant to Penal Code section 5058.3 and adopts a new regulatory process for addressing Department staff misconduct allegations involving incarcerated persons or parolees.

Title 15
 Adopt: 3486, 3486.1, 3486.2, 3486.3
 Filed 12/28/2021
 Effective 01/01/2022
 Agency Contact: Josh Jugum (916) 445-2266

Department of Corrections and Rehabilitation
 File # 2021-1208-02
 Inmate Credit Earning

In this emergency readopt by operational necessity the Department of Corrections and Rehabilitation amends regulations concerning inmate credit earning and minimum security credit.

Title 15
 Amend: 3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3043.7 [Renumbered to 3044.1], 3043.8 [Renumbered to 3044.2], 3044, 3045.1, 3047 [Renumbered to 3046.1]
 Repeal: 3043.7
 Filed 12/28/2021
 Effective 12/28/2021
 Agency Contact: Josh Jugum (916) 445-2266

Department of Corrections and Rehabilitation
 File # 2021-1208-04
 Employee Discipline

This operational-necessity emergency action amends and adopts regulations concerning California Department of Corrections and Rehabilitation employee discipline. The action primarily adopts an employee penalty-levels disciplinary matrix and related definitions and procedures to be used by hiring authorities in determining and imposing disciplinary measures on employees for misconduct directed at inmates, parolees, wards, other employees, or members of the public.

Title 15
 Adopt: 3392.1, 3392.2, 3392.3, 3392.4, 3392.5, 3392.6, 3392.7, 3392.8, 3392.9, 3417
 Amend: 3391, 3392
 Filed 12/28/2021
 Effective 01/01/2022
 Agency Contact: Rosie Ruiz (916) 445-2244

Department of Food and Agriculture
 File # 2021-1215-01
 Euthanized Animals

This second emergency readoption requires marking of large, domesticated animals, under Food and Agricultural Code section 19201, that are euthanized by barbiturates.

Title 03
 Adopt: 1180.43.1
 Filed 12/27/2021
 Effective 12/27/2021
 Agency Contact: Andrew Halbert (916) 900-5159

California Department of Tax and Fee
 Administration
 File # 2021-1110-01
 Retailer's Records

This file and print action adopts record keeping standards and cigarette and tobacco products retailers. The action is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40.

Title 18
 Adopt: 4801
 Filed 12/27/2021
 Effective 12/27/2021
 Agency Contact: Kim DeArte (916) 309-5227

California Department of Tax and Fee
 Administration
 File # 2021-1117-01
 Cigarette and Tobacco Products Tax Law Regs.

This action by the California Department of Tax and Fee Administration amends regulations relating to cigarette and tobacco products tax. This rulemaking action is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b).

Title 18
 Amend: 4022, 4027, 4061, 4065, 4066, 4091
 Filed 12/27/2021
 Effective 12/27/2021
 Agency Contact: Kim DeArte (916) 309-5227

California Department of Tax and Fee
 Administration
 File # 2021-1117-02
 Manufacturing and Research and Development
 Equipment

This action by the California Department of Tax and Fee Administration amends regulations relating to the partial property tax exemption for equipment purchased for use in manufacturing, research and development, and electrical power. This rulemaking ac-

tion is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b).

Title 18
Amend: 1525.4
Filed 12/27/2021
Effective 12/27/2021
Agency Contact: Kim DeArte (916) 309-5227

Board of Registered Nursing
File # 2021-1108-05
Definitions

In this change without a regulatory effect, the Board amends its regulation to re-order definitions in alphabetical order.

Title 16
Amend: 1480
Filed 12/23/2021
Agency Contact: Ras Siddiqui (916) 574-7922

Department of Public Health
File # 2021-1129-04
Lead Related Construction Certification

The California Department of Health in this action without regulatory effect is taking language already in a form, Renewal of Lead Certification, that is incorporated by reference and placing it in an additional location on the form to ensure the regulated public is aware of a continuing education requirement for renewal of lead certification.

Title 17
Amend: 35095
Filed 12/22/2021
Agency Contact:
Hannah Strom-Martin (916) 440-7371

Air Resources Board
File # 2021-1014-04
Prohibitions on Certain Hydrofluorocarbons

This rulemaking action imposes new limits on hydrofluorocarbons (HFCs) used in non-residential stationary refrigeration equipment and new air-conditioning equipment used for residential and non-residential purposes.

Title 17
Adopt: 95376, 95378
Amend: 95371, 95372, 95373, 95374, 95375, 95377, 95378 (renumbered to 95379)
Repeal: 95376
Filed 12/29/2021
Effective 01/01/2022
Agency Contact:
Bradley Bechtold (916) 322-6533

Air Resources Board
File # 2021-1015-03
Heavy-Duty Omnibus Low NOx Regulation

This action by the Air Resources Board adopts and amends regulations regarding heavy-duty omnibus emissions standards.

Title 13, 17
Adopt: 2139.5, 2166, 2166.1, 2167, 2168, 2169, 2169.1, 2169.2, 2169.3, 2169.4, 2169.5, 2169.6, 2169.7, 2169.8, 2170
Amend: 1900, 1956.8, 1961.2, 1965, 1968.2, 1971.1, 1971.5, 2035, 2036, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2121, 2123, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2133, 2137, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2423, 2485, 95662, 95663
Filed 12/22/2021
Effective 12/22/2021
Agency Contact: Chris Hopkins (916) 445-9564

Department of Financial Protection and Innovation
File # 2021-0902-02
Debt Collection Licensing Regulations

This action by the Department of Financial Protection and Innovation establishes license and application procedures for debt collectors seeking licensure.

Title 10
Adopt: 1850, 1850.6, 1850.6.1, 1850.7, 1850.8, 1850.9, 1850.10, 1850.11, 1850.12, 1850.13, 1850.14, 1850.15, 1850.16, 1850.30, 1850.31, 1850.32, 1850.50, 1850.60, 1850.61
Filed 12/22/2021
Effective 12/22/2021
Agency Contact: Sandra Sandoval (213) 897-3432

Department of Parks and Recreation
File # 2021-0902-05
Grants and Cooperative Agreement Program

The Department of Parks and Recreation (Department) proposed this action to amend regulations governing the Grants and Cooperative Agreements Program administered by the Department's Off-Highway Motorized Vehicle Recreation Division.

Title 14
Amend: 4970.01, 4970.03, 4970.05.1, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07, 4970.08, 4970.08.1, 4970.08.2, 4970.10, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13, 4970.20, 4970.24.1
Filed 12/27/2021
Effective 01/01/2022
Agency Contact: Ethan Mathes (916) 215-8074

State Water Resources Control Board
File # 2021-1109-02
Policy on Use of Coastal and Estuarine Waters for
Power Plant Cooling

On October 19, 2021, the State Water Resources Control Board adopted Resolution No. 2021-0048, amending the statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling to extend the compliance date for Redondo Beach Generating Station Units 5, 6, and 8 from December 31, 2021 to December 31, 2023.

Title 23
Amend: 2922
Filed 12/23/2021
Effective 12/23/2021
Agency Contact: Katherine Walsh (916) 446-2317

Veterinary Medical Board
File # 2021-1112-02
Disciplinary Guidelines

The Veterinary Medical Board in this action is amending an incorporated by reference document, "Veterinary Medical Board Disciplinary Guidelines." These changes update terms and conditions for probation. Changes are in response to statutory changes as well as case law.

Title 16
Amend: 2006
Filed 12/22/2021
Effective 04/01/2022
Agency Contact: Justin Sotelo (916) 515-5238

Office of Spill Prevention and Response
File # 2021-0915-03
Certification of Spill Management Teams

The Office of Spill Prevention and Response (Office) proposed this action to adopt criteria and procedures

for evaluating and certifying spill management teams based on their capacity to respond to and manage oil spills effectively. Additionally, related amendments are proposed to the Office's oil spill contingency plan regulations, which require operators and owners of vessels and facilities who are required to have contingency plans to identify certified spill management teams in their plans, and to a definitions and abbreviations regulation. This action implements statutory changes made in A.B. 1197 (Stats.2017, ch. 584).

Title 14
Adopt: 830.1, 830.2, 830.3, 830.4, 830.5, 830.6, 830.7, 830.8, 830.9, 830.10, 830.11
Amend: 790, 815.05, 815.07, 816.02, 817.02, 817.03, 818.02, 818.03, 817.04, 825.05, 825.07, 826.02, 826.03, 827.02
Filed 12/28/2021
Effective 04/01/2022
Agency Contact: Christine Kluge (916) 327-0910

**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.