



California Regulatory Notice Register

REGISTER 2022, NUMBER 3-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JANUARY 21, 2022

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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.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328-4880. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

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TITLE 2. STATE ALLOCATION BOARD

AMEND REGULATION SECTION 1859.106.1
RELATING TO LEROY F. GREENE
SCHOOL FACILITIES ACT OF 1998

Regulation Section Proposed for Amendments:

- 1859.106.1

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 Sections 17070.35 and 17076.10 of the Education Code. The proposal interprets and makes specific Sections 17070.35, 17076.10(c), 17076.10(c)(1), 17076.10(2) and 17078.52 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

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 October 27, 2021 meeting, the SAB adopted proposed regulatory amendments that allow school districts, county offices of education and charter schools to repay State funds over a 20-year period as a result of an audit finding. This is in alignment with Assembly Bill 130, Chapter 44, Statutes of 2021 [Education Finance: Education Omnibus Budget Trailer Bill]. The provision in the statute extends the maximum timeline for repayment plans from five years to 20 years.

Bond Funds Impacted

- Class Size Reduction Kindergarten–University Public Education Facilities Bond Act of 1998 (Proposition 1A)
- Kindergarten–University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten–University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten–University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

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

SFP Regulation Section 1859.106.1 was in effect in 1998 and stipulated that school districts were required to pay any funds owed the State within 60 days. It was then amended to allow school districts, county offices of education and charter schools that would be placed in severe financial hardship the ability to repay funds owed over a five-year period to help alleviate the financial burden if certain criteria were met.

Without the proposed amendments, statute and regulation limited the flexibility for school districts when there are moneys due back to the State as a result

of an audit finding. Amounts owed by a school district, county office of education or charter school could still create a severe financial hardship with the current five-year repayment plan. The statutory changes resolve this issue by increasing the maximum timeline for repayment plans from five years to 20 years.

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 the proposed regulatory amendments are consistent and compatible with existing State laws and regulations. Proceeding with the proposed regulatory amendments aligns with the statute and helps school districts, county offices of education and charter schools better manage the repayment of moneys owed the State. It also alleviates the risk of being placed on the current California Department of Education's (CDE) List of Negative and Qualified Certifications of School Districts and County Offices of Education as a direct result of repaying monies due to the State.

Anticipated Benefits of the Proposed Regulations

The proposed amendments promote transparency and consistency. This benefits school districts, county offices of education, and charter schools by providing the maximum timeline for repayment plans from five years to 20 years. The State of California benefits because the State's investment will be maintained, albeit over a longer period of time, but nonetheless, the funds will be repaid. The proposed amendments do not have a direct impact on the State's economy or job creation because the State funds owed will be repaid over a period of time.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments align with the statute and helps school districts, county offices of education and charter schools better manage the repayment of moneys owed the State. It also alleviates the risk of being placed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education as a direct result of repaying monies due to the State.

Summary of the Proposed Regulatory Amendments

Existing Regulation Section 1859.106.1 implements an alternative action upon a school district's failure to repay SFP funds due to the State within 60 days. The alternative action is the school district requesting a repayment schedule of up to five years upon showing that a lump sum repayment would cause the school district severe financial hardship. The proposed regulatory amendments increase the maximum timeline for repayment plans from five years to 20 years.

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

SFP Regulation Section 1859.106.1 currently allows for school districts to request a repayment for up to five years. The statute and regulation limited the flexibility for school districts when there are moneys due back to the State as a result of an audit finding. The amounts owed by a school district, county office of education or charter school could still create a severe financial hardship with the current five-year repayment plan. The statutory changes resolve this issue by increasing the maximum repayment timeline from five years to 20 years.

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 amendments promote transparency and consistency. This benefits school districts, county offices of education, and charter schools by providing the maximum timeline for repayment plans from five years to 20 years. The State of California benefits because the State’s investment will be maintained, albeit over a longer period of time, but nonetheless, the funds will be repaid. The proposed amendments do not have a direct impact on the State’s economy or job creation because the State funds owed will be repaid over a period of time.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments aligns with the statute and helps school districts, county offices of education and charter schools better manage the repayment of moneys owed the State. It also alleviates the risk of being placed on the current CDE List of Negative and Qualified Certifications of School Districts and

County Offices of Education as a direct result of repaying monies due to the State.

Although the proposed amendments do not have a direct impact on the State’s economy, creation of jobs, creation of new businesses, or expansion of businesses, they will not eliminate jobs or eliminate existing businesses within California.

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

- The proposed amendments promote transparency and consistency. This benefits school districts, county offices of education, and charter schools by providing the maximum timeline for repayment plans from five years to 20 years. The State of California benefits because the State’s investment will be maintained, albeit over a longer period of time, but nonetheless, the funds will be repaid. The proposed amendments do not have a direct impact on the State’s economy or job creation because the State funds owed will be repaid over a period of time.
- 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 the proposed regulation amendments do 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 regulation 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. Although the proposed regulation amendments only apply to school districts, county offices of education, charter schools, and local education agencies for purposes of funding school facility projects, the proposed regulatory amendments do not have a direct impact on the creation of new [small] businesses, or expansion of [small] businesses

and it will not eliminate jobs or eliminate existing [small] businesses within California. Further, the nature of the proposed regulation amendments is to extend the maximum statutory timeline for repayment plans from five years to 20 years in order to help school districts better manage the repayment of moneys owed the State and also alleviate the risk of being placed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education as a direct result of repaying monies due to the State.

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 March 7, 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 look under Charter School Facilities Program for the above-noted bulleted documents.

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 amendments would be to take no action, which would leave the SAB in violation of the statute as well as the Administrative Procedure Act.

**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 10. DEPARTMENT OF REAL
ESTATE**

**DISCRIMINATORY CONDUCT AS THE
BASIS FOR DISCIPLINARY ACTION
SECTION 2780**

The Commissioner (“Commissioner”) of the Department of Real Estate (“DRE”) proposes to amend 2780 of the Regulations of the Real Estate Commissioner (Title 10, Chapter 6 of the California Code of Regulations) (“the Regulations”) after considering all comments, objections, and recommendations regarding the proposed action. Publication of this notice commences a 45-day public comment period.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or that person’s duly authorized representative, submits a written request for a public hearing to DRE at the contact listed below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or that person’s authorized representative, may submit written comments relevant to the proposed regulatory action to the Commissioner addressed as follows:

Regular Mail

Department of Real Estate
Attention: Daniel E. Kehew,
Sacramento Legal Office
P.O. Box 137007
Sacramento, CA 95813-7007

Electronic Mail

DRE.RegComments@dre.ca.gov

Facsimile

(916) 263-8767

**Comments may be submitted until 5:00 p.m.,
Tuesday, March 8, 2022.**

AUTHORITY AND REFERENCE

Section 10080 of the Business and Professions Code (“the Code”) authorizes the Commissioner to adopt regulations that are reasonably necessary for the enforcement of the provisions of the Real Estate Law (Code Sections 10000 et seq.). The proposed regulation implement, interpret, and make specific Sections 125.6 and 10177 of the Code.

**INFORMATIVE DIGEST/PLAIN
ENGLISH OVERVIEW — SUMMARY OF
PROPOSED REGULATION**

In this proposal, DRE addresses Section 2780, which prohibits discrimination by real estate licensees against protected classes of individuals. This proposal:

- Updates the section’s list of protected classes to match the list that appears in Section 51 of the Civil Code, as set out in Section 125.6 of the Business and Professions Code, which this section implements.
- For ease of reading and clarity, eliminates repetitious listing of the protected classes to allow the reader to focus on specific discriminatory actions that the regulation prohibits.
- Eliminates an allowance in subdivision (b) that lacks support in underlying anti-discrimination statutes, affording clients the opportunity to decide for themselves if a property is suitable for their circumstances.
- Rephrases the language in subdivisions (d), (q), (w), and (z) to more clearly express permissible allowable differences in situations involving persons with physical disabilities.
- Clarifies the language of subdivisions (h) and (s) to highlight that prohibited efforts to encourage discrimination may target entire protected classes, rather than only specific individuals of a protected class.

- Eliminates language in subdivision (i) that is redundant, and adds language to more accurately reflect the intent of the subdivision.
- Adds further clarity to subdivision (J) by breaking out prohibited acts into further subdivisions.
- Adds further clarity to subdivisions (t) and (u) through rephrasing of allowed advertising practices.
- Eliminates instances of archaic and/or binary gendered language.
- Adds clarity in subdivision (aa) through explicit inclusion of two regular types of persons regularly present on real property who may be in protected classes.
- In subdivision (bb), addresses terminology updated by Assembly Bill (AB) 2884, as described above.
- Expands the applicability of subdivision (cc)'s protection against discriminatory practices at multiple listing or other real estate services to include establishment or implementation of rules with the purpose of discrimination along with those that actually have a discriminatory effect.

Anticipated Benefits of the Proposed Regulation

The proposed language brings this existing DRE regulation into consistency with the underlying anti-discrimination statutes, updates archaic language and phrasing for clarity and readability, and updates an aspect of the existing regulation that was unintentionally affected by AB 2884 of 2018. DRE believes the new version of the language is clearer and easier to read. Ultimately, the updated language will reinforce California's protections against discrimination in housing and professional real estate services.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Commissioner has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to the sections affected by this proposal, the Commissioner has concluded that these are the only State of California regulations relating to these subjects.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commissioner has made the following determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

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

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Commissioner concludes that it is (1) unlikely that the proposal will eliminate any jobs for real estate licensees or associated professions; (2) unlikely that the proposal will create jobs; (3) unlikely the proposal will create new businesses of any sort; (4) unlikely that the proposal will eliminate any existing businesses; and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business in the state.

BENEFITS OF THE PROPOSED ACTION

This proposal will reinforce existing protections against housing discrimination against persons in protected classes. The proposal will harmonize the terminology of DRE's regulations with underlying statutes and current usage, as well as the new AB 2884 terminology as used throughout the Real Estate Law and related Civil Code sections, which will ensure greater clarity of both the statutes and regulations when these laws are consulted separately or together. The new version is clearer, placing the focus on the actions that are prohibited rather than repeating the list of protected classes. The proposed regulatory amendments will not benefit worker safety or the state's environment.

SMALL BUSINESS DETERMINATION

The Commissioner has determined that there is no fiscal impact to small businesses resulting from this proposed regulatory amendment. The amendments serve only to implement the statutory standard, rather than impose a substantial change in that standard.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commissioner must

determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of DRE, 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.

DRE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at during the written comment period.

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 576-7842, or via email at DRE.RegComments@dre.ca.gov. The backup contact person is Stephen Lerner at (916) 576-8100.

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

DRE will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its headquarters office: 1651 Exposition Boulevard, Sacramento, California. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Form 400 under which the package was submitted to the Office of Administrative Law for publication. Copies may be obtained by contacting Daniel Kehew at the mailing address and email address listed on the first page of this notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Commissioner may adopt the proposed regulation substantially as described in this notice. If the Commissioner makes modifications that are sufficiently related to the originally proposed text, DRE will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commissioner adopts the regulation as revised. A request for a copy of any modified regulation(s) should be addressed to the contact person designated above. The Commissioner will accept written comments on the modified regulation for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the notice, the initial statement of reasons, and the text of the regulations in underline and strike-out can be accessed through DRE's website at www.dre.ca.gov.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

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 MARCH 7, 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 [Jennifer Hardesty](mailto:Jennifer.Hardesty@post.ca.gov) at jennifer.hardesty@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 (PC) Section 13503 (authority of POST) and PC Section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific PC 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

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. POST is responsible for the certification of these courses and implementing instructor training requirements for the instructors who teach in these courses. During a review of existing regulations, it was discovered there was conflicting language in multiple Commission Regulation sections and missing language in others.

The implementation of these changes will correct these conflicts and ensure all requirements for course certification are outlined for presenters.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulations will be clarification of instructor and certification requirements for those presenters who certify and present basic courses, which 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 course certification and instructor training requirements.

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 Require 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 business because the amended language addresses the following: 1) clarifies the certification documentation for presenters of basic courses, and 2) eliminates conflicting requirements between Commission Regulation sections, neither of which require additional staff or training on behalf of the presenter.

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 Government Code section 11346.3(b)

The adoption of the proposed amendments to 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 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 Jennifer Hardesty, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-3917. 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 14. DEPARTMENT OF
CONSERVATION**

DIVISION OF MINE RECLAMATION
LEAD AGENCY ELECTRONIC
DOCUMENT SUBMITTAL

NOTICE IS HEREBY GIVEN that the California Department of Conservation (Department) proposes to amend the regulation described below after consideration of all comments, objections, and recommendations regarding the proposed action. With this rulemaking, the Department will propose permanent regulations after the consideration of all comments, objections, and recommendations.

PROPOSED REGULATORY ACTION

The Department proposes to amend section 3504 of Title 14 of the California Code of Regulations, division 2, chapter 8, pertaining to documents related to mine operations that must be filed with the Department by lead agencies as provided for in Public Resources Code (PRC) section 2774.2.5.

WRITTEN COMMENT PERIOD AND
PUBLIC COMMENT HEARINGS

Any person or their authorized representative may submit written statements, arguments, or comments relevant to the proposed regulatory action to the Department. Comments may be submitted by email to DMR-Regulations@conservation.ca.gov, or by mail to:

Department of Conservation
715 P Street, MS 1907
Sacramento, CA 95814
Attention: OLRA/DMR Lead Agency Regulations

The written comment period closes at 5:00 p.m. on March 9, 2021. The Department will consider only comments received at the Department's offices by that date.

Pursuant to Government Code section 11346.8, the Department will hold a public hearing on the proposed action if it receives a written request for a public hearing from any interested person, or an authorized representative, no later than 15 days before the close of the written comment period.

Services such as translation between English and other languages may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior any hearing by calling the staff person referenced in this notice.

Servicios como traducción de inglés a otros idiomas pueden hacerse disponibles si usted los pide en avance. Para asegurar la disponibilidad de estos servicios, por favor haga su petición al mínimo de diez días laborables antes de una reunión, llamando a la persona del personal mencionada en este aviso.

AUTHORITY AND REFERENCE

The Department is considering making changes to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations to amend section 3504.

Public Resources Code 2774.2.5 authorizes the Department to adopt the proposed regulations. The proposed regulations will implement, interpret, make specific, or reference section 2774.2.5 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT

Existing Law

Regulation of Surface Mining in California

The California Surface Mining and Reclamation Act of 1975 (Public Resources Code, sections 2710–2796.5) (SMARA) provides a comprehensive surface mining and reclamation policy with the regulation of surface mining operations to assure that adverse environmental impacts are minimized and mined lands are reclaimed to a usable condition. SMARA also encourages the production, conservation, and protection of the state’s mineral resources. Public Resources Code section 2207 provides annual reporting requirements for all mines in the state and requires the State Mining and Geology Board (Board) to set reporting fees on an annual basis.

In addition to the activities of the Board, California is unique among most other states in that the permitting and approval of reclamation plans for surface mining is accomplished by local governments acting as the lead oversight agency. Under SMARA, a lead agency may be a city, county, the San Francisco Bay Conservation and Development Commission, or the Board. Lead agencies have the primary responsibility for the administration and enforcement of SMARA.

In 1991, the Division of Mine Reclamation (Division) was created within the Department to provide a measure of oversight for these lead agencies as they administer SMARA within their respective jurisdictions (PRC

607). The Division issues mine numbers (PRC 2207), reviews site specific reclamation plans and financial assurance cost estimates (PRC 2772.1 and 2773.4 respectively), and publishes a quarterly list of mines in the California regulatory Notice Register (PRC 2717). It also sets training requirements for mine inspectors and maintains a required inspection form (PRC 2774).

Proposed Regulation (Including Objectives and Anticipated Benefits)

Beginning in 2018, lead agencies are required to submit official copies of documents as listed in PRC 2774.2.5(a), to the supervisor in an electronic format determined by the Division. The purpose of this regulation is to conform its requirements to changes made in 2018 pursuant to AB 1142 and to establish an electronic format for document submission in regulation. This will allow lead agencies to submit their official copies in a format that can be posted to the Division’s website as required by PRC 2774.2.5(b).

PRC section 2711 reflects the Legislature’s intent that reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. Section 2712 indicates that the goal of a comprehensive mining and reclamation policy is to ensure that those environmental effects are successfully prevented and minimized and that mined lands are reclaimed to a usable condition. In support of these goals, section 2774.2.5 requires the Division to post mining and reclamation documents on its Internet website. The transparency of these documents will ensure that lead agencies are diligent in their preparation, that the public is able to access specific information about mines in their area, and should lead to better compliance by mine operators who will be incentivized by the public nature of their activities.

Consistent with Government Code 11546.7, content posted on the Division’s Internet Website must be compliant with section 508 of the federal Rehabilitation Act, must be free of discrimination, and must be in compliance with the Web Content Accessibility Guidelines 2.0 or a subsequent version at a minimum Level AA success criteria. This means that every document which will be posted on the Division’s website under PRC 2774.2.5(b) must be fully compliant with the specified accessibility standard.

To fulfill the objectives of PRC 2774.2.5(b), while also complying with Government Code 11546.7, the proposed regulation section 3504 must therefore ensure that lead agencies submit all required documents to the Division in a format that is easily accessible by persons with disabilities, consistent with California Government Code 11546.7. Making these documents accessible is necessary to ensure that the Division remains in compliance with federal and state law and avoids discrimination against people with

disabilities, while still achieving the statutory goals of transparency and accountability. The regulation also provides for exceptions to the accessibility requirements related to undue burden and fundamental modification of a document, which are consistent with existing exceptions to federal section 508.

CONSISTENCY WITH FEDERAL
STATUTE AND REGULATION

The proposed regulation is not inconsistent or incompatible with federal statutes or regulations. The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior is tasked with oversight of the implementation of the Surface Mining Control and Reclamation Act (SMCRA), which was enacted in 1977 and is focused primarily on surface coal mines and abandoned mines. SMCRA sets forth certain national minimum standards for these two populations of mines, but still allows states to establish their own regulatory programs. California does not have any coal mines, so those requirements do not apply. Abandoned mines are not included in these regulations, so there is no conflict with SMCRA. In addition, there are no national rules regarding non-coal mines, which are therefore primarily governed by state laws and regulations.

Mining on federal and tribal lands is regulated by the Bureau of Land Management and the Forest Service, but in California a Memorandum of Understanding between the Department, the Division, the Board, and those federal agencies provides for specific coordination and cooperation between the agencies for oversight of mines, including accepting each other's documents as compliant and coordinating oversight activities where needed. The terms of this memorandum ensure that federal and state action are coordinated consistent with state law.

CONSISTENCY WITH EXISTING
STATE REGULATIONS

The Division has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. PRC 2774.2.5 is specific to lead agencies under the Division's oversight and governs only the electronic submission of documents rather than any substantive requirement. The Division and the Board are the only state agencies with regulations specific to lead agencies under SMARA. To the extent other state agencies may enforce health, safety, or environmental protection standards that could apply to mining because they are regulations of general application affecting a wider range of industrial activities, those regulations are not expected

to be inconsistent or incompatible with the regulations proposed here, as the regulations involve only the filing of documents in a specific format.

CEQA COMPLIANCE

The Department has determined that the proposed regulatory action is not a project as defined in Title 14 of the California Code of Regulations, section 15378, and that this activity is not subject to the requirements of the California Environmental Quality Act (CEQA).

PLAIN ENGLISH REQUIREMENT

Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written so as to be easily understood, to the extent possible given the technical subject matter, by the persons that will use them.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Division has made the following initial determinations:

Mandate on local agencies and school districts: This proposed action does impose a mandate on local agencies acting as lead agencies under SMARA. The digest for Senate Bill (SB) 854, which promulgated section 2774.2.5, included the statement "By adding to the duties of local governments acting as lead agencies under the act, this bill would impose a state-mandated local program." In interpreting the statute, the amendment to the regulation adds detail to that state-mandated local program and thus also imposes a local mandate.

Costs or savings to any state agency: The Division will incur costs in providing staff to administer the regulation estimated at \$90,145 in the first year. State agencies that are also mine operators, such as the Department of Water Resources and the California Department of Transportation will also incur costs consistent with the burden on all mine operators as discussed in the economic impact analysis.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: Although the regulation does impose a state-mandated local program, reimbursement is not required because lead agencies may recover their reasonable costs from mine operators under subdivision (e) of Public Resources Code 2207.

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

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

Costs impacts on a representative private person or business: A typical mine operator will incur approximately \$16,932 in the first year of operations for a new mine and \$1,912 per year during the following years of operation.

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

Significant effect on housing costs: None.

Business reporting requirement: None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Creation or elimination of jobs within California: Some jobs will likely be created for accessibility remediation specialists who may be employed by mine operations, environmental consultants, lead agencies, and/or accessibility remediation contractors.

Creation of new businesses or the elimination of existing businesses within California: None.

Expansion of businesses currently doing business within the state: Some expansion of existing business operating within California is anticipated due to the statewide nature of the requirements and the likelihood that contractors will be most cost-effective at achieving the required standards.

Benefits to the health and welfare of California residents, worker safety, and the state's environment: The submission of documents for easy public access and review will improve mine operations overall as mine operators become more cognizant of the public and regulatory oversight of their operations and the public is better able to access documents to provide this oversight. This awareness will lead to better compliance with legal requirements by mine operators and a more conscientious approach to operations to avoid public condemnation, and as such should improve public health and safety, increase protection of the public welfare, improve worker safety, and provide better protection of the state's environment as mine operators improve the quality of their operations under the greater level of scrutiny afforded by these regulations.

Effect on Small Business: Small business will be affected by increased costs associated with the regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Division must determine that no reasonable alternative it considered, or that was otherwise identified and brought to the Department's 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 persons and equally effective in implementing the statutory policy or other provision of law.

The Division has engaged in substantial pre-rulemaking surveys and discussions, and the economic impact assessment for the proposed regulation evaluates alternatives to the proposals. No alternative considered by the Division would be more effective in carrying out the purposes of the proposed regulation or would be equally effective but less burdensome to affected private persons and small businesses than the proposed regulation. The proposed regulation will further the statutory mandates and regulatory goals for SMARA mines; reduce risks to health, safety and the environment; and promote transparent oversight and evaluation of mine operations.

Nevertheless, the Division invites interested persons to submit comments regarding alternatives to the proposed regulations during the written comment period, or to present any such comments regarding alternatives, either orally or in writing, at any hearing scheduled to receive comments relevant to the proposed action.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Mr. Tim Shular
Department of Conservation
715 P Street, MS 1907
Sacramento, CA 95814
Phone: (916) 322-3080

Mr. Nick Pesci
Department of Conservation
715 P Street, MS 1907
Sacramento, CA 95814
Phone: (916) 322-3080

Email: DMR-Regulations@conservation.ca.gov

Please direct requests for copies of the text of the proposed regulation, the initial statement of reasons, or other information upon which this rulemaking is based to Tim Shular at the above address.

AVAILABILITY OF DOCUMENTS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. 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 is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the initial statement of reasons, the documents relied upon, and a standard form 399.

Copies of these documents may be obtained by contacting Mr. Tim Shular at the address and phone number listed above and at <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period and any hearing(s) that may be conducted by the Department to receive comments regarding the proposed regulations, the Department will consider all timely and relevant comments received. Thereafter, the Department may adopt the proposed regulations in substantially the same form as described in this notice.

If the Department makes any modifications to the text of the proposed regulations that are substantial but still sufficiently related to the original proposed text as described in this notice, the Department will make the modified text (with changes clearly indicated) available to the public for at least 15 days before adopting the proposed regulations as modified. The Department will accept written comments regarding modified regulations for 15 days after the date upon which they are made available to the public. Please send requests for copies of any modified regulations to the attention of Tim Shular at the address indicated above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting Tim Shular at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the

Department’s website at: <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>

If you have any questions regarding the process for this proposed action, please contact Tim Shular at the contact information provided above.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 205, 265, 275, 7075, and 7078 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 205, 255, 265, 270, 275, 7050, 7055, and 7056 of said Code, proposes to amend Sections 29.05, 29.20, and 29.80, Title 14, California Code of Regulations, relating to recreational clam, sand crab, and shrimp gear.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Fish and Game Commission (Commission) and the Department of Fish and Wildlife (Department) are proposing to amend Sections 29.05, 29.20 & 29.80 of Title 14, California Code of Regulations (CCR). The proposal is necessary to protect clam stocks from the detrimental effects of hydraulic pumps, especially in the popular clamming areas of Humboldt Bay, Bodega Bay, Tomales Bay, Drakes Estero, and Elkhorn Slough.

The concerns addressed by this action are:

- Increased illegal commercialization of gaper clams facilitated by hydraulic pumps.
- Increased bag–limit overage and high grading of clams.
- Use of hand–operated hydraulic pumps in clamming which:
 - speed extraction of clams.
 - provide access to previously inaccessible clam beds in deeper water.
 - increase time before and after low tide clams are accessible.
- Disturbance of previously undisturbed eel grass habitat during clamming.
- Increased fishing pressure since the closure of the recreational abalone fishery.
- Concern for the sustainability of the resource in state waters, particularly Humboldt Bay, Bodega Bay, Tomales Bay, Drakes Estero, and Elkhorn Slough.

Clams are an important ecological, cultural, and recreational resource in the State of California. The use of hydraulic pumps to harvest clams has greatly increased the efficiency of clam harvesting and allows

greater access to clam beds. These factors have likely caused a significant increase in take, and it is unknown whether the stock can support this increase. Further, the use of hydraulic pumps has corresponded with an observed increase in illegal commercial sales of gaper clams. Finally, the increased disturbance of sensitive and ecologically important eelgrass habitat is causing unknown disruption to estuarine environments in the state.

The proposed rule would amend Sections 29.05 and 29.20 to specify the gear permitted to be used to harvest clams as hand operated spades, shovels, hoes, forks, and rakes, and specifically prohibit the use of hydraulic hand pumps. It would also prohibit the possession of hydraulic pumps within 100 yards of where marine invertebrates could be harvested and prohibit the possession of hydraulic pumps concurrently with any crab, and require each person to keep clams they had harvested in a separate container from clams harvested by others. The proposed rule would amend Section 29.80 to specify the gear permitted to be used to harvest sand crabs and shrimp as hand operated spades, shovels, hoes, forks, rakes, and slurp guns and specifically prohibit the use of hydraulic hand pumps.

The proposal also clarifies the authority and reference portions of the three regulatory sections, which do not carry any substantive regulatory effect.

BENEFITS OF THE REGULATIONS

The Commission anticipates benefits to the state's environment by sustainably managing California's ocean resources. The environmental risk arising from the proposed rule are not regarded as significant, as the rule manages the resource more conservatively than existing regulation.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The Department conducted an evaluation of existing regulations and this regulation is neither inconsistent nor incompatible with existing state regulations.

PUBLIC PARTICIPATION

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Sacramento, California, on **February 16, 2022 at 8:30 a.m.**, or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing,

relevant to this action at a hearing to be held in the Monterey/Santa Cruz area of California, on **April 20, 2022, at 8:30 a.m.**, or as soon thereafter as the matter may be heard. The exact location of this meeting has not yet been determined. As soon as this information is available, but not less than thirty days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published in the California Regulatory Notice Register and published on the Commission's website.

It is requested, but not required, that written comments be submitted on or before **April 7, 2022** at the address given below, or by email to FGC@fgc.ca.gov. **Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on April 15, 2022.** All comments must be received no later than April 20, 2022 at the hearing in the Monterey/Santa Cruz area of California. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or David Haug at FGC@fgc.ca.gov or at the preceding address or phone number.

Ian Kelmartin, Department of Fish and Wildlife, Ian.Kelmartin@wildlife.ca.gov, has been designated to respond to questions on the substance of the proposed regulations.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes

made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION/RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal includes relatively minor changes to the fishery: the prohibition of a new gear which has only come into popularity within the past five years, and a requirement to keep bag limits separated. There may be a slight negative impact on shops which sold or rented hydraulic pump gear for clamming.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission anticipates no impacts on the creation or elimination of jobs within the state; no impact on the creation of new businesses or the elimination of existing businesses; no impact on the expansion of businesses in California; generalized benefits to the health and welfare of California residents; no effects on worker

safety; and benefits to the state's environment. A sustainable clam fishery supports tackle shops, hotels, campgrounds, and other businesses that cater to fishery participants. This action protects clam stocks and the fishery which support those businesses.

- (c) Cost Impacts on a Representative Private Person or Business:

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

No change in administration or enforcement costs are anticipated by the Department or other state agencies. Consideration was given to keep administrative and enforcement costs within existing budgets. No impact in federal funding to the State is anticipated.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None. The proposed action has been designed to ensure that there are no nondiscretionary cost impacts to local law enforcement or emergency response services.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

- (h) Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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.

TITLE 22. DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION

DIVISION 7, CHAPTER 8
SECTIONS: 95000–95014

The Department of Health Care Access and Information (Department) proposes adding new Chapter 8 Hospital Community Reports (Sections 95000–95014) to Division 7 of Title 22 of the California Code of Regulations. Chapter 8 will implement Chapter 2.17 Hospital Procurement Contracts: Disclosures (Health and Safety Code section 1339.85 et seq.), added by Assembly Bill (AB) 962 (Chapter 815, Statutes of 2019). The Department proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

AB 962 made several changes to California law to address hospital supplier diversity. Health and Safety Code Section 1339.85 includes the following statements: “It is in the state’s interest to encourage competitive business opportunities for all of its people. Hospitals are uniquely positioned to build relationships within the communities they serve through the development, inclusion, and utilization of certified minority, women, lesbian, gay, bisexual, transgender (LGBT), and disabled veteran business enterprises whenever possible. By providing that each major hospital submits to the Department of Health Care Access and Information (HCAI) a report explaining the hospital’s supplier diversity statement and expressing its goals regarding certified minority, women, LGBT, and disabled veteran business enterprises, and the office placing that information on the office’s internet website, that online resource will help facilitate these supplier relationships.”

The program has two basic components. Hospitals and hospital systems/regional networks must submit an annual report, no later than July 1st, detailing their hospital supplier diversity to HCAI. Additionally, HCAI must convene a hospital diversity commission comprised of various, specific stakeholders. Per the statute, the purpose of this commission is to do the following: “(1) Advise and provide recommendations to the director and the hospital industry on the best methods to increase procurement with diverse suppliers within the hospital industry, (2) Meet quarterly or as deemed necessary by the director, (3) Promote and provide outreach to hospitals that are actively engaged in supplier diversity issues.”

I. PUBLIC HEARING

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

II. WRITTEN PUBLIC COMMENT PERIOD AND CONTACT PERSON

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. All comments must be received by HCAI by 5:00 p.m. on March 8, 2022.

Inquiries and written comments regarding the proposed action should be addressed to the primary contact person named below. Comments delivered by email are suggested. Comments may also be emailed, hand delivered, or mailed.

Sharon Takhar, Manager
Information Services Division
Department of Health Care Access and Information
Telephone: (916) 326–3975
Email: Sharon.takhar@hcai.ca.gov
Mailing address:
2020 West El Camino Avenue, Suite 1100
Sacramento, CA 95833–1880

Inquiries and comments may also be directed to the backup contact person at the same mailing address:

Starla Ledbetter, Branch Chief
Information Services Division
Department of Health Care Access and Information
Telephone: (916) 326–3984
Email: starla.ledbetter@hcai.ca.gov

III. AUTHORITY AND REFERENCE

Authority: California Health and Safety Code, Section 127685.

Reference: California Health and Safety Code, Sections 127675, 127677, 127679, and 127681.

IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

a. Summary of Existing Laws and Regulations

The proposed rulemaking is intended to implement a new statutorily mandated program, Chapter 8 (Health and Safety Code section 1339.85 et seq.), added by AB 962 (Chapter 815, Statutes of 2019).

b. *Policy Statement Overview/Specific Benefits of Proposed Regulations*

Assembly Bill (AB) 962 (Chapter 815, Statutes of 2019) made several changes to California law to address hospital supplier diversity.

Health and Safety Code Section 1339.85 includes the following statements: “It is in the state’s interest to encourage competitive business opportunities for all of its people. Hospitals are uniquely positioned to build relationships within the communities they serve through the development, inclusion, and utilization of certified minority, women, lesbian, gay, bisexual, transgender (LGBT), and disabled veteran business enterprises whenever possible. By providing that each major hospital submits to the Department of Health Care Access and Information (HCAI) a report explaining the hospital’s supplier diversity statement and expressing its goals regarding certified minority, women, LGBT, and disabled veteran business enterprises, and the office placing that information on the office’s internet website, that online resource will help facilitate these supplier relationships.”

The program has two basic components. Hospitals and hospital systems/regional networks must submit an annual report, no later than July 1st, detailing their hospital supplier diversity to HCAI. Additionally, HCAI must convene a hospital diversity commission comprised of various, specific stakeholders. Per the statute, the purpose of this commission is to do the following: “(1) Advise and provide recommendations to the director and the hospital industry on the best methods to increase procurement with diverse suppliers within the hospital industry, (2) Meet quarterly or as deemed necessary by the director, (3) Promote and provide outreach to hospitals that are actively engaged in supplier diversity issues.”

c. *Determination of Inconsistency/Incompatibility with Existing State Regulations*

As required by Government Code section 11346.5(a)(3)(D), HCAI evaluated the language contained in the proposed regulations. HCAI has determined that these proposed regulations are not inconsistent with or incompatible with existing state regulations. These regulations are necessary to implement a new statutorily mandated program.

d. *Documents Incorporated by Reference*

Format and File Specifications for Submission of Hospital Supplier Diversity Reports Version 1.0, dated December 31, 2021.

V. DISCLOSURES REGARDING THE PROPOSED ACTION

HCAI has made the following initial determinations:

- a. Mandate on local agencies and school districts: None.
- b. Cost or savings to any state agency: \$290,000 for Fiscal Year 2021–22; these costs were included in an approved Fiscal Year 2019–20 Budget Change Proposal for AB 962 to implement new hospital procurement contract reporting requirements and to administer a hospital diversity commission.
- c. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500–17630: None.
- d. Other nondiscretionary cost or savings imposed on local agencies: None.
- e. Cost or savings in federal funding to the state: None.
- f. Cost impact on a representative person or business: New regulations are required to implement Chapter 2.17 Hospital Procurement Contracts: Disclosures (Health and Safety Code section 1339.85 et seq.). Hospitals may incur a cost up to \$50 per year to upload the statutorily required information to the online portal prescribed by these proposed regulations.
- g. Statewide adverse economic impact directly affecting businesses and individuals: The Department has made an initial determination that the regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- h. Significant effect on housing costs: None.
- i. Cost impact on small businesses: This proposed action does not affect small business because no entities regulated under the proposed action are small businesses.

VI. STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS (EIA)

New regulations are required to implement Chapter 2.17 Hospital Procurement Contracts: Disclosures (Health and Safety Code section 1339.85 et seq.). HCAI has narrowly tailored the proposed regulations to implement the statutory requirements for the new program. The proposed regulations impose only minor additional reporting or other requirements on any businesses, organizations, or individuals.

Therefore, the Department concludes that:

- (1) This regulatory action will not create jobs within the state;
- (2) This regulatory action will not eliminate jobs within the state;

- (3) This regulatory action will not create new businesses;
- (4) This regulatory action will not eliminate existing businesses;
- (5) This regulatory action will not expand businesses currently doing business within the state;
- (6) The benefits of the regulations are to achieve the goals of AB 962, as related to Chapter 2.17 Hospital Procurement Contracts: Disclosures (Health and Safety Code section 1339.85 et seq.) by implementing the newly mandated program. Health and Safety Code Section 1339.85 includes the following statements: “It is in the state’s interest to encourage competitive business opportunities for all of its people. Hospitals are uniquely positioned to build relationships within the communities they serve through the development, inclusion, and utilization of certified minority, women, lesbian, gay, bisexual, transgender (LGBT), and disabled veteran business enterprises whenever possible.”
- (7) This regulatory action will not impact workers’ safety;
- (8) This regulatory action will not impact the state’s environment.

VII. REASONABLE ALTERNATIVES

HCAI must determine that no reasonable alternative considered by HCAI or that has otherwise been identified and brought to the attention of HCAI 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.

VIII. AVAILABILITY OF EXPRESS TERMS, INITIAL STATEMENT OF REASONS, AND INFORMATION UPON WHICH PROPOSED RULEMAKING IS BASED

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the text of the proposed regulations, and information upon which proposed

rulemaking is based. Additionally, the Format and File Specifications document incorporated by reference, the initial statement of reasons, and an economic impact analysis contained in the initial statement of reasons are included in the rulemaking file.

IX. AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL

After considering all timely and relevant comments received, HCAI may adopt the proposed regulations substantially as described in this notice. If HCAI 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 HCAI adopts the regulations as revised.

Please send requests for copies of the modified text to the listed contact person. The modified text will also be available on the website at <http://www.hcai.ca.gov/Laws-Regs.html>. HCAI will accept written comments on the modified regulations for 15 days after the date on which they are made available.

X. AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons, including all of the comments and responses, will be available, after its completion, through the HCAI website at <http://www.hcai.ca.gov/Laws-Regs.html>. The Final Statement of Reasons will also be available for review from the designated contact person.

XI. AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the proposed regulations, and the Format and File Specifications for Submission of Hospital Supplier Diversity Reports Version 1.0 can be accessed through the HCAI website at <http://www.hcai.ca.gov/Laws-Regs.html>.

GENERAL PUBLIC INTEREST

FISH AND GAME COMMISSION

NOTICE OF LOCATION OF HEARING FOR

ADOPTION OF REGULATIONS
RE: CALIFORNIA GRUNION LIMIT AND
SEASON CHANGES
(OAL NOTICE NUMBER Z-2021-1101-01)

AND

ADOPTION OF REGULATIONS
RE: BIG GAME PREFERENCE POINTS
REINSTATEMENT AND TAG REFUNDS DUE
TO PUBLIC LAND CLOSURES
(OAL NOTICE NUMBER Z-2021-1102-06)

AND

ADOPTION OF REGULATIONS
RE: COMMERCIAL HARVESTING OF KELP
AND OTHER AQUATIC PLANTS
(OAL NOTICE NUMBER Z-2021-1221-07)

AND

FINAL CONSIDERATION OF PETITIONS TO
LIST SHASTA SNOW-WREATH AND SAN
BERNARDINO KANGAROO RAT UNDER
THE CALIFORNIA ENDANGERED
SPECIES ACT (CESA)
(OAL NOTICE NUMBER Z-2021-1217-01)

On November 12, 2021, the Fish and Game Commission (Commission) provided notice of its intent to amend subsection 27.60(b) and Section 28.00, Title 14, California Code of Regulations (CCR), concerning California grunion bag limit and season; and notice of its intent to amend Section 708.14, Title 14, CCR, concerning big game preference points and tag refunds. The notices were published in California Regulatory Notice Register 2021, Number 46-Z.

AND on December 31, 2021, the Commission provided notice of its intent to amend sections 165, and 165.5, and Appendix A, and add Section 705.1, Title 14, CCR, concerning the commercial harvesting of kelp and other aquatic plants, and notice of final consideration of petitions to list Shasta snow-wreath and San Bernardino kangaroo rat as threatened or endangered species under CESA. The notices were

published in California Regulatory Notice Register 2021, Number 53-Z.

At the time the notices were published, the location for the February 16-17, 2022 Commission meeting had not yet been determined.

In response to the COVID-19 pandemic and physical distancing guidelines, and in compliance with Executive Order N-1-22 and California Government Code Section 11133, the Commission will conduct its February 16-17, 2022 meeting by webinar and teleconference. Commission members will participate remotely. The public may provide public comment during the public comment periods and otherwise observe remotely. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling (916) 653-4899.

At a **teleconference and webinar to be held on February 16, 2022, at 8:00 a.m.**, or as soon thereafter as the matter may be heard, the Commission will consider the following actions:

Consider adopting:

- California Grunion Limit and Season Changes (OAL Notice Number Z-2021-1101-01)
- Commercial Harvesting of Kelp and Other Aquatic Plants (OAL Notice Number Z-2021-1221-07)

Any person interested may present statements, orally or in writing, relevant to these actions at the February 16, 2022 hearing.

And at a **teleconference and webinar to be held on February 17, 2022, at 8:00 a.m.**, or as soon thereafter as the matter may be heard, the Commission will consider the following actions:

Consider adopting:

- Big Game Preference Points Reinstatement and Tag Refunds Due to Public Land Closures (OAL Notice Number Z-2021-1102-06)

Consider CESA petitions:

- Consider the petition, Department of Fish and Wildlife (Department) status review report, and comments received to determine whether listing Shasta snow-wreath (*Neviusia cliftonii*) as endangered under CESA is warranted
- Consider the petition, Department's status review report, and comments received to determine whether listing San Bernardino kangaroo rat (*Dipodomys merriami parvus*) as endangered under CESA is warranted

Any person interested may present statements, orally or in writing, relevant to these actions at the February 17, 2022 hearing.

The original notices, initial statements of reasons, and proposed regulatory language for regulatory items, and the petitions and Department evaluation reports

for CESA items, are posted on the Commission's website at <https://fgc.ca.gov/>.

**DEPARTMENT OF
FISH AND WILDLIFE**

**HABITAT RESTORATION AND
ENHANCEMENT ACT**

**CONSISTENCY DETERMINATION
NUMBER 1653-2021-087-001-R1**

Project: Elk Creek Fish Passage and Sediment Reduction Project
Location: Nunes Creek, Elk River watershed
Crescent City, Del Norte, CA
Applicant: Monica Scholey, Smith River Alliance

Background

Project Location: The Elk Creek Fish Passage and Sediment Reduction Project (Project) is located on two main branches of Nunes Creek, 2.7 miles northeast of Crescent City, in the northeast corner of the Elk Creek watershed. The three crossings are located at the following coordinates, respectively: 41.766208° North, 124.157201° West; 41.772834° North, 124.153324° West; and 41.77391° North, 124.152906° West, Assessor Parcel Numbers (APN) APNs: 112-020-036, 112-020-035, 112-020-013, 112-020-052. Elk Creek currently supports populations of coastal cutthroat trout, Coho salmon, steelhead trout and other native fishes, amphibians, and aquatic insects.

Project Description: Monica Scholey (Applicant) proposes to improve fish passage at three culverts on a headwaters tributary to Elk Creek. The existing culverts are either partial or complete passage barriers that limit adult and juvenile salmonid migration. The project will also reduce fine sediment delivery and restore natural conveyance of spawning gravels and woody debris to downstream spawning streams. When complete, the project will restore access to 0.64 miles of spawning habitat upstream of the three crossings.

Crossing 1: The existing undersized 3-foot diameter culvert will be replaced with an 8-foot diameter by 52-foot long culvert partially buried to a depth of 3.2 feet and backfilled with streambed material. The extent of grading is along 115 feet of channel and the active channel. The culvert inlet and existing residential driveway will be moved approximately 10 feet to the west to reduce hydraulic stress on Elk Valley Road and create a more natural stream alignment. Rock slope protection (RSP) will be placed at the culvert inlet, outlet, and along Elk Valley Road.

Crossing 2: The two existing side by side 2-foot diameter culverts and concrete headwall structure will be removed and replaced with a 30-foot long and 16-foot wide prefabricated bridge with a concrete deck. The bridge will have precast concrete strip footings placed on 2-foot deep stabilization mats and protected with RSP reinforced banks. The RSP will be keyed in with a 4-foot deep toe trench that extends below the channel edge to ensure bank stability. Willow stakes will be planted into the RSP near the toe to provide additional anchoring.

Crossing 3: The existing failed and aggraded 3-foot diameter and 120-foot long culvert will be replaced with a 9-foot diameter and 80-foot long culvert embedded approximately 3.24 feet below the channel and backfilled with engineered streambed material (ESM). Grade control baffles will be installed on the invert of the culvert at 10-foot spacing to further stabilize ESM. A series of grade control step pools (three downstream and four upstream) will be constructed to maintain fish passage. The culvert will be placed at a target slope of 3.2% with a downstream target slope of 3.56% and upstream slope of 5.0%. Revegetation and erosion control will include seeding, mulching and installation of 114 native trees, shrubs and understory plants.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.75 acres and 480 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: 355 cubic yards of Rip-Rap, 185 cubic yards of streambed and engineered streambed materials, 312 native trees and shrubs, two culverts (52 and 80 feet in length), 22 square feet of precast bridge footing, and one bridge deck.

Project Timeframes:

Start date: July 1, 2022

Completion date: October 1, 2026

Work window construction: July 1 – November 15

Work window revegetation: July 1 – December 15 with extension upon written approval.

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in Elk Creek, the Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1A21211WNDN; CW-876528 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the

Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to aquatic species.

Receiving Water: Elk Creek

Filled or Excavated Area:

Permanent area impacted: 0.03 acres

Temporary area impacted: 0.75 acres

Length temporarily impacted: 480 linear feet

Length permanently impacted: 480 linear feet

Dredge Volume: None

Discharge Volume: 540 Cubic yards

Project Location:

Latitude 41.766208 North,

Longitude -124.157201 West, and

Latitude 41.772834 North,

Longitude -124.153324 West, and

Latitude 41.77391 North,

Longitude -124.152906 West (NAD 83);

APNs: 112-020-013, 112-020-035, 112-020-036, 112-020-052.

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Public Resources Code, § 21000 et seq.).

On December 15, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on December 31, 2021, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2021-1215-02). Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section

401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction-period Water Quality Protection; (2) Post-construction and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name and WDID number, with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: seth.ricker@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10

(commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subdivision (c).)

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

ORANGE COUNTY METAL PROCESSING
AND PCA METAL FINISHING PROSPECTIVE
PURCHASER AGREEMENT AND
COVENANT NOT TO SUE
1711 AND 1726 EAST ROSSLYNN AVENUE,
FULLERTON, CALIFORNIA 92831

PUBLIC COMMENT PERIOD: January 21, 2022
through February 20, 2022

The Department of Toxic Substances Control (“DTSC”) invites the public to review and comment on the Prospective Purchaser Agreement and Covenant Not to Sue (“Agreement”) between DTSC and Laveer Investments, LLC regarding the Site of Orange County Metal Processing and PCA Metal Finishing, located at 1711 and 1726 East Rosslynn Avenue, Fullerton, California 92831.

DTSC, pursuant to its authority under Health and Safety Code Sections 25300 et seq., 58009 and 58010, proposes to enter into the Agreement with Laveer Investment, LLC regarding the Site. The purpose of the Agreement is to settle and resolve the potential liability of Laveer Investment, LLC for existing contamination at the Site which would otherwise result from Laveer Investment, LLC becoming property owner and operator of the Site.

Under the proposed Agreement, Laveer Investment, LLC will ensure cleanup of the parcels mentioned above occurs, subject to certain conditions and reservations. In consideration for this clean up, DTSC will covenant not to sue Laveer Investment LLC for claims relating to existing contamination at the Site and arising from ownership of the Site, subject to certain conditions and reservations. The proposed Prospective Purchaser Agreement includes contribution protection provided by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 113(f)(2), 42 U.S.C. § 9613(f)(2). Laveer Investment, LLC covenants not to sue DTSC for claims including reimbursement from

the Hazardous Waste Control Account, Hazardous Substance Account, or Hazardous Substance Cleanup Fund, claims under sections 107 or 113 of CERCLA or section 7003 of RCRA, or any other claims arising out of response activities at the Site.

DTSC will consider public comments received during the public comment period on the Agreement. DTSC may withdraw the consent Agreement if such comments disclose facts or considerations that indicate the Agreement is inappropriate, improper or inadequate.

WHERE DO I SUBMIT MY COMMENTS?

DTSC will consider comments that are postmarked or received by February 20, 2022. Please submit comments by February 20, 2022 to:

Scarlett Zhai, Project Manager
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630
Scarlett.Zhai@dtsc.ca.gov

You may view documents at the following locations:

The Agreement and background documents may be examined on the DTSC EnviroStor website at: https://envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=71002520 and: https://envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=71002360

You may also review documents in the File Room at DTSC’s Cypress office (by appointment only) located at:

Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630
Call (714) 484-5336 or email CypressFileRoom@dtsc.ca.gov for an appointment.

CONTACT INFORMATION

For site information: Scarlett Zhai, DTSC Project Manager, Scarlett.Zhai@dtsc.ca.gov. For community outreach: Jessica Ander, DTSC Public Participation Specialist, Jessica.Anderson@dtsc.ca.gov.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH THE
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates in-

licated. 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 Corrections and Rehabilitation
 File # 2021-1207-06
 Inmate and Parolee Grievance and Appeal Process

This action makes permanent and further amends emergency regulations which amend and restructure the inmate and parolee grievances and appeals processes.

Title 15
 Adopt: 3084, 3480, 3481, 3482, 3483, 3484, 3485
 Amend: 3000, 3045, 3077.3, 3078.4, 3134.1, 3136, 3137, 3141, 3173.1, 3179, 3193, 3220.4, 3230, 3282, 3369.5 (renumber to 3488), 3378.4, 3383, 3475 (renumber to 3465), 3476 (renumber to 3466), 3477 (renumber to 3467), 3478 (renumber to 3468), 3479 (renumber to 3469), 3480 (renumber to 3470), 3480.1 (renumber to 3471), 3481 (renumber to 3472), 3482 (renumber to 3473), 3483 (renumber to 3474), 3484 (renumber to 3475), 3485 (renumber to 3476), 3486 (renumber to 3477), 3491, 3492, 3548, 3563, 3630, 3723
 Repeal: 3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5, 3084.6, 3084.7, 3084.8, 3084.9, 3085, 3086
 Filed 01/05/2022
 Effective 01/05/2022
 Agency Contact: Josh Jugum (916) 445-2266

Fish and Game Commission
 File # 2021-1227-01
 Recreational Sub-Bag Limits for Vermilion, Copper & Quillback Rockfish

This emergency action adjusts the sub-bag limits for quillback, copper, and vermilion rockfish in the recreational groundfish fishery (zero to three miles offshore) for 2022 so as to be consistent with Pacific Fishery Management Council regulations that will be published in the Federal Register on January 6, 2022, for these species in waters between three and 200 miles offshore.

Title 14
 Amend: 28.55
 Filed 01/05/2022
 Effective 01/06/2022
 Agency Contact:
 Sherrie Fonbuena (916) 902-9284

Board of Forestry and Fire Protection
 File # 2021-1228-01
 Emergency Notice Fuel Treatment & RPF Responsibilities

This emergency readoption action, relating to emergency timber operations, (1) requires a Timber Owner or operator to retain a Registered Professional Forester (RPF) to provide professional advice and that the RPF be present on site at a sufficient frequency to know the progress of operations and advise the Timber Owner or Licensed Timber Operator; and (2) alters the timelines for emergency fuels treatments to be based upon the time the Director accepts the Emergency Notice.

Title 14
 Amend: 1052, 1052.4
 Filed 01/06/2022
 Effective 02/02/2022
 Agency Contact: Jane VanSusteren(916) 619-9795

Department of State Hospitals
 File # 2021-1231-02
 Contraband Search and Confiscation

This emergency readoption (2020-0413-02E, 2021-0609-01EE) rulemaking action by the Department of State Hospitals seeks to establish procedures for safety and security searches of patients and living areas, common areas, staff areas, and grounds.

Title 09
 Adopt: 4351, 4352, 4353
 Filed 01/10/2022
 Effective 01/12/2022
 Agency Contact: Sylvester Okeke (916) 654-2478

Occupational Safety and Health Standards Board
 File # 2021-1227-02
 COVID-19 Prevention

In this emergency readopt of OAL Matter Number 2021-0617-03EFP, the Occupational Safety and Health Standards Board (the "Board") is establishing requirements regarding COVID-19 prevention for employees and places of employment. Specifically, the Board is: (1) identifying which employees and places of employment the regulations apply to; (2) defining terms used throughout the emergency regulations; and (3) adopting regulations for prevention and identification of COVID-19 exposure and hazards in places of employment, including in both employer-provided housing and transportation to and from work.

Title 08
 Adopt: 3205, 3205.1, 3205.2, 3205.3, 3205.4
 Filed 01/05/2022
 Effective 01/14/2022
 Agency Contact: Christina Shupe (916) 274-5721

CALIFORNIA REGULATORY NOTICE REGISTER 2022, VOLUME NUMBER 3-Z

Bureau for Private Postsecondary Education
File # 2021-1207-01
Student Tuition Recovery Fund

This action amends the Student Tuition Recovery Fund (STRF) assessment rate that each student at Bureau-approved institutions pays from \$0.50 per \$1000.00 of institutional charges to \$2.50 per \$1000.00 of institutional charges. This action is exempt from the Administrative Procedure Act under the rates exemption in Government Code section 11340.9(g).

Title 05
Amend: 76120
Filed 01/12/2022
Effective 04/01/2022
Agency Contact: David Dumble (916) 574-8924

California State University
File # 2021-1206-02
Credit for Prior Learning

The Board of Trustees of the California State University submits this action to OAL for courtesy filing with the Secretary of State and for printing in the California Code of Regulations to amend credit for prior learning requirements. This action is exempt from the Administrative Procedure Act and takes effect upon filing with the Secretary of State pursuant to Education Code sections 89030 and 89030.1, respectively.

Title 05
Amend: 40408
Filed 01/12/2022
Effective 01/12/2022
Agency Contact: Jason Taylor (562) 951-4500

Department of Corrections and Rehabilitation
File # 2021-1201-02
Alternative Rehabilitative Achievement Credit
Earning Inmate Activity Group Programs Pilot
Program

This action by the Department of Corrections and Rehabilitation adopts section 3999.29 as a pilot program for the alternative rehabilitative achievement credit earning inmate activity group program. This filing is exempt from chapter 3.5 of part 1 of division 3 of title 2 of the Government Code pursuant to Penal Code section 5058.1 and is not subject to review by the Office of Administrative Law. This action is effective on filing with the Secretary of State pursuant to Penal Code section 5058.1 and remains in effect for two years.

Title 15
Adopt: 3999.29
Filed 01/12/2022
Effective 01/12/2022
Agency Contact:
Renee Rodriguez (916) 446-2244

Board of Forestry and Fire Protection
File # 2021-1208-05
1038c6 Expiration Amendment

In this action without regulatory effect the Board of Forestry and Fire Protection is removing an expiration date and replacing it with language that says "...1038(c)(6) shall expire pursuant to PRC 4584(m)(3)."

Title 14
Amend: 1038
Filed 01/10/2022
Agency Contact: Eric Hedge (916) 653-9633

California Gambling Control Commission
File # 2021-1224-01
Correction for Expiring Emergency Regulations

This change without regulatory effect concerns three forms that were amended in a series of emergency actions (nos. 2020-0811-03E, 2020-1224-02EE, and 2021-0604-02EE) that will expire by operation of law on January 12, 2022. Each of the three forms was further modified in a separate, regular rulemaking action (no. 2021-0830-03S). The purpose of this action is to maintain the integrity of the forms as published in the CCR by clearly removing the expired emergency content, retaining the subsequent amendments, and updating the revision date of each form to eliminate confusion.

Title 04
Amend: 12112
Filed 01/12/2022
Agency Contact: Josh Rosenstein (916) 274-5823

Department of Fair Employment and Housing
File # 2021-1130-04
Changes Without Regulatory Effect to the California
Family Rights Act

This action without regulatory effect amends the California Family Rights Act regulations to align with statutory changes. Specifically, it expands the definition of "parent" to include "parent-in-law" and removes references to the repealed New Parent Leave Act.

Title 02
Amend: 11087, 11094, 11095, 11097
Filed 01/11/2022
Agency Contact:
Rachael Langston (916) 809-4371

New Motor Vehicle Board
 File # 2021-1130-02
 2021-2022 ACP Fees

This action without regulatory effect is the annual update of the Arbitration Certification Program (ACP) fee based on the formula established in section 553.70 of title 13 of the California Code of Regulations. The updated ACP fee increases from \$.778 to \$1.00 per new motor vehicle sold, leased, or otherwise distributed during calendar year 2020.

Title 13
 Amend: 553.70
 Filed 01/11/2022
 Agency Contact:
 Danielle R. Phomsopha (916) 327-3129

Board of Pharmacy
 File # 2021-1130-03
 Trust Ownership

In this rulemaking action, the Board modifies requirements related to the ownership, management, and control of pharmacies and other business entities regulated by the Board. Further, the Board amends the regulation to specify information and documents that businesses beneficially held in a trust must provide to the Board. These amendments implement statutory changes made by Senate Bill 1193 (Stats. 2016, chapter 484).

Title 16
 Amend: 1709
 Filed 01/11/2022
 Effective 04/01/2022
 Agency Contact: Lori Martinez (916) 518-3078

California Gambling Control Commission
 File # 2021-1201-04
 Southern California Gambling Control Act Hearings

This rulemaking by the California Gambling Control Commission amends hearing procedures to allow for hearings to be held in southern California when requested by an applicant or complainant and under specified conditions.

Title 04
 Amend: 12006, 12052, 12057, 12060, 12118
 Filed 01/11/2022
 Effective 04/01/2022
 Agency Contact:
 Alexander Hunter (916) 263-1301

Commission on Peace Officer Standards and Training
 File # 2021-1123-04
 Training and Testing Specifications for Learning
 Domains 03, 09, 10, 19, 20, 22, 24, 30, 33, 34, 35,
 37, 38, 42

This rulemaking action by the Commission on Peace Officer Standards and Training updates the document incorporated by reference entitled "Training and Testing Specifications for Peace Officer Basic Courses" to modify the requalification requirements in Learning Domains 03, 09, 10, 19, 20, 22, 24, 30, 33, 34, 35, 37, 38, and 42.

Title 11
 Amend: 1005, 1007, 1008
 Filed 01/06/2022
 Effective 04/01/2022
 Agency Contact: Cheryl Smith (916) 227-0544

Department of Financial Protection and Innovation
 File # 2021-0901-04
 Credit Union Regulations under CA Credit Union
 Law

This action amends credit union regulations to reflect changes to the Financial Code and federal regulations, to streamline the process for out-of-state credit unions that apply to operate in California, and to allow credit unions a greater choice of permissible investments.

Title 10
 Amend: 30.102, 30.200, 30.300, 30.803
 Repeal: 30.101.5
 Filed 01/06/2022
 Effective 04/01/2022
 Agency Contact: Julie Jacob (916) 576-4910

Department of Managed Health Care
 File # 2021-0802-01
 Timely Access to Non-Emergency HCS

Health plans are required to report to the Department of Managed Health Care (the "Department"), on an annual basis, compliance with timely access to care standards and the adequacy of the health plan's provider network. In this regular rulemaking, the Department is standardizing reporting methodologies for the health plans' annual timely access reporting and annual network adequacy reporting.

Title 28
 Amend: 1300.67.2.2
 Filed 01/12/2022
 Effective 04/01/2022
 Agency Contact: Jennifer Willis (916) 324-9014

Cemetery and Funeral Bureau
File # 2021-1228-03
Cemeteries: Unitrust Conversion

This action adopts regulations establishing the process whereby a cemetery authority can apply to the Cemetery and Funeral Bureau for approval to convert from the net-income-distribution method of endowment care trust fund administration to the unitrust-distribution method. The action adopts an application form for this approval process as well as regulations specifying the reasons why an application will be denied, when an application is considered abandoned, and the process for reversion back to the net income distribution method in certain circumstances.

Title 16
Adopt: 2334, 2334.1, 2334.2, 2334.3, 2334.4
Amend: 2350
Filed 01/05/2022
Effective 01/05/2022
Agency Contact:
Carolina Sammons (916) 574-7876

**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.