



# California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. STATE CONTROLLER’S OFFICE**

**REGULATIONS GOVERNING PROCEDURE FOR ADMINISTRATIVE REVIEW OF UNCLAIMED PROPERTY AUDIT FINDINGS AND INTEREST ASSESSMENTS**

NOTICE IS HEREBY GIVEN that the California State Controller is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the State Controller’s Office not later than March 28, 2022.

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

Public Comment Period: February 11, 2022 through March 28, 2022.

**AUTHORITY AND REFERENCE**

Guidelines for Requesting an Informal Review of an Unclaimed Property Examination as of September 2003, issued by the California State Controller.

There is no statute expressly providing for administrative review of audit findings and interest assessments.

**INFORMATIVE DIGEST**

As required by California Code of Civil Procedure § 1571(c), following a 1999 public hearing, the State Controller’s Office adopted guidelines as to the policy and procedures governing the activities of third-party auditors who are hired by the Controller (the “Policies and Procedures”). These Policies and Procedures were adopted in 2003, and amended in 2020.

However, on April 27, 2021, the Superior Court of the County of San Francisco, ruling in the case of *Yee v. Clubcorp Holdings, Inc.*, Case No. CGC-19-576314 (“*Clubcorp*”), held that the California Administrative Procedure Act “applies to the Policies and Procedures.” Order Re Demurrer to Petition for Writ of Mandate and Cross-Complaint (April 27, 2021), p. 6.

While not directly at issue, the logic of *Clubcorp* would be applicable to the Guidelines for Requesting an Informal Review of an Unclaimed Property Examination, which were also adopted in September 2003 (the “Guidelines”). Under the Guidelines, reviews are independently conducted by the State Controller’s Legal Office. Currently, the audit review process allows unclaimed property holders to request an informal review of audit findings and/or interest assessment. There is no formal administrative review process in place at this time.

In order to ensure consistency and efficiency in the audit review process, the Controller proposes regulations implementing and governing a process by which holders may request a formal review of audit findings and/or interest assessments (the “Proposed Regulations”).

*Policy Statement Overview/Anticipated Benefits of Proposal*

The State Controller’s Office seeks to implement a standardized procedure by which holders can request a review of audit findings and/or interest assessments made at the conclusion of an unclaimed property audit. The review process being proposed is voluntary on the part of the holder.

The Proposed Regulations will give holders the opportunity to seek review of audit findings and assessments on which the notice is based by persons within the Controller’s Office who will not have had direct involvement in the audit. The panel will have the authority to correct audit findings in whole or in part based

upon an incorrect interpretation or application of law and errors of fact or auditing procedures having a substantial effect on the audit findings or assessments. The panel shall have the power to decrease, increase or reaffirm the amount assessed in the billing notice.

*Consistency/Compatibility with Existing State Regulations*

The Controller has determined that the Proposed Regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Controller has concluded that these are the only regulations that concern the review of audit findings and interest assessments in California. The informal process of audit reviews that has been in place until now is serving as a basis for the audit review process set forth in the Proposed Regulations. Adoption of the Proposed Regulations will establish procedures and deadlines for the audit review process.

*Documents Incorporated by Reference:*

Unclaimed Property Informal Audit Review Request: Form IAR-1 as of January 2011.

*Documents Relied Upon in Preparing the Regulations:*

None.

**FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: No.

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

Adverse Business Impact: The review process being proposed is voluntary. The Controller has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Proposed Regulations will formalize an unclaimed property audit review process, replacing an existing informal audit review process.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The review process being proposed is voluntary. The Controller has made an initial determination that this regulatory 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 Proposed Regulations will formalize an unclaimed prop-

erty audit review process, replacing an existing informal audit review process.

Cost Impact on Representative Private Person or Business: The review process being proposed is voluntary. The Controller 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: None.

Effect on Small Business: The Controller has made an initial determination that the proposed regulatory action will have no effect on small business. The Proposed Regulations will formalize an audit review process and replace an existing informal audit review process.

Result of Economic Impact Assessment/Analysis Summary Comments: The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. These regulations are not anticipated to affect the health and welfare of California residents, worker safety, or the state's environment. The Proposed Regulations will formalize an audit review process and replace an existing informal audit review process.

**CONSIDERATION OF ALTERNATIVES**

The Controller has determined that there are no alternatives that 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.

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period or at the public hearing.

**AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE**

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

Copies of the express language of the Proposed Regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the

information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the Controller contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

California State Controller’s Office  
 Contact: Arica Presinal | Staff Counsel  
 State Controller’s Office — Legal Division  
 300 Capitol Mall, Suite 1850  
 Sacramento, CA 95814  
 Phone: (916) 322–5369  
 Fax: (916) 322–1220

Due to restrictions related to COVID–19, the Controller’s public counter is not open to the public. Please contact the contact persons below to arrange for public inspection of the rulemaking documents. Options for public inspection during COVID–19 may include having the rulemaking documents emailed to you or scheduling an in–person review.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

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

California State Controller’s Office  
 Contact: Arica Presinal | Staff Counsel  
 State Controller’s Office — Legal Division  
 300 Capitol Mall, Suite 1850  
 Sacramento, CA 95814  
 Phone: (916) 322–5369  
 Fax: (916) 322–1220  
 Email: [abryantpresinal@sco.ca.gov](mailto:abryantpresinal@sco.ca.gov)

Website Access:

Materials regarding this proposal can be found at: <https://www.sco.ca.gov/>.

TITLE 2. STATE CONTROLLER’S OFFICE

REGULATIONS GOVERNING THE ACTIVITIES OF THIRD–PARTY AUDITORS WHO ARE HIRED BY THE CONTROLLER

NOTICE IS HEREBY GIVEN that the California State Controller is proposing to take the action described in Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e–mail to the address listed under Contact Persons in this Notice, must be received by the State Controller’s Office not later than March 28, 2022.

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

Public Comment Period: February 11, 2022 through March 28, 2022.

AUTHORITY AND REFERENCE

California Code of Civil Procedure § 1571(c) states that “Following a public hearing, the Controller shall adopt guidelines as to the policies and procedures governing the activity of third–party auditors who are hired by the Controller.”

Authority cited: Section 1571(c), California Code of Civil Procedure

Reference cited: Section 1571(c), California Code of Civil Procedure

INFORMATIVE DIGEST

As required by California Code of Civil Procedure § 1571(c), following a 1999 public hearing, the State

Controller’s Office adopted guidelines as to the policy and procedures governing the activities of third-party auditors who are hired by the Controller (the “Policies and Procedures”). These policies and procedures were enacted in 2003, and amended in 2020.<sup>1</sup>

However, on April 27, 2021, the Superior Court of the County of San Francisco, ruling in the case of *Yee v. Clubcorp Holdings, Inc.*, Case No. CGC–19–576314, held that despite the language of 1571(c), the California Administrative Procedures Act “applies to the Policies and Procedures.” Order Re Demurrer to Petition for Writ of Mandate and Cross–Complaint (April 27, 2021), p. 6.

In order to avoid further disruption to the Controller’s enforcement efforts, and to resolve any lingering questions about the validity of the Policies and Procedures, the Controller proposes to herein adopt Regulations governing the activities of third-party auditors who are hired by the Controller (the “Proposed Regulations”).

*Policy Statement Overview/Anticipated Benefits of Proposal*

The State Controller’s Office has, for a number of years, relied on third-party auditors to conduct unclaimed property audits for the Controller. The use of third-party auditors has provided a number of benefits to the residents of California, and the State Controller’s Office uses third-party auditors to locate, identify, and collect unclaimed property. For example, the Controller, working with the assistance of third-party auditors, led a national team that restored approximately \$2.4 billion in life insurance benefits nationally, and more than \$300 million to Californians. See [https://www.sco.ca.gov/eo\\_pressrel\\_17198.html](https://www.sco.ca.gov/eo_pressrel_17198.html). However, as reported in a recent report by the Legislative Analyst’s Office, only approximately 2% of California businesses file unclaimed property reports annually. See <https://lao.ca.gov/Publications/Report/3978>. The use of third-party auditors is one way for the Controller to increase compliance with the unclaimed property law.

Continued use of third-party auditors, as proposed in the Proposed Regulations, will allow the Controller to continue to locate, identify, and collect unclaimed property.

Unless otherwise specifically noted, the Proposed Regulations mirror the Policies and Procedures.

*Consistency/Compatibility with Existing State Regulations*

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

only regulations that concern the use of third-party auditors in California. In fact, the use of third-party auditors was governed by the Policies and Procedures for the last two decades and adoption of the Proposed Regulations will allow the use of third-party auditors to continue.

*Documents Incorporated by Reference:*

None.

*Documents Relied Upon in Preparing the Regulations:*

None.

**FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: No.

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

Adverse Business Impact: The Controller has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The Controller has made an initial determination that this regulatory 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. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

Cost Impact on Representative Private Person or Business: The Controller 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: None.

Effect on Small Business: The Controller has made an initial determination that the proposed regulatory action will have no effect on small business. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

<sup>1</sup> 2003 is the earliest dated version of the Policies and Procedures the Controller has been able to identify.



Result of Economic Impact Assessment/Analysis Summary Comments: The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. These regulations are not anticipated to affect the health and welfare of California residents, worker safety, or the state's environment. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

#### CONSIDERATION OF ALTERNATIVES

The agency 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.

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action.

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

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

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

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

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Contact: Arica Presinal | Staff Counsel  
State Controller's Office — Legal Division  
300 Capitol Mall, Suite 1850  
Sacramento, CA 95814  
Phone: (916) 322-5369  
Fax: (916) 322-1220

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

#### CONTACT PERSONS

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Phone: (916) 322-5369  
Fax: (916) 322-1220  
Email: [abryantpresinal@sco.ca.gov](mailto:abryantpresinal@sco.ca.gov)

#### Website Access:

Materials regarding this proposal can be found at: <https://www.sco.ca.gov/>.

## TITLE 2. STATE CONTROLLER'S OFFICE

### REGULATIONS GOVERNING THE SUBMISSION OF CLAIMS FOR UNCLAIMED PROPERTY HELD BY THE CALIFORNIA STATE CONTROLLER

NOTICE IS HEREBY GIVEN that the California State Controller is proposing to take the action described in Informative Digest. Any person interested may present statements or arguments in writing rel-

evant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the State Controller's Office not later than March 28, 2022.

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

Public Comment Period: February 11, 2022 through March 28, 2022.

#### AUTHORITY AND REFERENCE

California Code of Civil Procedure § 1580 provides: **Rules and Regulations.** The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

California Code of Civil Procedure § 1540 provides: **Filing of Claim — Controller's Notice of Decision to Claimant.** (a) Any person, excluding another state or state agency, who claims to have been the owner, as defined in subdivision (d), of property paid or delivered to the Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the Controller and shall be verified by the claimant.

Authority cited: Sections 1540, 1580, California Code of Civil Procedure.

Reference cited: Sections 1540, 1580, California Code of Civil Procedure.

#### INFORMATIVE DIGEST

As required by California Code of Civil Procedure § 1580, following a 1999 public hearing, the State Controller's Office proposed Guidelines for Claiming Unclaimed Property (the "Claims Guidelines"). These Claims Guidelines were adopted and last updated in September 2003 and are available on the Controller's

website at: [https://www.sco.ca.gov/Files-UPD/guide\\_upd\\_claiming.pdf](https://www.sco.ca.gov/Files-UPD/guide_upd_claiming.pdf).

In addition, the Controller's website contains a set of claims guidance and resources for owners of unclaimed property to assist them with claiming property in the custody of the Controller's office. Such resources include, but are not limited to, claim filing instructions and forms, video tutorials to assist owners with electronically claiming property, and instructions for contacting the Property Owner Advocate's Office.

However, on April 27, 2021, the Superior Court of the County of San Francisco, ruling in the case of *Yee v. Clubcorp Holdings, Inc.*, Case No. CGC-19-576314 ("Clubcorp"), held that the California Administrative Procedures Act "applies to the Policies and Procedures." Order Re Demurrer to Petition for Writ of Mandate and Cross-Complaint (April 27, 2021), p. 6.

While not directly at issue, the logic of *Clubcorp* would be applicable to the Claims Guidelines. Currently, the above-described information and guidance made available by the Controller on the Controller's website set forth the requirements and procedures for owners to submit claims regarding unclaimed property, as well as certain information for holders of unclaimed property. However, there is no formal regulatory framework for the unclaimed property claims process in place at this time.

In order to provide clarity and formal guidance for owners seeking to claim unclaimed property, the Controller proposes regulations implementing and governing a process by which owners may submit unclaimed property claims to the Controller's office (the "Proposed Claims Regulations").

*Policy Statement Overview/Anticipated Benefits of Proposal*

The State Controller's Office has, since September 2003, adhered to the Claims Guidelines, which explain the claims submission process for owners, the required documentation an owner must submit, the Controller's claims consideration processes, claims reporting processes for holders, and rules pertaining to interest income on unclaimed property held by the Controller. In addition, the Appendices to the Claims Guidelines contain certain mandatory forms required as part of the claims submission processes, including the Universal Holder Face Sheet (UFS-1) (required in connection with all reports), Claim Form/Affirmation for the claimant, Declaration Under Probate Code Section 13101, Table of Heirship, and Holder's Claim For Reimbursement.

The adoption of the Proposed Claims Regulations will formalize the procedures and requirements employed by the Controller in seeking to reunite owners with their unclaimed property entrusted to the Controller for safekeeping pursuant to California's unclaimed property laws.



*Consistency/Compatibility with Existing State Regulations*

The Controller has determined that the Proposed Claims Regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Controller has concluded that these are the only regulations that govern the procedures for claiming unclaimed property. The Proposed Claims Regulations are meant to formalize the processes already in place and in use by the Controller’s office for several decades.

*Documents Incorporated by Reference:*

None.

*Documents Relied Upon in Preparing the Regulations:*

None.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: No.

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

Adverse Business Impact: The Controller has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The Controller has made an initial determination that this regulatory 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. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices.

Cost Impact on Representative Private Person or Business: The Controller 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: None.

Effect on Small Business: The Controller has made an initial determination that the proposed regulatory action will have no effect on small business. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices.

Result of Economic Impact Assessment/Analysis Summary Comments: The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. These regulations are not anticipated to affect the health and welfare of California residents, worker safety, or the state’s environment. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices.

CONSIDERATION OF ALTERNATIVES

The agency 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.

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action.

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

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

Copies of the express language of the Proposed Claims Regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the Controller contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m.

The rulemaking file is maintained at the following address:

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Contact: Arica Presinal | Staff Counsel  
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300 Capitol Mall, Suite 1850  
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#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

#### CONTACT PERSONS

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Fax: (916) 322-1220  
Email: [abryantpresinal@sco.ca.gov](mailto:abryantpresinal@sco.ca.gov)

#### Website Access:

Materials regarding this proposal can be found at: <https://www.sco.ca.gov/>.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

#### DIVISION 2. ANIMAL INDUSTRY CHAPTER 2. LIVESTOCK DISEASE CONTROL (ANIMAL QUARANTINE) ARTICLE 11. EMERGENCY CONTROL AND ERADICATION OF ANIMAL DISEASES

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

#### PUBLIC HEARING

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

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments can be submitted via e-mail to [angelina.velez@cdfa.ca.gov](mailto:angelina.velez@cdfa.ca.gov) or mail to the address listed below. The written comment period closes on March 28, 2022. The Department will consider only comments received at the Department by that time.

Submit comments to:  
Angelina Velez  
Department of Food and Agriculture  
Animal Health & Food Safety Services  
Animal Health Branch  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 708-4467  
E-mail: [angelina.velez@cdfa.ca.gov](mailto:angelina.velez@cdfa.ca.gov)

#### AUTHORITY AND REFERENCE

Existing law, section 407 of the Food and Agricultural Code, provides that the Secretary of the De-

partment of Food and Agriculture (Department) may adopt such regulations as are reasonably necessary to carry out the provisions of the code which she is directed or authorized to administer or enforce.

Existing law, section 10610 of the Food and Agricultural Code, authorizes the Secretary of the Department to adopt regulations to control and eradicate cattle diseases by requiring permits before entry of, and limitations on the importation of, cattle and other animals or materials that might act as a cause or a vector of a disease or condition that is infectious or contagious to cattle.

Existing law, section 10781 of the Food and Agricultural Code, authorizes the Director to adopt regulations to control or eradicate hog cholera, swine brucellosis, pseudorabies, and other swine diseases by limitations on the movement of swine.

Existing law, section 9641.5 of the Food and Agricultural Code, provides that any horse or other Equidae brought into this state shall be accompanied by a certificate of health from the state of origin issued by an accredited veterinarian stating that the horse or other Equidae is free from evidence of any communicable disease.

Existing regulations under Section 799 of the California Code of Regulations, specifies the requirements for interstate movement of all susceptible animals that have been potentially exposed to Vesicular Stomatitis Virus (VSV).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department is proposing the amendment to section 799 under of Article 11, Chapter 2, Division 2, of Title 3 of the California Code of Regulations, to update the interstate movement requirements for susceptible animals during an outbreak of VSV.

Anticipated Benefits of the Proposal: This amendment will provide the public with clear and accurate information for the requirements for importation of animals susceptible to VSV, upon the Department's notification by the U.S. Department of Agriculture that a state or country has a confirmed or suspect VSV premises. This amendment also ensures the Department has the ability to properly control, manage, and prevent the spread or introduction of VSV within the State.

#### CONSISTENCY EVALUATION

The Department has evaluated this proposal and believes that it is not inconsistent or incompatible with the Department's existing State regulations.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code section 17500 et seq. Require Reimbursement: None.

Business Impact: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

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

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

The anticipated compliance requirements as a result of this proposal: The proposal contains no specific record keeping, paperwork or reporting requirements.

Effect on Housing Costs: None.

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

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT

*Benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment:*

The Department is not aware of any specific benefits this proposal will have on worker safety or the State's environment.

The proposed regulation benefits the health and welfare of California residents, including animal health, public health, the food supply, and the economy by serving to prevent the spread of VSV in the State of California during a VSV outbreak.

*Occupations/Businesses Impacted:*

The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

*Business Reporting Requirement:*

There are no new reporting requirements as a result of this proposal.

*Comparable Federal Regulations:*

This proposal does not duplicate or conflict with federal regulations.

**CONSIDERATION OF ALTERNATIVES**

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

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

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

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department's website as indicated below in this Notice.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

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

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

**AVAILABILITY OF FINAL  
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the persons named below.

**AVAILABILITY OF DOCUMENTS  
ON THE INTERNET**

Website Access: Materials regarding this proposal can be found by accessing the following Internet address: <https://www.cdfa.ca.gov/ahfss/regulations.html#AHB-rulemaking>.

**CONTACT PERSONS**

Inquiries and any written comments concerning this proposal are to be addressed to the following:

Angelina Velez  
Department of Food and Agriculture  
Animal Health & Food Safety Services  
Animal Health Branch  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 708-4467  
E-mail: [angelina.velez@cdfa.ca.gov](mailto:angelina.velez@cdfa.ca.gov)

The backup contact person is:

Emily Nietrzeba, DVM, MPH  
Equine Veterinarian  
Department of Food and Agriculture  
Animal Health & Food Safety Services  
Animal Health Branch  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 508-3302  
E-mail: [emily.nietrzeba@cdfa.ca.gov](mailto:emily.nietrzeba@cdfa.ca.gov)

**TITLE 4. DEBT LIMITATION  
ALLOCATION COMMITTEE**

OFFICE OF THE TREASURER

The California Debt Limit Allocation Committee (CDLAC) proposes to adopt the amended regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to [CDLAC@treasurer.ca.gov](mailto:CDLAC@treasurer.ca.gov). Comments may also be submitted via mail to:

California Debt Limit Allocation Committee  
Attention: Emily Burgos  
915 Capitol Mall, Room 311  
Sacramento, CA 95814

The written comment period closes on March 28, 2022. To ensure CDLAC will consider your comment it must be received by March 28, 2022.

AUTHORITY

Section 8869.94, California Government Code authorizes the Committee to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.”

REFERENCE

California Government Code Sections 8869.80–8869.94 8869.82, 8869.84, 8869.84(c) and (e), 8869.85(a), 8869.85(b), 8869.86(c), 8869.87, 8669.89, and 8869.94.

INFORMATIVE DIGEST

*Summary of Existing Laws and Effect of the Proposed Action*

The purpose of CDLAC (“the Committee”) is to implement Section 1301 of the Federal Tax Reform Act of 1986 and Section 146 of the Internal Revenue Code which impose a limit on the amount of tax–exempt private activity bonds which a state may issue in a calendar year (i.e. the annual state ceiling). Federal tax law defines the term “private activity bond”; limits the volume of private activity bonds which a state may

issue in a calendar year; defines the types of programs and projects which qualify for tax–exempt bond financing under the volume cap; and specifies record-keeping requirements.

The Committee was statutorily created by Chapter 943, Statutes of 1987, in response to the 1986 Federal Tax Reform Act. California Government Code Section 8869.80 et seq. defines the Committee’s responsibilities as follows:

Set the Annual State Ceiling:

The Committee is required to establish the state ceiling as soon as is practicable after the start of each calendar year.

Allocate the State Ceiling:

The Committee is granted the sole authority for allocating the annual ceiling.

Other Administrative Functions:

The Committee is authorized to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations (California Government Code 8869.94) which includes authorization to prepare forms, establish procedures, set priorities, require a performance deposit, assess fees, and perform other administrative functions as necessary. Additionally, in establishing CDLAC the Legislature emphasized the substantial public benefit of promoting housing for lower income families and individuals and of preserving and rehabilitating existing governmental assisted housing for lower income families and individuals.

The proposed competitive system for Qualified Residential Rental Projects will ensure that limited tax–exempt bond allocation is available to affordable housing projects through a fair, equitable, and transparent system. In competitive rounds, scores are used to rank order applications to award allocation until the round limit is met.

*Anticipated Benefits of the Proposed Regulations*

The benefits derived by these proposed regulations include the fair, efficient and equitable administration of the Qualified Residential Rental Project (QRRP) Program in compliance with state and federal law.

*Evaluation of Inconsistency/Incompatibility with Existing State Regulations*

The Committee has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. Application for bond allocations is a nonmandatory activity and these regulations ensure a fair and efficient process for allocations as to both applicants and the Committee



DISCLOSURES REGARDING  
THE PROPOSED ACTION

CDLAC has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The Executive Director of the Committee has determined that the Regulations do not impose any additional cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the California Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted.

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

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

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

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: The proposed changes will ensure the award of allocation to quality affordable housing projects.

Cost impacts on a representative private person or business: CDLAC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

*Results of the Economic Impact Analysis/Assessment*

CDLAC concludes that it is unlikely that the proposal will (1) eliminate any jobs, (2) create any jobs, (3) create any new businesses, or (4) eliminate any existing businesses or result in the expansion of businesses currently doing business within the state.

CDLAC concludes the proposal will not impact the health and welfare of California residents, worker safety, and the State's environment.

*Small Business Determination*

The proposed regulations will not affect small businesses. These regulations establish procedures that only bond issuers and affordable housing developers must follow.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), CDLAC 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, as effective and less

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

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

CONTACT PERSONS

Inquiries concerning the proposed rulemaking action may be directed to:

Emily Burgos  
California Debt Limit Allocation Committee  
915 Capitol Mall, Room 311  
Sacramento, CA 95814  
916.653.3255  
[CDLAC@treasurer.ca.gov](mailto:CDLAC@treasurer.ca.gov)  
[eburgos@treasurer.ca.gov](mailto:eburgos@treasurer.ca.gov)

Christina Vue  
California Debt Limit Allocation Committee  
915 Capitol Mall, Room 311  
Sacramento, CA 95814  
916.653.3255  
[CDLAC@treasurer.ca.gov](mailto:CDLAC@treasurer.ca.gov)  
[cvue@treasurer.ca.gov](mailto:cvue@treasurer.ca.gov)

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

CDLAC will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address and online at <https://www.treasurer.ca.gov/cdlac/regulations.asp>. As of the date this notice is published in the Notice Register, the rulemaking file consists of the Notice of Proposed Action, the proposed text of the regulations, the Initial Statement of Reasons, and the STD. 399. Please direct requests to inspect or copy the rulemaking file to the contact person(s) listed above.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

After considering all timely and relevant comments received, CDLAC may adopt the proposed regulations substantially as described in this notice. If CDLAC makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. Please direct requests for copies



of any modified regulations to the contact person(s) listed above. If substantive modifications are made, CDLAC will accept written comments on the modified regulations for the duration of the period of public availability.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, CDLAC will make copies of the Final Statement of Reasons available. Please direct requests for copies to the contact person(s) listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, may be accessed via CDLAC’s website at <https://www.treasurer.ca.gov/cdlac/regulations.asp>.

TITLE 5. DEPARTMENT OF EDUCATION

AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 5, REGARDING CALIFORNIA ASSESSMENT OF STUDENT PERFORMANCE AND PROGRESS (CAASPP) AND ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS FOR CALIFORNIA (ELPAC)

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

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

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a virtual public hearing at 9:00 a.m. on March 29, 2022.

Any interested person may participate in the public hearing via a webinar in Zoom by logging in per the following instructions:

- Click the following link or paste the link to the browser to join the webinar and enter the password:

<https://us02web.zoom.us/j/85134776812>

Password: 517549

- To connect with audio only and no video, call one of the following telephone numbers and enter the meeting ID and password:

669–900–9128

213–338–8477

Callers may also find their local number at <https://us02web.zoom.us/j/85134776812>

Meeting ID: 851 3477 6812

Password: 517549

For persons intending to attend the Zoom meeting, those persons may check their computers by:

- Clicking on the test link: <https://zoom.us/test>.
- For any issues regarding connecting with Zoom, go to <https://support.zoom.us/hc/en-us> for assistance.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Devin Triplett, Assessment Development and Administration Division, 1430 N Street, Sacramento, CA, 95814; telephone, 916–319–0803. It is recommended that assistance be requested at least two weeks prior to the hearing.

Pursuant to Government Code Section 11346.6(a)(3) and (b), because some of these regulations pertain to special education, the following provisions also apply:

Upon request from a person with a visual disability or other disability for which effective communication is required under state or federal law, the CDE shall provide that person a narrative description of the additions to, and deletions from, the regulations. The description shall identify each addition to or deletion from the regulations by reference to the subdivision, paragraph, subparagraph, clause, or subclause within the proposed regulation containing the addition or deletion. The description shall provide the express language proposed to be added to or deleted from the reg-

ulations and any portion of the surrounding language necessary to understand the change in a manner that allows for accurate translation by reading software used by the visually impaired.

The CDE shall provide the information described above within 10 business days, unless the CDE determines that compliance with this requirement would be impractical and notifies the requester of the date on which the information will be provided.

Notwithstanding any other law, if information is provided to a requester as described above, the CDE shall provide that requester at least 45 days from the date upon which the information was provided to the requester to submit a public comment regarding the proposed regulation. The CDE shall not take final action to adopt the regulation until the requester has submitted a public comment or the extended 45-day comment period expires, whichever occurs first.

#### WRITTEN COMMENT PERIOD

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

Lorie Adame, Regulations Coordinator  
Administrative Support and Regulations  
Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-322-2549 or by email to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov).

Comments must be received by the Regulations Coordinator prior to or on March 29, 2022. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

#### AUTHORITY AND REFERENCE

Authority: Sections 313, 33031, 60605, 60640 and 60810, Education Code.

References: Sections 306, 313, 37200, 37670, 47079.5, 47605, 47605.8, 47651, 49062, 49068, 51210, 51220, 52110, 52052, 56034, 56345, 60602.5, 60603, 60604, 60605, 60607, 60610, 60611, 60615, 60630, 60640, 60641, 60642.5, 60642.6, 60643, 60810 and 60900, Education Code; 20 U.S.C. Sections 1401, 1412, 6311, 6312, 6821, 6823, 6825, 6826 and 7801; 29 U.S.C. Section 794; and 34 C.F.R. Sections 200.1, 200.6 and 300.160.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### CAASPP

Assembly Bill 484 (ch. 489, Stats. 2013; AB 484) authorized a new statewide testing program, the California Assessment of Student Performance and Progress (CAASPP) System. Provisions of AB 484 took effect in January 2014. Pursuant to Education Code (EC) section 60640, the CDE has updated the CAASPP System to include three new assessments: the new California Science Test (CAST), aligned with the California Next Generation Science Standards (CA NGSS); the new California Alternate Assessment for Science (CAA for Science); and the California Spanish Assessment (CSA), aligned with the Common Core State Standards in Español. CAASPP test results are used to improve teaching and learning by schools and districts in California. The CAASPP tests are also developed, administered, and reported in accordance with federal requirements. With the development of these computer-based assessments, the CDE continues to move manuals and reports from paper products to electronic delivery of products. Work to build out web-based processes for local educational agency (LEA) training, designation of authorized staff, instructional manuals and reporting continues to change the way the CDE communicates with assessment coordinators, test site administrators, teachers and parents.

Pursuant to EC section 60640(q), title 5 of the California Code of Regulations (5 CCR) sections 850 through 868 were revised by the SBE to conform to the statutory changes made in AB 484. These amendments revised definitions, requirements, responsibilities and guidelines for the administration, test security, reporting and apportionment related to the CAASPP System. The amendments were approved initially as emergency regulations on February 3, 2014, and later approved by the Office of Administrative Law (OAL) as permanent regulations on August 27, 2014.

Under these newly-adopted regulations, the English language arts/literacy (ELA) and mathematics operational assessments took place beginning in March through July 31, 2015, and included the new computer-based assessments provided by the Smarter Balanced Assessment Consortium (Consortium), a consortium composed of member states. The CDE, at the direction of the SBE and in collaboration with CAASPP testing contractor, Educational Testing Service (ETS), conducted evaluations of the first operational CAASPP test administration and identified required amendments to be made to the regulations for the second operational administration, including the addition of accessibility resources in alignment with Consortium policy, the addition of a testing window for the new California Alternate Assessments (CAAs)

for ELA and mathematics, clarifications to language needed for the new online tests (not necessary for the paper–pencil tests) and minor format and language clarifications. These amendments were approved by the OAL on an emergency basis to allow for the timely preparation and administration of the second operational administration of the 2016 CAASPP tests; they also were adopted through the regular rulemaking process and approved by the OAL on May 18, 2016. The CDE successfully carried out the 2015–2016 administration of the online CAASPP tests on March 10 through July 31, 2016.

As a result of the 45–day public comment period, which the SBE approved at its January 2019 meeting, and after further review of the proposed regulations, the CDE staff amended the originally proposed regulations. The OAL approved the final regulations and they became operative on July 11, 2019.

Accessibility resources are an essential piece of the comprehensive assessment system to ensure that all students have equitable access during assessment administration. To this point, accessibility resources were codified in the CAASPP and ELPAC regulations and modified over the years through the regulatory process. In 2021, Assembly Bill 130 (AB 130) was approved by Governor Newsom. AB 130 makes clear that the state assessments “shall include the use of accessibility resources, as may be determined by the department, and those determinations shall not be subject to the requirements 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).” This law allows the removal of the listing of accessibility resources from within the respective assessment regulations.

Beginning in the fall of 2020, LEAs were universally able to test students through remote administration for the first time. This flexibility was extended in response to the factors surrounding the COVID–19 pandemic; however, remote administration had been a regular request of LEAs prior to the COVID–19 pandemic to more efficiently assess students who are unable to take the state assessments in person. Reasons that a school may require remote testing vary—from online schools without a physical site to schools whose site cannot support administration, possibly due to natural disasters or other unforeseen causes. Therefore, amendments are proposed to title 5 of California Code of Regulations (5 CCR) sections 850, 851.5, 853, 854.5, 854.9, 855, 857, 859, and 863 and the deletion of sections 854.1, 854.2, 854.3 and 854.4 to implement the CAASPP (EC section 60640 et. seq.) and amendments to 5 CCR sections 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.37, 11518.40, 11518.50, and 11518.65, the deletion of section 11518.35 and the addi-

tion of section 11518.16 to implement the ELPAC (EC sections 313 and 60810).

### ELPAC

Education Code section 313 requires school districts, county offices of education and charter schools, collectively referred to as LEAs, to assess English language proficiency (ELP) of their pupils to the extent required by federal and state law. Assessment of a pupil’s ELP is required upon initial enrollment after a survey of a pupil’s language indicates a primary or native language other than English, and annually thereafter until a pupil is redesignated as English proficient. The CDE is responsible for the oversight of the state test of ELP, as set forth in EC sections 313 and 60810.

Assembly Bill No. 124 (ch. 605, Stats 2012; AB 124) required the State Superintendent of Public Instruction, in consultation with the SBE, to update, revise and align English Language Development Standards (ELD Standards) to the State’s English language arts standards. As required by AB 124, the SBE adopted the updated and revised ELD Standards in November 2012.

Education Code section 60810, subdivisions (d) and (f), requires two separate assessments: (1) an initial assessment to determine if a pupil is an English learner (EL), as defined by EC section 306; and (2) an annual summative assessment to identify an EL’s level of ELP, and also to measure an EL’s progress in learning English. Combined, these assessments are described as the English Language Proficiency Assessments for California (ELPAC). The initial and summative ELPAC are aligned to the 2012 ELD Standards, as required by Education Code section 60810, subdivisions (c)(5) and (e)(7) (Sen. Bill No. 201, section 6, 2013–2014 Reg. Sess.; SB 201). The ELPAC assessments replaced the California English Language Development Test, as specified in EC section 60810(f) (SB 201, section 5) and EC section 60810(h) (SB 201, section 6).

The ELPAC regulations were approved by OAL on June 5, 2017, and became effective on October 1, 2017. Based on educator and test examiner feedback from the field test and operational administrations, information from cognitive labs and changes deemed necessary by the test contractor and the CDE, the CDE proposed amendments to the regulations to the SBE in July 2018. The SBE approved emergency regulations as well as the commencement of the rulemaking process for amendments to the ELPAC regulations. A 45–day public comment period from July 27, 2018, through September 10, 2018, was held. No public comments were received during this public comment period nor during the public hearing held on September 10, 2018. In November 2018, the SBE re–adopted the emergency regulations and approved the permanent rulemaking that was submitted to OAL for final ap-

proval. The OAL approved the regulations on January 1, 2019.

The CDE proposed amendments to the regulations to the SBE in July 2019. Part of this process involved a 45-day public comment period from July 26, 2019, through September 9, 2019. No public comments were received during this public comment period nor during the public hearing held on September 9, 2019. However, in its review of proposed amended regulations, OAL requested substantive changes to sections 11518.5(d), 11518.15(b), and 11518.77(a), which required a 15-day public comment period. In further review, the CDE made a substantive change section 11518(aj)(1) to provide the correct citation for determination of students with the most significant cognitive disabilities pursuant to the federal Individuals for Disabilities Education Act. OAL approved the regulations on January 30, 2020.

As required by EC sections 313 and 60810, 5 CCR sections 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.37, 11518.40, 11518.50 and 11518.65 are being amended, section 11518.16 is being added and section 11518.35 is being deleted to implement EC sections 313 and 60810 to conform to the State's testing regulations to the ELPAC System. These proposed changes seek to amend regulations in order to remove the listing of available accessibility resources, add language to address remote testing, and revise language throughout to align regulations with updated operational practices for the ELPAC system.

**Policy Statement Overview**

The proposed amendments are designed to assure that the tests within the CAASPP and ELPAC align with current state law and recent changes in testing and are administered fairly and consistently throughout the State. The proposed amendments assure that all students may access the tests and that valid and reliable results are available for accountability determinations and to provide schools and educators with accurate information to improve student learning. In so doing, these actions prevent harm to the public peace, health, safety and general welfare and progress of California pupils.

**Anticipated Benefits of the Proposed Regulation**

The benefit of enacting the proposed amendments for the CAASPP and ELPAC regulations is the promotion of an optimal, efficient and fair test administration for eligible students. Deleting the list of accessibility resources in both the CAASPP and ELPAC regulations reduces the burden on CDE to spend time and resources to annually amend the regulations to conform to evolving changes in the assessments and technology. Updating the regulations to reflect changed conditions: new tests that have replaced old tests, testing under new remote conditions, and use of new assessment

tools and terminology, provide necessary clarity and consistency for LEAs that must follow the regulations.

These regulations propose a consistent procedure for the statewide administration of the CAASPP and the ELPAC by LEAs, so all eligible pupils will have access to valid and reliable assessments, consistent with state and federal law.

**Evaluation of Inconsistency/Incompatibility With Existing State Regulations**

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Code section 11346.5(a)(3)(D). After conducting a review for any regulations that would relate to or affect this area of law, the SBE has concluded that these are the only regulations that concern the CAASPP and ELPAC regulations.

**DISCLOSURES REGARDING THE PROPOSED ACTION/FISCAL IMPACT**

The SBE has made the following initial determinations:

*Other statutory requirements:* There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

*Mandate on local agencies and school districts:* None.

*Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code:* None.

*Cost or savings to any state agency:* None.

*Other non-discretionary costs or savings imposed on local agencies, including local educational agencies:* None.

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

*Effect on housing costs:* None.

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

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

*Report required:* The proposed regulations do not require a report to be made.

*Effect on small businesses:* The proposed regulations would not have an effect on any small business because the proposed amendments only affect LEAs and would have no impact on the private sector.

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT

***Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment — Gov. Code Section 11346.5(a)(10):***

The SBE concludes that it is unlikely that these proposed regulations will: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Benefits of the Proposed Action: The proposed regulations will benefit LEAs by establishing consistent language throughout the regulations across all assessment programs, provide clarification the administration of the assessments, alleviates a lengthy process for annual approval of changes and additions to accessibility resources, provide updated accessibility resources to LEAs in a timely manner, and clean up language based upon changes in test development.

The anticipated benefit of the regulations is the effective and consistent statewide administration of the CAASPP and the ELPAC.

These proposed regulations will have no adverse effect nor benefit on worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, 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 SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the content of these proposed regulations should be directed to:

Devin Triplett, Consultant  
Assessment Development and Administration  
Division  
California Department of Education  
1430 N Street, 4401  
Sacramento, CA 95814  
Telephone: 916-319-0803

Inquiries concerning the regulatory process may be directed to the Lorie Adame, Regulations Coordinator, or the backup contact person, Hillary Wirick, Regulations Analyst. The Regulations Coordinator and the Regulations Analyst may be reached by email at [regulations@cde.ca.gov](mailto:regulations@cde.ca.gov) or by telephone at 916-319-0860.

AVAILABILITY OF INITIAL STATEMENT  
OF REASONS, TEXT OF PROPOSED  
REGULATIONS AND INFORMATION

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 (ISOR), the agenda and a recording of the SBE meeting where the SBE approved commencement of this rulemaking activity and Fiscal and Economic Impact Statement (STD. 399). These documents upon which the proposed action is based may be obtained upon request from the Regulations Coordinator. In addition, this Notice, the text of the proposed regulations and the ISOR may also be viewed on CDE's website at <http://www.cde.ca.gov/re/lr/rr/>.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available to the public for at least 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulations. The SBE will accept written comments on the modified regulations for 15 days after the date on which they are made available.



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

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed and modified text, if any, can be accessed via CDE's website at <http://www.cde.ca.gov/re/lr/rr/>.

**TITLE 19. OFFICE OF THE STATE  
FIRE MARSHAL**

FEE STRUCTURE FOR FLAME RETARDANT  
CHEMICALS, FABRICS AND  
APPLICATION CONCERNS

**NOTICE IS HEREBY GIVEN** pursuant to Government Code Section 11346, that the California Department of Forestry and Fire Protection — Office of the State Fire Marshal (“OSFM”) or (“SFM”) proposes to take the regulatory action described below in the Informative Digest implementing Title 19, Division 1, Chapter 8, Article 1 of the California Code of Regulations (CCR), related to the adoption of a new fee structure for flame retardant chemicals, fabrics and application concerns after considering public comments, objections, or recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person or his/her authorized representative may submit written comments relevant to the proposed regulatory action. Written comments will be accepted for 45 days beginning **February 11, 2022**, through **March 29, 2022**. All written comments received through the end of **March 29, 2022** will be considered and responded to as part of the compilation of the rulemaking file and are subject to disclosure under the Public Records Act (Government (Gov.) Code Section 6250, et seq.). Written comments should be directed to:

- **Email:** [Title19regulations@fire.ca.gov](mailto:Title19regulations@fire.ca.gov)
- **U.S. Mail postmarked no later than March 29, 2022 to:**

CAL FIRE/Office of the State Fire Marshal  
P.O. Box 944246

Sacramento, California 94244–2460

Attention: Eireann Flannery, Code Development & Analysis

Pursuant to Government Code Section 11346.9, the OSFM shall respond to comments submitted during the comment period containing objections and/or recommendations specifically directed at the SFM's proposed action or to the procedures followed by the agency in proposing or adopting the action.

PUBLIC HEARING

The OSFM has not scheduled a public hearing on this proposed action. However, the OSFM will hold a public hearing to accept comments if a written request is received from any interested person or his/her authorized representative, no later than 15 days before the close of the 45–day written comment period, pursuant to Government Code Section 11346.8. Submit requests to the contact person indicated below.

STATUTORY AUTHORITY

The proposed action will adopt regulations to reflect legislative requirements found in Government Code, Section 11346.6.

AUTHORITY

Health and Safety Code Section 13120 and Government Code Section 6157(b).

REFERENCE

Health and Safety Code Section 13137 and Government Code Section 11546.7.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

Health and Safety Code Section 13137 governs the use of the State Fire Marshal Licensing and Certification Fund. This fund houses fees from the Flame Retardant Chemicals and Fabrics Program, and fees from the OSFM's other Licensing and Certification programs. Section 13137 specifies that 1) fees may not exceed the actual cost of administering the OSFM's Licensing and Certification programs, and 2) fees must be used for the benefit of the same group they are collected from. The fund's statute limits the use of monies to the group that the fees are collected from.



However, the current fee amounts are not sufficient to cover the actual costs to operate the Flame Retardant Chemicals and Fabrics Program. There is substantial evidence that the program must obtain additional revenue in order to maintain compliance with the fund's statutory requirements, which effectuate the purpose of Health and Safety Code Section 13137.

**SUMMARY OF EXISTING LAWS:**

Pursuant to Health and Safety Code Sections 13120, 13121, 13122, 13123, 13124, 13125, 13126, and 13127, the Office of the State Fire Marshal (OSFM) has statutory authority to operate the Flame Retardant Chemicals and Fabrics Program, and to collect fees which do not exceed the actual costs of operating the program.

In addition, Government Code Section 6157(b) authorizes a State agency to charge an appropriate fee to cover the cost of any returned or dishonored checks. This section is applicable to the Flame Retardant Chemicals and Fabrics Program because the program accepts checks for fees.

**SUMMARY OF EXISTING REGULATIONS:**

CCR, Title 19, Division 1, Chapter 8, Article 1 requires a fee for flame retardant chemicals, fabrics, and application concerns. Pursuant to Health and Safety Code Section 13137, the OSFM is proposing a fee increase. In 2018, the OSFM initiated the process of fully assessing the operating expenses of the Flame Retardant Chemicals and Fabrics Program, in order to determine if the existing program revenues meet statutory requirements to use program fees for the benefit of the group they are collected from. Through this evaluation, the OSFM determined that annual revenue under the current fee structure is insufficient to operate the program and therefore does not meet the requirements of Health and Safety Code 13137. Additional revenue is necessary in order for the program to implement the fund's statutory requirements, as detailed in Health and Safety Code Section 13137.

The current fee schedule was established in the 1980s and is insufficient to sustain the Flame Retardant Chemicals and Fabrics Program without incurring a deficit. Since that time, program costs have risen significantly due to inflation, rising personnel costs, amounts required to maintain the reserve recommended by the Department of Finance, and adoption of online application and payment systems.

This rulemaking action proposes amendments to CCR, Title 19, Chapter 8, Article 1, Sections 1179 (a), (b), (c), (d), (e) and Authority and Reference Note; and adoption of new Section 1179 (b) and (g), 1179.1, 1179.2, and 1179.3, and Authority and Reference Note.

**SUMMARY OF EFFECT:**

The proposed regulations will impose cost impacts that a directly affected business would incur in reasonable compliance with the proposed action. The im-

pacts will affect new applicants and annual renewals as required by statute.

**COMPARABLE FEDERAL REGULATIONS OR STATUTE:**

The proposed action does not duplicate or conflict with any federal regulations or statutes. No comparable federal regulations or statutes exist.

**OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS:**

The proposed regulations are necessary to provide sustainable and complete funding to implement the Program's statutory enforcement mandates in Health and Safety Code Sections 13120, 13121, 13122, 13123, 13124, 13125, 13126, and 13127. Sustainable and complete funding will allow the OSFM to remain compliant with the State Fire Marshal Licensing and Certification Fund requirements in Health and Safety Code Section 13137.

The OSFM has determined that this regulatory proposal will benefit public safety, and worker safety. This program specifically enhances worker safety by reducing the risk of catastrophic fire in assembly occupancy workplace settings, and tents. This regulation enhances the use of preventative measures to reduce the risk of a fire ignition or spread in many public spaces, protecting workers and public visitors from the impacts of fire and panic.

**EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS:**

The OSFM has evaluated the proposed regulations and found that they are not inconsistent or incompatible with existing state and federal regulations.

**Documents Incorporated By Reference:**

The following forms are incorporated by reference in the text of the proposed regulations. The application forms are used to record the information required when applying for flame retardant chemicals, fabrics, and application concerns.

- (1) Application for Decorative Materials Registration — Fabric FR-1 (REV. (5/2021))
- (2) Application for Decorative Materials Registration — Chemical FR-2 REV. (5/2021)
- (3) Application for General Applicator FR-3 (REV. 5/2021)
- (4) Application for Limited Applicator FR-4 (REV. 5/2021)

It would be cumbersome, unduly expensive, or otherwise impractical to publish these documents in the California Code of Regulations. The documents are made available from the agency or are reasonably available to the affected public from a commonly known or specified source: Office of the State Fire Marshal website: *Office of the State Fire Marshal website at: <https://osfm.fire.ca.gov>.*

OTHER MATTERS PRESCRIBED BY  
STATUTE APPLICABLE TO THE  
AGENCY OR ANY SPECIFIC REGULATION  
OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the SFM, or to any specific regulation. There are no other matters to identify.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

The OSFM has made the following initial determinations concerning the adoption of the proposed regulations:

1. Mandates on local agencies and school districts: **None.**
2. Costs or savings to any state agency: **None.**
3. Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through Section 17630: **None.**
4. Other non-discretionary cost or saving imposed on local agencies: **None.**
5. Costs or savings in federal funding to the State of California: **None.**
6. Significant effect on housing costs: **None.**
7. Significant Statewide Adverse Economic Impacts Directly Affecting Businesses and Individuals: Although the proposed action may have an impact on businesses statewide that sell flame retardant chemicals and fabrics and application concerns, the OSFM concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, **will not be significant.**

DECLARATION OF EVIDENCE

The OSFM has not relied on any other facts, evidence, documents, testimony, or other evidence to make its initial determination of no statewide adverse economic impact.

COST IMPACTS ON REPRESENTATIVE  
PERSON OR BUSINESS

The proposed regulations will impose cost impacts that a directly affected business would necessarily incur in reasonable compliance with the proposed action. This includes applicators, manufacturers, and laboratories within the flame retardant industry. The impact will be consistent regardless of the size of any business. A flame retardant original or annual renewal registration of any single fabric or chemical would pay

an additional \$375 in fees for each new registration application, while a business would pay an additional \$145–\$275 in fees for each new company application depending their status as “General Applicator” or “Limited Applicator”. General Applicators of Flame-Retardant would pay an additional \$11 in fees for each certificate, while a business would pay an additional \$250 in fees for each fabric added to an existing registration. However, it is not known how many of these businesses qualify as small businesses versus typical businesses. Fees will be paid by individuals and businesses submitting applications. Initial start-up represents new applications if submitted; annual ongoing costs represent renewal fees per service to clarify the economic analysis.

EFFECT ON SMALL BUSINESS

The proposed regulation may affect small business. The proposed regulations would incur some effect on all businesses who apply for registration through the Flame Retardant Chemicals and Fabrics Program. The scope of information collected by this program is directly related to licensing requirements. That type of information is not collected as part of the licensing process. Thus, the business details which would identify a “small business,” as it is defined by Government Code 11342.610, do not overlap with those requirements.

BUSINESS REPORT

The proposed regulations do not create any reporting requirements.

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT

The OSFM concludes that the adoption of these regulations *will not*:

- a) create or eliminate jobs within California,
- b) create new businesses or eliminate existing businesses within California, or
- c) affect the expansion of businesses currently doing business within California.

BENEFITS TO HEALTH AND  
WELFARE, WORKER SAFETY,  
AND THE ENVIRONMENT

The OSFM has determined that this regulatory proposal will directly benefit worker safety. The OSFM has determined that this regulatory proposal will not directly affect the health and welfare of California residents or the state’s environment. This program specifically enhances worker safety by reducing the risk

of catastrophic fire in assembly occupancy workplace settings, including tents. This regulation enhances the use of preventative measures to reduce the risk of a fire ignition or spread in many public spaces, protecting workers and public visitors from the impacts of fire and panic.

CONSIDERATION OF ALTERNATIVES

The OSFM must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the agency’s attention, would be more effective in carrying out the purpose for which the adoption of this regulation 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.

The OSFM has reviewed the proposed regulatory action, including both the positive and negative impacts it will place upon the industry. However, none of the alternatives would be more effective in carrying out the purpose of the legislation and proposed regulations or be less burdensome to the affected parties than the proposed regulations.

The OSFM considered the alternative of no regulatory action however, the alternative considered would not generate sufficient revenue to operate the program. The result of the reasonable alternative would be inconsistent with the requirements of Health and Safety Code Section 13137, the State Fire Marshal Licensing and Certification Fund.

The alternative of no regulatory action would also not be in the best interest of the public because a funding deficit would impact the operational stability of the program, which would cause a negative impact to directly affected businesses and impair the public safety benefits of the program.

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

CONTACT PERSONS

Inquiries or specific questions regarding the proposed rulemaking action may be directed to:

**General procedural & administrative questions:**

Eireann Flannery  
 CAL FIRE/Office of the State Fire Marshal  
 715 P Street, Suite 900  
 Sacramento, CA 95814  
[Title19Regulations@fire.ca.gov](mailto:Title19Regulations@fire.ca.gov)  
 Phone: (916) 531-7650

**For substantive or technical questions on the proposed changes:**

Patricia Setter, Flame Retardant Program  
 Coordinator  
 CAL FIRE/Office of the State Fire Marshal  
 715 P Street, Suite 900  
 Sacramento, CA 95814  
[Patricia.setter@fire.ca.gov](mailto:Patricia.setter@fire.ca.gov)  
 Phone: (916) 597-5703

AVAILABILITY OF  
 RULEMAKING DOCUMENTS

The OSFM will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above Sacramento 715 P Street address. As of the date of this notice being published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and supporting information. Copies may be obtained through the contact persons at the address and/or phone number listed above

AVAILABILITY OF CHANGED OR  
 MODIFIED TEXT

After holding a public hearing, if requested, and considering all timely and relevant comments received, the OSFM may adopt the proposed regulations substantially as described in this notice. If the OSFM makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the OSFM adopts the regulations as revised. Requests for copies of any modified regulations should be directed to the contact person at the address listed above. The OSFM will accept written comments on the modified regulations for 15 days after the date on which the modifications are made available.

AVAILABILITY OF THE FINAL  
 STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Eireann Flannery at the above address and telephone number or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS  
 ON THE INTERNET

Copies of this Notice of the Proposed Rulemaking (“NOPA”), the initial statement of reasons (“ISOR”),

the text of the proposed regulations (“TEXT”) and any other materials or documents concerning this rulemaking can be accessed through the Office of the State Fire Marshal web address at: <http://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>.

#### PLAIN ENGLISH DETERMINATION

The proposed Regulations were prepared pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Section 11342.580 and Section 11346.2(a)(1). The proposed regulations were written to be easily understood by the parties that will use them.

### TITLE 22/MPP. DEPARTMENT OF CHILD SUPPORT SERVICES

#### INTERGOVERNMENTAL CASES

**NOTICE IS HEREBY GIVEN** that California Department of Child Support Services (Department) is proposing to take the action described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

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

#### WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under *Contact Persons* in this Notice, must be received by the Department at its office no later than **March 28, 2022**, or must be received by the Department at the hearing, should one be scheduled. When commenting, please indicate the proposed rulemaking action to which your comment refers.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 17306, 17310, and 17312 of the Family Code (FC), and to implement, interpret or make specific sections 5206, 5216, 5246, 5604, 5700.101 et seq., and 17212 of said Code; 45 Code of Federal Regulations sections 301.1, 303.2 and 303.7; Welfare and Institutions Code section

1147.8; Code of Civil Procedure section 706.011(a); and 28 United States Code, section 1738B.

#### SUMMARY OF EXISTING LAWS AND EFFECT OF THE PROPOSED ACTION

In 2014 Congress enacted Public Law 113–183, the Preventing Sex Trafficking and Strengthening Families Act, which amended the Social Security Act to ensure access to IV–D services for international cases. It also required states, as a condition of receiving federal funds, to enact the Uniform Interstate Family Support Act (UIFSA 2008) as “officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws.” UIFSA 2008 added international provisions to be consistent with the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, a treaty the United States became a party of. This treaty was ratified by the United States on August 31, 2016, and the effective date in the United States was January 1, 2017.

In 2015 the California legislature enacted Senate Bill (SB) 646 (Jackson, Chapter 493, Statutes of 2015), which repealed Chapter 6 (commencing with section 4900) of FC to remove codified versions of UIFSA 1996 and UIFSA 2001. SB 646 added sections 5700.101–5700.905 to the FC to codify UIFSA 2008 provisions as required by Public Law 113–183.

These proposed regulations aim to conform to SB 646 (Jackson, Chapter 493, Statutes of 2015), codified in FC sections 5700.101 et. seq., and to clarify policies for intergovernmental child support cases. Existing intergovernmental regulations are in chapter 7, division 13, title 22 of the California Code of Regulations (CCR) and terms are defined in chapter 1, division 13, title 22 of the CCR. The proposed regulations do the following: define new terms and repeal terms which are already defined in governing statutes; clarify the ruling jurisdiction in intergovernmental cases; specify intergovernmental forms; define requirements for long arm jurisdiction; clarify continuing, exclusive jurisdiction determinations; define duration of support; clarify interest calculation on arrears; explain reconciling multiple support orders; define limited intergovernmental services; clarify general requirements, timeframes, and paternity as an initiating or responding jurisdiction; define disclosure of information requirements; clarify direct income withholding orders; and specify registration of support orders.

These proposed regulations are necessary to implement state and federal law for the administration of both the state and federal child support program.

ANTICIPATED BENEFITS OF PROPOSAL

This regulatory action will benefit custodial parties in child support cases because it will increase the collection of payments for interstate and international child support cases. This will be accomplished by clarifying the requirements related to handling intergovernmental cases and to the continuing, exclusive jurisdiction of these cases. This regulatory action will increase the protection, health, and safety of families and children by clarifying disclosure requirements for intergovernmental cases.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

UPDATED FORMS PREVIOUSLY CITED AND INCORPORATED BY REFERENCE

- Affidavit of Non-Disclosure, DCSS 0722 (Rev. 11/15/16)
- Application for Non Title IV-D Locate Services, DCSS 0073 (Rev. 09/01/05)

FISCAL IMPACT ESTIMATES

The Department has made the following initial determinations:

*Fiscal Impact on Public Agencies, Including Costs or Savings to State Agencies:* None.

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

*Nondiscretionary Costs/Savings to Local Agencies:* None.

*Mandate on Local Agencies and School Districts:* None.

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

*Business Impact:* The Department has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination was made based on state and federal statutes that established the child support program. The proposed regulatory action does not have an effect on any businesses.

*Cost Impact on Representative Private Person or Business:* The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Effect on Housing Costs:* None.

EFFECT ON SMALL BUSINESS

The Department has made an initial determination that the proposed regulatory action would have no effect on small businesses. This initial determination was made based on state and federal statutes that established the federal and nonfederal child support programs.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

*Impact on Jobs/Businesses:*

The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

*Benefits of Regulation*

These amendments will benefit the health and welfare of California residents, specifically, custodial parties of child support cases because they will increase the collection of payments for intergovernmental child support cases. This will be accomplished by clarifying the requirements related to handling intergovernmental cases and the jurisdiction of these cases. Also, this regulatory action will increase the protection, health, and safety of families and children by clarifying disclosure requirements for intergovernmental cases.

The proposed regulations will not have any effect on worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

The Department invites any interested persons to present statements or arguments in writing with respect to alternatives to the proposed regulations during



the written comment period, or if scheduled, orally and/or in writing during a requested public hearing.

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

The Department will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at the Department's office location. As of the date this notice is published in the Notice Register, the rulemaking file consists of the Notice of Proposed Action, the proposed text of the regulations, the Initial Statement of Reasons, the STD. 399, and the supportive factual documents. Please direct requests to inspect or copy the rulemaking file to Susan Sirk at the information listed below in *Contact Persons* as appointments are required to visit the Department's office. Copies of the Initial Statement of Reasons and proposed text of the regulations may also be accessed from the Department's website at [childsupport.ca.gov/regulations](http://childsupport.ca.gov/regulations).

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

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

Upon its completion, the Department will make copies of the Final Statement of Reasons available. Please direct requests for copies to Susan Sirk at the information listed below in *Contact Persons* or by accessing the website listed below.

**CONTACT PERSONS**

Any inquiries or comments regarding this proposed rulemaking action to amend, repeal, and adopt regu-

lations for Intergovernmental Cases may be addressed to:

Name: Susan Sirk  
Telephone: 916-464-6652  
Fax: 916-464-5772  
Email Address: [susan.sirk@dcss.ca.gov](mailto:susan.sirk@dcss.ca.gov)

Postal Address:

Dept. of Child Support Services  
Policy, Program, & Statewide Training Branch  
MS-210  
Attention: Susan Sirk  
P.O. Box 419064  
Rancho Cordova, CA 95741-9064

The backup contact person is:

Name: Andrew Enriquez  
Telephone: 916-464-6689  
Fax: 916-464-5772  
Email Address: [andrew.enriquez@dcss.ca.gov](mailto:andrew.enriquez@dcss.ca.gov)

Postal Address:

Dept. of Child Support Services  
Policy, Program, & Statewide Training Branch  
MS-210  
Attention: Andrew Enriquez  
P.O. Box 419064  
Rancho Cordova, CA 95741-9064

**WEBSITE ACCESS**

Materials regarding this proposal can be found on the Department's website at [childsupport.ca.gov/regulations](http://childsupport.ca.gov/regulations).

**TITLE MPP. DEPARTMENT OF  
SOCIAL SERVICES**

ORD #0921-03

**ANNUAL REDETERMINATIONS AB79 2020**

California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments relating to the proposed regulations in writing, e-mail, or by facsimile to the address, e-mail address, or numbers listed below. All comments must be received by March 30, 2022.

Following the close of the public notice, CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original



text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period and all persons who request notification on this proposal. Please address requests for regulations as modified to the agency contact identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on CDSS' public hearing page (<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>). Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below. Following the public notice period, copies of the Final Statement of Reasons will also be available at the following address:

#### CONTACT

California Department of Social Services  
Office of Regulations Development  
744 P Street, MS 8-4-192  
Sacramento, CA 95814  
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Contact Person:

Kenneth Jennings (916) 657-2586

Backup:

Oliver Chu (916) 657-2586

CDSS has not scheduled a public hearing on this proposed action. However, CDSS will hold a public 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. Any request should be made to the contact information provided above.

#### CHAPTERS

Manual of Policies and Procedures (MPP) chapters 40 and 44.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The changes to the regulations as implemented by Assembly Bill (AB) 79 (Chapter 11, Statutes of 2020), Sections 36 are as follows:

- Requires CalWORKs recipients to provide information on income received during the 30 days prior to submission of the assistance unit's (AU) annual redetermination
- Adds additional options for county welfare departments (CWD) to utilize when attempting to make a personal contact to remind a recipient that a completed annual redetermination is due
- Requires CWDs to attempt to collect the necessary information to complete the annual redetermination

CDSS conducted a review of existing regulations and evaluated the proposed regulations for any inconsistency or incompatibility. The proposed regulations are neither inconsistent nor incompatible with existing state regulations but do comply with the requirements of Assembly Bill (AB) 79 (Chapter 11, Statutes of 2020), effective June 30, 2020.

**Benefits of This Emergency Action:** There is no benefit to the health and welfare of California residents, worker safety and the State's environment. However, the benefits of the proposed regulations include clarified guidance from changes brought forth by AB 79 that impact the Manual of Policies and Procedures sections 40-103, 40-181, and 44-113. One of the intentions within AB 79 is to consider changes to the annual reporting requirements with the goal of reducing the reporting burden on recipients and reducing the workload for county eligibility staff. Additionally, the proposed regulations promote compatibility between the CalWORKs and CalFresh programs which helps minimize the potential for payment errors.

**Incorporation by Reference:** There are no documents incorporated by reference in this action.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500-17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies, nor on school districts. There are no

“state-mandated local costs” in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

**STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the proposed regulatory action, which was designed to impact state and county agencies and recipients of the CalWORKs program, and would not affect businesses.

**STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This regulatory action is designed to impact only state and county agencies and recipients of the CalWORKs program, and there are no known expected costs associated to private persons or businesses.

**SMALL BUSINESS IMPACT STATEMENT**

CDSS has determined that these regulations would have no impact on small businesses because these regulations are only applicable to state and county agencies and recipients of the CalWORKs program; therefore, they do not have a cost impact on the private sector, including small businesses.

**STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT**

The adoption of the proposed amendments 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 implementation of this regulatory action will ben-

efit CalWORKs applicants and recipients. There are no additional benefits for worker safety or the state’s environment, as the regulations only affect individuals receiving or applying for CalWORKs benefits.

**STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

**STATEMENT OF ALTERNATIVES CONSIDERED**

In developing the regulatory action, CDSS did not consider alternatives because regulations for Welfare and Institutions Code (WIC) section 11265 are required by AB 79, Sections 36. CDSS is legally bound to develop regulations for these WIC sections.

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are 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.

**AUTHORITY AND REFERENCE CITATIONS**

Welfare and Institutions Code sections 10553, 10554, and 11265.

**EMERGENCY STATEMENT**

These regulations were adopted on an emergency basis, effective January 3, 2022. To allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be noticed to the public for a minimum of 45 days to allow comment in accordance with Government Code Section 11346.4.

## PETITION DECISION

### AIR RESOURCES BOARD

*Sent via email and U.S. certified mail:*

January 26, 2022

Ruthie Lazenby  
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Environmental Justice Clinic  
Vermont Law School  
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Re: Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard Program

Dear Ms. Lazenby and Mr. Newell,

Thank you for the petition for rulemaking,<sup>1</sup> submitted by Vermont Law School's Environmental Justice Clinic and Public Justice on behalf of the Association of Irrigated Residents (AIR), Leadership Counsel for Justice & Accountability, Food & Water Watch, and Animal Legal Defense Fund, on October 27, 2021, to the California Air Resources Board (CARB).<sup>2</sup> CARB initially acknowledged receipt of the petition on November 8, 2021.<sup>3</sup> We appreciate that petitioners agreed to toll the deadline for response to the petition to January 28, 2022, while we took opportunities to discuss the petition with petitioners to better understand the concerns as well as the availability of supporting documentation.<sup>4</sup>

In your petition, you requested that CARB amend the Low Carbon Fuel Standard (LCFS) regulations found at Title 17, California Code of Regulations (CCR), sections 95480 through 95503. The LCFS regulations are authorized by the Global Warming Solutions Act of 2006 (Stats. 2006, Ch. 488, commonly re-

ferred to as AB 32.<sup>5</sup>) Specifically, the petition requests that CARB exclude all fuels derived from biomethane from dairy and swine manure from the LCFS, or, in the alternative, to reform the LCFS treatment of those fuels to account for additional greenhouse gas (GHG) emissions. The sections of the regulation that the petition requests that CARB amend are title 17, CCR, sections 95488.3 and 95488.9(f).

I want to take this opportunity to again thank the petitioners for taking the time to meet twice with me and other CARB senior management (on December 14, 2021, and also earlier this month on January 13, 2022). I also appreciate you, as a result of those meetings, sharing additional information for our consideration. I found the discussions productive and hope that they will continue through our public processes. I welcome continued engagement on the concerns raised in the petition as we consider the scope of potential amendments which will be discussed with all interested stakeholders as part of a public process we will initiate by first quarter of 2023. In the meantime, we welcome petitioners' input as we review and compile related materials.

CARB and petitioners share a commitment to ensure that CARB programs such as the LCFS continue to reduce air pollution disparities experienced by impacted communities, and that any adjustments to the regulation are carefully evaluated and done so through an open public process. Since 2019, LCFS staff have carefully reviewed comments received from various stakeholders (including the petitioners) in opposition to as well as support of the certification of animal manure biomethane pathways under the current LCFS regulation, and appreciate petitioners' contributions to strengthening that process.<sup>6</sup>

CARB further agrees it is important, as petitioners urge, to "ensure the LCFS provides environmental benefits and does not degrade water quality and interfere with efforts to improve air quality in the San Joaquin Valley."<sup>7</sup> CARB is committed as an organization to continue to use its authority (including the regulations it develops and implements such as the LCFS) to take action to protect the state's most impacted communities while reducing both GHG and other project-related criteria pollutants and toxics air contaminants. We invite ongoing dialogue with the petitioners as well as other stakeholders regarding in-

<sup>5</sup> See, e.g., Health and Safety Code, sections 38560 and 38560.5.

<sup>6</sup> See, e.g., June 26, 2020 *Comment Letter Re: Tier 2 Pathway Application: Application No. B0098; Calgren Dairy Fuels plus Circle A, Robert Vander Eyk, Legacy Ranch, Cornerstone, Sousa and Sousa, and Vander Poel Dairies*; and *CARB staff's public response*.

<sup>7</sup> Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard Program, page 5, October 27, 2021.

<sup>1</sup> Submitted pursuant to Government Code, § 11340.6.

<sup>2</sup> The petition is available from CARB upon request.

<sup>3</sup> See letter from Mr. Matthew Botill, Chief, Industrial Strategies Division, CARB, to Ms. Ruthie Lazenby and Mr. Brent Newell, counsel for petitioners, attached as Exhibit A.

<sup>4</sup> See tolling agreement executed on December 6, 2021, attached as Exhibit B.

formation and data to ensure that the programs CARB develops and implements are delivering the intended benefits throughout the state and in communities.

As noted, we are committed to engaging with petitioners on their concerns, and committed to ensuring our programs focus on environmental justice and environmental integrity. However, the petition's specific requests for a near-term rulemaking are premature. I am therefore denying your petition in part and granting it in part for the reasons that follow.

### **Relationship Between Ongoing AB 32 Scoping Plan Update and Potential Future LCFS Amendments**

As petitioners are aware, CARB is coordinating an ongoing public process to develop an update of California's statewide strategy to achieve its climate change emissions reduction targets. This statewide strategy, known as the "Scoping Plan," is due to be considered by our Board in 2022.<sup>8</sup> The Scoping Plan is the statewide climate change strategy "for achieving the maximum technologically feasible and cost-effective reductions of greenhouse gas emissions" focusing on evaluating the integration of incentives, programs, and regulations to achieve the state's climate targets.<sup>9</sup> CARB has convened the AB 32 Environmental Justice Advisory Committee to consult and advise on the development of the 2022 Scoping Plan update. As a part of their advisory role, the Environmental Justice Advisory Committee will be conducting community engagement.

The first Scoping Plan was adopted by the Board in 2008, and the most recent update was adopted in late 2017. In June 2021, CARB began the process for the next update to the Scoping Plan for Board consideration in late 2022. Materials related to the ongoing public process, including workshop notices, relevant documents, and public feedback received, are available on our website.<sup>10</sup> As part of the 2022 Scoping Plan update, staff will consider legislative statutory direction, the Governor's Executive Orders, the latest science, and recommendations from the AB 32 Environmental Justice Advisory Committee and all other stakeholders on how to transition away from combustion of fossil fuels in all sectors of the economy. The LCFS has been included in past AB 32 climate change scoping plans as part of the mix of policies designed to drive emissions reductions from the transportation sector. That sector continues to be our largest source of greenhouse gases and harmful local air pollution.

<sup>8</sup> AB 32 directs CARB to develop, and update at least once every five years, the overarching climate change strategy known by the statutory term "scoping plan." See Health and Safety Code, § 38561.

<sup>9</sup> *Id.*

<sup>10</sup> <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/scoping-plan-meetings-workshops>.

We expect the 2022 Scoping Plan update to identify potential changes necessary to deploy clean fuels and technologies across the economy in order to achieve the state's climate targets. This may ultimately require changes to existing programs, such as the LCFS, or the identification of new programs. But the general direction of such revised or new programs will be informed by recommendations included in the final 2022 Scoping Plan update to ensure California has a holistic, fully-integrated, economy-wide state strategy for meeting its GHG reduction targets.

Past experience with our Scoping Plans is illustrative: The 2017 Scoping Plan update provided recommendations to strengthen LCFS statewide carbon intensity benchmarks in order to help the state achieve our 2030 GHG emissions reduction target of 40 percent below 1990 emissions levels. Following those recommendations, CARB staff proposed LCFS amendments in 2018, which significantly strengthened the program's regulatory targets — from a 10 percent average reduction in statewide transportation fuel life-cycle carbon intensity (CI) by 2020, to a 20 percent CI reduction by 2030. Those LCFS amendments grew out of an extensive informal public stakeholder feedback process launched in 2016,<sup>11</sup> and were formally proposed and eventually adopted in 2018.<sup>12</sup> As required by law, CARB in amending these regulations carried out an environmental analysis pursuant to the California Environmental Quality Act, as well as an economic impact analysis required for major regulations.<sup>13</sup> By the time CARB submitted the final Board approved regulatory package to the Office of Administrative Law, interested stakeholders had provided input on the proposed concepts and amendments through more than two dozen public workshops or working meetings. The proposed amendments were introduced for public and Board member discussion at two Board hearings, and CARB staff responded to hundreds of public comments submitted.

Therefore, it is premature to consider amending the LCFS regulation until the Scoping Plan update process has informed how the state's portfolio approach to climate mitigation may be best structured to deliver cost-effective, technologically feasible, and direct emissions reductions across various sources. CARB staff outlined the anticipated relationship between the

<sup>11</sup> See LCFS public working meetings archive materials available here: <https://ww2.arb.ca.gov/resources/documents/lcfs-meetings-workshops-archive#2016>.

<sup>12</sup> See 2018 LCFS amendments rulemaking materials available here: <https://ww2.arb.ca.gov/rulemaking/2018/low-carbon-fuel-standard-and-alternative-diesel-fuels-regulation-2018>.

<sup>13</sup> A standardized regulatory impact analysis is required of any regulatory action "that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000), as estimated by the agency." (Govt. Code Section 11342.548.)



2022 Scoping Plan update and potential future LCFS amendments during the December 7, 2021, LCFS workshop. Specifically, because the 2022 Scoping Plan update will evaluate how California can achieve carbon neutrality by mid-century, including the types and role of low carbon fuels needed in the future, final Board member and public input on that update is likely to inform any eventual staff recommendations on potential amendments to the LCFS. Thus, our staff do not plan to formally propose regulatory changes to the LCFS until after the 2022 Scoping Plan update has been considered by the Board and after informal pre-rulemaking workshops on potential LCFS amendments. However, both the public meetings on the 2022 Scoping Plan update, and on concepts for potential changes to the LCFS as recently occurred, provide an opportunity for CARB staff and petitioners, in open public processes, to discuss the most beneficial role for biomethane in displacing fossil energy, and options to achieve the state's methane reduction targets for 2030. The public meetings of the Environmental Justice Advisory Committee, as well as the recommendations the committee will develop through that process, will provide an additional opportunity for conversation.

We recognize that consideration of LCFS amendments may be necessary to reflect direction from the Scoping Plan update and incorporate changes in conditions and policies that have occurred since the last major LCFS amendments in 2018. Therefore, similar to the public process on the 2017 Scoping Plan update and the 2018 LCFS amendments, CARB staff plan, throughout 2022, to host informal public workshops and meetings to discuss and consider potential changes to the LCFS program. Petitioners did participate in the initial LCFS public workshop on potential future changes to the LCFS program hosted by CARB staff on December 7, 2021, and submitted one<sup>14</sup> of more than 100 feedback letters received and currently under consideration following that workshop.<sup>15</sup> LCFS staff are currently evaluating that wide ranging public feedback, and working to schedule additional public meetings to continue that discussion.

<sup>14</sup> Following the submittal of the petition, in addition to petitioners' January 7, 2022, comment following the December 7, 2021, workshop, petitioners submitted comments on December 14, 20, and 21, 2021, and January 24, 2022, regarding CARB certification of LCFS Tier 2 pathways posted for public comment. Those comments have been or will be addressed separately from this petition response as appropriate.

<sup>15</sup> December 7, 2021, LCFS public workshop materials available here: <https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard/lcfs-meetings-and-workshops>; public feedback received on the workshop, including letter from petitioners, available here: <https://www.arb.ca.gov/lispub/comm2/bccommlog.php?listname=lcfs-wkshp-dec21-ws>.

### Considering Senate Bill (SB) 1383 and the Need for Methane Reductions

SB 1383 (Stats. 2016, Chapter 395) codified the state's methane reduction milestones, which include the target of reducing statewide livestock manure methane emissions 40 percent below 2013 levels by 2030.<sup>16</sup> Methane is among the high global-warming potential gases with short atmospheric lifetimes we group under state law as "short-lived climate pollutants." In 2017, following a requirement in SB 1383, CARB approved a Short-Lived Climate Pollutant (or SLCP) Reduction Strategy,<sup>17</sup> which was designed as California's comprehensive plan for reducing SLCPs, including methane from dairies and other sources, and discussed the LCFS as one potential regulatory tool for promoting progress toward achieving SLCP reduction goals. In addition to directing CARB to potentially develop methane reduction regulations to achieve those targets, the same section of SB 1383 also directs CARB to "ensure" LCFS crediting for methane reductions.<sup>18</sup> The current LCFS provisions specifically authorizing the generation of LCFS credits for volumes of biomethane supplied as transportation fuel associated with captured methane from agricultural manure are responsive to that SB 1383 statutory direction. Beyond the petition's recommended exclusion of those fuels, to the extent that the petition recommends reform of those provisions to more effectively maximize benefits, and avoid potential harms, we welcome and appreciate petitioners ongoing engagement, and look forward to working with you in the consideration of any subsequent amendments to the LCFS.

As supported by California's 2017 Scoping Plan, SB 1383, the 2018 LCFS rulemaking process, including its associated environmental analysis,<sup>19</sup> the current LCFS crediting regime for biomethane derived from animal manure is delivering the significant benefits it was designed to achieve. Specifically, the current LCFS crediting incentive for manure methane capture for transportation fuel use appears to be spurring the development of new digester projects. CARB staff estimates that those projects will significantly reduce methane emissions associated with the animal agriculture sector in California and beyond. Since the 2018 LCFS amendments came into effect, the number of

<sup>16</sup> *Health & Safety Code*, § 39730.7.

<sup>17</sup> The 2017 SLCP Reduction Strategy and supporting documents, including the associated environmental analysis, are available here: <https://ww2.arb.ca.gov/resources/documents/slcp-strategy-final>

<sup>18</sup> Specifically, *Health & Safety Code*, § 39730.7(e) directs that CARB "shall ensure that projects developed before the implementation of [methane reduction] regulations [not yet developed or adopted now] receive [LCFS] credit for at least 10 years."

<sup>19</sup> *Final Environmental Analysis for Amendments to the Low Carbon Fuel Standard and the Alternative Diesel Fuels Regulation*, September 17, 2018.

operational digesters capturing methane from animal manure lagoons in California has nearly quadrupled, from approximately 20, to approximately 77 today.<sup>20</sup> CARB staff estimate that these new digesters, in addition to providing local odor and other air quality benefits,<sup>21</sup> will reduce methane emissions by approximately 75 percent<sup>22</sup> during the lifetimes of these projects. The current LCFS regulatory scheme in effect has supported replacement of diesel heavy duty vehicles with natural gas vehicles, which reduces GHG emissions and decreases criteria air pollutant emissions from transportation. Volumes of animal waste-derived biomethane reported as transportation fuel to the LCFS grew from less than 1.5 million therms, in 2018, to more than 20 million therms in 2020 (the latest full year for which reported volumes is available). Accordingly, potential future improvements to that part of the LCFS will be best addressed in the context of a broader effort to strengthen the regulation as informed by the state’s updated overall climate change strategy. We recognize the concerns expressed in your petition about facility consolidation issues, and potential associated environmental impacts, and look forward to reviewing additional data and continuing discussion throughout the workshop and regulatory processes.

**Determination and Conclusion**

Therefore, after careful consideration of your petition, the relevant law, and the current context of ongoing development of the next AB 32 climate change Scoping Plan and anticipated subsequent regulatory activity, I have reached a decision on your petition, pursuant to Government Code section 11340.7.<sup>23</sup> The

<sup>20</sup> U.S. Environmental Protection Agency, Livestock Anaerobic Digester Database, available here: <https://www.epa.gov/agstar/livestock-anaerobic-digester-database>.

<sup>21</sup> See, for example, non-GHG air quality benefit information reported associated with digester projects supported by the Dairy Digester Research and Development Program (DDRDP) administered by the California Department of Food and Agriculture, available on the *California Climate Investments Project Map*.

<sup>22</sup> According to *California’s Greenhouse Gas Inventory*, methane emissions from an anaerobic lagoon is estimated at 8.3 tons CO<sub>2</sub>e per dairy cow per year, whereas methane emissions from an anaerobic digester is estimated at 2.06 tons CO<sub>2</sub>e per dairy cow per year.

<sup>23</sup> The Board may delegate any duty it deems appropriate to its Executive Officer (Health and Safety Code section 39515(a)). The Board is conclusively presumed to have delegated any of its powers to the Executive Officer unless it has expressly reserved that power to itself (Health and Safety Code section 39516). The Board has not reserved the power to act on rulemaking petitions and it is, therefore, appropriate for me to act on this petition pursuant to my delegated authority.

Code provides that CARB “may grant or deny the petition in part, and may grant any other relief or take any other action it may determine to be warranted by the petition.”<sup>24</sup> I am denying your petition in part, and granting other relief in part.<sup>25</sup> Specifically, I am:

- (1) Denying your petition in part by declining to amend the LCFS Regulation at this time in the manners suggested.
- (2) Granting other relief by affirming that CARB will continue to engage with petitioners on the programmatic and environmental justice and environmental integrity concerns raised in the petition through the ongoing AB 32 Climate Change Scoping Plan update process and upcoming informal workshops on LCFS throughout 2022, both of which will inform any future LCFS amendments. The proposed amendments will be fully vetted in a public process when we launch the formal rulemaking process in early 2023. Throughout this process CARB will continue to focus on improving air quality and health in the state’s most impacted communities, ensure progress is made in achieving state and federal air quality standards, and reduce GHG emissions from all sources. CARB is committed to continue to encourage the reduction of emissions from dairy and swine farms.

The record upon which this decision is based includes the petition and its exhibits, this letter, the materials referenced herein, and its attachments.

In accordance with Government Code section 11340.7, subdivision (d), a copy of this letter is being transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. The agency contact person in this matter is Gabriel Monroe, Senior Attorney, available at (916) 324-2132 or [Gabriel.Monroe@arb.ca.gov](mailto:Gabriel.Monroe@arb.ca.gov). Interested parties may obtain a copy of the petition upon request to Chris Hopkins, available at (279) 208-7347 or [Chris.Hopkins@arb.ca.gov](mailto:Chris.Hopkins@arb.ca.gov). Upon request, physical copies

<sup>24</sup> Govt. Code, § 11340.7(b).

<sup>25</sup> Government Code 11340.7 provides that an agency addressing a petition shall “identify the agency, the party submitting the petition, the provisions of the California Code of Regulations requested to be affected, reference to authority to take the action requested, the reasons supporting the agency determination, an agency contact person, and the right of interested persons to obtain a copy of the petition from the agency.” This response fulfills those requirements.



would be obtained from 1001 I Street, Sacramento, California, 95814.

Sincerely,

/s/

Richard W. Corey  
Executive Officer  
California Air Resources Board

cc: (via email only)

Phoebe Seaton, Leadership Counsel for Justice & Accountability

Tom Frantz, Association of Irrigated Residents

Tarah Heinzen, Food & Water Watch

Tyler Lobdell, Food & Water Watch

Cristina Stella, Animal Legal Defense Fund

Christine Ball-Blakely, Animal Legal Defense Fund

Liane M. Randolph, CARB Chair

Honorable Board Members

Rajinder Sahota, CARB Deputy Executive Officer

Chanell Fletcher, CARB Deputy Executive Officer

Ellen M. Peter, CARB Chief Counsel

<p><b>SUMMARY OF REGULATORY ACTIONS</b></p>
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**REGULATIONS FILED WITH THE  
SECRETARY OF STATE**

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

Department of Managed Health Care  
File # 2022-0105-01  
Transfer of Enrollees Pursuant to a Public Health Order

This action makes permanent an emergency regulation allowing for the expeditious transfer of patients (pursuant to state or local emergency public health orders that direct or allow hospitals to transfer patients to other health care facilities) from the most highly impacted hospitals to hospitals with more available capacity and preventing health plan prior authorization requirements for the transfer of enrollees between hospitals from causing unnecessary delays. The regulation requires reimbursement by patients' health plans for transfer costs and reimbursement for receiving hospitals' health care services, as specified, including receiving hospitals that do not have contracts

with patients' health plans. It also requires notice, by a receiving health care facility to a health plan, within 72 hours, of the receipt of a transferred enrollee pursuant to a public health order.

Title 28  
Adopt: 1300.67.02  
Filed 01/26/2022  
Effective 01/26/2022  
Agency Contact: Leah Gray (916) 327-8031

Secretary of State  
File # 2021-1214-03  
Statewide Voter Registration System and Conditional Voter Registration

This emergency rulemaking action by the California Secretary of State makes permanent, with modifications, changes originally made in emergency matter 2020-0925-03 to the reason codes for vote-by-mail ballots, provisional ballots, and conditional voter registration provisional ballots. This action also makes changes to regulations relating to voter participation history for both the Statewide Voter Registration System and conditional voter registration.

Title 02  
Amend: 19092, 19094, 19097, 20021, 20023, 20025, 20026, 20027  
Filed 01/26/2022  
Effective 01/26/2022  
Agency Contact: Robbie Anderson (916) 216-6488

State Water Resources Control Board  
File # 2022-0125-06  
FY 2021-22 Waste Discharge Requirement NPDES Wastewater Fees

This emergency rulemaking action by the State Water Resources Control Board (the "Board") is part of the Board's annual adjustment to fees assessed to persons issued waste discharge permits. These fees are adjusted each fiscal year to conform to the revenue levels set forth in the Budget Act. In this action, the Board is increasing National Pollutant Discharge Elimination System permit fees. Pursuant to subdivision (f)(2) of Water Code section 13260, this action is a statutorily deemed emergency, is not subject to review by the Office of Administrative Law, and shall remain in effect until revised by the Board.

Title 23  
Amend: 2200  
Filed 02/01/2022  
Effective 02/01/2022  
Agency Contact: Sarah Fong (916) 341-5254

Department of Corrections and Rehabilitation  
File # 2022-0112-01  
Program and Credit Earning Revisions

This emergency rulemaking action by the Department of Corrections and Rehabilitation re-adopts the changes approved in OAL File No. 2021-0407-03EON. That action updated terminology, expanded rehabilitative programs and reentry services, and eliminated the Long-Term Offender Program by incorporating participants into the new Integrated Substance Use Disorder Treatment Program. That action also amended the Milestone Completion Credit Schedule to add new programs, discontinue programs that are no longer available to inmates, amend the amount of credit earned for some programs, and re-organize the schedule. That action was certified as an operational necessity by the Undersecretary of Operations on January 5, 2021.

Title 15  
Adopt: 3040.1  
Amend: 3000, 3040, 3041, 3041.3, 3043.3, 3043.5, 3043.7, 3043.8, 3044, 3075.1, 3077.1, 3315, 3375, 3375.2, 3375.4, 3375.5, 3375.6, 3379  
Repeal: 3040.1, 3040.2  
Filed 02/01/2022  
Effective 02/01/2022  
Agency Contact: Sarah Pollock (916) 445-2308

Department of Food and Agriculture  
File # 2022-0118-01  
Emerald Ash Borer Exterior Quarantine

This emergency action readopts an exterior quarantine against the emerald ash borer, including adoption of relevant terms, regulated areas, articles covered, and restrictions.

Title 03  
Adopt: 3288  
Filed 01/27/2022  
Effective 01/27/2022  
Agency Contact: Rachel Avila (916) 403-6813

Fish and Game Commission  
File # 2022-0121-02  
Take of Western Joshua Tree

This emergency rulemaking action by the Fish and Game Commission readopts with modifications emergency regulations adopted in OAL Matter No. 2020-1228-02 and modified in OAL Matter No. 2021-1027-02 that establish a process for taking western Joshua Tree (*Yucca brevifolia*) during the California Endangered Species Act candidacy period.

Title 14  
Amend: 749.11  
Filed 01/31/2022  
Effective 02/08/2022  
Agency Contact:  
Jennifer Greaves (916) 653-4899

Fish and Game Commission  
File # 2022-0121-03  
Take of Western Joshua Tree

This action by the Fish and Game Commissions readopts emergency regulations that grant authority to the City of Palmdale and Town of Yucca Valley to allow for the incidental take of a limited number of western Joshua trees during its candidacy period under certain circumstances.

Title 14  
Amend: 749.12  
Filed 01/31/2022  
Effective 02/08/2022  
Agency Contact:  
Jennifer Greaves (916) 653-4899

Office of Environmental Health Hazard Assessment  
File # 2021-1220-02  
Chemicals Known to the State to Cause Cancer or Reproductive Toxicity

This file and print action updates the list of chemicals known to the state to cause cancer or reproductive toxicity (1) to include 2-ethylhexyl acrylate, methyl acrylate, perfluorooctane sulfonic acid (PFOS) and its salts and transformation and degradation precursors, tetrahydrofuran, and technical grade trimethylolpropane triacrylate as chemicals known to the state to cause cancer; and (2) to include perfluorononanoic acid (PFNA) and its salts as chemicals known to the state to reproductive toxicity. This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 25249.8.

Title 27  
Amend: 27001  
Filed 01/27/2022  
Effective 01/27/2022  
Agency Contact: Tyler Saechao (916) 327-3015

Commission on Peace Officer Standards and Training  
File # 2022-0119-01  
Definition Numbering Hierarchy

This change without regulatory effect fixes the numbering hierarchy for definitions related to the Commission on Peace Officer Standards and Training regulations.

Title 11  
 Amend: 1001  
 Filed 01/27/2022  
 Agency Contact: Michelle Weiler (916) 227-4870

Department of Public Health  
 File # 2022-0106-01  
 Lead Dust Standard Update

This action amends section 35035 of Title 17 of the California Code of Regulations to conform it to the most recent U.S. EPA standards for lead-contaminated dust for interior floor and horizontal surfaces.

Title 17  
 Amend: 35035  
 Filed 02/02/2022  
 Effective 02/02/2022  
 Agency Contact: David Martin (916) 440-7673

Medical Board of California  
 File # 2021-1210-03  
 Medical and Midwife Assistant Certifying Organizations

This rulemaking action requires medical and midwife assistant certifying organizations to be accredited by the National Commission for Certifying Agencies and eliminates the requirement that organizations be non-profit.

Title 16  
 Amend: 1366.3, 1366.31, 1379.07  
 Filed 02/01/2022  
 Effective 04/01/2022  
 Agency Contact: Kerrie Webb (916) 263-2389

Office of Spill Prevention and Response  
 File # 2021-1217-01  
 Oil Spill Prevention and Administration Fund Fee

This rulemaking action amends barrel fee and non-tank vessel fee amounts, procedures, and other related provisions regarding the Oil Spill Prevention and Administration Fund to align with statutory changes made by Assembly Bill 148 (Stats. 2021, chapter 115).

Title 14  
 Amend: 870.17  
 Repeal: 870.15  
 Filed 01/31/2022  
 Effective 02/01/2022  
 Agency Contact: Christine Kluge (916) 327-0910

Physical Therapy Board of California  
 File # 2021-1216-02  
 Disciplinary Guidelines

The Physical Therapy Board (Board) of California is amending their incorporated by reference docu-

ment, Guidelines for Issuing Citations and Imposing Discipline (Guidelines). The Board is making several changes. Some of the changes include those being made to reflect regulatory changes already adopted. Additionally, a requirement is being added to the Guidelines to inform probationers that their license will not be renewed if they do not pay probation monitoring costs. An option to reduce these cost recovery fees was removed and instead the Board is offering the possibility of a payment plan requiring payment 180 days prior to completing probation. Substance abuse rehabilitation program fees are being removed from the Guidelines. The Board is also adding an additional specific condition of probation, entitled "Notification of Probation Status to Assistive Personnel" to the Guidelines and making several non-substantive changes to the document.

Title 16  
 Amend: 1399.15  
 Filed 01/28/2022  
 Effective 04/01/2022  
 Agency Contact: Elsa Ybarra (916) 561-8262

State Personnel Board  
 File # 2021-0827-04  
 Written Notification of Personal Services Contracts

This action adopts a mandate that state agencies intending to contract for personal services outside of the civil service, under conditions specified within Government Code section 19130, must provide prior written notice to organizations representing state employee bargaining.

Title 02  
 Adopt: 547.60.2  
 Filed 01/27/2022  
 Effective 04/01/2022  
 Agency Contact: Lori Gillihan (916) 651-1043

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

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