



# 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 3. DEPARTMENT OF FOOD AND AGRICULTURE**

The Department of Food and Agriculture (Department) proposes to adopt section 3288, title 3 of the California Code of Regulations (CCR) pertaining to the Emerald ash borer Exterior Quarantine that was adopted as an emergency regulation on April 9, 2021 and readopted on January 27, 2022.

**PUBLIC HEARING**

A public hearing is not scheduled. However, 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 Department no later than 15 days prior to the close of the written comment period.

**WRITTEN COMMENT PERIOD**

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulation to the Department. Comments may be submitted by U.S.P.S., FAX or email. The written comment period closes on April 4th, 2022. The Department will consider only comments received at the Department offices by that date or postmarked no later than April 4, 2022. Submit comments to:

Dean Kelch  
 Department of Food and Agriculture  
 Plant Health and Pest Prevention Services  
 2800 Gateway Oaks Drive, Suite #200  
 Sacramento, CA 95833  
[dean.kelch@cdfa.ca.gov](mailto:dean.kelch@cdfa.ca.gov)  
 916.403.6650  
 916.651.2900 (FAX)

In Mr. Kelch's absence, you may contact Erin Lovig at (916) 654-1017 or [erin.lovig@cdfa.ca.gov](mailto:erin.lovig@cdfa.ca.gov), FAX number (916) 651-2900.

Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the pro-

posal as set forth without further notice if there are no substantial changes prior to the adoption.

**AUTHORITY**

The Department proposes to adopt CCR Section 3288 pursuant to the authority vested by Section 5301 of the Food and Agricultural Code of California.

**REFERENCE**

The Department proposes this action to implement, interpret and make specific sections 5301 and 5302 of the Food and Agricultural Code.

**INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW**

The proposed regulation will establish an exterior quarantine against emerald ash borer. The area regulated is any area where an infestation is present, as determined by the Department. Maps will be made available of the areas infested on the Department's website and updated monthly. Currently 30 states are infested with this pest and there is potential for further spread. This regulation will allow the Department to update the areas under quarantine which will help protect the state from new infections around the country.

The articles and commodities covered by this quarantine are:

- emerald ash borer (*Agrilus planipennis*), any living stage,
- firewood from its primary host ash trees (*Fraxinus* species), and mixed firewood that includes hardwood that may contain ash,
- Nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips from its primary host, ash trees,
- Any other article, product, or means of conveyance that a California State Plant Quarantine Officer determines presents a risk of spreading emerald ash borer and notifies the person in possession of it.

All articles and commodities listed above are prohibited entry into California from quarantined areas since they have the potential to carry emerald ash borer, except as specified below.

The exceptions to the list above are articles and commodities that:

- are determined to be free of emerald ash borer upon inspection, and the inspector determines that the article has been grown, produced, manufactured, stored, or treated in a manner that prevents the article from presenting a risk of spreading the emerald ash borer,

- are moved by the United States Department of Agriculture for experimental or scientific purposes.

Alternatively, if the regulated articles originate outside the quarantined area and is moved through the quarantined area they can be allowed in California under the following conditions if:

- they are moved through the quarantined area and points of origin and destination are indicated on a waybill accompanying the regulated article, and
- the regulated article, if moved through the quarantined area during the period of May 1 through August 31 or when the ambient air temperature is 40 °F or higher, is moved in an enclosed vehicle or is completely covered to prevent access by the emerald ash borer, and
- the regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer, and
- the article has not been combined or commingled with other articles so as to lose its individual identity.

The details of this quarantine are similar to the federal domestic quarantine requirements for emerald ash borer that ended in January 2021.

#### ANTICIPATED BENEFITS FROM THIS REGULATORY ACTION

The adoption of this regulation benefits homeowners who possess ash trees and host material which is planted as ornamentals in various rural and urban landscapes by preventing damage to these hosts and the need for them to be treated to mitigate infestations of emerald ash borer.

#### EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department considered any other possible related regulations in this area and finds that these are the only regulations dealing in this subject area, and the Department is the only State agency that can implement this proposed regulation. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this proposed regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

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

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

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

Significant effect on housing costs: None.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Department has concluded that this section 3288 (l) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or elimination of businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) is not expected to have a direct effect on the health and welfare of California residents and (5) is not expected to have a direct impact on the state's environment.

Small business determination: The adoption of section 3288 will provide authority for the Department to conduct exterior quarantine against emerald ash borer activities and there are no known private sector cost impacts.

The Department has determined the adoption of this regulation would benefit:

- the general public
- homeowners and community gardens
- agricultural industry
- the State's general fund
- the environment

There are no known specific benefits to worker safety or the health of California residents.

EXISTING LAWS & REGULATIONS

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (Food and Agricultural Code (FAC) Section 5321).

Existing law allows the Secretary to adopt quarantine regulations as necessary to protect the California agricultural industry from pests and prevent the spread of injurious insect pests and animal diseases (Food and Agricultural Code (FAC) sections 407, 5301, and 5302).

This adoption of Section 3288 will create an exterior quarantine for the emerald ash borer. The effect of this regulation will be to provide authority for the State to prevent spread of the emerald ash borer to non-infested areas in order to protect California's agricultural industry and environment.

CALIFORNIA ENVIRONMENTAL  
QUALITY ACT (CEQA)

A preliminary review pursuant to title 14 CCR section 15060(c) indicates that adoption of this regulation will not cause either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 than the proposal described in this Notice.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is:

Dean Kelch  
California Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
2800 Gateway Oaks Drive, Suite #200  
Sacramento, CA 95833  
[dean.kelch@cdfa.ca.gov](mailto:dean.kelch@cdfa.ca.gov)  
916.403.6650  
916.651.2900 (FAX)

The backup contact person for these inquiries is:

Erin Lovig  
California Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
2800 Gateway Oaks Drive, Suite #200  
Sacramento, CA 95833  
[erin.lovig@cdfa.ca.gov](mailto:erin.lovig@cdfa.ca.gov)  
916.654.1017  
916.651.2900 (FAX)

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

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

After the comment period and considering all timely and relevant 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. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.

**INTERNET ACCESS**

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/plant/Regulations.html](http://www.cdfa.ca.gov/plant/Regulations.html)). Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikethrough can be accessed through at this website.

**TITLE 4. DEPARTMENT OF  
ALCOHOLIC BEVERAGE CONTROL**

The Department of Alcoholic Beverage Control (ABC) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

ABC 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 authorized representative, may submit written comments relevant to the proposed regulatory action to ABC. The written comment period closes at **12:00 p.m. on April 5, 2022**, ABC will consider only comments received at ABC Headquarters by that time. Submit comments to:

Law and Policy Unit  
Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100  
Sacramento, CA 95834

Comments may also be submitted by email to [RPU@abc.ca.gov](mailto:RPU@abc.ca.gov), please include "Priority Registration Drawings" in the subject line of your email.

**AUTHORITY AND REFERENCE**

Authority: Sections 23816, 23817, 23820, 23821, 23959, 23961, 23962, 24070, and 24079, Business and Professions Code.

Reference: Sections 494.5, 23394, 23396, 23396.1, 23396.2, 23396.3, 23691, 23816, 23817, 23818, 23820, 23821, 23826, 23826.5, 23826.7, 23826.9, 23826.10, 23826.11, 23826.12, 23826.13, 23826.14, 23827, 23950, 23951, 23952, 23953, 23954, 23954.6, 23956, 23957, 23958, 23958.4, 23959, 23961, 23962, and 24070, Business and Professions Code.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

This rulemaking action is designed to clarify terms regularly used by the industry and to establish the processes and procedures for the Department of Alcoholic Beverage Control to conduct yearly priority drawings. This action also makes efforts to modernize the priority drawing process by eliminating the manual analog process and implementing a digital randomized process.

**SUMMARY OF EXISTING  
LAWS AND REGULATIONS**

Business and Professions Code section 23961 describes the situation that a priority drawing is necessary and the requirements to participate in such drawings.

**SUMMARY OF EFFECT**

The broad objective of this regulation is to create a uniform process of selecting priority registrations for hopeful ABC license holders.

**COMPARABLE FEDERAL  
STATUTE OR REGULATION**

ABC has determined that this proposed regulation does not have a comparable federal statute or regulation.

**POLICY STATEMENT OVERVIEW**

The mission of the Department of Alcoholic Beverage Control is to provide the highest level of service and public safety to the people of the State through licensing, education, and enforcement. The Department values trust, innovation, and professionalism. This proposed regulation ensures a fair and uniform process for priority drawings.

**BENEFITS ANTICIPATED**

By establishing a process for priority drawings, ABC anticipates a fair and timely process for participating licensees. The anticipated benefit of this action will not only clarify commonly used terms but also

ensure a fair and uniform process through all county priority drawings conducted by the Department.

**DETERMINATION OF INCONSISTENCY/  
INCOMPATIBILITY WITH EXISTING  
STATE REGULATIONS**

ABC has determined that this proposed regulatory action is not inconsistent or incompatible with existing state regulations.

**EFFECT UPON SMALL BUSINESSES  
IN CALIFORNIA**

Although licensees are often small business owners, this proposed regulation will have no regulatory effect on them. The intent of this proposed regulation is to clarify and modernize the longstanding practice of conducting annual priority drawings for applicants seeking available alcohol licenses. This will benefit small business owners as it allows for a more efficient and streamlined process.

**DISCLOSURES REGARDING THE  
PROPOSED ACTION**

The ABC has made the following initial determinations:

1. Mandate on local agencies or school districts: None.
2. Costs or savings to any state agency: Any additional cost will be absorbed into ABC's current budget.
3. Cost to any local agency or school district that is required to be reimbursed by the state: None.
4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Cost impacts on housing costs: None.

**DETERMINATION OF  
STATEWIDE ADVERSE ECONOMIC  
IMPACT ON BUSINESS**

The ABC has made an initial determination that the adoption of this regulation will have negligible economic impact on businesses. There is no foreseeable impact on businesses based on the process laid out in the proposed regulation.

**RESULTS OF THE ECONOMIC  
IMPACT ASSESSMENT**

ABC concludes that it is (1) unlikely that the proposal will eliminate any jobs, (2) unlikely that the proposal will create an unknown number of jobs, (3) unlikely that the proposal will create an unknown number of new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state. It is unlikely that the proposed legislation will impact worker safety.

The proposed regulation will ensure that priority drawings will be fair and equitable for all priority applicants and ensure alcohol licenses are distributed in a fair and equitable manner throughout the state. In addition, the proposed regulations will facilitate a small cost savings as paper applications will be eliminated in favor of digital submissions. The modernization and centralization of the priority drawing process will over time provide benefits to the health and welfare of California residents by lowering travel, costs, and environmental impact of priority drawings throughout the state.

**DESCRIPTION OF ALL ECONOMIC  
IMPACTS THAT A REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS  
WOULD NECESSARILY INCUR IN  
REASONABLE COMPLIANCE WITH  
THE PROPOSED ACTION**

The ABC has made an initial determination that the adoption of this regulation will have negligible economic impact on private persons or businesses. There is no foreseeable impact on private persons or businesses based on the process laid out in the proposed regulation.

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

**THE NEED TO REQUIRE REPORTS  
FROM BUSINESSES**

The proposed regulation does not require any reports from ABC licensees or any other business.

**CONSIDERATION OF ALTERNATIVES**

ABC has determined that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the

purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. ABC invites interested persons to present statement or arguments with respect to alternatives to the proposed regulation during the written comment period.

#### AGENCY CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to the agency representative Robert de Ruyter, Assistant General Counsel, (916) 419-8958, (designated backup contact) Shelby Pender, Associate Governmental Program Analyst, Law and Policy Unit, (916) 285-8517 or via email at [RPU@abc.ca.gov](mailto:RPU@abc.ca.gov).

#### AVAILABILITY OF DOCUMENTS

ABC prepared an Initial Statement of Reasons for the proposed action. Copies of the Initial Statement of Reasons, and the full text of the proposed regulations may be accessed on ABC's website listed below or may be obtained from the Law and Policy Unit, Department of Alcoholic Beverage Control, 3927 Lennane Drive, Suite 100, Sacramento, CA 95834, on or after February 18, 2022.

ABC staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

#### CHANGE TO THE PROPOSED FULL TEXT OF THE REGULATION

If there is any change to the proposed full text of the regulation in a substantial, or sufficiently related way, it will be made available for comment for at least 15 days prior to the date on which the department adopts the resulting regulation.

#### FINAL STATEMENT OF REASONS AVAILABILITY

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

#### INTERNET ACCESS

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on ABC's website for this rulemak-

ing at <https://www.abc.ca.gov/law-and-policy/regulations-rulemaking/>.

### TITLE 5. SCHOLARSHARE INVESTMENT BOARD

#### SECTIONS 31010 THROUGH 31018 TITLE 5, DIVISION 4.5, CHAPTER 3 CALIFORNIA CODE OF REGULATIONS

NOTICE IS HEREBY GIVEN that the ScholarShare Investment Board (SIB), organized and operating pursuant to Sections 69996 through 69996.9 of the Education Code, proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action. Any person interested may present statements or arguments relevant to the proposed action to the attention of the Contact Person as listed in this Notice no later than April 4, 2022. SIB, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal 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(s) designated in this notice as Contact Person and will be mailed to those persons who submit statements related to this proposal or who have required notification of any changes to the proposal.

#### PROPOSED REGULATORY ACTION

SIB proposes to adopt Sections 31010, 31011, 31012, 31013, 31014, 31015, 31016, 31017, and 31018 of Title 5 of the California Code of Regulations (Regulations). The Regulations implement SIB's responsibilities and other details related to the California Kids Investment and Development Savings Program (CalKIDS or Program).

#### AUTHORITY AND REFERENCE

*Authority:* Section 69996.4, Education Code. Section 69996.4 provides SIB with the authority to carry out the duties and obligations of the Program pursuant to this article and have all other powers as may be necessary for the effectuation of the purposes, objectives, and provisions of this article. Subsection 69996.4(n) of the Education Code provides SIB the authority to adopt regulations for the implementation and administration of the Program.

*Reference:* Sections 69996-69996.9 of the Education Code. These Regulations implement the CalKIDS Program and include a number of the requirements of



that program contained in the reference code provisions and their implementing Regulations.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

SIB was created in 1997 under the Golden State ScholarShare Trust Act with the passage of federal legislation allowing states to create and administer their own qualified tuition program as articulated in section 529 of the Internal Revenue Tax Code. SIB is responsible for the administration of the Golden State Scholarshare College Savings Trust (Education Code section 69981, et seq.).

In 2019, Governor Newsom signed into law Senate Bill 77, which initially created the CalKIDS Program. This bill, along with subsequent legislation, established the CalKIDS Program, with the intent of providing college savings account funds for each child born in California and eligible California public school students. SIB is responsible for maintaining designated beneficiary account deposits and information within the CalKIDS Account for the purpose of funding qualified higher education expenses. These accounts shall be funded by any grants, gifts, appropriations, and other moneys from any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit.

Regulations for the CalKIDS Program need to be created in order for SIB to administer this program. The Regulations include the addition of the sections briefly summarized below:

*Section 31010. Definitions Applicable to CalKIDS Program.* Defines the meaning of the words and phrases used in the article as applicable to the CalKIDS Program.

*Section 31011. Eligibility.* Outlines the eligibility criteria that must be met by those under consideration for a CalKIDS Account.

*Section 31012. Deposits.* Provides an overview of the amounts and types of financial incentives available to CalKIDS participants on behalf of the Program. Outlines criteria for the Executive Director to consider if the amount and types of financial incentives need to be modified.

*Section 31013. Notifications.* Outlines details on the information that will be included in notifications sent to parents of each child eligible for a CalKIDS account.

*Section 31014. Opt-Out.* Provides information on how CalKIDS participants may opt-out from the Program if they choose.

*Section 31015. Access CalKIDS Account.* Provides information on how CalKIDS participants may view and access their CalKIDS Accounts.

*Section 31016. Claims and Withdrawals Process.* Provides information on how CalKIDS participants may request a withdrawal of funds from their CalKIDS accounts for qualified expenses.

*Section 31017. Forfeiture of Account Funds.* Provides information on the forfeiture of CalKIDS account funds.

*Section 31018. The Appeals Process.* Provides information on the appeals process for CalKIDS beneficiaries requesting to withdraw CalKIDS account funds past the CalKIDS beneficiaries' 26<sup>th</sup> birthday deadline outlined in statute.

The broad objective of the regulations is to provide details about the CalKIDS Program and to ensure CalKIDS beneficiaries and participants have opportunities to engage with the Program. The specific benefits anticipated from the regulations are increased participation in the Program, more families saving for college by opening and contributing to a ScholarShare 529 account, and greater emphasis on saving for higher education.

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

The Department has conducted an evaluation of this proposed regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

**OTHER MATTERS PRESCRIBED BY  
STATUTES APPLICABLE TO THE  
SPECIFIC STATE AGENCY OR TO ANY  
SPECIFIC REGULATION OR  
CLASS OF REGULATIONS**

No other matters prescribed by statute are applicable to SIB or to any specific Regulation or class of Regulations pursuant to 11346.5(a)(4) of the California Government Code pertaining to the proposed Regulations or SIB.

**MANDATE ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS**

SIB has determined that the Regulations do not impose a mandate on local agencies or school districts.

**FISCAL IMPACT**

SIB has determined that the Regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

**INITIAL DETERMINATION REGARDING ANY SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

SIB has made an initial determination that the Regulations will not have any significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**EFFECT ON SMALL BUSINESSES**

SIB has determined that the adoption of the Regulations will not affect small businesses. Small businesses will not be enrolled in the program. As such, they will not be impacted by the proposed Regulations.

**COST IMPACTS**

SIB has determined that the regulations may have a possible cost impact no greater than \$75 on a private person. The regulations will describe additional financial incentives presented to newborns not listed in current law. Education Code 69996.3 authorizes the Board to provide additional financial incentives to this enrolled population. The Board will provide newborns born on or after July 1, 2022 the opportunity to receive the deposit amounts listed below. These regulations will enable a beneficiary to receive \$75 beyond the statutory requirement of \$25.

- \$25 when they register on the CalKIDS Program online portal.
- \$50 when they open and link an individual ScholarShare 529 Account to their CalKIDS Account.

The Board made the following participation and cost assumptions to determine this financial deposit structure for the newborn population.

**Incentive:** Universal Seed (statutory requirement)  
**Amount:** \$25  
**Annual Population Size:** 450,000  
**Annual Cost:** \$11,250,000

**Incentive:** Registration  
**Amount:** \$25  
**Annual Population Size:** 90,000  
**Annual Cost:** \$2,250,000

**Incentive:** Linked ScholarShare 529 Account  
**Amount:** \$50  
**Annual Population Size:** 45,000  
**Annual Cost:** \$2,250,000

**Maximum Total Amount:** \$100  
**Annual Cost:** \$15,750,000

The Board assumes that 20% of the total annually-enrolled birth population (90,000) will register their account within one year. The Board also assumes that 10% of the total annually enrolled newborn population (45,000) — or 50% of anticipated registrants — will open and link an individual ScholarShare 529 account.

Discounting the statutory requirement for a universal seed deposit of \$25, the total possible regulatory impact for one year will equal \$75 times the anticipated annual birth population of 450,000. As such, the possible cost impact of the regulations will be no greater than \$33,750,000.

SIB is not aware of any cost impacts a business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT ON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION**

Adoption of these regulations will not: (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.

**ASSESSMENT OF BENEFITS ON HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT**

Adoption of these regulations will not provide benefits or impact on the health and welfare of California residents, worker safety, or the state's environment.

**COST IMPACT ON HOUSING**

The Regulations will not have any effect on housing costs.

REASONABLE ALTERNATIVES

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

SIB invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

AGENCY CONTACT PERSONS

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Noah Lightman, Manager, Children’s Savings  
Account Initiatives  
ScholarShare Investment Board  
915 Capitol Mall, Room 590  
Sacramento, CA 95814  
[Noah.Lightman@treasurer.ca.gov](mailto:Noah.Lightman@treasurer.ca.gov)  
(916) 651-8376

The following person is designated as a back-up contact person for inquiries only regarding the Regulations:

Julio Martinez, Executive Director  
ScholarShare Investment Board  
915 Capitol Mall, Room 590  
Sacramento, CA 95814  
[Julio.Martinez@treasurer.ca.gov](mailto:Julio.Martinez@treasurer.ca.gov)  
(916) 651-6380

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to SIB. The written comment period on the Regulations will end on April 4, 2022. All comments to be considered by SIB must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, SIB will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to title 1, Chapter 1, Section 44 of

the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF INITIAL  
STATEMENT OF REASONS, FINAL  
STATEMENT OF REASONS,  
RULEMAKING FILE AND  
EXPRESS TERMS OF  
PROPOSED REGULATIONS

Pursuant to the California Government Code, SIB has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at SIB’s office at 915 Capitol Mall, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the Final Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons, the Final Statement of Reasons, and the proposed text, may be viewed on SIB’s website at [www.treasurer.ca.gov/scholarshare](http://www.treasurer.ca.gov/scholarshare).

PUBLIC HEARING

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to SIB at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, SIB may adopt the Regulations substantially as described in this Notice, without further notice. If SIB 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 (including through SIB’s website described above) for at least fifteen (15) calendar days before SIB adopts the proposed Regulations, as modified. Inquiries about

and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

**TITLE 17. INSTITUTE FOR REGENERATIVE MEDICINE**

**NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE**

NOTICE IS HEREBY GIVEN that the California Institute for Regenerative Medicine (CIRM), pursuant to the authority vested in it by section 87300 of the Government Code, proposes to amend its conflict-of-interest code. A comment period has been established commencing on February 18, 2022 and closing on April 4, 2022. All inquiries should be directed to the CIRM contact listed below.

CIRM's proposed amended conflict-of-interest code includes employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment of the code carries out the purposes of the Political Reform Act and no other alternative would do so and be less burdensome to affected persons. The conflict-of-interest code includes:

- Incorporation by reference of the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission;
- Provisions requiring the Board Members, including the Chairman of the Independent Citizens Oversight Committee, and President/CEO of CIRM to file their statements of economic interests electronically with the Fair Political Practices Commission.
- Provisions requiring all other designated positions to file their statements of economic interests directly with CIRM;
- Provisions identifying designated positions within CIRM and corresponding disclosure categories, as specified; and
- Incorporation of Appendix A, which establishes three disclosure categories:
  - Category 1, which requires reporting of all investments, real property, business positions, and sources of income (including gifts, loans, and travel payments);
  - Category 2, which requires reporting of in-

vestments, business positions, and sources of income (including gifts, loans, and travel payments) if the business entity or source provides any goods or services of the type used by CIRM; and

- Category 3, which requires reporting of (a) real property within a local jurisdiction in which entities subject to the licensing or other regulatory jurisdiction of CIRM may lawfully operate, as well as (b) investments, business positions, and sources of income (including gifts, loans, and travel payments) if the business entity or source is either (1) an entity subject to the licensing or other regulatory jurisdiction of CIRM or (2) an officer, employee, or owner (as defined in California Code of Regulations, title 4, section 15003, or any successor regulation) of, or any holder of a financial interest (as defined in California Code of Regulations, title 4, section 15004, or any successor regulation) in, such an entity.

The amended conflict-of-interest code and explanation of the reasons can be obtained from contact listed below. Any interested person may submit written comments relating to the proposed adoption by submitting them no later than April 4, 2022, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than March 18, 2022.

CIRM has determined that the proposed adoption:

1. Imposes no mandate on local agencies or school districts.
2. Imposes no costs or savings on any state agency.
3. Imposes no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses. All inquiries concerning this proposed adoption and any communication required by this notice should be directed to:

Benjamin Huang  
Associate General Counsel  
1999 Harrison Street, Oakland, CA 94612  
[Bhuang@cirm.ca.gov](mailto:Bhuang@cirm.ca.gov)  
(510) 340-9101

**TITLE 22. DEPARTMENT OF  
SOCIAL SERVICES**

CHAPTERS

ORD #1021-04

ITEM # CCL Adult and Senior Care Facilities:  
Infection Control Requirements

The California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services  
Office of Regulations Development  
744 P Street, MS 8-4-192  
Sacramento, CA 95814  
Telephone: (916) 657-2856, Fax: (916) 653-7395  
Email: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

Statements or arguments relating to the proposals may be submitted in writing, e-mail, or by facsimile to the address/number listed above. All comments must be received by April 6, 2022.

Following the public comment period, 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. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed above. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at *CDSS Public Comment Period for Proposed Regulations* (<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/regulations-home-page/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 above. Following the public comment period, copies of the Final Statement of Reasons will be available at the above address.

California Code of Regulations (CCR), Title 22, Division 6, Chapter 1 (General Licensing Requirements), Chapter 2 (Social Rehabilitation Facilities), Chapter 3 (Adult Day Program), Chapter 6 (Adult Day Programs), Chapter 8 (Residential Care Facilities for the Elderly), and Chapter 8.5 (Residential Care Facilities for the Chronically Ill)

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

CDSS licenses community care facilities for children and adults in need of basic care and supervision.

Communicable diseases have a detrimental impact to the vulnerable individuals who receive care and supervision in licensed Adult and Senior Care Facilities. CDSS came to realize, during the Coronavirus Disease 2019 (COVID-19) pandemic, that there is an immediate need to establish more reliable and enforceable infection control requirements for licensed Adult and Senior Care Facilities. These facilities are among the most impacted by the COVID-19 pandemic, and this is due in part to insufficient infection control requirements that all facilities should maintain. The Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020, currently remains in effect, demonstrating continued conditions of disaster or extreme peril to the safety of persons within the state due to an epidemic as defined in Government Code section 8558. Adult and Senior Care facilities, settings within which direct care and services are provided, are high-risk settings where COVID-19 transmission and outbreaks can have severe consequences for vulnerable populations resulting in hospitalization, severe illness, and death.

The devastating impact of communicable diseases and this need for infection control requirements are best exemplified by the data being gathered during the ongoing COVID-19 pandemic as follows:

- In May 2020, a study commissioned by Senators Warren and Markey, with Representative Maloney (2020), surveyed 11 of the largest assisted living chain operations in April 2020, and the providers reported that 2.9% of all residents tested positive, a rate that was five times higher than the national average, and the fatality rate was 31% of residents that tested positive to COVID-19, a rate that was six times higher than the national average.
- In a September 2020 study surveying seven states across America, the case fatality rate in assisted living facilities was “four times higher, even though fewer than 10% of assisted living facilities reported being affected by the pandemic”

(Temkin–Greener et al., 2020, page 6). This study further found that facilities with additional health concerns had significantly more cases and deaths related to COVID–19.

- The Order of the State Public Health Officer dated December 22, 2021 included the introduction of the Order of the State Public Health Officer dated September 28, 2021. This introduction provided:
  - California continues to experience high–levels of COVID–19 cases with 21.1 new cases per 100,000 people per day, with case rates currently tenfold higher as compared to June 2, 2021. The Delta variant is highly transmissible and causes more severe illness.
  - Recent data suggests that viral load is roughly 1,000 times higher in people infected with the Delta variant than those infected with the original coronavirus strain, according to a recent study.
  - Among 19,830 confirmed COVID–19 outbreaks throughout the pandemic, 47% were associated with the health care, congregate care, and direct care sector. The top industry settings are Adult and Senior Care facilities and in–home direct care settings (22%) where increasing numbers of workers are among the new positive cases, and recent outbreaks in these types of settings have frequently been traced to unvaccinated individuals.
- The Order of the State Public Health Officer dated December 22, 2021 also included the following updates:
  - Since November 25, 2021, California’s seven–day average case rate has increased by 34% and hospitalizations have increased by 17%.
  - Recent data suggests the increased transmissibility of the Omicron variant is two to four times as infectious as the Delta variant, and there is evidence of immune evasion. The Omicron variant is currently the most common variant causing new infections in California.

In addition, the recent emergence of the Omicron variant (it is estimated that approximately 70% of cases sequenced, nationally, are Omicron, and rapid increases are occurring globally) further emphasizes the importance of vaccination and boosters, and prevention efforts, including testing, are needed to continue protecting against COVID–19.

Although COVID–19 vaccination remains effective in preventing severe disease, recent data suggest vaccination becomes less effective over time at preventing

infection or milder illness with symptoms, especially in people aged 65 years and older.

Based on the emergence of Omicron, additional statewide facility–directed measures are necessary to ensure we maintain adequate staffing levels within our healthcare delivery system. Additionally, given the current hospital census, even a moderate surge in cases and hospitalizations could materially impact California’s health care delivery system within certain regions of the state.

Further, Adult and Senior care facility settings, including but not limited to assisted living settings, share several features. There is frequent contact between staff or workers and highly vulnerable individuals, including elderly, chronically ill, critically ill, medically fragile, and people with disabilities. Many persons in care are at high risk of severe COVID–19 disease due to underlying health conditions, advanced age, or both. In congregate care living situations, individuals with these higher risks live in close proximity, which can lead to both high transmission risk and high risk for severe COVID–19 symptoms, hospitalizations, and deaths (Zimmerman et al., 2020).

These regulations will ensure the immediate protection and preservation of the health and safety of adults and seniors in licensed community care against currently known communicable diseases and future unknown communicable diseases.

These emergency regulations will require facilities to have a specific infection control plan included in their plan of operation that will be approved by the Community Care Licensing Division (CCLD) of CDSS. The infection control plan shall be developed to prevent, mitigate and contain infectious diseases. The plan will require a specific infection control program for the facilities to establish, which shall include, but is not limited to, training requirements, designated staff lead for infection control, and documentation requirements. Additionally, an emergency declaration for pandemic or epidemic Plan will be required if a Declaration of a State of Emergency is proclaimed pursuant to the Government Code, like the COVID–19 Proclamation of a state of Emergency. This will ensure that facilities respond effectively to the given emergency related to infectious disease.

These regulations will provide immediate protection and preservation of the health and safety of adults and staff in licensed community care. These regulations will ensure CDSS aids and protects the health and safety of vulnerable individuals in licensed community care. These regulations will ensure that facilities take measures to prevent, mitigate, and contain the spread of communicable diseases and respond effectively to infectious disease risks and outbreaks. These regulations will create an Infection Control section for CCR Title 22, Chapter 2 (Social Rehabilitation

Facilities), Chapter 3 (Adult Day Programs), Chapter 6 (Adult Day Programs), Chapter 8 (Residential Care Facilities for the Elderly), and Chapter 8.5 (Residential Care Facilities for the Chronically Ill), all of which are enforced by CDSS.

To ensure the immediate protection and preservation of the health and safety of adults and seniors in licensed community care, these emergency regulations will require facilities to have a specific infection control plan to be included in their plan of operation. These plans shall be developed to specify measures to prevent, mitigate and contain the spread of infectious diseases. These plans will set procedures for limiting the risk of exposure and spread of an infectious disease to keep persons in care safe. These emergency regulations are necessary to streamline emergency response needs for communicable diseases that may affect adults and seniors in licensed community care.

CDSS considered other possible related regulations in this area, and we found that these are the only regulations dealing with communicable diseases in licensed Adult and Senior Care Facilities. CDSS finds that these proposed regulations are compatible and consistent with existing state regulations.

#### SOURCES

- Aragon, T. J. (2021, September 28). *Order of the State Public Health Officer Adult Care Facilities and Direct Care Worker Vaccine Requirement*. California Department of Public Health. <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Adult-Care-Facilities-and-Direct-Care-Worker-Vaccine-Requirement.aspx>.
- Temkin-Greener, H., Guo, W., Mao, Y., Cai, X., & Li, Y. (2020). COVID-19 Pandemic in Assisted Living Communities: Results from Seven States. *Journal of the American Geriatrics Society*, 1–7. <https://doi.org/10.1111/jgs.16850>.
- Warren, E., Markey, E., & Maloney, C. (2020). COVID-19 in Assisted Living Facilities. United States of America Congress, 1–14. <https://www.warren.senate.gov/imo/media/doc/Assisted%20Living%20Facilities%20Staff%20Report.pdf>.
- Zimmerman, S., Sloane, P. D., Katz, P. R., Kunze, M., O’Neil, K., & Resnick, B. (2020). The Need to Include Assisted Living in Responding to the COVID-19 Pandemic. *Journal of the American Medical Directors Association*, 21(5), 572–575. <https://doi.org/10.1016/j.jamda.2020.03.024>.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact.
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: No fiscal impact.
4. Federal Funding to State Agencies: No fiscal impact.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon CDSS licensed facilities operated by local public agencies. The mandate is not required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code or Section 6 of Article XIII B of the California Constitution.

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

The CDSS has made an initial determination that the proposed action will not have a significant, state-wide 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 fact that the changes presented in these regulations expand upon existing infection control requirements only for facilities licensed by CDSS and will not have any impact on businesses or the state economy.

#### 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.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to facilities licensed by CDSS state and county agencies.

#### STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California. Additionally, the proposed amendments will neither

create nor eliminate existing businesses within the State of California. Nor will these proposed amendments expand or eliminate businesses within the State of California. The proposed regulations include changes to adult and senior care regulations by adopting health and safety standards which will ensure the safety of persons in care and staff in licensed facilities. In addition, the proposed regulations make technical, conforming changes, such as adding and renumbering of sections and amending cross references as necessary.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: These emergency regulations ensure CDSS aids and protects the health and safety of vulnerable individuals in licensed care facilities from communicable diseases, such as the COVID-19 pandemic. These emergency regulations will keep the state's vulnerable population in community care safe, as this population relies on care and supervision from licensees and staff who are responsible for the health and safety provisions associated with operating a licensed facility. Requiring infection control practices that prevent, mitigate, and contain communicable diseases, this will benefit persons in care, staff and the associated community. There are no anticipated benefits to the state's environment.

**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 was not presented with any other alternative for consideration.

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**

CDSS adopts these regulations under the authority granted in Sections 1530, 1569.30, 1569.31, and 1569.69, Health and Safety Code. Subject regulations implement and make specific Sections 1501, 1502,

1507, 1530, 1531, 1531.15, and 1569.69 of the Health and Safety Code.

**CDSS REPRESENTATIVE REGARDING THE  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATION**

Contact Person: Everardo Vaca (916) 657-2586  
Backup: Oliver Chu (916) 657-2586

**EMERGENCY STATEMENT**

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at a public hearing in accordance with Government Code section 11346.4.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF  
FISH AND WILDLIFE**

**CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
EMMERSON INVESTMENTS, INC., SELDOM  
SEEN RANCH SAFE HARBOR  
2081-2022-001-01  
SISKIYOU COUNTY**

California Department of Fish and Wildlife (CDFW) received a notice on February 4, 2022, that Emmerson Investments, Inc. (Landowner) proposes to rely on a federal safe harbor agreement to carry out a project that may provide a net conservation benefit for the Southern Oregon Northern California Coast (SONCC) coho salmon evolutionarily significant unit (ESU) (*Oncorhynchus kisutch*), a species protected by the California Endangered Species Act. The proposed project involves routine agricultural activities implemented according to avoidance and minimization measures, as well as beneficial management actions such as increased water delivery and habitat improvements intended to provide conservation benefits to the SONCC coho salmon ESU in the Shasta River. The proposed project will occur on Seldom Seen Ranch, which is located north of Lake Shastina and west of Big Springs Road in Siskiyou County, California.

The notice requested a CDFW determination pursuant to California Fish and Game Code Section 2089.22, that the template safe harbor agreement dated February 24, 2021, the Site Plan Agreement dated November 3, 2020 and the enhancement of survival



permit number 23290 issued by the National Marine Fisheries Service to the Landowner on February 24, 2021, are consistent with the California State Safe Harbor Agreement Program Act (CSSHAPA) for purposes of the proposed Project. If CDFW determines the federal safe harbor agreement is consistent with CSSHAPA for the proposed Project, the Landowner will not be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

**DEPARTMENT OF  
FISH AND WILDLIFE**

PROPOSED RESEARCH ON A FULLY  
PROTECTED SPECIES  
RESEARCH ON LIMESTONE SALAMANDER  
(*Hydromantes brunus*)

The Department of Fish and Wildlife (Department) received a proposal on January 25, 2022, from Dr. Brian Halstead, requesting authorization to take the Limestone Salamander (*Hydromantes brunus*) ('LISA') for scientific research purposes. The LISA is a Fully Protected amphibian and is also listed as Threatened under the California Endangered Species Act.

The LISA is currently under review by the U.S. Fish and Wildlife Service (Service) for possibly listing under the federal Endangered Species Act. The Service has contracted with the U.S. Geological Survey (USGS) to conduct surveys for the species to help inform the Service's listing decision. Dr. Halstead is a Research Wildlife Biologist with the USGS's Western Ecological Research Station. He is currently in possession of research and recovery permits for numerous species of amphibians and reptiles listed under the federal and Endangered Species Act.

Dr. Halstead and colleagues have developed a survey protocol to estimate occupancy across its putative range in Mariposa County that minimizes disturbance to individual LISA and their habitat. No invasive methods will be used. Visual encounter surveys will be undertaken, looking for surface-active LISA as well as those under cover objects (e.g., rocks, logs, debris). Capture, when necessary to verify identification, will be by hand. Photographs will serve as vouchers, and a subset of captured individuals will be sampled for disease by swabbing the skin and preserving the swabs for analysis in a lab.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Dr. Halstead as the Principal Investigator, to carry out the proposed activities. The researchers are

also required to have a valid federal recovery permit for LiSA and a Scientific Collecting Permit to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected amphibian species after a 30 days' notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected amphibians, it would issue the MOU on or after March 20, 2022, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, [Laura.Patterson@wildlife.ca.gov](mailto:Laura.Patterson@wildlife.ca.gov), 916-373-6633.

**DEPARTMENT OF  
FISH AND WILDLIFE**

CALIFORNIA ENDANGERED  
SPECIES ACT  
CONSISTENCY DETERMINATION  
NUMBER 2080-2021-016-05

**Project:** 705 Mail Road, Lompoc, CA, 93436  
(Assessor's Parcel Number  
(APN) 099-210-055)

**Location:** Santa Barbara County

**Applicant:** Hines Family Investments, LLC

**Notifier:** Morgan Krapes, Flowers &  
Associates, Inc.

**Background**

Hines Family Investments, LLC (Applicant) proposes to develop a cannabis cultivation project (Project) on 5 acres of a 98.7-acre parcel (APN 099-210-055) located at 705 Mail Road, Lompoc, County of Santa Barbara, State of California, 93436 (Property). The Project includes the conversion and use of an active, historically cultivated farm and related support facilities including access roads, ancillary structures, and existing utilities present on site.

*Cultivation Areas*

The proposed cannabis cultivation will occupy approximately 5 acres. Approximately 3.5 acres of cultivation are currently and have been historically farmed outdoors. Cultivation on the remaining 1.5 acres will take place in existing buildings and one new 2,820 square foot greenhouse. The outdoor cultivation site will be disked and tilled annually in accordance with organic agriculture practices. Most of the cultivation will be conducted using traditional organic methods with plants in the ground. In some cases, crop cultivation may be conducted in grow pots or bags with

soil. Irrigation will be delivered via a drip irrigation system with an agronomic rate programmed to apply water to the extent that it is needed by the plants daily. Water will be supplied by the on-site well located in the southeastern portion of the cultivation site.

#### *Streams and Stream Setbacks*

The Project site contains an unnamed stream that runs west to east through the property and adjacent to the outdoor cultivation area (approximately 50 feet west of the cultivation area). The stream is a tributary to Santa Rosa Creek and the Santa Ynez River. All cultivation activities will maintain a minimum setback of 50 feet from the onsite unnamed stream.

#### *Agricultural Support Facilities/Structures*

Operation and maintenance activities will occur in the southern portion of the Property. In this area, existing residences and buildings will be converted for cultivation purposes and water tanks, parking areas, composting, a solar array, and storage will also occur. In addition, a new 2,820 square-foot greenhouse will be developed.

#### *Fencing and Lighting*

The eastern Property boundary is currently fenced with eight-foot-high wire mesh deer fencing that will remain (no new fencing is proposed). Landscape screening will be provided along the southern portion of the cultivation area and within the developed portion of the site. All security gates and access points will be fixed with motion-activated lights that are directed toward the ground.

#### *Access and Roadways*

The access road for the Project will occur from the eastern end of the Project site through Mail Road. Existing dirt access roads are present within the Project site and are designed, constructed, and maintained consistent with the Handbook for Forest, Ranch, and Rural Roads (Pacific Watershed Associates 2015) and Title 14, Chapter 4 of the California Code of Regulations. No new access roads will be created for the Project.

#### *Federal Permit History*

In September 2019, the United States Fish and Wildlife Service (Service) approved a General Conservation Plan for Cultivation Activities in Santa Barbara County, California (GCP). The GCP is a conservation plan as required in Endangered Species Act (ESA; 16 U.S.C. § 1531 et seq.) section 10(a)(2)(A) for issuance of an incidental take permit (federal ITP) pursuant to ESA section 10(a)(1)(B) for take of California tiger salamander (*Ambystoma californiense*; CTS). These ESA provisions allow the Service to develop a 10(a)(1)(B) conservation plan suitable for the needs of a local area, and then to issue individual permits to landowners who apply for a federal ITP and demonstrate compliance with the terms and conditions of

the plan. The GCP therefore provides a federal ESA permitting mechanism for incidental take of CTS by private landowners engaged in horticulture activities. The Project is located in the Santa Rita CTS metapopulation identified in the GCP.

#### *Anticipated Take of California Tiger Salamander*

The Project activities described above are expected to incidentally take<sup>1</sup> CTS where those activities take place within the 5-acre cultivation area of the 98.7-acre Project site. In particular, CTS could be incidentally taken as a result of the development-related and long-term activities that include equipment access, staging, material storage, earth moving activities, active agricultural activities, operation and maintenance of structures, agricultural fields, infrastructure, irrigation and water management, vehicular traffic, security fencing and lighting, and increased human activities. CTS is designated as an endangered species pursuant to the federal ESA and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(3)(G).)

Based on analysis and consultation with the Service, the addition of impermeable areas on site including the new green house and proposed cultivation in the northern portion of the site, would remove suitable dispersal habitat for CTS. The Service determined that the species could occur within the Project site and that Project activities could result in the incidental take of CTS due to the proximity of the nearest known and potential CTS breeding ponds, CTS dispersal patterns, and the presence of suitable CTS dispersal habitat within the Project site. The Applicant applied for a federal ITP under the GCP for federal authorization to take CTS on the Project site.

On March 29, 2021, the Service issued a federal ITP (Permit Number ESPER0004039) to the Applicant pursuant to the GCP. The federal ITP describes the Project, requires the Applicant to comply with terms of the federal ITP and GCP, and incorporates additional measures.

The federal ITP authorizes the take of CTS in the form of capture for up to ten individuals and injury or mortality for up to three individuals during Project construction.

The Service calculated the value of the impacted habitat using the methodology outlined in Searcy

<sup>1</sup> Pursuant to Fish and Game Code section 86, "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "take"...means to catch, capture or kill").

and Shaffer (2008)<sup>2</sup> that included incorporating the amount of CTS aquatic breeding habitat and upland habitat on the Project site that will be impacted. The method described in Searcy and Shaffer (2008) attaches a value to habitat that scales with the reproductive value of the individuals estimated to be occupying an area. According to Searcy and Shaffer (2008), the reproductive value of a site is a function of: (1) distance from each known or potential breeding pond within dispersal distance of the site; and (2) land-use in the surrounding areas.

The Service determined that the Project would consequently result in the loss of a reproductive value of up to 1,628 units as calculated in accordance with Searcy and Shaffer (2008). Compensatory mitigation is based on the loss of this reproductive value for CTS.

On December 28, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from Morgan Krapes of Flowers & Associates, Inc. on behalf of William Hines, Hines Family Investments, LLC, requesting a determination pursuant to Fish and Game Code section 2080.1 that the federal ITP is consistent with CESA for purposes of the Project and CTS. (Cal. Reg. Notice Register 2022, Number 2–Z, page 28).

**Determination**

CDFW has determined that the federal ITP is consistent with CESA as to the Project and CTS because the mitigation measures contained in the federal ITP, and the GCP insofar as the federal ITP references and requires compliance with mitigation measures in the GCP, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of CTS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the federal ITP, and the GCP insofar as the federal ITP references and requires compliance with mitigation measures in the GCP, will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance, minimization and mitigation measures and to monitor compliance with, and effectiveness of, those measures; and (4) the Project will not jeopardize the continued existence of CTS. The mitigation measures in the federal ITP, and the GCP insofar as the federal ITP references and requires compliance with the GCP, include, but are not limited to, the following:

*Avoidance, Minimization, and Mitigation Measures*

1. Prior to the commencement of any activity that could result in take of CTS, the Applicant will

demonstrate that two mitigation credits have been purchased from the La Purisima Conservation Bank. Proposed Project impacts result in a loss of reproductive value of 1,628 units using the calculation method described in Searcy and Shaffer (2008). Using the same calculation method, one credit at the La Purisima Conservation Bank has a reproductive value of approximately 850 units. Therefore, the purchase of two credits will offset the impacts resulting from the Project.

*1.1 Although not a condition of the federal ITP, CDFW requests a copy of the documentation of the credit purchase at La Purisima Conservation Bank.*

2. During the Project planning phase, the Applicant will site all impacts as far away from known and potential CTS breeding habitats as possible and will avoid high quality upland and dispersal habitat as much as possible.
3. At least 15 days prior to ground-disturbing activities, the Applicant will submit the names and credentials of biologists and monitors to the Service for approval to conduct the minimization measures outlined below. Excluding an emergency activity, no Project activities will begin until the Applicant has received notice from the Service that the biologists and monitors are approved to do the work. The Service-approved biologist(s) will notify the Ventura Fish and Wildlife Office of their intent to conduct any monitoring events within 48 hours of commencing the activity.
 

*3.1 Although not a condition of the federal ITP, CDFW requests that Applicant submits the names and credentials of proposed biologists and monitors to CDFW at least 15 days prior to ground-disturbing activities.*
4. A Service-approved biologist will conduct a biological resources training program for all construction workers and their contractors to minimize potential impacts to CTS and sensitive habitat. Training will occur prior to initial ground-disturbing activities and be repeated annually and as needed for new workers for the duration of each Project activity. The training program will be reviewed and approved by the Service and will include a description of: (1) important biological resources within the Project site, specifically CTS that have potential to occur within or adjacent to work areas; (2) the applicable avoidance and minimization measures; (3) the roles and responsibilities of personnel; and (4) communication protocols if CTS are detected.
5. A Service-approved biologist will periodically review and monitor ground-disturbing activities and restoration efforts and will be responsible for

<sup>2</sup> Searcy, C. A. and H. B. Shaffer. 2008 Calculating biologically accurate mitigation credits: insights from the California tiger salamander. *Conservation Biology* 22: 997–1005.

ensuring that conditions of approval are being enforced and that success criteria are being met. Except for emergency situations, a Service-approved biologist will have the authority to temporarily halt activities if permit requirements and conditions are not being met.

6. Prior to ground-disturbing activities, all grading limits and construction boundaries, including staging areas, parking, and stockpile areas, will be delineated, and clearly marked in the field. All suitable CTS habitat located within ten feet of ground-disturbing activities will be delineated with specific sensitive species labeling (e.g., permanent signage stating, "No Entry — Sensitive Habitat."). A service-approved biologist(s) will work with the Service to identify these areas.
7. All proposed linear routes (i.e., roads and pipelines) will be reviewed and modified, if necessary, in the field to minimize impacts to the CTS with assistance by the on-site biologist or environmental monitor.
8. Personnel will limit their vehicle use to existing routes of travel. Travelling off designated roads will be prohibited unless access is determined critical for a particular activity and the route has been flagged to avoid or minimize adverse effects. To minimize the potential for road mortality of CTS, nighttime traffic will be minimized during the ground-disturbing phase to the extent feasible; all hauling activities within habitat for CTS will be restricted to daylight hours, defined as the hours after sunrise and before sunset.
9. Except in areas with posted speed limits greater than 10 miles-per-hour, Project-related vehicle speeds will not exceed 10 miles-per-hour when driving within CTS habitat.
10. Prior to moving vehicles or equipment, personnel will look under the vehicles or equipment for CTS. If CTS or any other wildlife species is observed, the vehicle will not be moved until the animal has vacated the area on its own accord or has been relocated out of harm's way in accordance with Measures 12–14.
11. A Service-approved biologist will conduct pre-activity surveys of CTS habitat within Project disturbance boundaries immediately prior to the onset of any ground disturbance associated with the Project to determine if any CTS individuals are present, and to refine the final habitat mitigation acreages. The Service-approved biologist will monitor ground-disturbing activities in the vicinity of habitats to be avoided. Upon completion of initial ground disturbance, the biologist or monitor will periodically (minimum twice per week) visit the Project site throughout the

ground-disturbing period to ensure that impacts to the Project site are in compliance with the permit. After periods of rain, a Service-approved biologist will conduct daily pre-activity surveys to ensure no CTS have migrated into the work area prior to ground-disturbing activities resuming. No construction work will be initiated until a Service-approved biologist determines that the work area is clear of CTS. Should any CTS be observed within harm's way, the animal will be allowed to vacate the area on its own accord or be relocated in accordance with Measures 12–14.

12. Any CTS or individual of other wildlife species will be allowed to vacate the Project areas on its own accord under the observation of a Service-approved biologist. If any CTS or other wildlife species does not relocate on its own, or if it is in harm's way, it will be relocated out of harm's way to nearby suitable habitat, similar to that in which it was found, and outside the Project area. Only a Service-approved biologist will relocate CTS. The biologists conducting relocation activities will follow the Declining Amphibian Task Force Fieldwork Code of Practice: [https://www.fws.gov/southwest/es/NewMexico/documents/SP/Declining\\_Amphibian\\_Task\\_ForceFieldwork\\_Code\\_of\\_Practice.pdf](https://www.fws.gov/southwest/es/NewMexico/documents/SP/Declining_Amphibian_Task_ForceFieldwork_Code_of_Practice.pdf).
13. A Service-approved biologist will relocate any CTS found within the Project footprint to an active rodent burrow system located no more than 300 feet outside of the Project area unless otherwise approved by the Service. The individuals will be handled with clean and wet hands. During relocation they will be placed in a clean, covered plastic container with a wet non-cellulose sponge. Captured individuals will be relocated immediately; individuals will not be stored for lengthy periods or in heated areas. The relocation container will be kept out of direct sunlight.
14. A Service-approved biologist will monitor relocated CTS until they enter a burrow and are concealed underground or otherwise deemed safe in the relocation area by the biologist. Relocation areas will be identified by the Service-approved biologist based on the best suitable habitat available. The Service-approved biologist will document both the capture site and the relocation site by photographs and GPS positions. The CTS will be photographed and measured (snout-vent) for identification purposes prior to relocation. All documentation will be provided to the Service within 24 hours of relocation.

*14.1 Although not a condition of the federal ITP, CDFW requests that the Applicant provides*

*copies of the translocation and monitoring reports to CDFW.*

15. Rodent burrows within the Project areas that overlap CTS habitat will be excavated by a Service–approved biologist using hand tools until it is certain that the burrows are unoccupied. In lieu of burrow excavation, steel plates or plywood may also be used to protect small mammal burrows from ground disturbance. Plates and plywood will be removed nightly and will be removed if work is scheduled to cease for consecutive days. Any individual CTS that are encountered will be allowed to vacate the area on their own accord or be relocated out of harm’s way in accordance with Measures 12–14.
16. Exclusionary silt fencing (or other suitable fencing material) will be installed at the discretion of a Service–approved biologist to minimize the potential for CTS to enter the worksite. Exclusionary fencing will be maintained for the duration of the Project. If a CTS or other wildlife species is observed within an enclosed worksite, a portion of the fencing will be removed to allow the individual to vacate the area on its own. Alternatively, the animal may be relocated out of harm’s way in accordance with Measures 12–14.
17. All construction and sediment control fencing will be inspected each workday during construction activities to ensure they are functioning properly.
18. Steep–walled excavations (e.g., trenches) that may act as pitfall traps will be inspected for wildlife at least once per day and immediately before backfilling. In lieu of daily inspections (weekends, etc.), exclusionary fencing, covers, ramps, or similar measures will be used to prevent wildlife entrapment.
19. Open pipe segments will be capped or sealed with tape (or equivalent material) nightly, or otherwise stored at least three feet above ground. Should a pipe segment become occupied by a CTS or any other wildlife species, the animal will be allowed to vacate the pipe on its own or will be removed and relocated in accordance with Measures 12–14.
20. If activities must occur during the rainy season, the Applicant will not work during rain events, 48 hours prior to significant rain events (>0.5 inch), or during the 48 hours after significant rain events, to the extent practicable. If work must occur 48 hours prior to significant rain events (>0.5 inch), or during the 48 hours after these events, a Service–approved biologist will conduct a pre–activity survey to ensure that the work area is clear (refer to Measure 10 above).
21. The Applicant will ensure that all staging areas, equipment storage areas, stockpile sites, and refueling areas are located at least 100 feet from surface water bodies and wetland habitats to minimize the potential for contaminant release into surface water or wetland habitat. In lieu of the 100–foot buffer, secondary containment measures may be employed to prevent contamination of soil and water.
22. When working in areas with a predominance of native plants, the upper layer of topsoil material (six inches) will be retained during excavations to preserve the seed bank. The preserved topsoil will be covered to protect it from erosion and invasion of non–native plants until completion of the activity, when the topsoil will be replaced in the affected area. Existing access roads are not subject to this measure.
23. To the extent feasible, disturbed areas will be restored and stabilized to reflect pre–existing contours and gradients to the extent practicable. Erosion and sediment controls (e.g., silt fences, fiber rolls, sandbags) will be installed, where necessary, using weed–free materials in areas with a predominance of native plants. Where necessary, restored areas will be maintained and monitored, including weed removal (focused on noxious weeds excluding nonnative annual grasses). All planting and seeding will occur the first year after construction is complete, after the first significant rain event of the year (i.e., more than 0.25 inch of precipitation).
24. Upon locating CTS individuals that may be dead or injured as a result of Project–related activities, the Applicant will notify the Service’s Ventura Field Office at (805) 644–1766 within 72 hours.

*Monitoring and Reporting Measures*

Annual Reports: By March 31 following each year of federal ITP issuance and Project implementation, Applicant will submit a report to the Ventura Fish and Wildlife Office to document the status of the Project. The reports will be sent to the Ventura Fish and Wildlife Office by email at [sbc-cultivationgcp@fws.gov](mailto:sbc-cultivationgcp@fws.gov). Section 5 of the GCP details the information that is required in the annual reports.

Project Completion Report: Once Applicant completes activities covered by the federal ITP, the Applicant will notify the Ventura Fish and Wildlife Office that they have completed all covered activities and mitigation measures and provide a final report to the Ventura Fish and Wildlife Office; subsequent annual compliance reports will not be necessary thereafter unless take of a listed species occurs or a changed or unforeseen circumstance occurs.

*Although not a condition of the federal ITP, CDFW requests copies of the annual reports and Project completion report.*

**Security**

As set forth in Avoidance, Minimization and Monitoring Measure Number 1 above, prior to the commencement of any activity that could result in take of CTS, the Applicant will demonstrate that two mitigation credits have been purchased from the La Purisima Conservation Bank. Because mitigation credits will be purchased before activities that could take CTS commence, a security is not required.

*Although not a condition of the federal ITP, CDFW requests a copy of the documentation of the credit purchase at La Purisima Conservation Bank.*

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of CTS, provided the Applicant implements the Project as described in the federal ITP and associated GCP, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the federal ITP and GCP, insofar as the federal ITP references and requires compliance with mitigation measures in the GCP. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the federal ITP and GCP, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subs. (b) and (c).)

CDFW's determination that the federal ITP is consistent with CESA is limited to CTS.

**NOTICE OF DECISION  
NOT TO PROCEED**

**BOARD OF ACCOUNTANCY**

Pursuant to California Government Code  
Section 11347

**RE: SALE, TRANSFER, OR  
DISCONTINUANCE OF  
LICENSEE'S PRACTICE**

Pursuant to California Government Code section 11347, the California Board of Accountancy (CBA) hereby gives notice that it has decided not to proceed with the rulemaking action published in the Office of Administrative Law (OAL) California Regulatory Notice Register on July 30, 2021, Register 2021, Number

31–Z. The proposed rulemaking concerned the Sale, Transfer, or Discontinuance of Licensee's Practice (OAL Notice File Number Z2021–0720–02).

Any interested person with questions concerning this rulemaking should contact Dominic Franzella at (916) 561–4310 or by email at [Regulations@cba.ca.gov](mailto:Regulations@cba.ca.gov).

The CBA will also post this Notice of Decision Not to Proceed on its website at <https://www.dca.ca.gov/cba/about-cba/pending-regs.shtml>.

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH THE  
SECRETARY OF STATE**

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

Board of Education  
File # 2022–0125–04  
Physical Fitness Test

This emergency action eliminates the Body Composition subtest of the California Physical Fitness Test. The action also defines the term "results" as used in Education Code section 60800(b), (c) & (d).

Title 05  
Amend: 1040  
Filed 02/04/2022  
Effective 02/04/2022  
Agency Contact: Lori Adame (916) 319–0860

Department of Social Services  
File # 2022–0126–02  
CCL Adult and Senior Care Facilities: Infection  
Control Requirements

This emergency action by the Department of Social Services adopts and amends requirements for licensed community care facilities to have a specific infection control plan to be included in their plan of operation that will be approved by the Community Care Licensing (CCL) Division of CDSS. The infection control plan shall include training requirements, designated staff lead for infection control, and documentation requirements.

Title 22, MPP  
 Adopt: 81095.5, 82095.5, 85092.7, 85095.5, 87470, 87895.5  
 Amend: 80022, 80065, 80092, 81001, 81022, 81065, 81092.7, 82001, 82022, 82065, 82092.7, 85022, 85075.1, 85090 renumbered to 85096, 85090.1 renumbered to 85096.1, 85090.2 renumbered to 85096.2, 85091 renumbered 85097, 85091.1 renumbered to 85097.1, 85091.2 renumbered to 85097.2, 85091.3 renumbered to 85097.3, 85091.4 renumbered to 85097.4, 85092 renumbered to 85098, 85093 renumbered to 85099, 87101, 87208, 87411, 87465, 87629, 87822, and 87865  
 Repeal: 80092.7  
 Filed 02/07/2022  
 Effective 02/07/2022  
 Agency Contact: Everardo Vaca (916) 657-2363

Department of Resources Recycling and Recovery  
 File # 2022-0125-05  
 Pilot Project Program

This emergency rulemaking action by the Department of Resources Recycling and Recovery readopts the changes approved in OAL File Number 2019-0322-01E. This action also adopts a new supplemental application process to allow for the expansion of an approved pilot project area in the California Beverage Container Recycling Program codified in Public Resources Code section 14571.9 and updates pilot project program requirements to align with recent statutory changes.

Title 14  
 Adopt: 2750, 2752, 2754, 2756, 2758, 2759, 2760, 2762, 2764, 2766, 2768, 2770, 2772, 2774, 2776, 2778  
 Filed 02/04/2022  
 Effective 02/04/2022  
 Agency Contact: Benjamin Grimes (916) 341-6365

California Department of Tax and Fee Administration  
 File # 2021-1223-02  
 Tax Paid Twice on Diesel Fuel

This rulemaking action amends regulations relating to the tax paid twice on diesel fuel and is exempt from the Administrative Procedure Act pursuant to Government Code section 15570.40(b).

Title 18  
 Amend: 1435  
 Filed 02/03/2022  
 Effective 02/03/2022  
 Agency Contact: Kim DeArte (916) 309-5227

Board of Forestry and Fire Protection  
 File # 2021-1028-04  
 Fire Risk Reduction Community List

This action by the Board of Forestry and Fire Protection (BOFFP) adopts criteria for determining eligibility for placement on the Fire Risk Reduction Community List. Public Resources Code Section 4290.1 requires that BOFFP develop criteria for and maintain a list of Local Agencies located in a State Responsibility Area or Very High Fire Hazard Severity Zone which meet best practices for local fire planning.

Title 14  
 Adopt: 1268.00, 1268.01, 1268.02, 1268.03, 1268.04  
 Filed 02/07/2022  
 Effective 02/07/2022  
 Agency Contact: Claire McCoy (916) 531-8600

Board of Registered Nursing  
 File # 2021-1229-03  
 Nurse Practitioner Education

This action by the Board of Registered Nursing adds language to clarify that it is acceptable for a nurse practitioner education program to exceed the minimum requirement of 500 clinical hours.

Title 16  
 Amend: 1484  
 Filed 02/08/2022  
 Effective 04/01/2022  
 Agency Contact: Evon Lenerd Tapps [Evon.Lenerd@DCA.CA.Gov](mailto:Evon.Lenerd@DCA.CA.Gov)

Bureau of Security and Investigative Services  
 File # 2021-1228-02  
 Private Investigator Fees

This rulemaking action amends various fees for private investigator applications, licenses, and renewals, and fees for firearms permits and renewals, to align with recent statutory changes. This action also establishes a fee for enhanced photo identification cards.

Title 16  
 Amend: 639  
 Filed 02/09/2022  
 Effective 04/01/2022  
 Agency Contact: Karissa Huestis (279) 895-1247

California Gambling Control Commission  
 File # 2021-1227-04  
 AB 120 Hearings Update

This rulemaking action by the California Gambling Control Commission (Commission) makes changes to the Commission's review of applications pursuant to Statutes 2021, chapter 45 (AB 120).

Title 04  
Amend: 12002, 12006, 12012, 12015, 12035,  
12052, 12054, 12056, 12057, 12060, 12066, 12134  
Filed 02/08/2022  
Effective 04/01/2022  
Agency Contact: Josh Rosenstein (916) 274-5823

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

**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).