



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

**CONFLICT-OF-INTEREST CODE**

**AMENDMENT**

**MULTI-COUNTY:** Yuba Community College District

A written comment period has been established commencing on February 25, 2022, and closing on March 11, 2022. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than March 11, 2022. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

**AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

**REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

**CONTACT**

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the

Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-5660.

**TITLE 3. DEPARTMENT OF  
PESTICIDE REGULATION**

NEONICOTINOID PESTICIDE  
EXPOSURE PROTECTION  
DPR REGULATION NUMBER 22-001

As directed by Food and Agricultural Code (FAC) section 12838, the Department of Pesticide Regulation (DPR) proposes to adopt 3 CCR sections 6990 through 6990.16 as control measures necessary to protect pollinator health as identified in the “California Neonicotinoid Risk Determination” (Risk Determination) and “Addendum to the July 2018 California Neonicotinoid Risk Determination” (Addendum). The proposed control measures would affect the pesticide regulatory program activities pertaining to pesticide use and enforcement by regulating certain production agricultural applications of pesticide products containing the nitroguanidine-substituted neonicotinoid active ingredients, clothianidin, dinotefuran, imidacloprid, and thiamethoxam (collectively referred to as neonicotinoids). In summary, the proposed control measures consist of application method and rate restrictions, application timing restrictions, and seasonal application rate caps for the four-neonicotinoid active ingredients and are specific based on crop group.

**WRITTEN COMMENT PERIOD**

Any interested person may submit comments in writing about the proposed action to the agency contact person named below. DPR will accept written comments that are submitted via U.S. mail and postmarked no later than April 26, 2022. Comments regarding this proposed action that are transmitted via e-mail to <[dpr22001@cdpr.ca.gov](mailto:dpr22001@cdpr.ca.gov)> or by facsimile at 916-324-1491 must be received no later than 5:00 p.m. on April 26, 2022.

**PUBLIC HEARING**

A virtual public hearing has been scheduled for the time and place stated below to receive oral or written comments regarding the proposed changes.<sup>1</sup> A presen-

<sup>1</sup> If you have special accommodation or language needs, please provide notice at least 10 business days before the public meeting by contacting the person named below. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

tation on the proposed regulations will be given at 9:15 a.m. The hearing will commence at 9:30 a.m.

DATE: Monday, April 25, 2022

TIME: 9:30 a.m.

PLACE: Zoom (Virtual)

Webinar ID: 868 4348 8418

Password: 213892

Direct link to join the meeting from a web browser or Zoom client:

<<https://us02web.zoom.us/j/86843488418?pwd=eGJBNEh5YlptYnN4akFieGlqR04lQT09>>

One tap to join from a mobile phone:

+16699009128,,86843488418#,,, \*213892#

Or call from a landline: +1 669 900 9128 — and enter the Webinar ID and Password (above) when prompted

The hearing will also be accessible via public webcast for persons who would like to watch this hearing without participating. The public webcast can be accessed by visiting the following web address: <<https://video.calepa.ca.gov/#/>>

A DPR representative will preside at the hearing. Persons who wish to make comments orally during the hearing may raise their hand using the Zoom functions and make oral comments when called upon. Persons calling into the zoom meeting who wish to make a comment orally during the hearing may raise their hand by dialing \*9 on their phone’s dial pad. This will indicate to DPR representatives that the person on the phone has raised their hand. Generally, persons will be heard in the order in which they raised their hand. Participants will also be given instructions on how to provide oral comment once they have accessed the hearing. The hearing will continue on the date noted above until all testimony is submitted. DPR requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony via e-mail.

If persons experience technical difficulties during the hearing, persons may e-mail written comments to <[dpr22001@cdpr.ca.gov](mailto:dpr22001@cdpr.ca.gov)>. Comments received through this e-mail during the hearing will be read at the hearing. DPR will also accept written comments that are submitted via U.S. mail and postmarked on the the day of the hearing. If the number of persons in attendance warrants, the hearing officer may limit the time for each oral comment in order to allow everyone wishing to speak the opportunity to be heard. Oral comments presented at a hearing carry no more weight than written comments.

## EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

DPR protects human health and the environment through the regulation of pesticide sales and use, and by fostering reduced-risk pest management. DPR's strict oversight begins with product evaluation and registration; and continues through continuous evaluation, reevaluation and enforcement; statewide licensing of commercial and private applicators and pest control businesses; environmental monitoring; and residue testing of fresh produce. This statutory scheme is set forth primarily in FAC Divisions 6 and 7.

Pesticides are registered and licensed for sale and use with the U.S. Environmental Protection Agency (U.S. EPA) prior to California registration. DPR's registration evaluation is conducted in addition to U.S. EPA's evaluation. Before a pesticide is registered, both agencies require data on a product's toxicology and environmental fate to evaluate how it behaves in the environment; its effectiveness against target pests and the hazards it poses to non-target organisms; its effect on fish and wildlife; and its degree of risk to human health.

DPR continues to evaluate pesticides after they are registered. DPR's continuous evaluation program includes evaluating potential adverse effects resulting from the use of registered pesticide products and if necessary, placing products into formal reevaluation.

In 2008, DPR received an adverse effects disclosure that showed potentially harmful effects of imidacloprid to pollinators. Studies of imidacloprid revealed high levels of the insecticide in leaves and blossoms of treated plants, as well as increasing residue levels over time. The residues were present at levels acutely toxic to honey bees, potentially threatening pollinator health. After investigating the disclosures, DPR placed certain pesticide products containing imidacloprid and the related neonicotinoid active ingredients, thiamethoxam, clothianidin, and dinotefuran, into reevaluation on February 27, 2009 to assess the magnitude of their residues in the pollen and nectar of agricultural commodities and the corresponding levels of risk to honey bee colonies. Certain products containing clothianidin, dinotefuran, and/or thiamethoxam were included in the reevaluation as they are in the same chemical family as imidacloprid, and have similar properties and characteristics (e.g., soil mobility, half-lives, and toxicity to honey bees). This group of active ingredients are known as the nitroguanidine-

substituted neonicotinoids, colloquially called neonicotinoids.

DPR's reevaluation included pesticide products labeled for outdoor uses that would result in substantial exposure to honey bees. Within the outdoor uses, DPR focused on gathering data on neonicotinoid pesticides used in the production of an agricultural food and feed commodity because they are commonly used at relatively high application rates, and are detrimental to pollinators. Production agricultural products are those used for the production for sale of an agricultural commodity, which is defined in 3 CCR section 6000. DPR evaluated risks to pollinators from neonicotinoid uses in agricultural food and feed commodities, including fruits, vegetables, grains, legumes, and fiber and oil-seed crops such as cotton. Trees grown for lumber and wood products, Christmas trees, ornamentals and cut flowers, and turf grown commercially for sod are also considered agricultural commodities under 3 CCR section 6000. However, DPR did not evaluate risks to these commodities due to sufficient label mitigation or the lack of pollinator exposure (i.e., not attractive to bees, grown indoors, lower use rates) and widespread use.

This rulemaking focuses on the use of neonicotinoid pesticides in the production of an agricultural food or feed commodity. Neonicotinoids are systemic insecticides that are transported through the vascular system of plants to all tissues, including leaves, nectar, and pollen. Neonicotinoid pesticides used for the production of agricultural food and feed commodities are labeled for soil, foliar, and seed treatment applications. Both foliar and soil applications of neonicotinoid pesticides have resulted in residues in both nectar and pollen at levels that may pose risk to bees. Applications of neonicotinoid pesticides prior to bloom may still contaminate the pollen and nectar that bees forage on while visiting crops during the bloom period. Thus, DPR assessed risks to pollinators from both soil and foliar applications of neonicotinoid pesticides made to agricultural food and feed commodities. Soil applications are made directly to the soil, whereas foliar applications are made to the leaves of the plant. These two application types have different directions for use on pesticide labels. Additionally, due to the systemic nature of imidacloprid, dinotefuran, thiamethoxam, and clothianidin, both soil and foliar application methods result in uptake of the pesticide throughout the plant, but result in different pesticide residue levels over time. Therefore, DPR evaluated risks to pollinators independently for each application method and the resulting residues that would be expressed in a plant's pollen and nectar. Additionally, some neonicotinoid pesticide labels allow use as a seed treatment on seeds grown for agricultural food and feed commodities. Risks from residues in pollen and nectar of crops

from seed treatment applications were evaluated in the preliminary pollinator risk assessments published by U.S. EPA. The preliminary assessments concluded that seed treatment applications result in low neonicotinoid residues in pollen and nectar and thus pose a low risk to honey bees; DPR concurred with this assessment in its Risk Determination. Therefore, seed treatment applications are not part of this rulemaking.

When a pesticide enters DPR’s reevaluation process, DPR scientists evaluate existing data and relevant new data not previously submitted to the department, to determine the nature and the extent of the potential hazard and to identify appropriate mitigation measures, if needed. As part of the neonicotinoid reevaluation, DPR required neonicotinoid pesticide registrants to provide additional data that would allow DPR scientists to conduct a scientific determination of risk. Registrants of the four active ingredients were required to provide, for each active ingredient, honey bee larval toxicity data and field-based residue studies of pollen, nectar, and leaves from specific agricultural food and feed commodities. For field-based residue data requirements, DPR’s Pesticide Use Reporting database was used to determine the crops of focus for each active ingredient. In 2009, DPR informed the registrants of the four neonicotinoid pesticide active ingredients of the objectives and basic design of the residue studies that were required to be conducted. Depending on the active ingredient, registrants were required to conduct trials on a minimum of three to eight commodities. For each commodity trial, the registrants were required to sample three agricultural sites with three different soil types over two consecutive years. In 2012, based on the results from the first few residue studies, DPR modified its residue study strategy to require that the neonicotinoids be applied to the crops using worst-case application scenarios (e.g., maximum seasonal label application rate, minimum reapplication intervals, for two consecutive years).

In 2014, the California Legislature adopted Assembly Bill (AB) 1789 (Chapter 578, Statutes of 2014) requiring DPR to issue a determination with respect to its reevaluation of neonicotinoids by July 1, 2018, and adopt control measures necessary to protect pollinator health within two years after making the determination (FAC section 12838).

In compliance with FAC section 12838 and the legislative intent of AB 1789, DPR submitted the Risk Determination to the California Legislature in July 2018. In conducting the Risk Determination, DPR followed the methods established in “Guidance for Assessing Pesticide Risks to Bees,” which compares the levels of neonicotinoid residues in nectar, pollen, and flowers of agricultural crops to concentrations that cause colony-level effects such as decreased colony strength and decreased stores of honey in honeycombs

as described above. DPR’s Risk Determination relied on U.S. EPA’s preliminary pollinator risk assessments as a foundation and included additional data received by DPR after U.S. EPA’s preliminary pollinator risk assessments were issued. In January 2019, DPR published an Addendum based upon additional submitted information.

In the Risk Determination and Addendum, DPR found that certain agricultural applications of neonicotinoids presented a hazard to honey bees. As required under FAC section 12838, DPR’s proposed regulations are control measures, consistent with the risk determination on neonicotinoids, that are necessary to protect pollinator health. The proposed regulations would add restrictions to existing use of neonicotinoids, including restrictions on application rates, application timing, and seasonal application rate caps, to protect pollinator health.

DPR proposes to adopt sections 6990 through 6990.16, as directed by FAC section 12838, as control measures on the use of neonicotinoids to protect pollinator health. Use of neonicotinoids under the proposed regulations will be more protective than existing laws and practice. Section 6990(a)(1–6) establishes definitions for terminology used throughout the regulation for consistent interpretation. Section 6990(b)(1–16) establishes a list the crop groups and application types (foliar, soil, or both) that the proposed regulations apply to. Section 6990(c)(1–3) establishes applications that are not subject to these proposed regulations, including situations in which the Risk Determination has concluded that the risk to bees is minimal and emergency situations where use of neonicotinoids is needed to address the emergency pest situation. Section 6990(d) establishes a legal presumption that the operator of the property intended to use managed pollinators at the time of the pesticide application if at any point in time during the growing season, the operator of the property uses managed pollinators. Sections 6990.1–6990.16 establish restrictions on the use of neonicotinoids for the following specific crop groups:

- (1) Berries and small fruits (Crop Groups 13 and 13–07)
- (2) Bulb vegetables (Crop Group 3 and 3–7)
- (3) Cereal grains (Crop Groups 15 and 16)
- (4) Citrus fruit (Crop Groups 10 and 10–10)
- (5) Cucurbit vegetables (Crop Group 9)
- (6) Fruiting vegetables (Crop Groups 8 and 8–10)
- (7) Herbs and spices (Crop Groups 19, 25, and 26)
- (8) Leafy vegetables including brassica (cole) (Crop Groups 4, 4–16, 5, 5–16 and 22)
- (9) Legume vegetables (Crop Groups 6 and 7)
- (10) Oilseed (Crop Group 20)
- (11) Pome fruits (Crop Groups 11 and 11–10)

- (12) Root and tuber vegetables (Crop Groups 1 and 2)
- (13) Stone fruits (Crop Groups 12 and 12–12)
- (14) Tree nuts (Crop Groups 14 and 14–12)
- (15) Tropical and subtropical fruit, edible and inedible peel (Crop Groups 23 and 24)
- (16) Coffee, peanuts, globe artichoke, mint, hops (female plants only), and tobacco

The proposed regulations incorporate a multi-level mitigation approach based on the relative attractiveness of each crop to bees. The proposed regulations designate each of the crops listed above into one of three categories: (1) highly attractive to bees; (2) moderately attractive to bees; or (3) not attractive to bees or harvested before bloom. In the proposed regulations, there are generally three types of restrictions proposed for each crop group: (1) prohibition of applications during bloom, (2) a seasonal application cap, and (3) crop-specific application rate and timing restrictions based on available data. For crop groups that are highly attractive to bees, all three restriction types are applicable at all times. For crop groups that are moderately attractive to bees, restrictions 1 and 2 are always applicable. However, the rate and timing restrictions (restriction 3) only apply when managed pollinators are brought into the field for pollination services. DPR also proposes exemptions from the proposed regulations for crops that are not attractive to bees or crops that are harvested before bloom. This multi-level mitigation approach offers higher levels of restriction when crops are expected to provide a large portion of the bees' diet. Additionally, the approach offers lower levels of restriction when crops are not expected to provide a significant portion of the bees' diet, as the expected level of exposure will not pose a significant adverse risk to bees.

Adoption of these proposed regulations will benefit the State's environment by creating enforceable requirements that protect pollinator health, such as restrictions on application rates and timing. As stated above, according to information from DPR's pesticide use report database and the California Department of Food and Agriculture's (CDFA's) "Economic and pest management evaluation of proposed regulation of nitroguanidine-substituted neonicotinoid insecticides: eight major California commodities," dated July 2, 2021, DPR projects the proposed regulations will reduce the amount of pounds of neonicotinoids applied and acres treated by 43% and 45%, respectively, from existing use.

During the process of developing these regulations, DPR conducted a search of any similar regulations on this topic and concluded that these proposed regulations are not inconsistent or incompatible with existing state regulations. DPR is the only agency that has the authority to regulate the use of pesticides.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR determined that the proposed regulatory action does not impose a mandate on local agencies or school districts. DPR also determined that there are no costs to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq. There are no other nondiscretionary costs or savings imposed upon local agencies that are expected to result from the proposed regulation action.

County agricultural commissioner (CAC) offices are the local government agencies responsible for enforcing pesticide regulations in California, including any changes to pesticide regulations such as the proposed regulations. DPR establishes an annual work plan with the CACs, which already requires the CACs to conduct pesticide use inspections and investigations and enforce compliance with California worker protection laws and regulations. CACs will continue to enforce regulations according to their work plan and should be able to accommodate for any cost within their existing budgets and resources. Therefore, DPR anticipates that there will be no fiscal impact on these agencies. DPR does not expect any other local agencies to be affected by the proposed regulations, thus no fiscal impact on local agencies is expected.

COSTS OR SAVINGS TO STATE AGENCIES

DPR determined that no savings or increased costs to any state agency will result from the proposed regulatory action. DPR's budget revenue is based on fees from the registration and sale of pesticide products, including neonicotinoids. The proposed regulations will not result in cancellation or prohibit the sale of any currently registered products. The proposed regulations would, however, affect the amount of neonicotinoids used, and in some cases, require growers to use alternative pesticide products. DPR expects any possible losses in general retail sales of neonicotinoid products to be offset by additional sales of other insecticide products. The expected decrease is likely to be a small percentage of DPR's overall mill assessment fee revenue and is likely to be offset by a small increase in sales of alternative pesticides. DPR anticipates that it will be able to absorb any difference within its existing budget and resources. Therefore, the proposed regulations are unlikely to have a fiscal impact on DPR. DPR does not expect any other state agencies to be affected by the proposed regulations, and thus no fiscal impact on state agencies is expected.

**EFFECT ON FEDERAL  
FUNDING TO THE STATE**

DPR determined that no costs or savings in federal funding to the state will result from the proposed action.

**EFFECT ON HOUSING COSTS**

DPR made an initial determination that the proposed action will have no effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY  
AFFECTING BUSINESS**

DPR has made an initial determination that adoption of these proposed regulations will have a statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. While the proposed regulations will have a statewide economic impact, the impact will not be significant.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES**

In consultation with CDFA's Office of Pesticide Consultation and Analysis (OPCA), DPR has determined that the adoption of these proposed regulations will have an insignificant cost impact on representative private persons or businesses. As outlined below, DPR estimates the annual impact per grower to be \$470. The proposed regulations will reduce the amount of neonicotinoids applied, and in some cases, require growers to use an alternative pesticide. The impact of these changes is discussed in the economic impact assessment titled "Economic and pest management evaluation of proposed regulation of nitroguanidine-substituted neonicotinoid insecticides: eight major California commodities." This document is listed in the "Documents Relied Upon" section of the initial statement of reasons and is available from DPR. The proposed regulations will primarily affect California growers who use the neonicotinoid active ingredients on the following eight crops: almonds, cherries, citrus, cotton, grapes, strawberries, tomatoes, and walnuts. The economic impact assessment estimates an annual impact of \$12.2–13.3 million for these crops. Growers who farm crops treated with the subject active ingredients can expect to see increases in operating costs associated with the treatment costs of replacing neonicotinoids with alternative active ingredients that may result in minor reductions of gross revenues. Those reductions are not expected to result in noticeable shifts in crop selection.

Based upon CDFA's economic impact assessment, DPR extrapolated the costs associated with eight crops to estimate the economic impact of the proposed regulations on all affected crops and use patterns. This resulted in a total estimated annual direct economic cost of \$15.2 to \$16.6 million for all crops that would be affected by the proposed regulations. Using California Department of Finance's guidance, DPR assumed indirect cost to be equal to direct cost. That is, the total direct plus indirect costs were estimated as two times the direct cost. Using this assumption, DPR estimated that the annual combined direct plus indirect cost to all businesses impacted by the proposed regulations will be \$30.3 to \$33.3 million for all California businesses. The total combined statewide dollar costs that all businesses (including small business) are expected to incur over the lifetime (5 years) of the proposed regulations is \$151.6 to \$166.3 million. DPR estimates that 70,500 growers will be affected by these requirements. Therefore, the average annual cost of the regulation for each affected grower is estimated as about \$470 (\$33.3 million/70,500 growers).

In addition to the minor anticipated economic impacts, there are potential economic benefits to businesses. The proposed regulations are expected to result in reduced pollinator exposure to neonicotinoids, and therefore, benefit pollinator health. Additionally, the proposed regulations may decrease overall pollinator deaths, resulting in stronger bee colonies and potential financial benefits to beekeepers and growers. Today, more than 2.8 million managed honey bee colonies in the U.S. pollinate crops worth an estimated \$15 billion each year. Of these, over 1.1 million colonies are used in California. Both natural and managed pollinators are a critical piece to California agricultural, thus, protecting pollinators has economic benefits for the industry. However, DPR is not able to quantify these scenarios.

**RESULTS OF THE ECONOMIC  
IMPACT ANALYSIS**

*Impact on the Creation, Elimination, or Expansion of Jobs/Businesses:* DPR determined that the proposed action would not create or eliminate jobs or businesses in California because the neonicotinoid pesticide products can be used with restrictions. In cases where neonicotinoid pesticide products can no longer be used, alternative pest management tools and practices exist. Pest management will be necessary regardless of a decline in sales and use of pesticides subject to the proposed regulations, and thus the creation or elimination of jobs and businesses are not expected to be impacted. In addition, this proposal is unlikely to result in the expansion of businesses currently doing business within California because impacted growers



are not expected to contract with other businesses to comply with the regulation and current pesticide dealers will continue to sell the regulated chemicals as well as sell alternative chemical(s). Any new demand for pest control services would be spread out among the already existing pest control businesses in the state and would likely be handled with existing staff.

*The Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:* The proposed regulations will benefit the State's environment by creating enforceable requirements that protect pollinator health. The proposed regulations will reduce pollinator exposure of neonicotinoids resulting from certain agricultural uses by restricting applications on bee-attractive crops by limiting the application rates and timing, and establish seasonal application rate caps to ensure that residue levels in flowering crops are below the no observable effects concentration identified in the Risk Determination. Implementation of the proposed regulations will not adversely affect the health and welfare of California residents or worker safety.

CONSIDERATION OF ALTERNATIVES

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

AUTHORITY

This proposed regulatory action is taken pursuant to the authority vested by FAC sections 11456, 12838, and 12976.

REFERENCE

This proposed regulatory action is to implement, interpret, or make specific FAC sections 11501, 11708, 11733, 12824, 12825, and 14012.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR prepared an Initial Statement of Reasons and is making available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the

regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make substantial changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, and the proposed text of the regulation; and inquiries regarding the rulemaking file may be directed to:

Lauren Otani, Senior Environmental Scientist  
(Specialist)  
Department of Pesticide Regulation  
1001 I Street, P.O. Box 4015  
Sacramento, California 95812-4015  
916-445-5781

Note: In the event the contact person is unavailable, questions on the substance of the proposed regulatory action may be directed to the following back-up person at the same address as noted below:

Brittanie Clendenin, Environmental Scientist  
Department of Pesticide Regulation  
Pesticide Registration Branch  
1001 I Street, P.O. Box 4015  
Sacramento, California 95812-4015  
916-324-3896

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>. Upon request, the documents can be made available in another language, or an alternate form as a disability-related accommodation.

**AVAILABILITY OF FINAL  
STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

**TITLE 4. HEALTH FACILITIES  
FINANCING AUTHORITY**

The California Health Facilities Financing Authority (Authority or CHFFA) proposes to adopt the regulation amendments described below after considering all comments, objections and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Authority has not scheduled a public hearing on this proposed action. However, the Authority 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 the Authority. Comments may also be submitted by email at [chffa@treasurer.ca.gov](mailto:chffa@treasurer.ca.gov). The written comment period closes at 5:00 p.m. (Pacific Time) on Wednesday, April 13, 2022. The Authority will consider only comments received by the Authority office by that time and date. Please submit comments to:

Bianca Smith  
Program Manager II  
California Health Facilities Financing Authority  
915 Capitol Mall, Room 435  
Sacramento, CA 95814  
(916) 653-2408

Following the written comment period, the Authority may thereafter adopt the proposed regulations substantially as described below or may modify the proposed regulations if the modifications are sufficiently related to the original text. Except for non-substantive, technical or grammatical changes, the full text of any modified proposed regulations 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.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at [www.treasurer.ca.gov/chffa/csi/csigp.asp](http://www.treasurer.ca.gov/chffa/csi/csigp.asp). Additionally, all information that the Authority considered as the basis for these proposed regulations is available for public reading/perusal at the address listed below.

Following the public comment period, copies of the Final Statement of Reasons will be available from the office listed below:

California Health Facilities Financing Authority  
915 Capitol Mall, Room 435  
Sacramento, CA 95814  
Telephone: (916) 653-2799  
Email: [chffa@treasurer.ca.gov](mailto:chffa@treasurer.ca.gov)

**AUTHORITY AND REFERENCE CITATIONS**

The Authority adopts these regulations under the authority granted in Section 5848.51 of the Welfare and Institutions Code and cites the following reference: Section 5848.51 of the Welfare and Institutions Code.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The Authority was established in 1979 and operates pursuant to the California Health Facilities Financing Authority Act in the Government Code Sections 15430-15463.

Senate Bill 843, (Chapter 33, Statutes of 2016, Section 52), codified in Welfare and Institutions Code (WIC) Section 5848.51, charged the Authority with the responsibility of developing regulations to establish specific selection criteria for Grant awards, define eligible costs, and determine minimum and maximum Grant amounts for the purpose of expanding access to jail and prison diversion programs and services for:

- a. Individuals with mental health illness
- b. Individuals with substance use disorders
- c. Individuals experiencing trauma resulting from sex trafficking, domestic violence, and other violent crimes
- d. Creating or expanding mental health treatment, substance use disorder treatment, and trauma-centered service facilities in local communities
- e. Reducing the need for mental health and substance use disorder treatments and trauma-centered services in jails and prisons.

These regulations were submitted to the Office of Administrative Law (OAL) as emergency regulations.

The OAL approved the emergency regulatory action that became effective on November 26, 2018. The Certificate of Compliance was completed and filed with the Secretary of State on October 3, 2019.

The regulations now being proposed will redefine the term “Application” to (1) delete reference to the written Application, Form Number CHFFA 9 CSI-01 (09/2018), and (2) refer only to an online Application, Form Number CHFFA 9 CSI-01A (11/2021). Other changes have been made to the regulations to delete procedures applicable to the submission of the written Application and establish the online Application as the only recognized Application for requesting Grant funds.

No changes have been made to the information requested in the online Application. The formatting of the online Application appears different as “drop-down boxes” requesting specific information only appear when the Applicant is required to provide such information based on specific factors, including but not limited to:

1. Is the Application for “Counties Applying Jointly”? If so, additional information on the co-applicant(s) such as county(ies) names, addresses, and contact information is required.
2. The written version of the Application, Form Number CHFFA 9 CSI-01 (09/2018) limited the narrative portion of the Application to 20 pages in 12-point font. The online Application does not contain any language limiting the narrative portion. The only limitation in the online Application is the Summary Information. The “Project Brief Summary Description” is limited to 300 characters.

The online Application is part of a grant management software platform that will allow CHFFA to track and manage all aspects of each grant including reviewing and scoring of Applications, disbursement forms, and submission of supporting documents and closeout forms, thus eliminating the reliance on hard-copies. As all elements of the Grant program are shifted to “paperless” there will be benefits in case-load management as it will be easy to transfer grants between staff as well as entire grant caseloads when a staff member leaves CHFFA, or when teleworking requirements are in place.

CHFFA has implemented the submission of Applications online in two other programs: the Bond Financing Program and the HELP II Loan Program. Regulatory amendments are currently in process to implement the online Application in the Investment in Mental Health Grant Program for Children and Youth, as CHFFA continues to convert all programs under its auspice to online Applications.

DOCUMENT INCORPORATED  
BY REFERENCE

Community Services Infrastructure Grant Program Application, Form Number CHFFA 9 CSI-01A (11/2021)

STATEMENT OF NECESSITY

*Section 7413 — Definitions*

This section provides definitions for terms. The definition for subsection (b), “Application” is being amended to eliminate reference to the written Community Services Infrastructure Grant Program Application, Form Number CHFFA 9 CSI-01 (09/2018). By definition, the term “Application” will refer to an online request for a Grant, referred to as the Community Services Infrastructure Grant Program Application, Form Number CHFFA 9 CSI 01A, (11/2021), which is being incorporated into the regulations by reference. Form Number CHFFA 9 CSI-01A will be the only acceptable Application by which Applicants may request Grant funds.

*Section 7416 — Grant Application*

This section is being amended to remove reference to the written request for a Grant, specifically, the Community Services Infrastructure Grant Program Application, Form Number CHFFA 9 CSI-01 (09/2018) as well as the procedures for submitting this form to the Authority.

The proposed regulations reference only the online Application and provide Applicants with information, including but not limited to: (1) availability of the online Application; and (2) the Authority is not responsible for transmittal delays/failures.

AN EVALUATION OF WHETHER OR NOT  
THE PROPOSED REGULATIONS ARE  
INCONSISTENT OR INCOMPATIBLE WITH  
EXISTING STATE REGULATIONS

The Authority evaluated whether or not there were any other regulations concerning the use of an online Application. There is no other grant program that exists solely to provide funds to counties or Counties Applying Jointly for the purposes of promoting diversion programs and services for community mental health treatment, substance use disorder treatment, and/or trauma-centered services that offer relevant alternatives to incarceration. The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**DESCRIPTION OF THE BENEFITS OF THE PROPOSED ACTION WHICH INCLUDES NONMONETARY BENEFITS SUCH AS PROTECTION OF THE PUBLIC HEALTH AND SAFETY, WORKER SAFETY, THE ENVIRONMENT, ETC.**

The regulations enacted as a result of Senate Bill 843, (Chapter 33, Statutes of 2016, Section 52), codified in Welfare and Institutions Code (WIC) Section 5848.51, benefited California counties that provide jail and prison diversion treatment and services to Justice-Involved Individuals with mental illnesses, substance use disorders, and/or who are victims of trauma. The regulations provide a mechanism to fund equipment and capital projects to the facilities that house these programs. The treatment and services provided can potentially reduce the number of individuals, in California jails and prisons with mental health and substance use disorders and improve public safety because these individuals are receiving the proper and necessary care.

The proposed regulations amend only two sections of the regulations, Section 7413, Definitions and Section 7416, Grant Application. The amendments are necessary to establish the online Application, Form Number CHFFA 9 CSI-01A (11/2021) as the only acceptable Application by which counties and Counties Applying Jointly may request Grant funds from the Community Services Infrastructure Grant Program. Section 7416, Grant Application is amended to correct the form number and revision date of the Application to coincide with "Application" as defined in Section 7413 and amend subsection (d) to be applicable only to the online Application. The ability to submit Applications online provides advantages to Applicants that include, but are not limited to the following:

1. Reduces the administrative burden by allowing Applicants to import responses to similar questions from previous internal applications, and upload budget spreadsheets instead of cutting and pasting data into an online application.
2. Facilitates those partnership applications in which two or more counties ("Counties Applying Jointly", defined in Section 7413(e) that submit an Application together for a Project to deliver services) can collaborate in filling out the Application, by giving all parties access to the Application.
3. Provides an instant response that the Application has been submitted and does not necessitate follow ups to ensure that the Application has been received by the Authority in a timely manner.

**LOCAL MANDATE STATEMENT**

These regulations do not impose a mandate upon local agencies or school districts. There are no "state-mandated local costs" in these regulations which require reimbursement under Section 17500 et seq. of the Government Code.

**FISCAL IMPACT**

1. Cost to Local Agencies or School District Which Must Be Reimbursed in Accordance with Government Code Sections 17500-17630: None.
2. Cost or Savings to State Agencies: No impact.
3. Nondiscretionary Costs or Savings to Local Agencies: No impact.
4. Federal Funding to State Agencies: No impact.

**HOUSING COSTS**

The adoption of these regulations does not have any significant effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE**

CHFFA has not identified any significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The adoption of these regulations does not have an impact on the creation or elimination of jobs within the state. As a result of the adoption of these regulations, new businesses will not be created and current businesses will not be eliminated within the state. The adoption of these regulations will not provide for the expansion of businesses currently doing business within the state. Additionally, neither benefits nor detriments are expected to worker safety or the state's environment due to the adoption of these regulations.

The online Application will be the mechanism by which counties and Counties Applying Jointly may request Grant funds in any future funding rounds. Those counties and Counties Applying Jointly which are successful in securing Grant funds, will have the ability to directly impact the health and welfare of California residents, specifically Justice-Involved Individuals through diversion programs and mental health treatment, substance use disorder treatment, and trauma-centered services by increasing and expanding mental

health treatment facilities, substance use disorder facilities, and trauma-centered service facilities.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The only entities that may apply for Grant funds under the Community Services Infrastructure Grant Program (WIC Section 5848.51), are counties and Counties Applying Jointly. Therefore, CHFFA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT

The regulations will not affect small businesses as these regulations are specific to counties and Counties Applying Jointly. No report of any kind is required to be made by any business or other entity.

SMALL BUSINESS

The regulations will not affect small businesses as these regulations are specific to counties and Counties Applying Jointly.

CONSIDERATION OF ALTERNATIVES

The Authority must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is being proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

In developing the regulatory action, the Authority itself did not consider any alternatives because no reasonable alternatives have been presented to it. The Authority invites interested persons to submit comments and alternatives with respect to the proposed regulations during the public comment period.

CHFFA REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATIONS

Contact Person: Bianca Smith (916) 653-2408  
Backup: Sondra Jacobs (916) 651-0032

TITLE 10. DEPARTMENT OF INSURANCE

MITIGATION IN RATING PLANS AND WILDFIRE RISK MODELS

REG-2020-00015

Notice is given that California Insurance Commissioner Ricardo Lara will hold a public hearing to consider amending, and the contemplated addition of, California Code of Regulations, Title 10, Chapter 5, Subchapter 4.8, Article 4, section 2644.9.

PUBLIC HEARING

Public Hearing Date and Location

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to these regulations, as follows:

**Date:** April 13, 2022

**Time:** 1:00 p.m. The public hearing shall continue until all in attendance wishing to provide comments have commented, or 5:00 p.m.

**Location:** California Department of Insurance  
1901 Harrison Street, 3<sup>rd</sup> Floor —  
Room #30000  
Oakland, California

Link to Register for the Web-based Virtual Format:

[https://us06web.zoom.us/webinar/register/WN\\_MoTcvOKCRdKSe9GAmZE5Hw](https://us06web.zoom.us/webinar/register/WN_MoTcvOKCRdKSe9GAmZE5Hw)

ACCESS TO PUBLIC HEARING

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person(s) for the hearing in order to make special arrangements, if necessary.

To increase public participation and improve the quality of regulations, interested parties are invited to attend virtually or in-person, and offer comment, if they so choose. Please be advised that in-person attendance at the hearing may be limited or curtailed, depending upon any state or local restrictions on public gatherings that may be in effect at the time of the hearing, or due to COVID-19 transmission control precautions implemented by the Department.



The moderated call-in line to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to review available accommodations, if necessary.

Please direct all inquiries regarding these workshops to the contact persons named below.

#### PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end on April 13, 2022. Please direct all written comments to the following contact person:

Daniel Wade, Senior Staff Counsel  
Rate Enforcement Bureau  
1901 Harrison Street, 6<sup>th</sup> Floor  
Oakland, CA 94612  
Phone: (415) 538-4158  
Email: [daniel.wade@insurance.ca.gov](mailto:daniel.wade@insurance.ca.gov)

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

Lisbeth Landsman-Smith, Senior Staff Counsel  
Rate Enforcement Bureau  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
Tel: 916-492-3561  
Email: [Lisbeth.Landsman@insurance.ca.gov](mailto:Lisbeth.Landsman@insurance.ca.gov)

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

#### DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, by the end of April 13, 2022. Any written materials received after that time may not be considered.

#### COMMENTS TRANSMITTED BY E-MAIL

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the

following e-mail address: [daniel.wade@insurance.ca.gov](mailto:daniel.wade@insurance.ca.gov).

**Comments sent to e-mail addresses other than those designated in this notice will not be accepted. Comments sent by e-mail are subject to the deadline set forth above for written comments.**

#### AUTHORITY AND REFERENCE

The proposed regulations will interpret and make specific the provisions of Insurance Code sections 1858, 1859, 1861.01, 1861.05, and 1861.07, which also provide the rulemaking authority for this action. The Commissioner is authorized to promulgate regulations to implement Proposition 103. *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216.

#### INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

##### Summary of Existing Law

With the passage of Proposition 103 in 1988, California voters enacted numerous new laws related to the regulation of insurance rates in California, including Insurance Code sections 1861.05(a) and (b). California Insurance Code section 1861.05(a) makes it unlawful for a rate to be approved or remain in effect which is excessive, inadequate, or unfairly discriminatory. California Insurance Code section 1861.05(b) requires an insurer which desires to change any rate to file a complete rate application containing specified information "and such other information as the commissioner may require." California Code of Regulations Title 10, Chapter 5, Subchapter 4.8, Article 4, sections 2644.1 et seq. provide the rules that insurers must follow to obtain approval of their rate applications.

Proposition 103 sets forth the following findings: (a) "Enormous increases in the cost of insurance have made it both unaffordable and unavailable to millions of Californians."; (b) "The existing laws inadequately protect consumers and allow insurance companies to charge excessive, unjustified and arbitrary rates." (Prop. 103, § 1.) The stated purpose of Proposition 103 is "to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available, and affordable for all Californians." (Prop. 103, § 2.)

Proposition 103 provides the Commissioner substantial authority and flexibility in establishing rules and procedures for assessing insurers proposed rates, which necessarily include rating plans. (*20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, 280; *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal. 3d 805, 824.)

Also, a part of Proposition 103, California Insurance Code section 1861.10 promotes consumer participation by allowing consumers to participate in the ratemaking process and enforce the rating laws. It requires the Commissioner to notify the public after an insurer files a rate application, subject to certain conditions. California Insurance Code section 1861.07 requires all information provided to the Commissioner in the rate application process to be publicly available. Furthermore, California Insurance Code section 1858 permits any person aggrieved by any rate charged, rating plan, rating system or underwriting rule to also challenge the insurer's action directly before the commissioner.

In addition, advisory organizations that provide rate manuals to insurers must have such manuals approved by the Commissioner prior to their use. (California Insurance Code section 1855.5.)

Insurance ratemaking requires an assessment of the risks to be insured. In California, property insurers are permitted to classify (segment) wildfire risks depending on how high or low the assessed wildfire risk is in different areas and localities. Different wildfire risks are assigned different wildfire risk scores, which affect the premium policyholders pay. California Insurance Code sections 929 et seq. requires the Commissioner to collect from insurers data regarding wildfire incurred losses for each insured property, wildfire risk scores assigned to those properties by the insurers and the source of those scores.

Irrespective of scores assigned by insurers, some policyholders take proactive measures to reduce — or “mitigate” — the risk of wildfire on their property and in their neighborhood. For example, someone may clear vegetation near their house, or install fire-resistant building materials. Such measures reduce the wildfire risk at their insured property. Likewise, communities may employ mitigation measures such as firebreaks which can reduce the risk of conflagration.

Numerous laws and national standards provide effective methods for mitigation of wildfire risk. For example, Chapter 7A of the 2019 California Building Code (24 CCR 701A) addresses building standards for wildfire areas, including fire resistant vents (24 CCR 706A.2). ASTM E108 and UL 790 are standards set by private entities that all manufacturers follow to create a Class-A fire rated roof. California Public Resources Code 4290.1 identifies criteria for a community to be recognized as a Fire Risk Reduction Community. Those criteria include participation in Firewise USA, a nationally recognized program developed by the National Fire Protection Association, a Massachusetts 501(c)(3) corporation. This program is co-sponsored by the United States Department of Agriculture's Forest Service and the National Association of State Foresters. And, California Public Resources Code section

4291 sets forth requirements for maintaining defensible space in areas at risk for wildfire.

Current law, however, is silent with respect to the manner in which these mitigation measures must be considered by an insurer and reflected in their rating plan. Thus, a reduction in risk resulting from these mitigation measures may not be considered by insurers and the rates and premium may not reflect the mitigation work accomplished.

Similarly, current law does not provide clear direction to insurance companies to disclose to insurance applicants or policyholders the criteria the insurance company relied upon when calculating a particular insurance premium for a particular consumer. Stated another way, existing law does not specify the level of transparency that an insurance company must maintain with the consumer so that both the consumer and the insurance company can validate the accuracy of the rating plan when applied to that consumer's property.

### **Effect of Proposed Action**

The proposed regulations will require insurers, for the purposes of segmenting rates, creating a risk differential, or surcharging the premium due to wildfire risk, to reflect and take into account specified mitigation factors in their rating plans. The proposed regulations will at the same time provide flexibility to insurers to incorporate additional factors into their rating plans for the purposes of segmenting rates, creating a risk differential, or surcharging the premium due to wildfire risk, provided such factors are substantially related to the risk of wildfire and will not result in rates which are excessive, inadequate, or unfairly discriminatory. The proposed regulations will help to ensure that rates and premiums corresponding to wildfire risk are not excessive, inadequate, or unfairly discriminatory by ensuring the insurer has accurate information upon which the rate or premium is based. For example, the proposed additions will also require insurers to provide certain mitigation and wildfire risk information to applicants and policyholders, and to provide a process by which applicants and policyholders may appeal a wildfire risk score or classification assigned by the insurer.

### **Policy Statement Overview**

#### *Broad Objectives*

The regulations are intended to promote careful and systematic consideration of wildfire risk by insurers, and to enhance communications by insurers about their rating of properties with respect to wildfire risk, in order to ensure that rates attributable to wildfire risk are not excessive, inadequate or unfairly discriminatory.

For instance, the proposed regulation requires insurers, in assigning wildfire risk scores or otherwise

classifying wildfire risks, to conduct a more granular, and thus more accurate risk assessment. By requiring insurers to include wildfire mitigation measures — and the reduction in risk therefrom in their risk assessment — the proposed regulations make insurers' rates and premiums less likely to be excessive, inadequate, or unfairly discriminatory due to failure to consider mitigation measures. Ensuring that rates and premiums are not excessive, inadequate, or unfairly discriminatory is a central statutory command of Proposition 103.

#### *Benefits Anticipated*

The proposed additions are expected to: incentivize individual and community mitigation efforts by requiring consideration of property and community-level mitigation against wildfire risk; reduce the risk of loss posed by wildfires; improve accuracy in the classification of wildfire risk and the resulting rates and premiums; increase transparency in, and consumer awareness of, insurers' rating and/or scoring of wildfire risk; enhance consumer protection by establishing a consumer appeals process; reduce unfair discrimination by enhancing consistency in insurers' wildfire rating practices and/or risk scoring practices; and potentially improve availability and affordability of property-casualty insurance for communities and properties where wildfire mitigation measures have been implemented.

Compliance with the regulation does not change the job responsibilities of employees in the affected industries in a way that would impact their safety. Thus, the regulation will neither increase nor decrease worker safety.

The Department believes that long-term the regulation will have a beneficial impact on the state's environment, as increased wildfire risk mitigation may help to slow or stop the spread of some wildfire events. Better watershed health and wildlife protection may result as toxic debris cleanup after fires is reduced, and fewer wells become contaminated.

The regulation is expected to result in a benefit to the welfare of California insurance consumers by ensuring approved property insurance rates are more closely related to the property's actual risk of loss. Additionally, if the regulation prevents some future wildfire losses, it could lead to better health outcomes for individuals negatively impacted by the poor air quality caused by California's recent wildfires.

#### **Consistency or Compatibility with Existing State Regulations**

After conducting an evaluation of applicable law, the Department has found the proposed amendments are not inconsistent or incompatible with any other existing regulations.

#### **NOT MANDATED BY FEDERAL LAW OR REGULATIONS**

These regulations are not mandated by federal law. There are no existing federal regulations or statutes comparable to these proposed regulations as no federal statutes or regulations address wildfire mitigation measures or rating factors.

#### **OTHER STATUTORY REQUIREMENTS**

The Department evaluated whether there were other requirements prescribed by statute applicable to these regulations by reviewing statutes and regulations relating to this issue, and determined that there were no such specific requirements.

#### **LOCAL MANDATE**

The proposed regulations do not impose any mandate on local agencies or school districts.

#### **FISCAL IMPACT**

##### **Fiscal Impact on Other State and Local Government Agencies**

There are no costs or savings to any other State agencies; however, the Department is expected to incur a fiscal impact, as discussed immediately below under "Fiscal Impact on the Department." There is no cost to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement. There are no other nondiscretionary costs or savings to local agencies, nor do the regulations impose a cost or savings in federal funding to the state.

##### **Fiscal Impact on the Department**

The proposed regulation is anticipated to have a fiscal impact on the Department. The Department will incur costs in the administration, review and analysis of all models and rating plans that insurers are required to submit to comply with the proposed regulation. Rate Analysts and Casualty Actuaries are likely to be the primary reviewers of models and rating plans that are likely to be detailed and complex. The Department's review and approval of rate filings is expected to span multiple state fiscal years at a total cost of \$1,047,000.

The proposed regulation is expected to be effective July 2022 and allows 180 days for insurers to file their new rating plan. Therefore, the review of rating plans by the Department is expected to begin in January 2023, or the midpoint of the 2022–23 fiscal year (FY). In a review of rate filings that were completed between January 1, 2019 and September 23, 2020 the Department found the average time to approve a rate



filing was 167 days. Given that the average review and approval time is nearly six months and complex filings or initial filings that need modification often take longer to get approved, the Department assumes that 50 percent of the review work will be completed in the first FY (6 months from Jan 2023–June 2023), and the remaining 50 percent will be completed in the second FY (23–24). As a result, the Department expects a fiscal impact of \$523,500 in the first year and \$523,500 in the second year to review and approve rate filings.

The Department will also likely require support from outside actuaries to verify some of the more complex wildfire models included in insurer submissions. The Department estimates that 6 rate filings will need to be referred to consulting actuaries at an average cost of \$15,000 per filing. The outside actuarial reviews are assumed to occur in the first FY, increasing the estimated first-year fiscal impact to \$613,500. As a result, the total anticipated fiscal impact on the Department is \$1,137,000.

### HOUSING COSTS

The proposed regulation is not anticipated to impact housing costs.

### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The types of businesses that will be affected are insurers and insurance producers.

In order to comply with the proposed regulations, insurers will need to file rate applications that include compliant rating plans within the timeframe set forth in the proposed regulation. Rate applications are currently required any time an insurer desires a rate change; the proposed regulation builds upon existing required record keeping and administrative process required by current rate regulations. The proposed regulation, however, would require additional actuarial support and analysis to be included in the rate application because compliant rate applications must include rating factors not currently required by existing regulations. As such, additional costs may be acquired by insurers to update existing rating plans with new documentation to be compliant with the portions of the proposed regulation which require the inclusion of the specified mitigation factors.

The portion of the proposed regulation that requires the insurer to provide information to a consumer related to their wildfire risk score or classification is a wholly new requirement that would necessitate insurers to create and maintain records they currently do not, and likewise creates a new administrative process

for (1) providing information related to the consumer's wildfire risk score or classification and (2) providing a process for appealing the wildfire risk score or classification; neither of these processes are currently required under existing rate regulations. This portion of the proposed regulation would also impact insurance producers because the regulation permits a consumer to procure a producer's assistance in filing the appeal of the consumer's wildfire risk score or classification.

There will likely be an adverse impact on insurance agents and brokers, who will have to document and forward consumer wildfire risk score appeals. To help insurers validate information, some agents and brokers may also incur costs when conducting in-person inspections of residential or commercial properties. Producers who are independent or captive with their own offices or business locations would likely need to implement their own processes separate from an insurers processes (this would not apply to producers who work for an insurer directly or sell on a direct-basis) for assisting a consumer with the wildfire score/classification appeal process. This would include additional costs, recordkeeping, and staff time.

The Department has made an initial determination that the adoption of the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- Consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

### STATEMENT OF RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department is required to assess any impact the proposed adoption may have on the following: the creation or elimination of jobs within the State of California (Government Code § 11346.3(b)(1)(A)); the creation of new businesses or the elimination of existing businesses within the State of California (Government Code § 11346.3(b)(1)(B)); and the expansion of businesses currently doing business within the State of California (Government Code § 11346.3(b)(1)(C)).

Below is a summary of the results of the Economic Impact Assessment pursuant to Government Code sections 11346.3(b)(1)(A) through (D).

- A. The proposed regulation is estimated to result in the creation of 40 jobs within the State of California. Overall, the impact of jobs created by the proposed regulation is less than one-thousandth of a percent of the total projected civilian employment in California ( $40/19,238,071 = 0.0002\%$ ).
- B. The proposed regulation is estimated to result in the elimination of 131.1 jobs within the State of California. Overall, the impact of jobs lost resulting from the proposed regulation is less than one-thousandth of a percent of the total projected civilian employment in California ( $131.1/19,238,071 = 0.0007\%$ ).
- C. Given that the average direct benefit to an impacted insurer is estimated to be \$2,900 (\$391,400/136 firms), it is not anticipated that the proposed regulation will have a significant impact on the creation of new businesses in California.
- D. Given that the initial average direct cost to an impacted insurer is estimated to be \$112,500 (\$15.3 million/136 firms), it is not anticipated that the proposed regulation will result in the elimination of existing businesses in California. It is also not expected that the initial average estimated cost of \$300 (\$562,000/1,847) to insurance agents or brokers will result in the elimination of existing businesses in California.
- E. It is not anticipated that the proposed regulation will have an impact on the ability of businesses located in California to expand, as most of the costs resulting from the proposed regulation will be incurred by multimillion-dollar businesses. The estimated initial net loss to total output of \$32 million suggests that the proposed regulation will have a minimal impact on the multitrillion-dollar California economy as a whole.
- F. The proposed regulation is expected to result in a benefit to the health and welfare of California residents, specifically insurance consumers, by ensuring approved property insurance rates are more closely related to the property's actual risk of loss. Additionally, if the Department's expectation that the regulation prevents some future wildfire losses is realized, it could benefit the state's environment and lead to better health outcomes for individuals negatively impacted by the poor air quality caused by California's wildfires. The proposed regulation is not expected to affect worker safety.

#### POTENTIAL COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESSES

The initial average direct cost to an impacted insurer is estimated to be \$112,500 (\$15.3 million/136 firms). The initial average estimated cost to insurance agents or brokers is \$300 (\$562,000/1,847). There are no other cost impacts known to the Department that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### BUSINESS REPORT

The Department finds that it is necessary for the health, safety or welfare of the people of the state that the regulation apply to businesses.

#### IMPACT ON SMALL BUSINESSES

The proposed regulation is projected to have a direct adverse impact on insurers, however by law insurance companies are not considered small businesses (Government Code § 11342.610(b)(2)).

However, there will also likely be an impact on insurance agents and brokers, who will have to document and forward consumer wildfire risk score appeals. To help insurers validate information, some agents and brokers may conduct in-person inspections of residential or commercial properties. The Department assumes that the vast majority of agents and brokers operating in communities that are more likely to experience the effects of wildfire are small businesses. As such, the Department expects that there will be a total adverse impact on small business of \$562,000.

In 2020, there were 16,063 business establishments classified as insurance agents and brokers in California. The Department assumes that only the agents and brokers operating in moderate to very high wildfire risk areas are likely to be impacted, because this is where the properties most likely to appeal their wildfire score are located. In the Establishing a Baseline section, the Department calculated that 11.5 percent of all homes in California are in a moderate to very high wildfire risk area. That percentage was also applied to calculate the number of commercial properties in moderate to very high wildfire risk areas, and is used here to estimate that approximately 1,800 ( $16,063 \times 11.5\%$ ) insurance agents and brokers operate in moderate to very high wildfire risk areas. As a result, the Department estimates that the initial average adverse impact on an insurance agent or broker operating as a small business in an impacted moderate to very high wildfire risk area is approximately \$300 (\$562,400/1,847). However, the average cost to small businesses

is expected to increase to \$610 in year 2, and then decline to \$400 per business after 6 years.

ALTERNATIVES INFORMATION

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed; would be as effective and less burdensome to affected private persons than the proposed action; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy underlying Insurance Code section 11736.5.

AVAILABILITY STATEMENTS

The Department has prepared an Initial Statement of Reasons that sets forth the reasons for the proposed action. Upon request, the Initial Statement of Reasons will be made available for inspection and copying. Requests for the Initial Statement of Reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared. Requests for the Final Statement of Reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the express terms of the proposed action, the Initial Statement of Reasons, the Economic Impact Assessment, and all the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available by appointment for inspection and copying at 300 Capitol Mall, 16th Floor, Sacramento, California, 95814 between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

If the amended regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these amended regulations prior to adoption from the contact person listed above.

AUTOMATIC MAILING

A copy of this Notice (including the Informative Digest, which contains the general substance of the proposed adoption) will be sent to all persons who have previously filed a request with the Department to receive notice of proposed rulemakings.

FINAL STATEMENT OF REASONS

Upon request, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared pursuant to Government Code section 11346.9(a). Requests for the Final Statement of Reasons should be directed to the contact person listed above.

INTERNET ACCESS

Documents concerning proposed regulations are available on the Department’s website at the following link: <https://legaldocs.insurance.ca.gov/publicdocs/RegulationList>.

**TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING**

CAMPUS LAW ENFORCEMENT COURSE —  
COMMISSION REGULATION 1081

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

**Public Comments Due by April 11, 2022.**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action, by fax at (916) 227-4547, by email to Stephen Crawford at [stephen.crawford@post.ca.gov](mailto:stephen.crawford@post.ca.gov), or by letter to:

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

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST) and PC Section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific PC Section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law

enforcement, including programs involving training and education courses.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

POST is responsible for the development of the Campus Law Enforcement Course. This includes the development of relevant topics that reflects the current demands of policing in the K–12 and campus environment, as well as the supporting curriculum.

POST proposes to amend Commission regulation 1081 to update the topic titles for the Campus Law Enforcement Courses.

The implementation of these changes will greatly reduce the likelihood of this course being diluted by presenters, assuring that all presenters understand the required topics and supporting curriculum that must be taught. Furthermore, the integrity of the Campus Law Enforcement Course can be validated.

#### *Anticipated Benefits of the Proposed Amendments:*

The benefits anticipated by the proposed amendments to the regulations will be to ensure the Campus Law Enforcement Course is updated with contemporary topics that better reflect the demands of policing within the campus environment. This will enhance the service the campus police officer provides, in addition to fostering a safe and supportive educational environment for students. It will help reduce the conflict with citizens in the communities beyond campus environment. This course content benefits the student by maintaining the proper jurisdictional boundaries within the scope of their assigned duties, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state's environment.

#### *Evaluation of Inconsistency/Incompatibility with Existing State Regulations:*

POST has determined that these proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern the Campus Law Enforcement Course of training.

### BENEFITS ANTICIPATED

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

effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the State's environment.

### ADOPTION OF PROPOSED REGULATIONS

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

### ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

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

Small Business Determination: POST has found that the proposed language will not affect small businesses because the amended language supports the Commission's main function to select and maintain training standards for law enforcement. Therefore, this will not create any direct effect financially on small businesses.

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

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

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT PER GOVERNMENT CODE  
SECTION 11346.3(b)

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

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

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Stephen Crawford*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-4957. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

TEXT OF PROPOSAL

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

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

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

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

**TITLE 11. COMMISSION ON PEACE  
OFFICER STANDARDS AND TRAINING**

PEACE OFFICER AND PUBLIC  
SAFETY DISPATCHER  
BACKGROUND INVESTIGATIONS  
REGULATIONS 1953 AND 1959

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

**Public Comments Due by April 11, 2022.**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Melani Singley at [melani.singley@post.ca.gov](mailto:melani.singley@post.ca.gov), or by letter to:

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

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST) and PC Section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific PC Section 13510 to raise the level of competence for peace officers and public safety dispatchers by adopting rules establishing and upholding minimum standards relating to recruitment.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

Commission Regulations 1953(a) (Peace Officer Background Investigation) and 1959(a) (Public Safety Dispatcher Background Investigation) require that thorough background investigations be conducted to ensure that candidates are of good moral character and absent of past behaviors indicative of unsuitability for peace officer and public safety dispatcher employment, respectively. Currently, there is no mandatory training requirement for individuals who conduct these investigations.

Concerns have been expressed over what, at times, is a lack of thoroughness, consistency, and relevancy of information provided in background investigation reports, raising concerns about the potential of a department's ability to make effective hiring decisions and the screening psychologist's ability to conduct an effective evaluation, as they rely on background investigation information in evaluating peace officer candidates. Conducting fair and comprehensive background investigations that comply with state and federal laws, and POST regulations, is the cornerstone to verifying candidates are suitable to serve as peace officers and public safety dispatchers. As such, it is imperative that background investigations are thorough, and the resulting narrative report contains adequate information for the department to make hiring decisions based on complete, accurate, consistent, and relevant information. With the enactment of recent laws, such as Senate Bill 2 (peace officer decertification) it is even more imperative that background investigations and the resulting reports are thorough, comprehensive, and contain all relevant information for departments to make informed decisions.

Mandating background training ensures that all individuals conducting background investigations have consistent, current, and relevant knowledge and understanding to conduct thorough, efficient, and effective investigations, which will provide necessary consistency in the gathering and reporting of information to the hiring department. Further, from a risk management perspective, it will improve the reliability of the background investigations and help to ensure that state laws and POST requirements are being met.

*Anticipated Benefits of the Proposed Amendments:*

The benefits anticipated by the proposed regulation amendments will be to ensure that background investigations are consistent, and will provide necessary and relevant information to enable employing departments to make effective hiring decisions, which will increase efficiency for the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare

of California. The proposed amendments will have no impact on worker safety or the state's environment.

*Evaluation of Inconsistency/Incompatibility with Existing State Regulations:*

POST has determined that these proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern mandatory training for individuals who conduct POST-required background investigations.

BENEFITS ANTICIPATED

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

ADOPTION OF PROPOSED REGULATIONS

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

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: POST has



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

**Small Business Determination:** POST has found that the proposed language will not affect small business because the amended regulation only applies to investigators who conduct backgrounds for POST-participating departments. Additionally, the Commission's main function to develop and selection and training standards for law enforcement personnel has no effect financially on small businesses.

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

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

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT PER GOVERNMENT CODE  
SECTION 11346.3(b)

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

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

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Melani Singley*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-4258. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

TEXT OF PROPOSAL

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

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

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

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

**TITLE 15. DEPARTMENT  
OF CORRECTIONS AND  
REHABILITATION**

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or department), proposes to amend sections 3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3044, and 3045.1 and to renumber and amend sections 3043.7 to 3044.1, 3043.8 to 3044.2, and 3047 to 3046.1, of the California Code of Regulations, Title 15, Division 3, Chapter 1, regarding Inmate Credit Earning.

PUBLIC COMMENT PERIOD

The public comment period begins **February 25, 2022** and closes on **April 13, 2022**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to [rpmb@cdcr.ca.gov](mailto:rpmb@cdcr.ca.gov), before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code

Section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

**CONTACT PERSONS**

*Primary Contact*

Josh Jugum  
Telephone: (916) 445-2266  
Regulation and Policy Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

*Back-Up*

Y. Sun  
Telephone: (916) 445-2269  
Regulation and Policy Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

*Program Contact*

Kelly Santoro  
Division of Adult Institutions  
(661) 721-2345

**AUTHORITY AND REFERENCE CITATIONS**

(Government Code section 11346.5(a)(2))

Government Code section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC section 5055 provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR.

PC section 5058 authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

**INFORMATIVE DIGEST**

(Government Code section 11346.5(a)(3))

The proposed regulations adjust the Good Conduct Credit earning rates for inmates to a fixed rate. These proposed regulations simplify the sentence calculation methodology resulting in the same credit rate gained, allowing for an accurate projected release date for all inmates that enables placement in specific programs and institutions that require precise timeframes for release. These changes will incentivize inmates to participate in rehabilitative programs which may assist in successful reintegration into society, thus reducing recidivism and enhancing public safety.

**POLICY STATEMENT OVERVIEW**

(Government Code section 11346.5(a)(3)(C))

This rulemaking action will:

- Establish a credit earning rate for inmates assigned to Work Group F. Work Group F is established at a 66.6% credit earning rate for inmates assigned to firefighting or firefighting-related duties convicted of a non-violent offense, and 50% credit earning rate for those convicted of violent crimes per Penal Code section 667.5(c).
- Establish a credit earning rate for inmates assigned to Work Group M. Work Group M is established at a 66.6% credit earning rate for inmates assigned to minimum custody convicted of a non-violent offense, and 33.3% credit earning rate for those convicted of violent crimes per Penal Code 667.5(c).

**DOCUMENTS INCORPORATED**

**BY REFERENCE**

None.

**TECHNICAL, THEORETICAL, OR  
EMPIRICAL STUDIES, REPORTS, OR  
DOCUMENTS RELIED UPON**

None.

**SPECIFIC BENEFITS ANTICIPATED BY THE  
PROPOSED REGULATIONS**

(Government Code section 11346.5(a)(3)(C))

The department anticipates these proposed regulations will benefit our criminal justice system and



communities by continuing to create incentives and opportunities for inmates to positively participate in rehabilitative programs.

**EVALUATION OF CONSISTENCY AND  
COMPATIBILITY WITH EXISTING  
STATE REGULATIONS**  
(Government Code section 11346.5(a)(3)(D))

The department has determined that these proposed regulations are not inconsistent or incompatible with existing regulations or other state laws. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations which concern these provisions.

**STATUTORY REQUIREMENTS, IF ANY,  
SPECIFIC TO AGENCY**  
(Government Code section 11346.5(a)(4))

Not applicable.

**LOCAL MANDATE DETERMINATION**  
(Government Code section 11346.5(a)(5))

This action imposes no mandates on local agencies or school districts, nor a mandate which requires reimbursement of costs or savings pursuant to Government Code sections 17500 through 17630.

**FISCAL IMPACT STATEMENT**

- Cost or savings to any state agency: *None*.
- Cost to any local agency or school district that is required to be reimbursed: *None*.
- Other nondiscretionary cost or savings imposed on local agencies: *None*.
- Cost or savings in federal funding to the state: *None*.

**EFFECT ON HOUSING COSTS**

The department has made an initial determination that the proposed action will have no significant effect on housing costs.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES**

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

**SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESS**

The department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

**EFFECT ON SMALL BUSINESSES**

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

**RESULTS OF THE ECONOMIC  
IMPACT ASSESSMENT**

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations will not affect the welfare of California residents, as they concern internal management of state prisons only.

**CONSIDERATION OF ALTERNATIVES**

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed during the written comment period or at a public hearing should one be scheduled.

**AVAILABILITY OF PROPOSED TEXT AND  
INITIAL STATEMENT OF REASONS**

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those

items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department's website: [www.cdcr.ca.gov](http://www.cdcr.ca.gov).

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department's contact person.

**AVAILABILITY OF CHANGES TO  
PROPOSED TEXT**

After 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, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

**TITLE 20. ENERGY COMMISSION**

**2022 APPLIANCE EFFICIENCY  
RULEMAKING FOR COMMERCIAL AND  
INDUSTRIAL FANS AND BLOWERS  
DOCKET NUMBER 22-AAER-01**

**INTRODUCTION**

Notice is hereby given that the California Energy Commission (CEC) proposes to adopt regulations for commercial and industrial fans and blowers into the California Code of Regulations (CCR) Title 20 ("the Proposed Action"), after considering all comments, objections, and recommendations, regarding the Proposed Action.

**PUBLIC HEARING**

The CEC staff will hold a public hearing for the proposed regulations at the date and time listed below. Interested persons, or their authorized representative, may present statements, arguments, or conten-

tions relevant to the proposed regulations at the public hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

Tuesday April 12, 2022  
10:00 a.m. (Pacific Time)

**BUSINESS MEETING**

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

Wednesday, June 8, 2022  
10:00 a.m. (Pacific Time)

The public hearing will be held remotely, consistent with AB 361 (Rivas, Stats. 2021, chapter 165, § 2) and Executive Order N-1-22 to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic by allowing broader access through teleconferencing options. Instructions for remote participation for the public hearing are below.

**REMOTE ATTENDANCE**

The public hearing may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 extension 2, or the Office of the Public Advisor, Energy Equity and Tribal Affairs at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov) or by phone at (916) 654-4489 or toll free at (800) 822-6228.

Link: <https://energy.zoom.us/j/92683364288?pwd=cGprWHZiMnpuMkhJVFZyMk1Ua09OQT09>  
Webinar ID: 926 8336 4288  
Passcode: 290779

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

**PUBLIC ADVISOR**

The CEC's Office of the Public Advisor, Energy Equity and Tribal Affairs provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services

or reasonable accommodations, reach out via email at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

**Zoom:** If you experience difficulties with the Zoom platform, please contact the Office of the Public Advisor, Energy Equity and Tribal Affairs via email or phone.

#### NEWS MEDIA INQUIRIES

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

#### PUBLIC COMMENT PERIOD

The written public comment period for the commercial and industrial fans and blowers proposed regulations will be held from February 25, 2022, through April 11, 2022. Any interested person, or their authorized representative, may submit written comments to the CEC for consideration on or prior to April 11, 2022. The CEC appreciates receiving written comments at the earliest possible date. Comments submitted outside this comment period are considered untimely. CEC may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

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

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-11> which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with Title 20, California Code of Regulations, Section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 22-AAER-01 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit  
Docket Number 22-AAER-01  
715 P Street, MS-4  
Sacramento, CA 95814

Pursuant to California Code of Regulations Title 20, Section 1104(e), any person may make oral comment on any agenda item at the June 8, 2022, Business Meeting. Please consult the public agenda, which will be posted ten days before the June 8, 2022, Business Meeting, for important details.

To ensure you receive notice of any changes to the proposed regulations in this proceeding, please follow the instructions provided at the end of this notice to join the proceeding listserv or provide a valid email or mailing address with your comments.

#### STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25213, 25218(e), and 25402(a)-(c) authorize the CEC to adopt rules or regulations, as necessary, to implement Public Resources Code Section 25402(c).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Warren-Alquist Act establishes the CEC as California’s primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(c) of the Public Resources Code mandate and/or authorize that the CEC adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances whose use requires a significant amount of energy or water statewide.

One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations, Title 20, Sections 1601-1609, which contain definitions, test procedures, efficiency standards, and marking and certification requirements for state and federally regulated appliances. Further, the regulations require that appliance manufacturers certify to the CEC that their products meet all applicable state and federal appliance efficiency regulations before their products can be included in the CEC’s Modernized Appliance Efficiency Database System (MAEDbS) of appliances approved to be sold or offered for sale within California.

The CEC is proposing regulations for new commercial and industrial fans and blowers. There are an estimated 2 million commercial and industrial fans and blowers in California used in a wide variety of applications including commercial building ventilation, commercial kitchen exhaust systems, industrial processes,

and agricultural ventilation. The CEC analyzed available market data and concluded that the regulations for commercial and industrial fans and blowers would significantly reduce energy consumption.

Therefore, the CEC has prepared the proposed regulations to provide definitions, test procedures, and reporting requirements, for commercial and industrial fans and blowers used in building applications. The regulations would apply to all commercial and industrial fans and blowers greater than or equal to 1 horsepower, or for fans without a rated shaft input power, an electrical input power greater than or equal to 1kW, but no more than 150 air horsepower.

The CEC proposes to explicitly exclude the following types of fans from these regulations:

- safety fans as defined in Section 1602(d) of this Article.
- ceiling fans as defined in 10 CFR § 430.2.
- circulating fans.
- induced-flow fans.
- jet fans.
- crossflow fans.
- embedded fans as defined in ANSI/AMCA 214–21.
- fans mounted in or on motor vehicles or other mobile equipment.
- fans that create a vacuum of 30 in. water gauge or greater; and
- air curtain unit as defined in Section 1602(d) of this Article.

**Difference from existing comparable federal regulation or statute**

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

The U.S. Department of Energy (DOE) issued a notice of proposed determination June 28, 2011, proposing that commercial and industrial fans, blowers, and fume hoods meet the criteria for covered equipment under the Energy Policy and Conservation Act (EPCA). On December 10, 2014, DOE issued a Notice of Data Availability (NODA), followed by a second NODA on May 1, 2015. The Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) formed a working group to negotiate potential efficiency standards and test procedures for fans. The negotiations resulted in a term sheet that included scope, test procedures, and standards for fans. The DOE released a third NODA to support the recommendations in the term sheet on November 1, 2016. However, DOE suspended its rulemaking for commercial and industrial fans and blowers in January 2017.

On August 19, 2021, DOE published a final coverage determination for specified fans and blowers. In February 2022, DOE issued a Request for Informa-

tion, soliciting information from stakeholders regarding standards for fans and blowers. However, as of the publication of this document, DOE has not proposed test procedures, labeling requirements, or energy conservation standards for commercial and industrial fans and blowers.

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

The broad objective of the regulations is to carry out the CEC’s statutory mandate to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy by providing definitions, test procedures, and reporting requirements for commercial and industrial fans and blowers used in building applications in the appliance efficiency regulations.

The specific benefits of the proposed regulations are utility cost savings to the consumer, and lower statewide energy use. The proposed regulations cover commercial and industrial fans and blowers used in building applications. The estimated net benefit for end users of commercial and industrial fans and blowers is between \$407 to \$6,117 per unit, depending on fan type. The first year the requirements take effect, California will save around 61 gigawatt-hours (GWh) and about 1,755 GWh per year after full stock turnover in 2052. These savings equate to about \$303 million in savings per year after full stock turnover for an approximate total appliance life-cycle net benefit of over \$5 billion for California businesses and industries.

**Determination of inconsistency or incompatibility with existing state regulations**

California does not have appliance efficiency regulations under Title 20 of the California Code of Regulations for commercial and industrial fans and blowers.

The California Building Code has requirements under Title 24, Part 6, Section 110.2 of the California Code of Regulations for some equipment that has an embedded commercial or industrial fan or blower or a combination. These requirements are for efficiency related to space conditioning, including requirements for minimum energy efficiency ratio, integrated energy efficiency ratio, coefficient of performance, integrated part-load value, or kilowatt-per-ton of refrigeration.

In addition, there are direct fan requirements in the building code under Title 24, Part 6, Section 140.4(c) of the California Code of Regulations, but these requirements are applicable only to new buildings and not every installation. The Title 24 requirements apply to fan systems used for space conditioning and do not conflict with the requirements of the proposed regulation.

Therefore, the CEC has determined that the proposed regulations would not prevent compliance with existing state regulations and are neither inconsistent nor incompatible with any other existing state regulations.

DOCUMENTS INCORPORATED  
BY REFERENCE

The CEC proposes to incorporate the following document by reference:

ANSI/AMCA Standard 214–21 — Test Procedure for Calculating Fan Energy Index (FEI) for Commercial and Industrial Fans and Blowers.

All documents are available for review at the CEC located at 715 P Street, Sacramento, California 95814, or on the CEC’s website found at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-11>.

MANDATED BY FEDERAL  
LAW OR REGULATIONS

None.

OTHER STATUTORY REQUIREMENTS

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq.: None.
- Cost or savings to any state agency: None.
- Non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in Federal funding to the state: None.

SIGNIFICANT EFFECT ON  
HOUSING COSTS

None.

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

The CEC has made an initial determination that the proposed regulations will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The CEC proposes to test fans using ANSI/AMCA 214–21 test procedures to test and calculate the fan energy index (FEI) for standalone commercial and industrial fans and blowers. The fan categories covered by this proposal include a wide variety of common commercial and industrial applications. In contrast, the excluded fan categories are fan types that are primarily used in specialty applications including those embedded in equipment with a main function other than the movement of air.

The proposed regulations will require manufacturers to include certain information, and prohibit other specified information, on the labeling of commercial and industrial fans and blowers. Business may be impacted if they purchase regulated commercial and industrial fans and blowers. The CEC assumes that manufacturers will pass the incremental cost to meet the requirements onto the businesses involved in the distribution and sales, which in turn will then pass the cost on to the consumers. The CEC assumes that commercial and industrial fans and blowers are typically purchased by businesses not individuals. The proposed regulations for commercial and industrial fans and blowers may have an initial increased incremental cost to businesses but will result in lower utility bills to those businesses through reduced electricity consumption. The savings from the lower utility bills over the lifetime of the more efficient appliance exceeds the incremental costs.

Retailers are responsible for ensuring that the regulated products they sell are certified to the CEC and appear in the CEC Modernized Appliance Efficiency Database System (MAEDbS) before they are sold or offered for sale in California. Because commercial and industrial fans and blowers are newly covered products, the CEC assumes that retailers will experience some additional costs associated with checking MAEDbS to ensure that the appliance(s) they sell are certified to the CEC and appear in the MAEDbS and are therefore compliant and lawful to sell in the state.

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT

The CEC concludes that: (1) the proposal will not create jobs within California, (2) the proposal will not eliminate jobs within California, (3) the proposal will not create new businesses in California, (4) the proposal will not eliminate existing businesses within California, and (5) the proposal will not result in the expansion of businesses currently doing business within the state.

The benefits of the proposed regulations are utility cost savings to the consumer and lower statewide energy use. The proposed regulations cover commercial and industrial fans and blowers used in building



applications. The first year the regulations take effect, California will save around 61 gigawatt–hours (GWh) of electricity and about 1,755 GWh per year after full stock turnover in 2052. These savings equate to about \$5 billion for California businesses and industries over the lifetime of these appliances.

The proposed regulation will not adversely impact the health and welfare of California residents, worker safety, or the state’s environment.

#### **COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

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

The CEC assumes that commercial and industrial fans and blowers are typically purchased by businesses not individuals, so no cost impacts are anticipated for individuals.

The CEC proposes using ANSI/AMCA 214 test procedure to test and calculate the fan energy index (FEI) for standalone commercial and industrial fans and blowers. The fan categories covered by this proposal include a wide variety of common commercial and industrial applications. In contrast, the excluded fan categories are fan types that are primarily used in specialty applications including those embedded in equipment with a main function other than the movement of air.

The proposed regulation will require manufacturers to include certain information, and prohibit other specified information, on the labeling of commercial and industrial fans and blowers. Business may be impacted if they purchase regulated fans and blowers. The CEC assumes that manufacturers will pass the incremental cost to meet the requirements onto the businesses involved in the distribution and sales, which in turn will then pass the cost on to the consumers. While there is an initial increased incremental cost to businesses, the reduced energy consumption will result in lower utility bills to those businesses. The savings from the lower utility bills over the lifetime of the more efficient appliance exceed the incremental costs.

#### **BUSINESS REPORT**

The regulations impose a new reporting requirement for manufacturers of commercial and industrial fans and blowers.

State law (Public Resources Code Section 25402(c)(1)) requires manufacturers to certify to the CEC that their appliances comply with the applicable labeling requirements before they are sold or offered for sale in the state. The Appliance Efficiency Regulations require manufacturers to provide specified

information for this purpose to the CEC Modernized Appliance Efficiency Database System (MAEDbS). MAEDbS is used by manufacturers and maintained by the CEC to list the appliances authorized to be sold or offered for sale in California. This is necessary to help the CEC and consumers verify compliance with applicable federal and state efficiency standards and requirements. Some retailers may choose to act as a manufacturer when they rebrand a product and assume the certification obligation for that model.

It is necessary for the health, safety, or welfare of the people of the state, that these regulations, which require a report, apply to businesses.

#### **EFFECT ON SMALL BUSINESS**

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

#### **CONSIDERATION OF ALTERNATIVES**

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

#### **CONTACT PERSON**

Questions should be addressed to:

Corrine Fishman, Regulations Manager  
Efficiency Division  
715 P Street  
Sacramento, CA 95814  
(916) 805–7452  
[corrine.fishman@energy.ca.gov](mailto:corrine.fishman@energy.ca.gov)

Or:

Alejandro Galdamez, P.E.  
Efficiency Division  
(916) 237–2550  
[alejandro.galdamez@energy.ca.gov](mailto:alejandro.galdamez@energy.ca.gov)

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

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, and the ISOR. Copies may be obtained by contacting Corrine Fishman at the email or phone number above or accessed through the CEC's website at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-11>.

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

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

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by contacting the person above or by visiting the CEC's website at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-11>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking have been posted at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-11>.

INSTRUCTIONS FOR RECEIVING NOTICES AND DOCUMENTS IN THIS PROCEEDING

To stay informed about this project and receive documents and notices of upcoming workshops and hearings as they are filed please subscribe to the **Appliance listserv**, which can be accessed here: <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings>. The listserv sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable or do not wish to sign up for the listserv but still would like to receive documents and notices, please contact the contact person listed in this notice.

**TITLE 20. ENERGY COMMISSION**

DELEGATION OF GEOTHERMAL POWER PLANT SITING AUTHORITY TO LOCAL GOVERNMENT  
SECTIONS 1802, 1860 THROUGH 1870  
DOCKET NUMBER 21-OIR-02

INTRODUCTION

Notice is hereby given that the California Energy Commission (CEC) proposes to adopt amendments to the CEC's procedures to delegate its site certification authority over geothermal power plants to counties contained in the California Code of Regulations (CCR), Title 20 (Proposed Action), after considering all comments, objections, and recommendations regarding the Proposed Action.

PUBLIC HEARING

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

Public Hearing  
Thursday, April 14, 2022  
10:00 a.m. (Pacific Time)

The public hearing will be held remotely, consistent with recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

### REMOTE ATTENDANCE

The public hearing may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password for the public hearing listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 extension 2, or the Office of the Public Advisor, Energy Equity and Tribal Affairs at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov) or by phone at (916) 957-7910.

#### Zoom Link:

<https://energy.zoom.us/j/93639108124?pwd=dmt0ZnpYSEd3bTVnUUFZY3dhMTA0dz09>

Webinar ID: 936 3910 8124

Password: 041222

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

### BUSINESS MEETING

Please take notice that the CEC will consider and possibly adopt the proposed regulations at a CEC Business Meeting at the date and time listed below. Interested persons, or their authorized representative, may present oral statements, arguments, or contentions relevant to the proposed regulations at the Business Meeting. If the date, time, place, or nature of the proposed adoption changes, the CEC will provide updated information in the rulemaking docket. Instructions for participating in the Business Meeting will be provided in the meeting notice consistent with COVID-19 guidance in place at the time.

#### Business Meeting

Wednesday, May 11, 2022

10:00 a.m. (Pacific Time)

### PUBLIC ADVISOR

The CEC’s Office of the Public Advisor, Energy Equity and Tribal Affairs provides the public with assistance in participating in CEC proceedings. For information about how to participate in this proceeding or to request interpreting services or reasonable accommodations, please contact the *Public Advisor* via email at [PublicAdvisor@energy.ca.gov](mailto:PublicAdvisor@energy.ca.gov) or by phone at (916) 957-7910. Requests for interpreting services, modifications, and reasonable accommodations should be made as soon as possible and at least five days in advance of the public hearing or Business Meeting. The CEC will work diligently to accommodate all requests

based on the availability of the service or resource needed.

Zoom: If you experience difficulties with the Zoom platform, please contact the Office of the Public Advisor, Energy Equity and Tribal Affairs via email or phone.

### MEDIA INQUIRIES

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

### PUBLIC COMMENT PERIOD

The public comment period for the proposed regulations will be held from February 25, 2022, through April 11, 2022. Any interested person, or their authorized representative, may submit written comments to the CEC for consideration on or prior to April 11, 2022. The CEC appreciates receiving written comments at the earliest possible date. Comments submitted outside this comment period are considered untimely. CEC may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

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

The CEC encourages use of its electronic commenting system. Visit <https://efiling.energy.ca.gov/EComment/ECommentSelectProceeding.aspx>, type in docket number, 21-OIR-02. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with Title 20, California Code of Regulations, Section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include Docket Number 21-OIR-02 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit  
Docket Number 21-OIR-02  
715 P Street, MS-4  
Sacramento, CA 95814

Pursuant to California Code of Regulations Title 20, Section 1104(e), any person may make public comment on any agenda item at the business meeting. Public comment may be limited to three minutes per commenter. Please consult the public agenda, which



will be posted ten days before the business meeting, for important details.

To ensure you receive notice of any changes to the proposed regulations in this proceeding, please follow the instructions provided at the end of this notice to join the proceeding listserv or provide a valid email or mailing address with your comments.

**STATUTORY AUTHORITY AND REFERENCE**

Public Resources Code Sections 25218(e) and 25541.5 authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, and make specific Public Resources Code Sections 25540–25540.3 and 25540.5.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The CEC is undertaking this rulemaking in response to a Proclamation of a State of Emergency issued by Governor Gavin Newsom on July 30, 2021, directing state agencies to, among other things, perform any and all actions to accelerate the state’s transition to carbon-free energy. This rulemaking will also support a June 2021 decision by the California Public Utilities Commission (CPUC) directing utilities to procure 11,500 megawatts (MW) of new electricity resources before 2026, with at least 1,000 MW coming from “firm resources with zero-onsite emissions” such as geothermal.

The CEC first adopted the regulations at issue in this proceeding in the late 1970s and has not significantly amended these regulations since then. These regulations have never been used because they are too burdensome for a county to petition for delegation of geothermal power plant certification authority, and for the CEC to approve such delegation. As a result, the CEC and counties have not been able to use this delegation authority, which could streamline the certification of geothermal power plants as intended by the Legislature. Streamlining these regulations would help remove barriers to geothermal power plant certification while maintaining robust environmental review and public participation as required under the California Environmental Quality Act (CEQA).

Therefore, the CEC is proposing to amend the CEC’s procedures for delegating the CEC’s full authority for the certification of geothermal power plants within a county which has adopted a geothermal element for its general plan and demonstrates that it has an equivalent certification program (Cal. Code Regs., title 20, §§ 1802 and 1860–1870).

**Difference from existing comparable federal regulations or statutes**

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

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

The broad objective of this rulemaking is to respond to the Governor’s July 30, 2021, Emergency Proclamation to take steps to accelerate the state’s transition to carbon-free energy. This rulemaking proposes to amend regulations that the CEC first adopted in the late 1970s and has not significantly amended since then. These regulations have never been used because they are too burdensome for a county to petition for delegation of geothermal power plant certification authority, and for the CEC to approve such delegation. As a result, the CEC and counties have not used these regulations, which could streamline the certification of geothermal power plants as intended by the Legislature. Streamlining these regulations will help remove barriers to geothermal power plant certification while maintaining robust environmental review and public participation as required under CEQA. This rulemaking thus.

The specific benefits of this rulemaking are to streamline the CEC delegation of authority process to minimize cost and delay while maintaining a strong environmental review and mitigation program with opportunities for public participation and input under CEQA. Streamlining the regulations will help accelerate the state’s transition to carbon-free energy by providing counties a simpler process to obtain a delegation of authority to site geothermal facilities.

**Determination of inconsistency or incompatibility with existing state regulations**

The CEC has conducted a search for any other regulations in this area and has determined that the proposed regulations are neither inconsistent nor incompatible with any existing state regulations.

**DOCUMENTS INCORPORATED  
BY REFERENCE**

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

**MANDATED BY FEDERAL  
LAW OR REGULATIONS**

None.

**OTHER STATUTORY REQUIREMENTS**

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

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

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

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

The CEC has made an initial determination that the proposed regulations will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The CEC proposes to streamline the delegation of authority processes to minimize cost and delay while maintaining a comprehensive environmental review and mitigation program with opportunities for public participation and input under CEQA. Amending portions of its delegation regulations will better reflect what is necessary to ensure an equivalent certification program while minimizing or eliminating unnecessary procedural steps that delay and complicate both the consideration of a petition for delegation and the requirements themselves for the equivalent certification program.

The proposed amendments have no impact on business and only relate to those counties in the state that have geothermal resources within their jurisdiction. Thus, no economic or fiscal impacts are expected.

THE ECONOMIC IMPACT ASSESSMENT

The proposed amendments streamline the delegation process for counties that have geothermal resources but do not otherwise change the existing requirements that entities seeking to build and operate a

geothermal power plant 50 MW or greater must obtain a certification. The CEC concludes that the proposal: (1) will not create jobs within California, (2) will not eliminate jobs within California, (3) is not expected to create new businesses in California, (4) is not expected to eliminate existing businesses within California, and (5) is not expected to result in the expansion of businesses currently doing business within the state. Further, the proposed amendments have no impact on business and only relate to those counties in the state that have geothermal resources within their jurisdiction.

*Benefit of the Proposed Action:* The proposed regulations will benefit the health and welfare of California residents and the state's environment through streamlining the CEC's delegation of authority processes to minimize cost and delay while maintaining a comprehensive environmental review and mitigation program with meaningful opportunities for public participation and input under CEQA.

The proposed regulation will have no effect on worker safety.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The CEC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed amendments have no impact on business and only relate to those counties in the state that have geothermal resources within their jurisdiction.

The CEC proposes to streamline the CEC delegation of authority processes to minimize cost and delay while maintaining a comprehensive environmental review and mitigation program with meaningful opportunities for public participation and input under CEQA. The proposed regulations do not impact private persons and there are no anticipated cost impacts to businesses.

The CEC proposes to amend portions of its delegation regulations to better reflect what is necessary to ensure an equivalent certification program while minimizing or eliminating unnecessary procedural steps that delay and complicate both the consideration of a petition for delegation and the requirements themselves for the equivalent certification program.

BUSINESS REPORT

The regulations do not impose a new reporting requirement.

EFFECT ON SMALL BUSINESS

The proposed regulations will not affect small business. The CEC is not aware of any significant cost impacts that a business, including a small business, would incur in reasonable compliance with the Proposed Action. This is because the Proposed Action only relates to those counties that have geothermal resources in their jurisdiction, and the Proposed Action merely streamlines procedures.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Rulemaking process questions should be addressed to:

Corrine Fishman, Regulations Manager  
 715 P Street  
 Sacramento, CA 95814  
 (916) 805-7452  
[Corrine.Fishman@energy.ca.gov](mailto:Corrine.Fishman@energy.ca.gov)

If Corrine Fishman is unavailable, you may contact Jared Babula, Senior Staff Attorney, at (916) 891-8033 or at [Jared.babula@energy.ca.gov](mailto:Jared.babula@energy.ca.gov).

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

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 715 P Street, Sacramento, California 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Initial Statement of Reasons, and any documents relied upon. Copies may be obtained by contacting Corrine Fishman above or accessed through the CEC website at *Docket Number 21-OIR-02*, <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02>.

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

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

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons, once it has been prepared, by visiting the CEC website at *Docket Number 21-OIR-02*, <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared for this rulemaking have been posted on the CEC's website at *Docket Number 21-OIR-02*, <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02>.

INSTRUCTIONS FOR RECEIVING NOTICES AND DOCUMENTS IN THIS PROCEEDING

To stay informed about this project and receive documents and notices of upcoming workshops and hearings as they are filed, please subscribe to the **Rulemaking listserv** or **Geothermal listserv**, which can be accessed at [https://ww2.energy.ca.gov/listservers/index\\_cms.html](https://ww2.energy.ca.gov/listservers/index_cms.html) under Commission General Lists or Renewable Energy Lists. The listserv sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable or do not wish to sign up for the listserv but still would like to receive documents and notices, please contact the contact person listed in this notice.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND WILDLIFE**

**DEPARTMENT OF FISH AND WILDLIFE**

CALIFORNIA ENDANGERED SPECIES ACT  
CONSISTENCY DETERMINATION  
NUMBER 2080–2022–001–01

CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
Horse Creek Bridge Replacement Project  
2080–2022–003–01  
Siskiyou County

**Project:** Elk River Sediment Remediation and  
Habitat Rehabilitation Implementation  
Pilot Project

**Location:** Humboldt County

**Applicant:** California Trout

**Background**

The California Department of Fish and Wildlife (CDFW) received a notice on February 8, 2022, that the California Department of Transportation (Caltrans) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the replacement of a dimensionally outdated and scour critical bridge. Proposed activities will include, but are not limited to, installation of pilings and gravel work pads, construction of access roads, construction of piers for the new bridge, and demolition of the old bridge. The proposed project will occur on State Route (SR) 96 over the Klamath River at Post Mile 77.15 in Siskiyou County.

California Trout (Applicant) proposes the Elk River Sediment Remediation and Habitat Rehabilitation Implementation Pilot Project (Project) along Elk River Road in Humboldt County. The Project involves in-stream work to remediate excessive fine sediment to re-create a more natural channel form and salmonid habitat in two locations on the Elk River, the Wrigley Orchard Reach and the Flood Curve Reach.

The National Marine Fisheries Service (NMFS) issued a federal biological opinion (BO) (NMFS Number WCRO–2021–02714) in a memorandum to Caltrans on December 15, 2021, which considered the effects of the proposed project on state and federally threatened Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*).

The Wrigley Orchard Reach component of the Project includes temporarily dewatering 375 feet of channel for sediment dredging, vegetation management, and creation of inset floodplains to achieve the Project design. This Project reach will integrate one or two large wood structures and increase pool depths to greater than four to five feet. Each large wood structure will contain approximately four to six redwood logs, with one log anchored and buried into the bank and enhanced with smaller salvaged wood. Approximately 600 cubic yards of sediment will be dredged from 200 feet of the channel along with approximately 2,100 cubic yards of sediment to create an inset floodplain adjacent to the channel along the right bank.

Pursuant to California Fish and Game Code section 2080.1, Caltrans is requesting a determination that the BO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

The Flood Curve Reach component of the Project includes temporarily dewatering 2,000 feet of channel for sediment dredging, lowering of floodplain, and construction of seven pool and riffle sequences. Approximately 14,800 to 17,300 cubic yards of sediment will be dredged from the channel along with 3,100 cubic yards of sediment to create an inset floodplain on the right bank. Construction of the pool and riffle sequences includes dredging seven pools to greater than four to five feet deep and addition of seven large wood structures and imported gravel added to seven riffle areas. The seven large wood structures will consist of at least one key piece (18–24 inch diameter by 20–30 feet long, preferably with attached rootwad), an equally sized footer log, two anchor logs (12–18 inch

diameter) and two smaller pinning logs (greater than 12 inch diameter), for a total of six wood pieces each.

The Project activities described above are expected to take<sup>1</sup> coho salmon (*Oncorhynchus kisutch*), of the Southern Oregon–Northern California Coast evolutionarily significant unit (SONCC coho salmon) where those activities take place within the bed, bank, and channel of Elk River. In particular, SONCC coho salmon could be taken as a result of the temporary stream diversion and dewatering process prior to construction. SONCC coho salmon is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(2)(D).<sup>2</sup>)

SONCC coho salmon are present in the Elk River. Because of possible occurrences of all life stages of SONCC coho salmon, the known dispersal patterns of SONCC coho salmon, and the presence of suitable SONCC coho salmon habitat within the Project site, the National Marine Fisheries Service (Service) determined that SONCC coho salmon is reasonably certain to occur within the Project site and that Project activities are expected to result in the take of SONCC coho salmon.

According to the Service, the Project will result in the temporary loss of 2,375 linear feet of instream rearing habitat for SONCC coho salmon. The Project will not result in permanent habitat loss for SONCC coho salmon.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the Army Corps of Engineers consulted with the Service as required by the ESA. On January 22, 2020, the Service issued a biological opinion (Service file Number WCRO–2019–01665) (BO) to the Army Corps of Engineers. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures. On October 14, 2021, the Service amended the BO and ITS to, among other things, state the ITS was developed presuming the Project will occur as described in the BO and Biological Assessment (BA).

On January 11, 2022, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination

pursuant to Fish and Game Code section 2080.1 that the ITS and its accompanying BO are consistent with CESA for purposes of the Project and SONCC coho salmon. (Cal. Reg. Notice Register 2022, Number 4–Z, page 73.)

### Determination

Pursuant to Fish and Game Code section 2080.1, CDFW has determined that the ITS, along with its accompanying BO, as amended, is consistent with CESA, Fish and Game Code chapter 1.5, as to the Project and SONCC coho salmon. This determination is based on measures in the ITS, BO, and BA, including, but not limited to, the following:

#### Conservation Measures

- 1) The Applicant shall allow any Service and CDFW employee(s) or any other person(s) designated by the Service and CDFW, to accompany field personnel to visit the Project site during activities described in the BO.
- 2) Qualified biologists with expertise in the areas of anadromous salmonid biology shall conduct fish relocation activities associated with construction. A qualified biologist conducting this activity shall be approved as Designated Biologist by CDFW.
- 3) The Designated Biologist will be responsible for confirming and monitoring for compliance with the BO.
- 4) The Applicant or its contractor performing fish relocation shall not herd fish using an electrofisher.
- 5) Salmonids shall be handled with extreme care and kept in water to the maximum extent possible during rescue activities. All captured fish must be kept in cool, shaded, and aerated water protected from excessive noise, jostling, or overcrowding or potential predators any time they are not in the stream, and fish will not be removed from this water except when released. Captured salmonids will be relocated as soon as possible to an instream location in which suitable habitat conditions are present to allow for adequate survival for transported fish and fish already present. Fish will be distributed between multiple pools if biologists judge that overcrowding may occur in a single pool.
- 6) If the Applicant determines that ice is needed to cool water inside of buckets, the ice used shall be contained inside of plastic so that as the ice melts, the melted water is contained in a water-tight sealed package.
- 7) The Applicant or their contractor shall monitor any screens used to block fish access on a daily basis, or more frequently if necessary, to ensure that no impingement occurs, and to assess whether significant downstream migration is occurring.

<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.

<sup>2</sup> Coho salmon from Punta Gorda (Humboldt County), California to the northern border of California is listed as threatened under CESA. SONCC coho salmon is included within this group.

- 8) The Applicant shall ensure that any minimization measures described in the Proposed Federal Action section of the Biological Opinion or supporting documents are properly implemented.
- 9) The Applicant shall contact the Service and CDFW within 24 hours of meeting or exceeding take of listed species prior to Project completion. Notify Matt Goldsworthy by phone at 707-825-1621 or email at [Matt.Goldsworthy@noaa.gov](mailto:Matt.Goldsworthy@noaa.gov) and Greg O'Connell by phone at 707-653-3504 or email at [Gregory.OConnell@wildlife.ca.gov](mailto:Gregory.OConnell@wildlife.ca.gov). The Service and CDFW will review the activities resulting in take and determine if additional protective measures are required.
- 10) The Applicant will install at least one large wood structure into each pool excavated in the Project reaches after fine sediments are removed. These wood structures are intended to provide coho salmon with low or zero velocity habitat refugia to improve winter rearing habitat.
- 11) The Applicant shall not initiate Project activities that will impact coho salmon until they have provided CDFW written evidence that funds have been secured and that the Applicant has a mutually approved contract with a third party to install and monitor performance of the wood structures. The Applicant has provided an estimate that the contract would be \$68,400, which includes the performance monitoring activities that are associated with the wood structures.

*Monitoring and Reporting Measures*

- 1) Large wood installation habitat enhancement actions will be monitored by the Applicant for up to five years after completion of construction to ensure satisfactory Project performance.
- 2) As-built and performance monitoring will occur for at least three years following the completion of construction activities. This monitoring will include post-construction as-built surveys, winter monitoring of water surface elevations and channel cross section responses to winter high flow events and monitoring of salmonid habitat conditions through the spring recession into the summer low-flow period.
- 3) The Applicant shall provide a written report to the Service and CDFW by January 15 of each year. The report shall be sent via email to [Matt.Goldsworthy@noaa.gov](mailto:Matt.Goldsworthy@noaa.gov) and [Gregory.OConnell@Wildlife.ca.gov](mailto:Gregory.OConnell@Wildlife.ca.gov) or via mail to Matt Goldsworthy at 1655 Heindon Road, Arcata, California, 95521 and Greg O'Connell at 619 Second Street, Eureka, California, 95501. The report shall contain, at a minimum, the following information:
  - a. Fish Relocation — The report will include description of the location from which fish

were removed and the release site including photographs; the date and time of the relocation effort; a description of the equipment and methods used to collect, hold, and transport salmonids; the number of fish relocated by species; the number of fish injured or killed by species and a brief narrative of the circumstances surrounding salmonid injuries or mortalities; and a description of any problems which may have arisen during the relocation activities and a statement as to whether or not the activities had any unforeseen effects.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for take of SONCC coho salmon, provided the Applicant implements the Project as described in the BO, as amended, including adherence to all measures contained therein, and complies with the conservation measures and other conditions described in the ITS, BO, as amended, and the BA. If there are any substantive changes to the Project, including changes to the conservation measures, or if the Service amends or replaces the ITS, BO, as amended, or BA, the Applicant shall be required to obtain a new consistency determination or a CESA take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081).

CDFW's determination that the Service BO, as amended, and ITS are consistent with CESA is limited to SONCC coho salmon.

**DEPARTMENT OF  
FISH AND WILDLIFE**

**HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653-2022-088-001-R1**

**Project:** East Weaver Creek Dam Removal and Intake Relocation Project

**Location:** Trinity County

**Applicant:** Northwest California Resource Conservation and Development Council, represented by Mark Lancaster

**Background**

*Project Location:* The East Weaver Creek Dam Removal and Intake Relocation Project (Project) is located on East Weaver Creek Road in the community of Weaverville, on a property owned and operated by Weaverville Community Services District (WCSD), Assessor Parcel Number (APN) 010-270-001-000, and affects East Weaver Creek. East Weav-

er Creek supports populations of state and federally listed threatened Southern Oregon/Northern California Coast Coho Salmon (*Oncorhynchus kisutch*), as well as steelhead (*O. mykiss*), Pacific lamprey (*Entosphenus tridentatus*), and foothill yellow-legged frog (*Rana boylei*).

*Project Description:* Mark Lancaster, representing Northwest California Resource Conservation and Development Council (Applicant), proposes to enhance or restore habitat within East Weaver Creek to provide a net conservation benefit for coho. The Project will restore fish passage by removing the East Weaver Creek dam (EWD), move the point of diversion upstream from the current location, and install a new fish screen while maintaining water reliability to the community of Weaverville. EWD is recognized as the only complete barrier to upstream fish migration for all life stages of all fish species in East Weaver Creek. The cold-water habitat upstream of EWD is capable of providing access to 2.5 miles of critical summer rearing habitat for salmon and steelhead. Construction will be phased over the course of at least two years, with additional refinements added as necessary under an adaptive management approach with annual monitoring.

In the first year of implementation, Phase I will install a new prefabricated cone screen 270 feet upstream of the EWD and unscreened intake on the east bank of East Weaver Creek. Pipes, flashboards, and infrastructure needed to accommodate a quantified pre-1914 water right of 1.73 cubic foot per second will also be installed at the new location. Finally, the first phase includes the installation of one instream rock weir at the new intake to hold the grade of the channel. After monitoring the performance of the new diversion intake and fish screen for a winter season, Phase IIA will install up to five grade-control structures upstream or downstream of EWD depending on channel movement, remove the upper six feet of the concrete apron on the dam, reposition the underlying boulder fill in the scour reach of the channel downstream of the dam, and redistribute accumulated bedload stored upstream of EWD into the scour reach downstream. After monitoring the channel and intake for a second winter, Phase IIB will be completed, if necessary, over the course of several years. Phase IIB consists of mechanically repositioning the remaining dam fill boulders and upstream bedload sediments to help achieve a 5.7% gradient for 500 feet of the project reach. Once the dam is completely removed, channel incision would adjust the upstream channel to the natural slope, but the process of channel formation may be prolonged depending on drought conditions and annual high flows. Using adaptive management in response to monitoring sediment transport through the reach, the use of “chop and drop” tree felling tech-

niques adjacent to the channel will be used to adjust sediment transport rates as needed, while creating in-stream habitat features. This process should create debris jam formations, locally accelerating or slowing channel bed and bank erosion and/or deposition, create sediment storage reserves, and produce a stepped channel profile.

The project will have temporary impacts to the channel and adjacent riparian habitat. In-stream construction will occur over four–five days each year for Phase I and Phase IIA. Construction out of the channel will occur over 15–20 days each year. Temporary impacts from construction will stem from construction access and building in-channel habitat structures (rock weirs/grade structures and large woody debris), removal of the concrete apron on the dam, and relocation of the WCSD intake. These impacts include temporary increases in suspended sediment loads as the stream channel adjusts and deposits in the scour reach below the EWD. Short-term increases in turbidity and sedimentation during construction are expected to be relatively low as the work area will be dewatered and fine sediment will be incorporated into the channel grade structures to entrain fines between gravels and boulders. Temporary impacts to the riparian habitat will occur from creating construction access off of an existing trail and installing the new pipeline. Up to twenty large (12– to 24–inch DBH) conifers and three mature riparian maples will be removed when widening the trail for equipment access, fish screen installation, and pipeline burial. Disturbed areas will be mulched, revegetated with native erosion control grasses, and replanted with native riparian or conifer trees at a 3:1 ratio. The conifers which are removed for construction access will be used under Phase IIB to create woody debris jams. Long-term benefits of the project will be achieved by removing a complete migration barrier and allowing access to approximately 2.5 miles of high-quality habitat, decreasing the amount of water taken out of the channel at the point of diversion, and decreasing fish mortality from being directed into an unscreened intake and treatment plant. The project will restore natural bedload and debris transport through the reach.

Dewatering and fish relocation will be conducted as explained in the submitted Best Management Practices. All relocation activities from in-stream work areas will be conducted by qualified professionals consistent with California Department of Fish and Wildlife (CDFW) and National Oceanic and Atmospheric Administration (NOAA) Fisheries guidance prior to dewatering. Detailed design and construction plans were included with the Notice of Intent and were reviewed and approved by CDFW Conservation Engineering staff during project development. Ninety percent design plans are on file with CDFW. WCSD shall submit



a Notification of Lake or Streambed Alteration pursuant to Fish and Game Code section 1602 for ongoing routine maintenance associated with their diversion and may include maintenance work outside the scope of this Project.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 1.3 acres and 500 linear feet. The largest extent of temporary impacts will be riparian habitat, with only 0.1 acres, or 500 linear feet of streambed/bank habitat being impacted. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

*Project Associated Discharge:* Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: twenty-two cubic yards of boulders from subsurface rock grade structures/weirs, a 48-inch cone screen, one cubic yard of mulch and native re-vegetation material, and approximately twenty 12- to 24-inch diameter logs.

*Project Timeframes:*

Start date: August 15, 2022  
Completion date: October 15, 2026  
Work window: August 15 through October 15, with an option for extension with written approval from the Regional Water Board and CDFW.

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to 2.5 miles of spawning and rearing habitat, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1A21217WN-TR; Electronic Content Management Identification (ECM PIN) Number CW-876650 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to Coho salmon.

*Receiving Water:* East Weaver Creek, within the Trinity River Hydrologic Unit 106.32

*Filled or Excavated Area:*

Permanent area impacted: none  
Temporary area impacted: 1.3 acres maximum  
Length temporarily impacted: 500 linear feet  
Length permanently impacted: 0 linear feet

*Dredge Volume:* None.

*Discharge Volume:* Twenty-two cubic yards of boulders from subsurface rock grade structures/weirs, a 48-inch cone screen, one cubic yard of mulch and native re-vegetation material, and approximately twenty 12- to 24-inch diameter logs.

*Project Location:* 40.77702°North, 122.930082°West, APN: 010-270-001-000

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

On January 12, 2022, the Director of CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on January 12, 2022, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2022-0112-03) on January 28, 2022. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

**Determination**

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

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act section 401 General Water Quality Certification for Small Habitat Restoration Projects.

**Avoidance and Minimization Measures**

The avoidance and minimization measures for the Project, as required by Fish and Game Code section



1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Channel Maintenance; (2) Diversion Dam/Dewatering; (3) Dust Abatement; (4) Electrofishing; (5) Erosion Control and Repair; (6) Fire Risk; (7) Fish Exclusion/Relocation; (8) Hazardous Materials; (9) In-stream Bank Erosion Control; (10) Mulching; (11) Outdoor Loading and Unloading of Raw Materials; (12) Outdoor Storage of Raw Materials; (13) Replanting; (14) Recreation Trail and Walkway Restoration; (15) Seeding; (16) Spoils Site Disposal Site Selection, Closure, and Maintenance; (17) Stockpile Maintenance; (18) Vegetation and Tree Removal; (19) Vehicle and Equipment Maintenance and Repair; and (20) Waste Minimization, Handling, and Disposal. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Best Management Practices for the East Weaver Creek Dam Removal and Intake Relocation Project*.

### Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *East Weaver Creek Dam Removal and Intake Relocation Project Monitoring and Reporting Plan*, prepared by 5 Counties Salmonid Conservation Program.

### Notice of Completion

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

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

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

### Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW's approval of a habitat restoration or enhancement project pursuant to Fish and Game Code section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

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

## FISH AND GAME COMMISSION

### NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission (Commission), on February 2, 2022, received a petition from Maria Jesus, the Center for Biological Diversity, and California Native Plant Society to list Inyo rock daisy (*Perityle inyoensis*, synonym *Laphamia inyoensis*) as threatened or endangered under the California Endangered Species Act.

The Inyo rock daisy belongs to a group of perennial, self-incompatible subshrubs in the sunflower family (Asteraceae) and is endemic to the southern Inyo Mountains in Inyo County where it persists on sparsely distributed calcareous rock outcrops at the highest elevations of the mountain range. There are only 26 known extant occurrences and the total number of individuals is in the low thousands.

Pursuant to Section 2073 of California Fish and Game Code, on February 14, 2022, the Commission transmitted the petition to the California Department of Fish and Wildlife (Department) for review pursuant to Section 2073.5 of said code. The Commission will receive the petition at its February 16–17, 2022 meeting, which will be held via teleconference and webinar. It is anticipated that the Department's evaluation and recommendation relating to the petition will be received by the Commission at its June 15–16, 2022 meeting.

For information about the petition or to submit information to the Department relating to the petitioned species, interested parties may contact Isabel Baer,

Timberland Conservation and Native Plant Program Manager, California Department of Fish and Wildlife, by mail at P.O. Box 944209, Sacramento, California 94244-2090, telephone at (916) 720-1255, or email at [nativeplants@wildlife.ca.gov](mailto:nativeplants@wildlife.ca.gov).

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)

NOTICE TO INTERESTED PARTIES  
CHEMICAL LISTED EFFECTIVE  
FEBRUARY 25, 2022  
AS KNOWN TO THE STATE OF CALIFORNIA  
TO CAUSE CANCER:  
PERFLUOROCTANOIC ACID

Effective February 25, 2022, for purposes of Proposition 65<sup>1</sup>, the Office of Environmental Health Hazard Assessment (OEHHA) is adding *perfluorooctanoic acid* (PFOA) (CAS RN 335-67-1) to the list of chemicals known to the State of California to cause cancer.

The listing of *perfluorooctanoic acid* (PFOA) is based on its formal identification by the National Toxicology Program (NTP), an authoritative body for purposes of Proposition 65<sup>2</sup>, that the chemical causes cancer. The criteria used by OEHHA for the listing of chemicals under the “authoritative bodies” mechanism can be found in Title 27, Cal. Code of Regs., section 25306.

The basis for the listing was described in a public notice published in the March 19, 2021, issue of the California Regulatory Notice Register (Register 2021, Number 12-Z). The title of the notice was “Notice of Intent to List Chemical by the Authoritative Bodies Mechanism: Perfluorooctanoic Acid.” The publication of the notice initiated a 45-day public comment period<sup>3</sup>. OEHHA received five sets of comments during the comment period. The comments and OEHHA’s responses are posted on OEHHA’s website.

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

<sup>2</sup> See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306(m).

<sup>3</sup> The comment period was extended an additional 15 days due to the COVID-19 Emergency.

A complete, updated Proposition 65 chemical list is available on the OEHHA website.

**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.

California Film Commission  
File # 2021-1229-01  
California Film & Television Tax Credit Program 3.0

This certificate of compliance rulemaking action by the California Film Commission adopts, with amendments, changes to the California Film and Television Tax Credit Program 3.0 emergency regulations originally made in emergency action 2020-0806-02E and readopted in 2021-0602-01EE and makes other amendments to this program.

Title 10  
Amend: 5520, 5521, 5522, 5524, 5525  
Filed 02/10/2022  
Effective 02/10/2022  
Agency Contact:  
Nancy Rae Stone (323) 860-2960

Department of State Hospitals  
File # 2021-1230-01  
Enhanced Treatment Program

This Certificate of Compliance makes permanent emergency regulations regarding patients who are at high risk of most dangerous behavior in a pilot enhanced treatment program when safe treatment in a standard environment is not possible. The regulations establish criteria and related procedures implementing Welfare and Institutions Code section 4144.

Title 09  
Adopt: 4800, 4900, 4901, 4902, 4903, 4904, 4905,  
5000, 5100, 5200, 5300  
Filed 02/11/2022  
Effective 02/11/2022  
Agency Contact: Sylvester Okeke (916) 654-2478

California Health Benefit Exchange  
 File # 2022-0201-02  
 Individual Eligibility and Enrollment and Appeals  
 Process

The California Health Benefit Exchange (Exchange) adopted emergency regulations related to definitions, abbreviations, standards for notice, standards for eligibility determination and redetermination for qualified health plans, requirements for coverage eligibility, procedures for termination of coverage, and an appeals process. In this third emergency re-adopt, the Exchange amends its regulations to update the definition of “premium payment due date,” modify the verification process for changes in household income, and make changes in the enrollment requirements.

Title 10  
 Amend: 6408, 6410, 6452, 6454, 6470, 6474, 6482,  
 6484, 6486, 6496, 6498, 6500, 6502, 6504, 6506,  
 6602  
 Filed 02/11/2022  
 Effective 02/11/2022  
 Agency Contact: Mariah Gonzales (916) 281-2471

California Student Aid Commission  
 File # 2022-0131-01  
 Golden State Teacher Grant Program

This emergency rulemaking action by the California Student Aid Commission adopts regulations to implement the Golden State Teacher Grant Program.

Title 05  
 Adopt: 30520, 30521, 30522, 30523, 30524, 30525,  
 30526, 30527  
 Filed 02/10/2022  
 Effective 02/10/2022  
 Agency Contact: Gary Collord (916) 347-0632

California Prison Industry Authority  
 File # 2021-1230-03  
 Terms of Obligation — Usage of Shall and Must

This action, submitted as one to make changes without regulatory effect, changes instances of “shall” to “must” across many regulations.

Title 15  
 Amend: 8001, 8004, 8004.1, 8004.2, 8004.3,  
 8004.4, 8006, 8008, 8100, 8102, 8104, 8105, 8106,  
 8108, 8110, 8114, 8115, 8116, 8116.1, 8117, 8118,  
 8119, 8119.1, 8120, 8122, 8201, 8208, 8212, 8214,  
 8298, 8299, 8900, 8901  
 Filed 02/11/2022  
 Agency Contact: Moira Doherty (916) 413-1140

Commission on Peace Officer Standards and Training  
 File # 2022-0103-01  
 Commission Procedure D-1, Formatting of Cross  
 References

This change without regulatory effect filing by the Commission on Peace Officer Standards and Training updates Commission Procedures D-1-3, D-1-4, and D-1-7 to clean-up the formatting of existing cross references.

Title 11  
 Amend: 1005, 1007, 1059  
 Filed 02/10/2022  
 Agency Contact: Katie Strickland (916) 227-2802

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

Dental Hygiene Board of California  
 File # 2021-1230-04  
 Soft Tissue Curettage & Administration of  
 Anesthesia — RDHAPs

In this rulemaking action, the Board adopts a regulation to establish conditions that would allow a dental hygienist in alternative practice to perform soft tissue curettage and administer anesthesia.

Title 16  
 Adopt: 1118  
 Filed 02/10/2022  
 Effective 04/01/2022  
 Agency Contact:  
 Adina Pineschi-Petty (916) 516-5537

Division of Labor Standards Enforcement  
 File # 2022-0104-01  
 Public List of Certain Port Motor Carriers

This rulemaking action by the Division of Labor Standards Enforcement adopts regulations to specify procedures for maintaining a public list of certain port drayage motor carriers and customer sharing of liability pursuant to Labor Code section 2810.4.

Title 08

Adopt: 13875, 13876, 13877, 13878, 13879, 13880,  
13881, 13882, 13883, 13884, 13885, 13886, 13887,  
13888

Filed 02/16/2022

Effective 04/01/2022

Agency Contact: Patricia Salazar (213) 897-1511

**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).