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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 CODES

AMENDMENT

MULTI-COUNTY: San Joaquin Valley Drainage Authority

A written comment period has been established commencing on March 11, 2022 and closing on April 25, 2022. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 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 April 25, 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) 322-5660.

**TITLE 5. BUREAU FOR PRIVATE
POSTSECONDARY EDUCATION**

DIVISION 7.5. PRIVATE
POSTSECONDARY EDUCATION
CHAPTER 4. INSTITUTIONS—
GENERAL PROVISIONS
SECTION 74110 ANNUAL REPORTS

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under *Contact Person* in this Notice, must be received by the Bureau at its office no later than **5:00 p.m. on Tuesday, April 26, 2022.**

PUBLIC HEARING AVAILABILITY

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau 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 prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

The Bureau may, after considering all timely and relevant comments, adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 94877, 94929.5, 94929.7, 94934, and 94941 of the Educa-

tion Code (Ed. Code), and to implement, interpret or make specific Sections 94892.6, 94929.5, 94929.7, 94932, 94934, and 94941 of the Education Code, Sections 1633.2, 1633.7, and 1633.9 of the Civil Code and, Section 16.5 of the Government Code, the Bureau is considering amending section 74110 in Chapter 4 of Division 7.5 of Title 5 of the California Code of Regulations (CCR) as described in this Notice.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Bureau for Private Postsecondary Education (Bureau) protects students and consumers through the regulatory oversight of California’s private postsecondary educational institutions (“institutions”) pursuant to the California Private Postsecondary Education Act of 2009 (“Act” — Ed. Code, §§ 94800–94950), including conducting qualitative reviews of educational programs and operating standards. As part of that regulatory review and oversight, California Education Code (CEC) section 94934 requires all Bureau-approved institutions to submit an Annual Report each year, which must include specific information related to the educational programs offered by the institution, including program costs, graduation rates, and post-graduation job placement rates.

Existing law at Section 94934, subdivisions (a)(9) and (b) of the Act authorizes the Bureau to require “additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter,” and, “to prescribe the annual report’s format and method of delivery.”

Existing regulation at Section 74110 of Title 5 of the California Code of Regulations (5 CCR) sets forth the Bureau’s current requirements for filing and submission of the annual report required by CEC Section 94934. The regulation directs institutions submitting an Annual Report to electronically submit an online form provided on the Bureau’s website and attach a School Performance Fact Sheet, enrollment agreement, and a school catalog, with their electronic submission of the Annual Report, per section 74110(d).

CEC 94892.6 as added by Assembly Bill (AB) 1340 (Chiu, Chapter 519, Statutes of 2019) requires all institutions approved to operate by the Bureau to collect and annually report labor market outcome data for students who have graduated on or after January 1, 2020, in order for the Bureau to submit the data to the Employment Development Department (EDD) which will use the data to match the students with subsequent wage data for posting on the Bureau’s website. Section 94892.6(b)(2)(B) also requires the Bureau to report this data to the Cradle-to-Career Data System (CTC Data System), a statewide computer data infrastructure operated by the Government Operations Agency

that collects student and labor market outcome data to help inform policymaking decisions and improve outcomes for all students throughout the state.

Since Assembly Bill (AB) 1340 was enacted into law in 2019 the Bureau has been working towards implementing its requirements that the Bureau use data collected by institutions and reported to the Bureau to gather wage data about graduates and then make aggregate data available on the Bureau’s website. The Bureau has upgraded its computer system, which allows for the Bureau to accept this and other annual report information electronically via an online portal. The online portal is necessary for the most efficient and secure method of collecting and transmitting this data to EDD and/or the CTC Data System. As a result, the mechanism set forth in current regulation for reporting Annual Reports and supplemental documents will need to change.

The Bureau proposes to amend the Annual Report regulations to require that specified additional labor outcome data (“graduate identification data”) be reported by approved institutions as part of the Annual Report process and through an online annual reports portal designated by the Bureau. Specifically, the Bureau proposes the following amendments to Section 74110:

Add Subsection (c) — Reporting of Graduate Identification Data

1. Add subsection (c) to require each institution to provide graduate identification data as part of its annual report to the Bureau for each student who graduated from the institution’s educational programs and as specified in proposed subsections (1)–(4);
2. Add subsection (c)(1) to require provision of graduate’s name and social security number (SSN) or individual taxpayer identification number (ITIN). If the graduate does not have an SSN or ITIN, the graduate’s information shall be reported as “not available”;
3. Add subsection (c)(2) to require provision of date of graduation;
4. Add subsection (c)(3) to require provision of the following for each educational program in which the graduate was enrolled: (A) The federal Bureau of Labor Statistic’s Standard Occupation Classification (SOC) codes for which the institution has identified that the program prepares its graduates when required for the reporting of job placement rates under subdivision (i)(3) of section 74112; (B) Educational program’s name; (C) Program length, as measured in clock hours or credit hours; and, (D) Type or title of degree, diploma or certificate awarded; and,

5. Add subsection (c)(4) to require provision of the amount of federal student loan debt for the graduate, if any, as reported by the institution under subdivision (g) of section 74112.

Add Subsection (d) — Specific Timeframes for Reporting Graduate Identification Data

6. Add a title to subsection (d) as notice of the requirements for specific timeframes for reporting graduate identification data;
7. Adds subsection (d)(1) to prescribe the written notice required by Education Code Section 94892.6(b)(5), which shall inform the institution that the Director has certified that the Bureau’s information technology system has been updated and is capable of processing the data required by that Section and that the institution has 120 days from receipt of the notice to comply with this section;
8. Adds subsection (d)(2) would require the first annual report submitted by an institution that contains the graduate identification data required to be reported to include information collected on all students who graduated from January 1, 2020 through the end of the prior calendar year. The proposal would provide that subsequent annual reports need only contain information about students who graduated in the prior calendar year.

Revise subsection (f) — add new electronic filing requirements

9. Strike the requirement for submitting an online form provided on the Bureau’s website and replace it with a requirement to submit the annual report information via the Bureau’s online annual reports portal designated on the Bureau’s website at: www.bppe.ca.gov;
10. Strike the requirement to “attach” the School Performance Fact Sheet, the enrollment agreement, and the school catalog and replace it with a requirement to “upload” those documents, in addition to the specified graduate identification data;
11. Adds new conditions for electronic filings via the portal, including:
 - (A) requiring a responsible institution representative to register the institution for a user account by creating a user name, password, email address, and the institution representative’s first and last name, primary phone number, and address;
 - (B) requiring, as part of the annual report, that the institution provide standard reporting and contact information through the online portal, as specified;
 - (C) requiring the graduate identification data to be reported in an Excel spreadsheet (.xls)

or .xlsx file format), text file with a semi-colon, comma, or pipe delimiter (.csv or .txt file format);

- (D) requirements for providing an electronic signature for attestation under penalty of perjury;
- (E) requirements for when an annual report is considered filed with the Bureau through the online portal, including receipt of an email confirming that submission has been received; and,
- (F) requirements for hard copy filing of financial statements, which includes providing or mailing hard copies directly to the Bureau's Annual Report Unit at the Bureau's principal office.

Other Proposed Changes to Annual Reporting Requirements

In addition, the Bureau proposes to update other requirements in Section 74110 to centralize all annual reporting requirements and further specify the Bureau's current requirements, as follows:

1. Revise subsection (a): add the words "this section, subsections (f)–(j) of section 74112, and," to ensure all annual reporting requirements are listed in one convenient location;
2. Add new subsection (a)(7): add to the list of the requirements, submission of a blank copy of the institution's enrollment agreement and catalog for the reporting year;
3. Revise subsection (e): add the words "of each year" to specify that the annual report is due by December 1st of each year; and,
4. Make other nonsubstantive and technical clean-up changes to add the words "of the Code" where appropriate to clarify existing statutory sections are derived from the Education Code.

Anticipated Benefits of Proposal

The changes proposed by this regulatory action will enable the Bureau to implement the legislative mandate of CEC section 94892.6 that schools collect and annually report to the Bureau data that will allow the Bureau to obtain labor market outcomes about graduates so the Bureau can post on its website program-level and institution-level statistics regarding the earnings of graduates, as well as student debt information, subsequent to completing their programs. The Assembly Floor Analysis of AB 1340, the bill that proposed CEC 94892.6, quoted supporters of the bill as saying it would, "protect students, especially veterans, low-income students, and students of color, from ineffective career training and burdensome debt. ... [P]rotecting students from harm is vastly more effec-

tive than trying to make them whole after the harm has occurred."

While CEC section 94892.6 does not require the data reported by schools to be reported in the Annual Report, doing so simplifies the reporting process and avoids creating a new, separate reporting system for data required to be reported annually.

Consistency and Compatibility with Existing State Regulations

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

Fiscal Impact Estimates

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

This proposal will not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency; the regulations will not increase costs or state workload. The costs associated with implementation of AB 1340, such as the upgrade to the Bureau's information technology system and the workload increase for processing the graduate identification data collected and submitted by institutions, and to develop the Bureau's posting of the wage data from the Employment Development Department on its website, are attributable to the statutory provisions of AB 1340, as enacted at CEC section 94892.6, and not to the regulations.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which section 17561–17630 Require Reimbursement: None.

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

This initial determination is based on the following facts:

Existing law requires private postsecondary educational institutions to annually submit the graduate identification data and other annual report information required by this section, including individually identifiable information for each graduate, taxpayer identification data (SSN or ITIN), Standard Occupational Code classifications by program, and the graduate's student loan debt information. This proposal requests some additional data elements to be included related to an individual's name, program and date of graduation to aid in its reporting required by EDD. This informa-

tion is already maintained by institutions and is used to complete the current annual reporting requirements generally by category and as listed in section 74110. The additional documents and/or information added to the existing reporting requirements in section 74110 would not add additional cost to the institutions because the institutions are being asked to submit data they already have in a report they are already required to submit, and include attachments in a format (Excel) that is widely used and available to the industry.

Impact on Jobs/New Business: None.

Cost Impact on Private Person or Business: The Bureau is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. This information that would be required by this proposal is already maintained by institutions and is used to complete the current annual reporting requirements generally by category and as listed in section 74110. The additional documents and/or information added to the existing reporting requirements in section 74110 would not add additional cost to the institutions because the institutions are being asked to submit data they already have in a report they are already required to submit, and include attachments in a format (Excel) that is widely used and available to the industry.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Bureau may be impacted, the Bureau estimates that the fiscal impact would be minor and absorbable as described in the above Business Impact statement. The Bureau does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

Business Reporting: The proposed regulations impose additional reporting or other compliance requirements:

CEC sections 94934 and 94929.5 address private postsecondary educational institutions' Annual Report requirements. CEC section 94892.6 imposes additional annual reporting requirements on institutions. Proposed amendments to Section 74110 would require additional information to be included in the Annual Report for private postsecondary educational institutions, including the graduate identification data required to be reported by CEC section 94892.6, and would change the method for delivering Annual Reports to the Bureau.

Existing law at CEC section 94934, subdivisions (a) (9) and (b), authorizes the Bureau to require in An-

nual Reports submitted by institutions "additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter." The Bureau has determined that it is necessary for the health, safety, or welfare of the people of the State that the regulation apply to businesses. Adding reporting requirements and/or information to the existing regulation will aid the Bureau in its compliance with CEC section 94934 reporting requirements to the EDD and CTC Data System. The Bureau will then use the graduate identification data to collect wage data on the graduates from the Employment Development Department (EDD), allowing the Bureau to post aggregated wage data for programs on its website. This will enable those researching whether to enroll in a program to compare subsequent wage outcomes in order to make an informed choice as to which programs will provide the best training for future career success.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

As explained in the business impact estimate section, the Bureau has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the state of California.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to health and welfare of California residents:

The proposal will provide the Bureau for Private Postsecondary Education with additional background information on private postsecondary educational institutions, which will enable the Bureau to post information on its website about the potential labor market outcomes from completing a postsecondary education program and the debt incurred to complete the program. This information will enable prospective students to make better choices about which program to attend.

The regulatory proposal does not affect the state's environment because the proposal only requires private postsecondary institutions to convey information about their programs to the Bureau, which should not affect the state's environment.

The regulatory proposal would not affect worker safety because these regulations are not relevant to worker safety and are to enhance the Bureau's ability to ascertain student outcomes of attending and completing educational programs offered by Bureau-approved private postsecondary educational institutions.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments orally if a hearing is scheduled, or in writing relevant to the above determinations during the public comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons for the proposed action and has available all information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

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

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

You can obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: David Dumble
Address: P.O. Box 980818
West Sacramento, CA
95798-0818
Telephone Number: (279) 895-6091
Fax: (916) 263-1897
E-Mail Address: David.Dumble@dca.ca.gov

The backup contact person is:

Name: Yvette Johnson
Address: P.O. Box 980818
West Sacramento, CA
95798-0818
Telephone Number: (279) 895-6099
Fax: (916) 263-1897
E-Mail Address: Yvette.Johnson@dca.ca.gov

Website Access:

The Bureau's website is: <http://bppe.ca.gov>. Materials regarding this proposal can be found at <http://bppe.ca.gov/lawsregs/current.shtml>. An archive of the Bureau's prior regulatory actions can be found at <http://bppe.ca.gov/lawsregs/archive.shtml>.

TITLE 5. COMMISSION ON TEACHER CREDENTIALING

CALIFORNIA CODE OF REGULATIONS, TITLE 5, PERTAINING TO EXAMINATION FEES

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action. A copy of the proposed regulations is included with the added text underlined and the deleted text lined out.

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

SUMMARY OF PROPOSED ACTION

The Commission is proposing to amend sections 80487 and 80071.4 related to examination fees. Specifically, the Commission is proposing to repeal 80487(a)(4) to remove the fee for the paper-based California Basic Education Skills Test (CBEST), amend 80487(a)(2) to correct a typo, amend the numbering in 80487 to update it, and to amend 80071.4(j) to correct a reference.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed action by fax, through the mail, or by email. The written comment period closes on April 25, 2022. Comments must be received by that time or may be submitted at the public hearing, should one be requested. Interested parties may fax their response to (916) 327-3165; write to the Commission on Teacher Credentialing, Attn: Kathryn Taylor, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email to Kathryn.Taylor@ctc.ca.gov.

Any written comments received by the closing of the public comment period will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

AUTHORITY AND REFERENCE

Education Code (EC) section 44225(q) authorizes the Commission to adopt the proposed regulations and amendments. These regulations are proposed in order to implement, interpret, and make specific the following: Education Code section 44252(b) and 44252.5 pertaining to the basic skills requirement for educators and the Commission's responsibility to administer an examination to meet the basic skills requirement.

INFORMATION DIGEST/POLICY
STATEMENT OVERVIEW*Summary of Existing Laws and Regulations*

Education Code 44252.5 requires the Commission to administer the state basic skills proficiency test and authorizes the Commission to charge a fee to the individual being tested to cover the costs of the test, including developing, administering, and scoring the exam. The Commission will continue to administer the computer based CBEST at in-person testing centers and through home online proctoring but will no longer offer the paper-based examination to which the \$41 fee is attached.

Assembly Bill (AB) 130 (Chap. 44, Stats 2021) amended Education Code section 44252(b) to allow additional options for candidates to meet the basic skills requirement (BSR). Candidates may now apply college-level coursework that was completed with an earned grade of "B" or higher in basic reading, writing, and mathematics skills to meet the requirement, or candidates may mix coursework and passing scores of one or more of the CBEST subtests to demonstrate meeting the BSR. Previously, candidates had to pass

all three subtests to use the CBEST examination to meet the BSR. To align with the "mix and match" law the CBEST has been sub-divided into three individual sections to allow candidates to mix and match coursework and subtest completion to meet the basic skills requirement.

Summary of Effect of the Proposed Rulemaking

The proposed rulemaking will repeal the outdated \$41 paper-based testing fee from regulations. No other examination fees appear in regulations as all other fees are negotiated between the Commission and the examination contractor.

Nonsubstantive amendments will correct typos and improve the clarity and consistency in the Commission's regulations.

Objectives and Anticipated Benefits of the Proposed Regulations

Education Code 44252.5 requires the Commission to administer the state basic skills proficiency test and authorizes the Commission to charge a fee to the individual being tested to cover the costs of the test, including developing, administering, and scoring the exam. The objective of the proposed regulations is to remove an outdated fee for an outdated and currently unsafe proctoring method in order to be able to offer a safer and more accessible at home proctoring method. The original regulation was based on a single approach to standardized exam proctoring where individuals gather in a room with a proctor and take a pencil and paper examination. Advancements in technology and exams development now allow for alternative and valid ways for individuals to take standardized examinations that offer more convenient, less stressful, and sometimes more affordable options for test takers. The Commission will continue to administer the CBEST via computer at in-person testing centers in addition to the at home online proctored exams but will no longer offer the paper-based examination to which the \$41 fee is attached. Additionally, with this change no other examination fees will appear in regulations; all other examination fees are negotiated between the Commission and the examination contractor. The additional proposed amendments will also ensure clarity through corrections of references and removal of typos.

The Commission anticipates that the proposed amendments will continue to benefit the health and welfare of California residents. Benefits anticipated from this regulatory action include protecting the health and wellness of examinees interested in taking the paper-based CBEST by eliminating administering this examination in large crowds at large venues where appropriate social distancing may not be possible. Candidates are also able to save money by only having to take, or re-take, parts of the examination that have yet to be passed.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulation amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Commission has concluded that these are the only regulations that concern the standards for the CBEST fee.

DISCLOSURES REGARDING THE PROPOSED ACTIONS/FISCAL IMPACT

The Commission has made the following initial determinations.

Local Mandate

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code. Local education agencies may choose to sponsor educator preparation programs utilizing the proposed regulations, however no mandate exists requiring local agencies or school districts to have educator preparation programs and therefore, no reimbursement in accordance with Part 7 (commencing with section 17500) of the government code is required.

Fiscal Impact

Costs to any local agency or school districts requiring reimbursement pursuant to Government Code section 17500 et seq.

These proposed regulations will not impose a cost to local agencies or school districts requiring reimbursement in accordance with Part 7 (commencing with section 17500) of the Government Code as sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law.

Cost or savings to any state agency

None. Sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law.

Other non-discretionary costs or savings imposed upon local agencies

None. Sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law.

Cost or savings in federal funding to the state

None. Sponsoring an educator preparation program which is aligned to the proposed regulations is not required by law.

Housing Costs

No significant effect on housing costs exists. The repeal of the fee in addition to the other proposed amendments does not intersect with the cost of housing.

Significant Statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states

The Commission has concluded there is no significant adverse impact on business. The Commission only contracts with one company to administer the CBEST examination at a time and uses the state approved contracting processes. Only the contractor's business is impacted by this regulatory proposal.

Statement of the Results of the Economic Impact Assessment

In accordance with Government Code section 11346.3(b), the Commission has made the following assessments regarding the proposed regulations:

Creation or Elimination of Jobs within California

The Commission concludes that it is unlikely that the proposal will create or eliminate a significant number of jobs within the State of California. The Commission contracts with Evaluation Systems group of Pearson to administer the CBEST. The contractor has not indicated any elimination of jobs as an outcome of this change in regulations. Instead, the addition of online proctoring has resulted in the creation of a small number of new jobs, according to the contractor.

Creation of New Businesses or Elimination of Existing Business within California

The Commission concludes that it is unlikely that the proposal will create any new businesses or eliminate any existing businesses within the State of California. The Commission will continue to contract with Evaluation Systems group of Pearson to administer the CBEST. Thus, there will not be a creation of a new business or elimination of an existing business.

Expansion of Businesses Currently Doing Business within the California

The Commission concludes that it is unlikely the proposal would cause the expansion of businesses currently doing business within the State of California. The Commission will continue to contract with Evaluation Systems group of Pearson to administer the CBEST. Thus, there will not be a creation of a new business or elimination of an existing business.

Benefits of the Regulations

The Commission anticipates that the proposed amendments will continue to benefit the health and welfare of California residents. Benefits anticipated from this regulatory action include protecting the health and wellness of examinees interested in taking the paper-based CBEST by eliminating administering this examination in large crowds at large venues where appropriate social distancing may not be possible. Candidates who have demonstrated basic skills competency in coursework are also benefitted by not having to re-prove competency. Candidates are also

able to save money by only having to take, or re-take, parts of the examination that have yet to be passed. The Commission does not anticipate any specific benefits regarding worker safety or the state's environment.

COST IMPACTS ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The current cost of the computer-based CBEST is \$30 per subtest, or \$90 to take all three subtests via computer either in a testing center or at home through online proctoring. Prior to eliminating the paper-based CBEST, the cost was \$102 for the computer-based examination whether an examinee had to pass all three parts or just one. Eliminating the paper-based assessment and adding the new options for demonstrating basic skills competence has made the CBEST potentially more affordable for all.

This proposal does not have a cost impact on businesses, as the Commission only contracts with one company at a time to administer the CBEST examination.

BUSINESS REPORT

This proposal does not require a report to be made.

EFFECT ON SMALL BUSINESS

The proposed regulations will not have a significant adverse economic impact upon small business. The Commission will continue to contract with Evaluation Systems group of Pearson to administer the CBEST examination. Business will remain the same and thus will not have an adverse economic impact on small business.

ALTERNATIVES STATEMENT

The Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearing.

**CONTACT PERSON/
FURTHER INFORMATION**

General or substantive inquiries concerning the proposed action may be directed to Kathryn Taylor by telephone at (916) 445-0229, by mail at Commission on Teacher Credentialing, Attn: Kathryn Taylor, 1900 Capitol Avenue, Sacramento, CA 95811, or by email to Kathryn Taylor (Kathryn.Taylor@ctc.ca.gov), or Cara Mendoza (CMendoza@ctc.ca.gov). General question inquiries may also be directed to the addresses mentioned above. Upon request, a copy of the express terms of the proposed action and a copy of the Initial Statement of Reasons will be made available. This information is also available on the Commission's website at <http://www.ctc.ca.gov/notices/rulemaking.html>. In addition, all the information on which this proposal is based is available for inspection and copying.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, and an economic impact assessment/analysis contained in the Initial Statement of Reasons. Copies may be obtained by contacting Kathryn Taylor at the addresses or telephone number provided above.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, following the conclusion of the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Kathryn Taylor at Kathryn.Taylor@ctc.ca.gov.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Commission's website at <http://www.ctc.ca.gov/notices/rulemaking.html>.

TITLE 11. DEPARTMENT OF JUSTICE

SELECTION PROCESS FOR
PRIVATE ARCHITECTURAL AND
ENGINEERING FIRMS

The Department of Justice (Department) proposes to adopt sections 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, and 613 of Title 11, Division 1, Chapter 6 of the California Code of Regulations concerning the selection process for private architectural and engineering firms.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on April 26, 2022 at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Robert Dunlap
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-6423
robert.dunlap@doj.ca.gov

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

AUTHORITY AND REFERENCE

Authority: Section 4526, Government Code (Gov. Code).

Reference: Sections 4525, 4526, 4526.5, 4527, 4528, 4529, 4529.5, 4529.10, 4529.11, 4529.12, 4529.13, 4529.14, 4529.15, 4529.16, 4529.17, 4529.18, 4529.19, and 4529.20, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Generally, the California Constitution forbids state agencies from contracting for private companies to perform the services that state civil service employees can perform. In response, California voters adopted Proposition 35 in November 2000. Entitled the "Fair Competition and Taxpayer Savings Act," Proposition 35 added Article XXII to the California Constitution to provide that the State of California and all other governmental entities "shall be allowed to contract with qualified private entities for architectural and engineering services for all public works of improvement." (Cal. Const., art. XXII, § 1.)

Proposition 35 also added chapter 10.1, commencing with section 4529.10, to the Government Code. "Architectural and engineering services" includes all architectural, landscape architectural, environmental, engineering, land surveying, and construction project management services." (Gov. Code, § 4529.10.) Proposition 35 also codified the voters' intent to promote fair competition. (*Id.* at § 4529.12.) State agencies enter contracts with private firms through a competitive process of advertising for the service, selecting the firm determined to be best qualified, and negotiating a contract with that firm. (*Id.* at § 4525 et seq.)

A state agency is required to develop regulations describing the procedures for contracting with private architectural and engineering firms. (Gov. Code, § 4526.) Currently, the Department is unable to contract with private architectural and engineering firms because it has not adopted regulations on this subject.

Effect of the Proposed Rulemaking:

These proposed regulations would create a process for the Department to contract with private architectural and engineering firms.

Anticipated Benefits of the Proposed Regulations:

The purpose and intent of Proposition 35 included "remov[ing] existing restrictions on contracting for architectural and engineering services and [allowing] state, regional and local governments to use qualified private architectural and engineering firms to help deliver transportation, schools, water, seismic retrofit and other infrastructure projects safely, cost-effectively and on time;" "encourag[ing] the kind of public/private partnerships necessary to ensure that California taxpayers benefit from the use of private

sector experts to deliver transportation, schools, water, seismic retrofit and other infrastructure projects;” “promot[ing] fair competition so that both public and private sector architects and engineers work smarter, more efficiently and ultimately deliver better value to taxpayers;” “speed[ing] the completion of a multi-billion dollar backlog of highway, bridge, transit and other projects;” “ensur[ing] that contracting for architectural and engineering services occurs through a fair, competitive selection process, free of undue political influence, to obtain the best quality and value for California taxpayers;” and “ensur[ing] that private firms contracting for architectural and engineering services with governmental entities meet established design and construction standards and comply with standard accounting practice and permit financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.” (Initiative Measure (Prop. 35, § 2, approved Nov. 7, 2000, eff. Nov. 8, 2000).)

The specific benefits anticipated by the proposed regulations include: (1) the Department will be able to complete projects in a timely manner by directly contracting with private firms when State civil service staff are not available to perform the necessary work; (2) the Department will be able to make annual announcements based on the general need for architectural and engineering services to assist in its overall mission and may enter into requirements contracts, also commonly known as “on-call” contracts; (3) “on-call” contracts will allow for expeditious and cost-effective contracting for as-needed projects; and (4) business opportunities for private firms to contract with the Department will be increased.

Comparable Federal Regulations:

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

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the Department’s ability to contract with private architectural and engineering firms.

Forms or Documents Incorporated by Reference:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department’s Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: No fiscal impact on Department spending because the cost of contracting with private architectural and engineering firms will be comparable to current spending with the Department of General Services for architectural and engineering services.

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

Other non-discretionary costs or savings imposed on local agencies: None.

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

Cost impacts on representative person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Businesses are not required to apply for contracting opportunities with the Department. These regulations could result in additional income for businesses if they choose to participate in the program and are selected for a project.

Significant effect on housing costs: None.

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

Results of the Economic Impact Assessment (EIA):

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

The Department also concludes that:

- (1) The proposal would benefit the health and welfare of California residents by allowing the Department to use qualified private architectural and engineering firms to help deliver projects safely, cost-effectively, and on time.
- (2) The proposal would benefit worker safety by allowing the Department to contract with private architectural and engineering firms, thereby enabling the Department to resolve and avoid project delays that may otherwise jeopardize worker safety.

- (3) The proposal would not benefit the state’s environment because it does not change any applicable environmental standards.

Business report requirement: None.

Small business determination: The Department has determined that the proposed action affects small businesses. Small businesses will have more of an opportunity to compete for contracts under these regulations.

CONSIDERATION OF ALTERNATIVES

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

The Department has determined that the proposed regulations are the most effective way to contract with private architectural and engineering firms. The regulations do not create any burden because applying to contract with the Department is voluntary. These regulations increase business opportunities for private firms because they will allow the Department to select private firms to complete necessary projects.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Robert Dunlap
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-6423
robert.dunlap@doj.ca.gov

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

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

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

TITLE 11. DEPARTMENT OF JUSTICE

REGULATIONS FOR THE FAIR AND ACCURATE GOVERNANCE OF THE CALGANG DATABASE

The Department of Justice (Department) proposes to amend sections 755.8, 756.1, and 756.6 of title 11, division 1, chapter 7.5 of the California Code of Regulations (CCR) concerning the Fair and Accurate Governance of the CalGang Database (CalGang), pursuant to the authority in Penal Code section 186.36.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on April 26, 2022 at 11:59 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Shayna Rivera
 Department of Justice
 4949 Broadway
 Sacramento, CA 95820
gangdatabaseGDTAC@doj.ca.gov

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

AUTHORITY AND REFERENCE

Authority: Section 186.36, Penal Code.
 Reference: Sections 186.34, 186.35 and 186.36, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

The CalGang database, a shared gang intelligence database, is designed to enhance officer safety and improve the efficiency of criminal investigations by providing an electronically-generated base of statewide gang-related intelligence information. On October

22, 2020 the Department promulgated regulations required by Assembly Bill (AB) 90 (Stats. 2017, Ch. 695) that governed the use, operation, and oversight of any shared gang database, including, among other things, establishing the requirements for entering and reviewing gang designations, the retention period for listed gangs, and the criteria for identifying gang members. For the CalGang database specifically, the Department developed and implemented standardized periodic training for all persons with access to the CalGang database, and requirements and procedures for periodic audits by law enforcement agencies and Department staff to ensure the accuracy, reliability, and proper use of the CalGang database.

Before October 15 of each year for the period covering the preceding year, CalGang Node Agencies and User Agencies must report to the Department each time they did not attempt to provide notice pursuant to subdivision (c)(1) of Penal Code section 186.34 and article 7; did not provide notification to a juvenile, or parent or guardian of a juvenile, pursuant to subdivision (c)(1) of Penal Code section 186.34 and article 7; received an information request pursuant to subdivision (d)(1) of Penal Code section 186.34; received a request for removal of a record pursuant to subdivision (e) of Penal Code section 186.34; granted a request for removal of a record pursuant to Penal Code section 186.34; received service of a petition under Penal Code section 186.35 and the disposition of the petition; and the number of proxy queries conducted by a Node Agency or User Agency, and the name of each agency requesting the proxy query. (Cal. Code Regs., title 11, § 756.6, subdivision (a).)

In addition to the reporting requirement above, CalGang Node Agencies and User Agencies must also submit a written attestation to the Department that its entries in the CalGang database comply with Department regulations. (Cal. Code Regs., title 11, § 756.1, subdivision (b).) Currently, this annual attestation is due by October 15 of each year. The purpose of the annual attestation is to ensure Node Agency and User Agency accountability and accuracy of entries in the CalGang database.

The CalGang regulations also require that an audit be completed at each Node Agency and User Agency of all criminal street gangs they have entered in the CalGang database at least once every three years. This purpose of the audit is to ensure that each designated gang is still active and that the entry complies with CalGang regulations. Node Agencies and User Agencies must document and submit the results of the audit to the Department on the CalGang Gang Audit form, California Justice Information Services (CJIS) 9005.

Effect of the Proposed Rulemaking:

This rulemaking would change the annual attestation due date from October 15 to January 1. The pro-

posed regulations would balance the workload of the Department’s CalGang Unit, as well as the workload of Node Agencies and User Agencies, since Node Agencies and User Agencies currently have a significant amount of data to report to the Department by October 15, as described above. The reporting period for the annual attestation would continue to be October 1 thru September 30, but the January 1 due date will give agencies reasonable time to review their entries and to route the attestation through their chain of command.

Additionally, the proposed regulations would update the form CJIS 9005 to capture additional data pertinent to gangs that are in more than one Node. The proposed regulations would also update the CalGang Misuse Investigation Reporting form, CJIS 9008 to remove the hyphen in the word “email” to make it consistent with the Department’s other forms, along with other nonsubstantive changes.

Anticipated Benefits of the Proposed Regulations:

The Department anticipates that these regulations would balance the workload of the Department’s CalGang Unit, Node Agencies, and User Agencies by changing the due date of the annual attestation from October 15 to January 1 since Node Agencies and User Agencies currently have a significant amount of data to report to the Department by October 15. The annual attestation requirement will continue to benefit the health and welfare of the public by ensuring Node Agency and User Agency accountability and accuracy of entries in the CalGang database.

The regulations would also ensure that Node Agencies and User Agencies conduct effective audits to determine whether gangs are appropriately designated in the CalGang database.

Comparable Federal Regulations:

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

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing State regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern criminal intelligence information or shared gang databases in California.

Forms Incorporated by Reference:

1. CalGang Gang Audit Form, CJIS 9005, revision 01/2022 (see subdivision (a) of section 755.8)
2. CalGang Misuse Investigation Reporting form, CJIS 9008, revision 01/2022 (see subdivision (c) of section 756.6)

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department’s Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

Other non-discretionary costs or savings imposed on local agencies: None.

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

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

Significant effect on housing costs: None.

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

Results of the Economic Impact Assessment (EIA):

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

The Department also concludes that:

- (1) The proposal would benefit the health and welfare of California residents by continuing to ensure Node Agency and User Agency accountability and accuracy of entries in the CalGang database.
- (2) The proposal would not benefit worker safety.
- (3) The proposal would not benefit the state’s environment.

Business report requirement: None.

Small business determination: The Department has determined, pursuant to CCR, title 1, section 4, that the proposed regulatory action would not affect small business, because it pertains only to Users of the CalGang database, not private businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would

be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that the proposed regulations are the most effective way to ease the workload of the Department, User Agencies, and Node Agencies, by no longer having the same due date for both the required reports and annual attestation.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Shayna Rivera
 Department of Justice
 4949 Broadway
 Sacramento, CA 95820
gangdatabaseGDTAC@doj.ca.gov

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

Thomas Bierfreund
 Department of Justice
 4949 Broadway
 Sacramento, CA 95820
gangdatabaseGDTAC@doj.ca.gov

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

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 revise sections 3000, 3040, 3041, 3041.3, 3043.3, 3043.5, 3044, 3044.1, 3044.2, 3075.1, 3077.1, 3315, 3375, 3375.2, 3375.4, 3375.5, 3375.6, and 3379; repeal and adopt section 3040.1; and repeal section 3040.2 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, governing inmate credit-earning and program revisions.

PUBLIC COMMENT PERIOD

The public comment period begins **March 11, 2022** and closes on **April 26, 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, 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

S. Pollock
Telephone: (916) 445-2308
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

Niki Dhillon
Telephone: (916) 324-3663
Division of Rehabilitative Programs
P.O. Box 942883
Sacramento, CA 94283-0001

AUTHORITY AND REFERENCE

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. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The regulations further the department's commitment to providing evidence-based rehabilitative programming and treatment services to its incarcerated population.

The proposed regulations include implementing the new Integrated Substance Use Disorder Treatment and Cognitive Behavioral Interventions Criteria, amending Milestone Completion Credit (MCC) and Educational Merit Credit, and revising the Milestone Completion Credit Schedule (MCCS). Revisions also facilitate the replacement of the terms "Reentry Hubs" with "Rehabilitative Programs," "Substance Abuse Treatment" with "Integrated Substance Use Disorder Treatment" (ISUDT)," "Substance Abuse" with "Substance Use Disorder," and "Cognitive Behavioral Treatment" with "Cognitive Behavioral Interventions (CBI)," and remove the Long Term Offender Program (LTOP), as LTOP participants are now incorporated into the new CBI model.

California Penal Code, Section 2053.1 requires the department to implement programs that, in part: 1) Focus on increasing the reading ability of an inmate to at least a 9th-grade level; 2) Focus on helping the inmate gain a General Education Development (GED) certificate, or its equivalent, or a high school diploma. The 2019/2020 budget included funding to establish and support a literacy mentor program across all adult institutions. The Peer Literacy Mentor Program not only provides eligible inmates with greater opportunity to participate in programs and to earn Milestone Completion Credit (MCC) and Educational Merit Credit upon successful completion, it expands literacy learning opportunities to an exponential number of inmates outside of traditional academic instruction.

The revised MCCS also includes the new CBI programming through the Integrated Substance Use Disorder Treatment (ISUDT) Program. The 2019/2020 budget included funding for the ISUDT Program

which was implemented in January 2020. The ISUDT Program identifies incarcerated individuals at risk for harm related to Substance Use Disorder (SUD) and provides treatment that reduces the risk of overdose or other complications related to SUD. Treatment integrates the newly designed CBI model in all CDCR adult institutions.

This action will:

- Amend the Milestone Completion Credit Schedule to add new programs, discontinue programs that are no longer available, amend the amount of credit earned for some programs, and reorganize the schedule.
- Eliminate Reentry Hubs and expand Rehabilitative and Cognitive Behavioral Interventions (CBI) programming across all institutions.
- Implement the Integrated Substance Use Disorder Treatment and Cognitive Behavioral Interventions Criteria to assist inmates suffering the effects of Substance Use Disorder.
- Repeal the Long Term Offender Program, which is now incorporated into the CBI program.
- Establish a new Peer Literacy Mentor Program.
- Establish that the Office of Correctional Education conduct a thorough review for any documentation of an inmate’s completion of education from an accredited agency approved by the United States Department of Education.
- Establish a new Milestone Completion Credit (MCC) modified performance criteria to allow in-cell independent study programming upon approval at a level no lower than the Undersecretary of Operations, which will allow inmates the ability to continue participation in rehabilitative programs and earn MCC awards when in-person instruction is not possible.

DOCUMENTS INCORPORATED
BY REFERENCE

Milestone Completion Credit Schedule (MCCS) (Revision 01/22)
Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) (copyright version 2020)

SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED REGULATIONS

The department believes that the expansion of rehabilitative programs to all institutions will allow more inmates to participate in programs to help them prepare for community reintegration. The CDCR and CCHCS worked collaboratively to develop an Integrated Substance Use Disorder Treatment (ISUDT)

program to address the needs of inmates suffering from Substance Use Disorder (SUD), covering their entire time in prison from entry to release. The goal for this system-wide effort is to recognize and treat the chronic illness of SUD and reduce fatalities at all levels of clinical need and to optimize rehabilitative potential for all incarcerated persons.

Reorganization of the Milestone Completion Credit Schedule (MCCS) will ensure clarity with regards to how the MCCS is implemented within the department, and assist in the application of Milestone Completion Credit (MCC) appropriately. Additionally, the revised MCCS will offer more comprehensive rehabilitative opportunities across all institutions, and provide incentives for inmates to participate in rehabilitative and educational programming. A critical component of a well-functioning correctional system is providing offenders greater opportunity for rehabilitation, thereby improving offender outcomes and increasing public safety.

It is anticipated that these regulations will better prepare inmates to find employment upon release, maintain a clean and sober lifestyle, and will eventually reduce recidivism and overcrowding in California prisons.

EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH EXISTING
LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these regulations are consistent with existing credit-earning regulations within CDCR.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *The fiscal impact on state government includes savings for CDCR of approximately \$181,000 in Fiscal Year (FY) 2022/23, \$3 million in FY 2023/24 and FY 2025/26, and \$5.5 million in FY 2024/25.*
- Cost to any local agency or school district that is required to be reimbursed: *None.*

- Other nondiscretionary cost or savings imposed on local agencies: *County Probation (Post Release Community Supervision) costs of \$94,000 in FY 2022–23 and \$1,572,000 in FY 2023–24; and savings of \$337,000 in FY 2024–25 and \$1,169,000 in FY 2025–26.*
- 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 businesses because they place no obligations or requirements on any businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The 2019/2020 budget included funding for the CDCR and California Correctional Health Care Services (CCHCS) for the ISUDT program. The department has determined that the proposed regulations will create additional jobs within the state of California through contracts to provide CBI programs used within the department. The 2019/2020 ISUDT Budget Change Proposal, which was approved and funded, included funding for several Alcohol and Other Drug (AOD) counselors throughout the state, among other positions that are necessary for CBI programs. The

incorporation of rehabilitative programs inclusive of CBI at all adult institutions is not anticipated to have an effect on the creation of new, expansion, or elimination of existing businesses within the state of California. The department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations will benefit public safety by providing eligible inmates with incentives to participate in rehabilitative and educational programming, and better prepare inmates to find employment upon release, which may eventually reduce recidivism and overcrowding in California prisons.

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 scheduled 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.

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 reg-

ulations 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 27. ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS TO THE ENVIRONMENTAL ENFORCEMENT AND TRAINING GRANT PROGRAM REGULATIONS

The California Environmental Protection Agency (CalEPA) will consider approving for adoption the proposed amendments to the Environmental Enforcement and Training Grant Program Regulations at 1001 I Street, Sacramento, CA 95814.

CalEPA will not conduct a public hearing unless a hearing is requested. To request a hearing, any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code (Gov. Code) section 11346.8 by emailing eetagrants@calepa.ca.gov. If a hearing is requested, CalEPA will issue a public agenda and notice of the hearing. Please consult the public agenda, which will be posted ten days before the hearing date, for important details, including, but not limited to, the place of the hearing and the day on which this item will be considered, as well as any appropriate direction regarding a possible remote-only hearing.

CalEPA may take action to approve for adoption the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. CalEPA may also approve for adoption the proposed regulatory language with other modifications if the text, as modified, is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments in writing by postal mail or by electronic submittal. The public comment period for this regulatory action will begin on March 11, 2022. Written comments must be submitted on or after March 11, 2022, and received no later than April 26, 2022. Comments submitted outside that comment period are considered untimely. CalEPA may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

Comments submitted must be addressed to one of the following:

Postal mail:

California Environmental Protection Agency
 Jessica Aresca
 1001 I Street, 25th Floor
 Sacramento, CA 95814

Electronic submittal: eetagrants@calepa.ca.gov

Please note that under the California Public Records Act (Gov. Code, §§ 6250 et seq.), your comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, CalEPA requests, but does not require, that persons who submit written comments on this item reference the title of the proposal in their comments, to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in Penal Code sections 14300, 14301, 14303, 14306, 14307, 14308, 14309, 14314, and 14315. This action is proposed to implement, interpret, and make specific Penal Code sections 14300, 14301, 14303, 14306, 14307, 14308, 14309, and 14314.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (Gov. Code, § 11346.5, subdivision (a)(3))

Sections Affected:

Proposed amendment of California Code of Regulations, title 27, sections 10011, 10012, 10013, 10014, 10015, 10016, 10017, and 10018

Proposed adoption of California Code of Regulations, title 27, section 10019

Background and Effect of the Proposed Regulatory Action:

The Secretary of the California Environmental Protection Agency (CalEPA or Agency) administers the Environmental Enforcement and Training Program (Program), created by the Legislature in 2002 and codified in Penal Code sections 14300 et seq. The Program funds training and enforcement projects that fall within the descriptions in Penal Code Sections 14306 to 14308 and 14309 to enhance the enforcement of environmental laws in the State for the benefit of all Californians. The Legislature adopted some changes to the Program's authorizing statute in 2021, through Senate Bill (SB) 157.

The Secretary administers the Program through its implementing regulations in California Code of Regulations, title 27, sections 10011 through 10018. CalEPA is proposing this rulemaking to amend California Code of Regulations, title 27, sections 10011 through 10018, and to add California Code of Regulations, title 27, section 10019. The proposed rulemaking will update the existing regulations to reflect changes to the Program made by SB 157, including changing the eligibility of grant recipients, adding community-based organizations as eligible training participants, and removing funding set-asides for circuit prosecutors and the California District Attorneys Association. In addition, the proposed rulemaking will remove outdated technology references, such as references to fax, add more clear criteria to the application, reporting, and auditing provisions, and re-organize the provisions to add clarity and make the regulation easier to follow. Finally, the proposed rulemaking will also add a severability provision, so that it is clear to regulated entities that if a court invalidates one portion of the regulation, the other portions remain in effect. CalEPA may also consider other changes to the sections affected, as listed on page one of this notice, or other sections within the scope of this notice, during the course of this rulemaking process.

The proposed rulemaking will make ineligible the entity the Legislature has rendered ineligible to receive funds in SB 157. This will reduce funds previously available to that entity, but this economic impact is fully offset by the fact that funding for other entities to perform grants for the same purposes remains available. Moreover, CalEPA believes that the part of this rulemaking that proposes to allow earmarks for specified purposes allowed by law may increase contributions to the funds and increase funding opportunities overall. This proposed rulemaking is not expected to have an economic impact on other regulated entities.

The proposed rulemaking will help achieve the Legislature's goals of enhancing environmental enforcement for the benefit of all Californians by making the requirements to apply for and use funding more clear.

This could result in increased environmental, public health, and worker safety benefits if additional training and enforcement result, but the existing regulation already provides most of those benefits. The proposed amendments will also promote fairness and social equity by updating the eligibility to reflect changes made by SB 157 that now explicitly provide for training for staff of community-based organizations, thereby supporting the Legislature's goal to enhance environmental enforcement to benefit all Californians.

Objectives and Benefits of the Proposed Regulatory Action:

The proposed amendments would update the regulations to reflect changes to the Program's authorizing statute made by SB 157, as well as to update the regulation to reflect current technology, remove unnecessary language, add more specific application and reporting requirements, and move language to more relevant sections, among other things. The proposed addition of section 10019 would add a severability provision, making clear that the rest of the regulation would remain in effect if any other portion of the regulation was found to be invalid.

CalEPA conducted a pre-rulemaking process to develop this proposed rulemaking, including sending out an economic impact statement, holding a workshop on February 16, 2022, and holding informal rulemaking discussions with some stakeholders.

CalEPA determined the benefits of this proposed rulemaking based on the information CalEPA learned from this pre-rulemaking process, and from implementing the existing regulations, and based on the benefits the Legislature believed would come from the Program, as expressed in Penal Code sections 14300 et seq. Based on the aforementioned, these proposed regulations are expected to help support the existing benefits to worker safety, health, and the environment from the enhanced training and enforcement of environmental laws under the existing program. The proposed regulations will also make it easier to understand, implement, and follow the regulation.

Comparable Federal Regulations:

There are no comparable federal regulations on the same issue as the proposed rulemaking.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subdivision (a)(3)(D)):

During the process of developing the proposed regulatory action, CalEPA conducted a search of any similar regulations on this topic and concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subdivisions (a)(5)&(6)):

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Housing Costs (Gov. Code, § 11346.5, subdivision (a)(12)):

CalEPA has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subdivision (a), 11346.5, subdivision (a)(7), 11346.5, subdivision (a)(8)):

CalEPA has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. More information about this is in the Initial Statement of Reasons for this proposed rulemaking.

Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subdivision (a)(10)):

CalEPA has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

The objectives of the proposed regulatory action are to update the regulations to reflect changes to the Act made by SB 157, as well as to update the regulation to reflect current technology, remove unnecessary language, and make the regulation more clear and organized. The proposed rulemaking is expected to support benefits to the health and welfare of California residents, worker safety, and the State's environment by improving the regulations supporting the enhance-

ment of environmental laws that protect public and worker health and safety and the environment.

Business Report (Gov. Code, §§ 11346.5, subdivision (a)(11); 11346.3, subdivision (d)):

The reporting requirements in the proposed regulatory action apply only to private nonprofits and public agencies, not to businesses.

Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subdivision (a)(9)):

In developing this regulatory proposal, CalEPA evaluated the potential economic impacts on representative private persons or businesses. CalEPA 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 Small Business (Cal. Code Regs., title 1, § 4, subdivisions (a) and (b)):

CalEPA has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposed rulemaking does not apply to small businesses.

Consideration of Alternatives (Gov. Code, § 11346.5, subdivision (a)(13)):

Before taking final action on the proposed regulatory action, CalEPA must determine that no reasonable alternative considered by CalEPA, or that has otherwise been identified and brought to the attention of CalEPA (including during preliminary workshop activities), 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 provisions of law.

ENVIRONMENTAL ANALYSIS

CalEPA has determined that implementing the proposed rulemaking would not result in any physical changes to the environment, or any potentially significant adverse impacts on the environment. The proposed changes are not anticipated to result in any environmental impacts, such as new building, traffic changes, natural resource impacts, etcetera. The proposed changes may offer environmental benefits, but those are unlikely to differ from those benefits offered by the existing regulation.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at any hearing;

- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact etagrants@calepa.ca.gov as soon as possible, but no later than ten business days before the end of the scheduled comment period.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative, Sarah Taylor, at (916) 345-4551, or Jessica Aresca, at jessica.aresca@calepa.ca.gov.

AVAILABILITY OF DOCUMENTS

CalEPA has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CalEPA's website listed below, starting on March 11, 2022. Please contact Sarah Taylor, at (916) 345-4551 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, CalEPA's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to Sarah Taylor, physical copies could be obtained from the Public Information Office, CalEPA, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Sarah Taylor, at (916) 345-4551. CalEPA has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the above-named contact persons.

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed,

are available on CalEPA's website for this rulemaking: <https://calepa.ca.gov/environmental-enforcement-and-training-grant-program-2022-rulemaking/>.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

**CSSHAPA CONSISTENCY DETERMINATION
REQUEST FOR
BELCAMPO-NORTH ANNEX SAFE
HARBOR AGREEMENT
2089-2022-002-01
SISKIYOU COUNTY**

California Department of Fish and Wildlife (CDFW) received a notice on February 23, 2022, that Belcampo-North Annex (Landowner) proposes to rely on a federal safe harbor agreement to carry out a project that may provide a net conservation benefit for the Southern Oregon Northern California Coast (SONCC) coho salmon evolutionarily significant unit (ESU) (*Oncorhynchus kisutch*), a species protected by the California Endangered Species Act. The proposed project involves routine agricultural activities implemented according to avoidance and minimization measures, as well as beneficial management actions such as habitat improvements intended to provide conservation benefits to the SONCC coho salmon ESU in the Shasta River. The proposed project will occur on the Belcampo-North Annex Property, which is located at 41°37'58.93" North latitude, 122°29'35.62" West longitude in Siskiyou County, California.

The notice requested a CDFW determination pursuant to California Fish and Game Code Section 2089.22, that the template safe harbor agreement dated February 24, 2021, the Site Plan Agreement dated October 27, 2020 and the enhancement of survival permit number 23271 issued by the National Marine Fisheries Service to the Landowner on February 24, 2021, are consistent with the California State Safe Harbor Agreement Program Act (CSSHAPA) for purposes of the proposed Project. If CDFW determines the federal safe harbor agreement is consistent with CSSHAPA for the proposed Project, the Landowner will not be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

**DEPARTMENT OF
FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION
REQUEST FOR
INTERSTATE 580/205 ROADSIDE SAFETY
IMPROVEMENT PROJECT
2080–2022–004–03
ALAMEDA COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on March 1, 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 improving maintenance worker safety at 14 locations along I–580 and I–205 in Alameda County. Proposed activities will include, but are not limited to, minor grading and scraping, installation of temporary fencing, construction of maintenance vehicle pullouts, and installation of concrete pavement.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (BO) (Service Reference Number 2022–0002454–S7–001) in a memorandum to Caltrans on February 15, 2022, which considered the effects of the proposed project on state and federally threatened California tiger salamander (*Ambystoma californiense*).

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.

PETITION DECISION

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

NOTICE OF DECISION ON PETITION TO
AMEND REGULATIONS

PURSUANT TO GOVERNMENT CODE 11340.7

Petitioner

Frederick Everts, #F62994

Department Contact Person

Please direct any inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283–0001.

Availability of Petition

The petition to amend regulations is available upon request directed to the Department’s contact person.

Authority

Penal Code Sections: 5054 and 5058

Provisions of California Code Of Regulations Affected:

Title 15, Crime Prevention and Corrections
Division 3, Adult Institutions, Programs and Parole

Summary of Petition and Department Decision:

Section 3260.1

Petitioner’s Request:

The petitioner requests that this section be amended to state that if the California Department of Corrections and Rehabilitation (CDCR) “makes any public records available to inmates in electronic form by any means, they shall respond to inmate requests for electronic copies of public records by making electronic copies of responsive, non–exempt records available by the same means.” The petitioner wants inmates to be able to receive electronic copies of requested public records on inmate tablets.

Reason for Request:

The petitioner provides a number of reasons for requesting the provision of requested public records on inmate tablets:

- The amendment would not require CDCR “to build out infrastructure where none exists.” CDCR “currently makes some public records (e.g. rules, regulations, and operating procedures) available to inmates in electronic form using the CTS,” so this amendment would require CDCR “to leverage the CTS to make responsive public records available to inmates in electronic form.”
- Denying inmates “the right to receive electronic copies of public records” violates inmates’ rights as contained in Penal Code Section 2600.
- The expense of obtaining paper copies of public records makes said records practically inaccessible.
- Paper copies take up storage space, which is limited for inmates. Providing electronic copies of public records would alleviate storage space issues as well as reduce fire hazards and increase the efficiency and effectiveness of cell searches.
- The provision of electronic copies of public records would ensure access to said public records

within the ten-day timeframe required by the Public Records Act.

- In response to a previous petition on this subject, specifically the issue of the cost of paper copies of public records, “CDCR responded that there would still be costs associated with electronic copies.”

The cost of duplicating an electronic public record is “a small fraction of the cost of duplicating paper records,” however, and CDCR “makes electronic copies of public records available to the public at no cost.”

- In response to a previous petition on this subject, CDCR stated that the amount of data that the tablets would be able to accommodate was not known.

Standard Agreement C5610009, Exhibit 24.2 states, “GTL can provide CDCR with unlimited storage.”

- In response to a previous petition on this subject, CDCR stated that not all inmates would be able to have tablets and therefore making public records accessible in an electronic format to only those inmates with tables would violate the policy that all information that CDCR makes available to one inmate must be accessible to all inmates.

“CTS services are delivered to all inmates” and “GTL is required to provide tablets to all inmates.” Additionally, “GTL is required to make kiosks available in all housing units for inmates whose tablets are not working.”

- In response to a previous petition on this subject, CDCR stated that inmates would still need to make paper copies of public records in order to send copies to family members because “CTS does not allow attachments to e-mails.”

If inmates wanted to send paper copies of public records to family members, the “cost savings would still be realized in those cases where inmates did not want to send a copy of the public record to family, and the other benefits (e.g. ease of access, ease of storage, searchability, and quicker responses to requests) would be realized in all cases nonetheless.” However, there would “never be a need for inmates to send a copy of a public record to family, because free persons can make their own public records requests and receive electronic or paper copies directly from the department.”

Department’s Response:

The petition is denied for the following reasons:

- A regulation must meet certain regulatory tests. A regulation implements, interprets, or makes specific the provisions of a statute, court deci-

sion, or governs a regulation or another agency. A regulation also must apply equally to all inmates, parolees, and the public in similar situations. The request to amend Title 15 section 3260.1 does not meet either of these regulatory tests. There is no statute, court decision, or regulation of another agency that requires the production of records disclosed pursuant to a Public Records Act request be done electronically for inmates. In addition, tablets and kiosks are not currently available to all inmates, and the proposed amendment to section 3260.1 would not then apply equally to all inmates.

- The proposed amendment does not result in a cost savings to CDCR, as there are still costs associated with producing records electronically.
- The proposed amendment does not result in a cost savings to inmates, as there is still a cost per “page” associated with producing records electronically.
- The availability of records on tablets and kiosks does not impact CDCR’s requirement to make a determination of whether there are or are not responsive records within the statutory timeframes.
- Inmates may request to inspect records, which would not impact storage space.

**SUMMARY OF
REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE
SECRETARY OF STATE**

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

Department of Corrections and Rehabilitation
File # 2022-0113-01
Nonviolent Parole Process Eligibility In re Gadlin

This action makes permanent the emergency changes made in OAL File Number 2021-0409-02EON that amended the nonviolent offender parole review process (NVPP) eligibility regulations to be consistent with the California Supreme Court ruling In re Gadlin (2020) 10 Cal.5th 915. Additionally, this action makes changes to clarify NVPP eligibility and consideration and to eliminate the use of gender pronouns.

Title 15
 Amend: 2449.1, 2449.4, 2449.5, 2449.30, 2449.32,
 3490, 3491, 3492, 3495, 3496, 3497
 Filed 02/28/2022
 Effective 02/28/2022
 Agency Contact: Josh Jugum (916) 445-2266

Department of Justice
 File # 2022-0207-01
 Amendments to Department of Justice Conflict-of-
 Interest Code

This is a Conflict-of-Interest Code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing.

Title 11
 Amend: 20
 Filed 03/01/2022
 Effective 03/31/2022
 Agency Contact: Kevin Sabo (916) 210-7639

Department of Food and Agriculture
 File # 2022-0114-02
 Clean-up of Title 4, Divisions 8 and 9 Regulations

This action by the Department of Food and Agriculture makes changes without regulatory effect to regulations in the Division of Measurement Standards, including removal of references to repealed Business and Professions Code section 13302.

Title 04
 Amend: 4800, 4802
 Filed 03/01/2022
 Agency Contact: Samuel Ferris (916) 229-3000

Board of Accountancy
 File # 2021-0914-02
 Practice Privilege Notification Form

In this rulemaking action, the Board amends its regulation to establish requirements for accountants whose principal place of business is in a state subject to an action of the Board as found in Business and Professions Code Section 5096.21.

Title 16
 Amend: 19
 Filed 02/24/2022
 Effective 04/01/2022
 Agency Contact: Deanne Pearce (916) 651-1740

Board of Pharmacy
 File # 2021-0914-03
 Reporting Drug Loss

In this regular rulemaking action, the Board of Pharmacy amends the requirements for reporting drug

losses to specify amounts that require reporting and information that must be included with each report.

Title 16
 Amend: 1715.6
 Filed 02/24/2022
 Effective 04/01/2022
 Agency Contact: Lori Martinez (916) 518-3078

Bureau of Automotive Repair
 File # 2021-1102-03
 Disciplinary Guidelines Amendments

In this regular rulemaking action, the Bureau of Automotive Repair amends the document Guidelines for Disciplinary Orders and Terms of Probation, incorporated by reference.

Title 16
 Amend: 3395.4
 Filed 02/24/2022
 Effective 04/01/2022
 Agency Contact:
 Lusine Sarkisyan lusine.sarkisyan@dca.ca.gov

Department of Food and Agriculture
 File # 2022-0110-01
 Fertilizing Materials Biotics/Biochar

This rulemaking by the Department of Food and Agriculture (Department) amends regulations relating to licensing, label registration, and field inspection for the Department's Fertilizing Materials Inspection Program.

Title 03
 Adopt: 2306
 Amend: 2300.1, 2304, 2308, 2322
 Repeal: 2306
 Filed 02/23/2022
 Effective 04/01/2022
 Agency Contact:
 Maria Tenorio Alfred (916) 900-5022

Department of Toxic Substances Control
 File # 2022-0128-02
 Safer Consumer Products: Priority Products List

Existing regulations establish a process for evaluating Chemicals of Concern in consumer products and safer alternatives. In this regular rulemaking, the Department of Toxic Substances Control is adding treatments containing any perfluoroalkyl or polyfluoroalkyl substances for use on converted textiles or leathers as a Priority Product on the Priority Products List.

Title 22
Adopt: 69511.5
Amend: 69511
Filed 02/28/2022
Effective 04/01/2022
Agency Contact: Rick Brausch (916) 251-6398

Fish and Game Commission
File # 2022-0118-02
Experimental Fishing Permit Program (EFP)
(Phase II)

EFP Program Phase II (this rulemaking) builds in more time for public scoping and participation (see Section III(f)) of this document) to implement FGC Section 1022 in its entirety. The regulations will establish a comprehensive regulatory framework for experimental marine fishing activities pursuant to FGC Section 1022 (i.e., EFP Program), which will include a process for application, Department review, public comment, Commission action, and Department issuance and administration of EFPs. Once the EFP Program is fully implemented, there will be some overlap between Phase I and Phase II regulations. For purposes of this document, “Box Crab EFPs” are those EFPs that were issued pursuant to Section 90 and prior to the implementation of the regulations for

Phase II. “New” EFPs are those that will be issued in accordance with Section 91 regulations.

Title 14
Adopt: 91
Amend: 90, 120.1, 149, 180, 704
Repeal: 149.3
Filed 03/02/2022
Effective 04/01/2022
Agency Contact: Jennifer Greaves (916) 653-4899

**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.