



# California Regulatory Notice Register

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

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.*

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

#### SENATE BILL 2 IMPLEMENTATION COMMISSION REGULATION 1953

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

#### **Public Comments Due by May 9, 2022.**

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

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

#### AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST), PC Section 13506 (POST authority to adopt regulations), and PC Section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC Section 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 1, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government Code and Penal Code, respec-

tively. These changes provide for additional peace officer hiring eligibility requirements. SB 2 also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST be made aware of and determine at the conclusion of an investigation that there were egregious acts of misconduct on the part of the accused peace officer(s). While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Penal and Government Codes will go into effect on January 1, 2023.

This rulemaking action clarifies and makes specific these new requirements of Government Code Section 1029 regarding peace officer hiring selection updates. After thorough review of SB 2, POST determined there needs to be updates to Commission Regulation 1953.

Currently, Commission Regulation 1953 does not include the hiring selection requirements listed in Government Code Section 1029, as stipulated by SB 2. The new additions to Government Code Section 1029 require POST to include additional hiring selection requirements when considering the eligibility of new peace officer applicants.

The regulations proposed in this rulemaking action will update language in Commission Regulation 1953 to include the additional background requirements when considering new peace officer applicants, add numbering to provide clarity, renumber to accommodate new regulatory requirements, and correct existing grammatical errors. It is necessary to avoid a waste of public resources to ensure, prior to employment, that selection requirements are met rather than have a candidate commence employment and subsequently determine that the candidate does not meet these requirements, which would require initiating a dismissal process.

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

The benefits anticipated by the proposed amendments to the regulation will add clarity to the requirements for hiring selection inquiries when evaluating a candidate for peace officer selection, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state's environment.

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

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area,

POST has concluded that these are the only regulations that concern processes and procedures for peace officer eligibility in the state.

#### FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference in this proposed action.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*POST has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs 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.

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

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

Significant, statewide adverse economic impact directly affecting California businesses: POST has determined 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.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

#### RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create nor eliminate jobs in the state of California, (2) unlikely that the proposal will create nor eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement

Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity to the requirements for background inquiries when evaluating a candidate for peace officer selection. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

#### CONSIDERATION OF ALTERNATIVES

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

#### CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Michelle Weiler*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at (916) 227-4870. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

#### TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the *POST Website* at <https://post.ca.gov/Regulatory-Actions>.

#### ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the

text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

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

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

#### SENATE BILL 2 IMPLEMENTATION COMMISSION REGULATIONS 1003, 1004, AND 1012

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

#### Public Comments Due by May 9, 2022.

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

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

#### AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST), PC Section 13506 (POST authority to adopt regulations) and PC Section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC Section 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 1, 2021, Governor Newsom signed Senate Bill (SB) 2, which made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements and also grants POST the authority to certify all peace officers in California and subsequently take action against those certifications should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes will go into effect on January 1, 2023.

This rulemaking action clarifies and makes specific these new requirements of Penal Code Section 13510, per SB 2. After a thorough review of SB 2, POST determined there needs to be updates to several existing Commission Regulations, including 1003, 1004, and 1012.

Currently, Commission Regulation 1003 allows for 30 days for notice of appointment or termination. However, amendments to Penal Code Section 13510 require these notifications to be made within 10 days of appointment or separation. For Commission Regulations 1004 and 1012, there are currently no requirements for possession of a Proof of Eligibility (POE). Amendments to Penal Code Section 13510 require peace officers who do not currently possess, or will not be eligible to possess, a Basic Certificate to obtain a POE.

The regulations proposed in this rulemaking action will update language in:

- Commission Regulation 1003 to reflect the new processes of making notifications to POST of new peace officer appointments, separations, reinstatements, and disqualifications.
- Commission Regulation 1004 to reflect the updates to the eligibility requirements for participating in the Field Training Program to address the requirements that all peace officers must be in possession of a valid POE or Basic Certificate, per Penal Code Section 13510.1.



- Commission Regulation 1012 to reflect the updates to the conditions of employment as a peace officer, per Penal Code Section 13510.1.

*Anticipated Benefits of the Proposed Amendments:*

The benefits anticipated by the proposed amendments to the regulations will add clarity and align the regulations with the new requirements of Penal Code Section 13510, per SB 2, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state's environment.

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

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern the processes and procedures for law enforcement agencies in the state.

FORMS INCORPORATED BY REFERENCE

The following forms are incorporated by reference:

*Attestation of Peace Officer Eligibility, POST 2-356 (03/2022)*

*Affidavit of Separation, POST 2-357 (03/2022)*

DISCLOSURES REGARDING THE  
PROPOSED ACTION

*POST has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs 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.

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

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

Significant, statewide adverse economic impact directly affecting California businesses: POST has determined 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.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

RESULTS OF ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create nor eliminate jobs in the state of California, (2) unlikely that the proposal will create nor eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Michelle Weiler*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at (916) 227-4870. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630. These documents are also located on the *POST Website* at <https://post.ca.gov/Regulatory-Actions>.

ADOPTION OF PROPOSED REGULATIONS/  
AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

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

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

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

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

SENATE BILL 2 IMPLEMENTATION  
AMEND COMMISSION REGULATIONS  
1007, 1010, AND 1011  
ADOPT COMMISSION REGULATION 1202

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

**Public Comments Due by May 9, 2022.**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227–4547, by email to *Michelle Weiler* at [michelle.weiler@post.ca.gov](mailto:michelle.weiler@post.ca.gov), or by letter to:

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

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST), PC Section 13506 (POST authority to adopt regulations), and PC Section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC Section 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

On September 1, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements and also grants POST the authority to certify all peace officers in California and subsequently take action against those certifications should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining

changes to Government and Penal Codes will go into effect on January 1, 2023.

This rulemaking action clarifies and makes specific these new peace officer certification requirements of Penal Code Section 13510, pursuant to SB 2.

Currently, Commission Regulation 1007 does not require reserve peace officers to possess a valid Proof of Eligibility (POE). Commission Regulation 1010 does not currently address the requirement that peace officers must be in possession of a valid POE or Basic Certificate for an agency to be eligible to participate in the POST program. Commission Regulation 1011 does not address POEs or the Commission's ability to decertify peace officers. Finally, Commission Regulation 1202 does not exist, therefore, it is being proposed as a new regulation to address the certification of peace officers.

The regulations proposed in this rulemaking action will update language in:

- Commission Regulation 1007 to include updates to the requirements for appointment as a reserve peace officer, per Penal Code Section 13510.1.
- Commission Regulation 1010 to include updates to the requirements for participation in the POST program, per Penal Code Section 13510.1.
- Commission Regulation 1011 to rename it as *Professional Certificates for Public Safety Dispatchers and Records Supervisors* and remove language related to peace officer certificates as it will be relocated to a new regulation.

The proposed Commission Regulation 1202 in this rulemaking action will create regulatory language strictly for peace officer certification. This new regulation will be adopted under a new article, *Article 4. Peace Officer Certification*.

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

The benefits anticipated by the proposed amendments to the regulation will add clarity to the certificate eligibility requirements for peace officers, public safety dispatchers, and records supervisors, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state's environment.

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

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regula-

tions that concern processes and procedures for peace officer eligibility in the state.

#### FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference in this proposed action.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*POST has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs 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.

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

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

Significant, statewide adverse economic impact directly affecting California businesses: POST has determined 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.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

#### RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create nor eliminate jobs in the state of California, (2) unlikely that the proposal will create nor eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase



the efficiency of the state of California in delivering services to stakeholders by providing clarity to the certificate eligibility requirements for peace officers, public safety dispatchers and records supervisors. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

#### CONSIDERATION OF ALTERNATIVES

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

#### CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Michelle Weiler*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at (916) 227-4870. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

#### TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the *POST Website* at <https://post.ca.gov/Regulatory-Actions>.

#### ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

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be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

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

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

#### SENATE BILL 2 IMPLEMENTATION ADOPT COMMISSION REGULATIONS 1203, 1204, 1206, 1207, 1208, 1209, AND 1210

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

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

## AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST), PC Section 13506 (POST authority to adopt regulations), and PC Section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC Section 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 1, 2021, Governor Newsom signed Senate Bill (SB) 2, which made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements and also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes will go into effect on January 1, 2023.

This rulemaking action clarifies and makes specific these new peace officer certification requirements of Code of Civil Procedure Sections 415.10–415.40, Government Code 1029, Penal Code Sections 832.7, 13510, and 13512, pursuant to SB 2.

Currently, Commission Regulations 1203, 1204, 1206, 1207, 1208, 1209, and 1210 do not exist. Therefore, they are being proposed as new regulations to adopt peace officer certification procedures.

The regulations proposed in this rulemaking action will create the following language in:

- Commission Regulation 1203 to include procedures for disqualifications for employment as a peace officer.
- Commission Regulation 1204 to include procedures for identifying inaccurately approved peace officer appointments.
- Commission Regulation 1206 to include procedures for the Peace Officer Standards Accountability Division to review investigations of alleged peace officer misconduct.
- Commission Regulation 1207 to include procedures for agencies to report allegations of serious misconduct.
- Commission Regulation 1208 to include procedures for the Executive Director's authority to temporarily suspend a peace officer's certification.
- Commission Regulation 1209 to include procedures for process regarding notification of a com-

pleted investigation, an officer's rights to request a review hearing, and conducting hearings.

- Commission Regulation 1210 to include procedures for voluntary surrender of a peace officer's certification.

These new regulations will be adopted under a new article, *Article 4. Peace Officer Certification*.

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

The benefits anticipated by the proposed amendments to the regulations will add procedures for:

- disqualifications for employment as a peace officer,
- identifying inaccurately approved peace officer appointments,
- the Peace Officer Standards Accountability Division to review investigations of alleged peace officer misconduct,
- agencies to report allegations of serious misconduct,
- the Executive Director's authority to temporarily suspend a peace officer's certification,
- process for the notification of a completed investigation, an officer's rights to request a review hearing, and conducting hearings, and
- voluntary surrender.

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

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

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern processes and procedures for peace officer eligibility in the state.

## FORMS INCORPORATED BY REFERENCE

The following forms are incorporated by reference in this proposed action:

- *Voluntary Surrender of Peace Officer Certification, POST 2–358 (03/2022)*
- *Request to Review of Peace Officer Certification, POST 2–359 (03/2022)*

## DISCLOSURES REGARDING THE PROPOSED ACTION

*POST has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs 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.

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

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

Significant, statewide adverse economic impact directly affecting California businesses: POST has determined 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.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

## RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create nor eliminate jobs in the state of California, (2) unlikely that the proposal will create nor eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity to the certificate eligibility requirements for peace officers, public safety dispatchers and records supervisors. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would

be no impact that would affect worker safety or the State's environment.

## CONSIDERATION OF ALTERNATIVES

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

## CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Michelle Weiler*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at (916) 227-4870. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

## TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the *POST Website* at <https://post.ca.gov/Regulatory-Actions>.

## ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

comments on the modified text for 15 days after the date that the revised text is made available.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

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

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

##### SENATE BILL 2 IMPLEMENTATION AMEND COMMISSION REGULATION 1001 ADOPT COMMISSION REGULATION 1201

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

##### **Public Comments Due by May 9, 2022.**

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

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

#### AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST), PC Section 13506 (POST authority to adopt regulations), and PC Section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC Section 13510, which

authorizes POST to establish a certification program for peace officers in the state of California.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 1, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements and also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes will go into effect on January 1, 2023.

This rulemaking action clarifies and makes specific these new peace officer certification requirements of Penal Code Section 13510, pursuant to SB 2.

Currently, Commission Regulation 1001 does not address definitions related to peace officer certification, pursuant to SB 2. Commission Regulation 1201 does not exist; therefore, it is being proposed as a new regulation to address all definitions related to the certification of peace officers.

The regulations proposed in this rulemaking action will update language in:

- Commission Regulation 1001 to remove terms related to peace officer certificates as it will be relocated to Commission Regulation 1201, under new *Article 4. Peace Officer Certification*. Additionally, the terms will be renumbered due to the removal of several terms.

The proposed Commission Regulation 1201 in this rulemaking action will create regulatory language strictly for peace officer certification. This new regulation will be adopted under a new article, *Article 4. Peace Officer Certification*.

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

The benefits anticipated by the proposed amendments to the regulation will add clarity to the definition of terms as they apply to *Article 1 General* and *Article 4 — Peace Officer Certification*, respectively, which will increase the efficiency for the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state's environment.



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

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern processes and procedures for peace officer eligibility in the state.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference in this proposed action.

DISCLOSURES REGARDING THE PROPOSED ACTION

*POST has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs 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.

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

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

Significant, statewide adverse economic impact directly affecting California businesses: POST has determined 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.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create nor eliminate jobs in the state of California,

(2) unlikely that the proposal will create nor eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity to the certificate eligibility requirements for peace officers, public safety dispatchers and records supervisors. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Michelle Weiler*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at (916) 227-4870. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the *POST Website* at <https://post.ca.gov/Regulatory-Actions>.



**ADOPTION OF PROPOSED REGULATIONS/  
AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

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

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

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

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

**SENATE BILL 2 IMPLEMENTATION  
ADOPT COMMISSION REGULATIONS  
1211, 1212, AND 1214**

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

**Public Comments Due by May 9, 2022.**

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

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

**AUTHORITY AND REFERENCE**

This proposal is made pursuant to the authority vested by Penal Code (PC) Section 13503 (authority of POST), PC Section 13506 (POST authority to adopt regulations), and PC Section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC Section 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

On September 1, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements and also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes will go into effect on January 1, 2023.

This rulemaking action clarifies and makes specific the role and responsibilities of the Peace Officer Standards Accountability Advisory Board and Commission in relation to the new peace officer certification requirements of Penal Code Sections 13509.5, 13509.6, and 13510.

Currently, Commission Regulations 1211, 1212, and 1214 do not exist; therefore, POST is proposing to adopt these regulations to address the Peace Officer Standards Accountability Advisory Board and Commission's roles and responsibilities regarding certification, and requirements for annual reporting.

The proposed Commission Regulation 1211 text in this rulemaking action will create regulatory language strictly for the roles and responsibilities of the Peace Officer Standards Accountability Advisory Board. This new regulation will be adopted under a new article, *Article 4. Peace Officer Certification*.

The proposed Commission Regulation 1212 text in this rulemaking action will create regulatory language strictly for the roles and responsibilities of the Commission in relation to peace officer certification. This new regulation will be adopted under a new article, *Article 4. Peace Officer Certification*.

The proposed Commission Regulation 1214 text in this rulemaking action will create regulatory language strictly to identify the activities of the Commission, board, division, and subject agencies regarding peace officer certification pursuant to Penal Code Section 13512 in an annual report, published publicly by POST. This new regulation will be adopted under a new article, *Article 4. Peace Officer Certification*.

*Anticipated Benefits of the Proposed Amendments:*

The benefits anticipated by the proposed regulatory adoptions will establish the roles and responsibilities of the board and Commission, which will increase efficiency for the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving the peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state's environment.

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

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are the only regulations that concern processes and procedures for peace officer eligibility in the state.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference in this proposed action.

DISCLOSURES REGARDING THE PROPOSED ACTION

*POST has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs 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.

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

Cost impacts on a representative private persons or business: POST is not aware of any cost impacts that a representative private person or business would nec-

essarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting California businesses: POST has determined 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.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create nor eliminate jobs in the state of California, (2) unlikely that the proposal will create nor eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity to the certificate eligibility requirements for peace officers, public safety dispatchers and records supervisors. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

## CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Michelle Weiler*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at (916) 227-4870. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227-2802.

## TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the *POST Website* at <https://post.ca.gov/Regulatory-Actions>.

## ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons.

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

## TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

### “CLASS II–L DETERMINATION AMENDMENTS, 2022”

### DIVISION 1.5, CHAPTER 4, SUBCHAPTERS 4, 5, AND 6

## NATURE OF PROCEEDING

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

## PUBLIC HEARING

The Board will hold a public hearing on June 8, 2022, at its regularly scheduled meeting commencing at 9:00 a.m., at the Auditorium on the first floor, Room 1-302, of the Natural Resources Building, 715 P Street, Sacramento, CA. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to Government Code (GOV) § 11125.1(b), writings that are public records pursuant to GOV § 11125.1(a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

Attendees may also participate via GoToWebinar online meeting platform or telephone conferencing. To participate via GoToWebinar online meeting platform please email [PublicComments@bof.ca.gov](mailto:PublicComments@bof.ca.gov) by 4:30 p.m. on June 6, 2022, to request a link to the meeting. A link to the meeting will also be posted under the “Webinar Information” heading on the front page of the Board website, no later than 8:00 a.m. the morning of the hearing.

## WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regula-

tory action to the Board. The written comment period ends at the conclusion of the public hearing on June 8, 2022.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Eric Hedge  
Regulations Program Manager  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
715 P Street  
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[PublicComments@BOF.ca.gov](mailto:PublicComments@BOF.ca.gov)

#### AUTHORITY AND REFERENCE

(pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14)

Authority cited: Sections 4551, 4551.5, 4552, and 4553, Public Resources Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

(pursuant to GOV § 11346.5(a)(3)(A)-(D))

Pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, Public Resources Code (PRC) § 4511, *et seq.* (FPA) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

PRC § 4551 requires the Board to "...adopt district forest practice rules... to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water re-

sources..." of the state and PRC § 4553 requires the Board to continuously review the rules in consultation with other interests and make appropriate revisions.

In September 2009, the Board adopted new regulations for "Anadromous Salmonid Protection Rules, 2009" (ASP Rules). The purpose of the ASP Rules, which replaced the existing "Threatened and Impaired Rules" is to protect and restore habitat conditions for coho salmon and other anadromous salmonids in California river systems, increase fish population abundance and so improve the conservation status of threatened salmonid species.

#### Class II—Large Determination Regulations

Among other elements of the new Rules was a new watercourse classification and protection system for Class II—Large watercourses (Class II—L). As a result of the Board's 2009 rule adoption, watercourses classified as Class II—L receive distinct protection measures than those applied to Class II—standard (Class II—S) watercourses through wider protection zones and additional operational restrictions. The Class II—L distinction was created in acknowledgement that Class II—L watercourses can have greater individual effects on receiving Class I watercourse temperature, sediment, nutrient, and large wood loading than Class II standard (Class II—S) watercourses and that the protection, restoration, and enhancement of those values and functions is key to the protection and restoration of the beneficial functions of the riparian zone in watersheds with listed anadromous salmonids (14 CCR §§ 916.9, 936.9, 956.9). The practical effect of the Class II—L protections is that commercial timber management in proximity to Class II—L watercourses is significantly limited or completely excluded.

Included within the 2009 rules package were no less than six regulatory methods provided for determining the status of a Class—II watercourse (*i.e.*, Large or Standard). During the initial implementation phase of the Board's adopted regulations, members of the public expressed concern and raised issues of clarity regarding the Department's interpretation and enforcement of the Class II—L identification and minimum protection distance provisions. Specifically, it was contended that the Department's interpretation of the Class II—L regulations did not conform to the plain-English reading of the Rules.

In 2013, the Board adopted amendments, entitled "CLASS II—L IDENTIFICATION AND PROTECTION AMENDMENTS, 2013" to 14 CCR §§ 916.9, 936.9, and 956.9 to both clarify the methods used to make determinations of Class II watercourse types and to ensure that Class II—L protection measures were achieving the desired results of restoration. The revised regulations provided two methods for determining Class II watercourse classification, which are, generally: the measurement of a contributing

drainage area of a certain size draining to a Class I watercourse, and an average active channel width of five feet or greater near the confluence of a Class I watercourse<sup>1</sup>. The drainage area minimums developed in this rulemaking were "...estimates based upon two Board staff field visits and standards employed by timber companies operating under federal aquatic habitat conservation plans."<sup>2</sup> The channel width determination method regulations were "...developed through discussions between private sector and state agency hydrologists, biologists, and foresters. In addition, a Board Member, Board staff, and a number of private company and public agency representatives conducted two, one-day field visits to watercourses located in the Coast and Northern Forest Districts, respectively."<sup>3</sup>

During development of these regulations, the Board identified "... some question as to whether or not the proposal as written would be an improvement over the existing Class II–L regulations."<sup>4</sup> In order to address these questions, these revised determination methods included a five-year evaluation period punctuated by sunset (January 1, 2019) of the regulations. To aid in determining efficacy, the amendments also included a requirement that the Department report to the Board at least annually on the use and effectiveness of the Class II–L protection measures. In 2018, the Board extended this sunset period to January 1, 2023, to allow for additional time to determine efficacy, and repealed the annual reporting requirement by the Department in acknowledgement of the efforts of the Effectiveness Monitoring Committee.

### Effectiveness Monitoring Committee

In 2013 the Effectiveness Monitoring Committee (EMC) was established following the legislative approval of Assembly Bill 1492 (chapter 289, 2012). AB 1492, among other items, established the need for evaluation of and reporting on the "ecological performance" of the state Forest Practice Rules, and the EMC was established with the intent of providing the Board of Forestry and Fire Protection and the Natural Resource Agencies with a science based committee whose charter was developed to better understand if specific requirements of the California Forest Practice Rules and other laws and regulations related to forest resources are effective in achieving resource objectives.

Since approval of AB 1492, the EMC has been promoting scientific research, facilitating monitoring

practices, and recommending monitoring practices aimed at evaluating how well current practices restore, enhance, and maintain aquatic and terrestrial habitat on private and state forest land. Since its creation, the EMC has received proposals, and recommended Board funding, for several studies designed to yield results which may aid in determining the efficacy of Class II–L protection measures. One of these studies, project EMC–2015–001, received initial funding in 2018 and was intended to aid in the evaluation of the efficacy of the Class II–L determination and protection measures, as required by 14 CCR 916.9(g)(1)(C), 936.9(g)(1)(C), and 956.9(g)(1)(C).

### EMC–2015–001

The proposal EMC–2015–001 was intended to:

- Investigate the variability of the relationship between drainage area, active channel width, and perennial flow extent across the Anadromous Salmonid Protection (ASP) area;
- Compare the relationships derived in (a) to the rule criteria for Class II–L identification in terms of both drainage area and average active channel width; determine if these criteria are effective in identifying perennial Class II–L watercourses in different lithologies, or if rule modifications are needed; and
- Conduct a pilot study to investigate the downstream propagation of water temperature from Class II–L systems in sites with contrasting lithology.

These goals were addressed through a two-part approach which included a broad scale study on flow permanence and network connectivity<sup>5</sup>, and a focused field-based analysis of the thermal influence of Class II–L on Class I systems<sup>6</sup>.

These studies and analyses were completed and presented to the Board in 2021. In general, the proposal identified that drainage area was a much better predictor of certain watercourse values promoted by the Board's Class II–Large designation than average active channel width. Additionally, the proposal revealed that average active channel width was, in fact, a poor predictor of certain watercourse values promoted by the Class II–L designation.

Specifically, findings from the broad scale study on flow permanence and network connectivity indicate that the drainage area criteria in 14 CCR § 916.9(g)(1)(a)(1), 936.9(g)(1)(a)(1), and 956.9(g)(1)(a)(1) is a better predictor of perennial and/or connected flow than the width criteria.

Those findings also indicate that the width criteria in 14 CCR § 916.9 [936.9, 956.9] (g)(1)(a)(2) does

<sup>1</sup> 14 CCR §§ 916.9(g)(1)(A), 936.9(g)(1)(A), 956.9(g)(1)(A).

<sup>2</sup> Board of Forestry and Fire Protection Rulemaking File 336, page 209.

<sup>3</sup> Board of Forestry and Fire Protection Rulemaking File 336, page 210.

<sup>4</sup> Board of Forestry and Fire Protection Rulemaking File 336, page 211.

<sup>5</sup> Pate *et al.*, 2020

<sup>6</sup> Wissler *et al.*, 2022



not adequately predict watercourses that are perennial and/or connected versus ones that are dry and/or disconnected.

Furthermore, findings from the broad scale study generally validated the regulatory drainage area values for determination of Class II–L watercourses. The geometric mean of drainage area for perennial watercourses in the Coast Forest District was 103 acres, as compared to the drainage area criteria of greater than or equal to 100 acres. The geometric mean of drainage area for perennial watercourses in the Northern Forest District was 150 acres, as compared to drainage area criteria of greater than or equal to 150 acres. Similarly, the geometric means of connected watercourses were very similar to the drainage area criteria across both Forest Practice Districts. Altogether, this suggests that the drainage area criteria do a reasonable job of predicting desirable characteristics of Class II–L watercourses (flow permanence and watercourse connectivity).

Finally, larger drainage areas will have a higher likelihood of transporting sediment, nutrients, and large woody debris due to the increase in transport capacity and are therefore more suitable in achieving the goals of this section, identified in 14 CCR §§ 916.9(a), 936.9(a), and 956.9(a), than watercourses which merely satisfy the current active channel width requirements.

The **problem** is that the current regulatory methods for determining Class II–L watercourse status will expire on January 23, 2023, resulting in significant issues of clarity and consistency within the Rules. This expiration date was put in place to allow further evaluation of the efficacy of Class II Watercourse and Lake Protection Zone (WLPZ) widths and operational requirements in relationship to Watercourse characteristics and achievement of the goals specified in 14 CCR §§ 916.9, 936.9, and 956.9 subsection (a).

The **purpose** of the proposed action is to eliminate the regulatory method of Class II–L determination based on average active channel width, as evaluation of the provision indicates that that it is not particularly effective in identifying watercourse characteristics intended to promote the goals specified in 14 CCR §§ 916.9, 936.9, and 956.9 subsection (a). Furthermore, the proposed action will eliminate the regulatory sunset period for methods to determine Class II watercourse types in order to avoid future issues of regulatory clarity or inconsistency. It should be noted here that the proposed action does not, in any way, affect the Board's or the EMC's ability to continue evaluating this, or other related, regulatory schemes in order to determine efficacy, nor does the proposed action limit the Board's future authority in amending these regulations in order to better interpret, implement, or effectuate the Act.

The **effect** of the proposed action is to eliminate a Class II–Large determination method which is not effective at achieving the intended goals of the regulations, while maintaining one which does, and eliminate a regulatorily imposed sunset date on those and related provisions.

The **benefit** of the proposed action is a more efficient and effective regulatory scheme for the determination of Class II–L watercourses. The reliance upon drainage area metrics provides a more objective and repeatable criteria than field measurements of active channel width, and the utilization of this method will improve and streamline both the implementation and enforcement of the regulations by reducing the time and resources needed to determine watercourse type. The resources necessary to calculate drainage area (*i.e.*, geospatial tools, analog maps) are readily available to field practitioners. Finally, the proposed action provides improved regulatory certainty to the public through the elimination of the sunset provisions.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to watercourse protection during timber operations within State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statutes to which the proposed action was compared: Chapter 8, Part 2, Division 4, Public Resources Code.

Regulations to which the proposed action was compared: Article 4, Subchapters 4, 5, & 6, Chapter 4, Division 1.5, Title 14, California Code of Regulations.

#### MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed action is not mandated by Federal law or regulations.

The proposed action neither conflicts with, nor duplicates, Federal regulations.

There are no comparable Federal regulations related to management plans for the non-industrial harvesting of timber. No existing Federal regulations meeting the same purpose as the proposed action were identified.

**OTHER STATUTORY REQUIREMENTS**

(pursuant to GOV § 11346.5(a)(4))

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

**LOCAL MANDATE**

(pursuant to GOV § 11346.5(a)(5))

The proposed action does not impose a mandate on local agencies or school districts.

**FISCAL IMPACT**

(pursuant to GOV § 11346.5(a)(6))

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in Federal funding to the State.

The proposed action will not result in costs to any State agency. The proposed action represents a continuation of existing forest practice regulations related to the conduct of timber operations and will not result in any direct or indirect costs or savings to any state agency.

**HOUSING COSTS**

(pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

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

(pursuant to GOV §§ 11346.3(a),  
11346.5(a)(7) and 11346.5(a)(8))

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states (by making it costlier to produce goods or services in California).

FACTS, EVIDENCE, DOCUMENTS,  
TESTIMONY, OR OTHER EVIDENCE  
RELIED UPON TO SUPPORT INITIAL  
DETERMINATION IN THE NOTICE  
THAT THE PROPOSED ACTION WILL  
NOT HAVE A SIGNIFICANT ADVERSE  
ECONOMIC IMPACT ON BUSINESS  
(pursuant to GOV § 11346.2(b)(5) and  
GOV § 11346.5(a)(8))

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of contemplating forest practice in California that the Board brings to bear on regulatory development.

**STATEMENTS OF THE RESULTS OF THE  
ECONOMIC IMPACT ASSESSMENT (EIA)**

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)–(D)**. The proposed action:

- Will not create jobs within California (GOV § 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A));
- Will not create new businesses (GOV § 11346.3(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)). The proposed action will result in a more efficient and effective regulatory scheme for the determination of Class II–L watercourses and improved regulatory certainty to the public through the elimination of certain regulatory sunset provisions. The proposed action will not affect the health and welfare of California residents or worker safety.

**COST IMPACTS ON REPRESENTATIVE  
PERSON OR BUSINESS**  
(pursuant to GOV § 11346.5(a)(9))

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. No adverse impacts are to be expected.

BUSINESS REPORT

(pursuant to GOV §§ 11346.5(a)(11)  
and 11346.3(d))

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS

(defined in GOV § 11342.610)

The proposed regulation may affect small business, though small businesses, within the meaning of GOV § 11342.610, are not expected to be significantly affected by the proposed action.

Small business, pursuant to 1 CCR § 4(a):

- (1) Is legally required to comply with the regulation;
- (2) Is not legally required to enforce the regulation;
- (3) Does not derive a benefit from the enforcement of the regulation;
- (4) May incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

ALTERNATIVES INFORMATION

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, 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.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Eric Hedge  
Regulations Program Manager  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 619-9796

The designated backup person in the event Mr. Hedge is not available is Jane Van Susteren, Regulations Coordinator for the Board of Forestry and Fire Protection. Ms. Van Susteren may be contacted at the above address or phone.

AVAILABILITY STATEMENTS

(pursuant to GOV § 11346.5(a)(16) and (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board 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 Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board web site at: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>.

## TITLE 14. FISH AND GAME COMMISSION

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 265, 270, 315, 316.5, 399 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 270, 316.5 and 2084 of said Code, proposes to amend subsection (b)(50) of Section 7.40, Title 14, California Code of Regulations, relating to Klamath River Basin sport fishing.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed for fall-run Chinook Salmon (*Oncorhynchus tshawytscha*) through a cooperative system of state, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean sport, ocean commercial, river sport, and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The Commission adopts regulations for the ocean salmon sport (inside three miles) and the Klamath River Basin (in-river) sport fisheries, which are consistent with federal fishery management goals.

Tribal entities within the Klamath River Basin maintain fishing rights for ceremonial, subsistence, and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the tribes.

#### **Klamath River Fall-Run Chinook Salmon**

Adult Klamath River fall-run Chinook Salmon (KRFC) harvest allocations and natural spawning escapement goals are established by PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The Klamath River Basin in-river sport salmon fishery is managed using adult quotas. For the purpose of implementing the California Department of

Fish and Wildlife (Department) salmon fishery harvest assessment, within the Klamath River Basin, the Department currently considers 23 inches total length as a provisional cutoff. Salmon greater than 23 inches total length are defined as adult salmon (ages 3–5) and salmon less than or equal to 23 inches total length are defined as grilse salmon (age two).

#### **PFMC Overfishing Review**

KRFC stocks have been designated as “overfished” by PFMC. This designation is the result of not meeting conservation objectives for this stock. Management objectives and criteria for KRFC are defined in the PFMC Salmon Fishery Management Plan (FMP). The threshold for overfished status of KRFC is a three-year geometric mean less than or equal to 30,525 natural area adult spawners. This overfished-threshold was met for KRFC during the 2015–2017 period. The 30,525 KRFC natural area adult spawners is considered the minimum stock size threshold, per the FMP. The KRFC adult natural area spawning escapement for 2020 was 26,190 natural area adult spawners, which is below the one-year conservation threshold of 40,700 natural area adult spawners. The most-recent three-year geometric mean of 31,167 is still less than the required 40,700 natural area adult spawners, therefore the KRFC are still considered as an “overfished” stock.

Accordingly, the FMP outlines a process for preparing a “rebuilding plan” that includes assessment of the factors that led to the decline of the stock, including fishing, environmental factors, model errors, etc. The rebuilding plan includes recommendations to address conservation of KRFC, with the goal of achieving rebuilt status. Rebuilt status requires meeting a three-year geometric mean of 40,700 adult natural area KRFC spawner escapement. The plan developed by representatives of NMFS, PFMC, U.S. Fish and Wildlife Service, the Department, and tribal entities, was submitted to PFMC in February 2019, adopted by PFMC in June 2019 and submitted to NMFS in August 2019. Forthcoming recommendations from the rebuilding plan may alter how KRFC are managed in the future, including changing the in-river allocation number, and/or allocating less than the normal target number.

#### **KRFC Allocation Management**

The PFMC 2021 allocation for the Klamath River Basin sport harvest was 1,221 adult KRFC. The PFMC allocation for the Klamath River Basin sport harvest is normally a minimum of 15 percent of the non-tribal PFMC harvest allocation of KRFC. Preseason stock projections of 2022 adult KRFC abundance will not be available from PFMC until March 2022. The 2022 basin allocation will be recommended by PFMC in April 2022. That allocation will inform the quota that the Department proposes to the Commission for adop-

tion as a quota for the in-river sport harvest at the Commission's May 2022 teleconference meeting.

The Commission may adopt a KRFC in-river sport harvest quota that is different than the quota proposed by the Department or the PFMC 2022 allocation for that fishery. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the FMP.

The annual KRFC in-river sport harvest quota is specified in subsection 7.40(b)(50)(D)1. The quota is split between four geographic areas with a subquota for each area, expressed as a percentage of the total in-river quota, specified in subsection 7.40(b)(50)(D)2. For angler convenience, the subquotas, expressed as the number of fish, are listed for the affected river segments in subsection 7.40(b)(50)(E). The in-river sport subquota percentages are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec — 17 percent of the in-river sport quota;
2. for the main stem Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth — 50 percent of the in-river sport quota;
3. for the main stem Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat — 16.5 percent of the in-river sport quota; and
4. for the main stem Trinity River downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River — 16.5 percent of the in-river sport fishery quota.

### Proposed Changes

Because the PFMC recommendations are not known at this time, ranges are shown in [brackets] in the proposed regulatory text below of bag and possession limits which encompass historical quotas. All are proposed for the 2022 KRFC fishery in the Klamath and Trinity rivers.

The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law, or established in the FMP.

### KRFC SPORT FISHERY (QUOTA MANAGEMENT)

Quota: For public notice requirements, the Department recommends the Commission consider a quota range of 0–67,600 adult KRFC in the Klamath River Basin for the in-river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows PFMC and the Commission to make adjustments during the 2022 regulatory cycle.

Subquotas: The proposed subquotas for KRFC stocks are as follows:

- Main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec — 17 percent of the total quota equates to [0–11,492];
- Main stem Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth — 50 percent of the total quota equates to [0–33,800];
- Main stem Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat — 16.5 percent of the total quota equates to [0–11,154]; and
- Main stem Trinity River downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River — 16.5 percent of the total quota equates to [0–11,154].

Seasons: No changes are proposed for the Klamath River and Trinity River KRFC seasons:

- Klamath River — August 15 to December 31
- Trinity River — September 1 to December 31

Bag and Possession Limits: As in previous years, no retention of adult KRFC is proposed once the subquota has been met.

- Bag Limit — [0–4] Chinook Salmon — of which no more than [0–4] fish over 23 inches total length may be retained until the subquota is met, then 0 fish over 23 inches total length.
- Possession limit — [0–12] Chinook Salmon of which no more than [0–4] fish over 23 inches total length may be retained when the take of salmon over 23 inches total length is allowed.

### KRSC SPORT FISHERY

The Klamath River Basin also supports Klamath River spring-run Chinook Salmon (KRSC). Presently, KRSC stocks are not managed or allocated by PFMC. No regulatory changes are proposed for the general KRSC opening and closing season dates, and bag, possession and size limits.

### OTHER CHANGES FOR CLARITY

The Department is proposing additional changes for clarity and consistency, as follows:

1. Throughout the regulatory text in subsection 7.40(b)(50), update the year from 2021 to 2022.
2. Throughout the regulatory text in subsection 7.40(b)(50), change terminology describing date ranges from “to” to “through” to make it clear that date ranges are inclusive.

### BENEFITS OF THE PROPOSED REGULATIONS

The Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources.



Other benefits of the proposed regulations are conformance with federal fishery management goals, health and welfare of California residents and promotion of businesses that rely on salmon sport fishing in the Klamath River Basin.

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Fish and Game Code sections 200, 205, 315, and 316.5). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. Commission staff has searched the California Code of Regulations and has found no other state regulations related to sport fishing in the Klamath River Basin.

#### PUBLIC PARTICIPATION

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Monterey County Fair & Event Center, Seaside Room, 2004 Fairground Road, Monterey, California, on **Thursday, April 21, 2022** at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing originating in 715 P Street, Sacramento, California, on **Thursday, May 19, 2022** at 8:30 a.m., or as soon thereafter as the matter may be heard.

It is requested, but not required, that written comments be submitted on or before 5:00 p.m. May 6, 2022, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on May 16, 2022. All comments must be received no later than May 19, 2022, during the webinar/teleconference meeting.

If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244–2090.

#### AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller–Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or Maurene Trotter at [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) or at the preceding address or phone number. **Senior Environmental Scientist Karen Mitchell, Department of Fish and Wildlife, (916) 376–1917, has been designated to respond to questions on the substance of the proposed regulations.**

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

#### IMPACT OF REGULATORY ACTION/ RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following

initial determinations relative to the required statutory categories have been made:

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to range from minor to no impact on the net revenues to local businesses servicing sport fishermen. If the 2022 KRFC quota is reduced, visitor spending may correspondingly be reduced, and in the absence of alternative visitor activities, the drop in spending could induce some business contraction. If the 2022 KRFC quota remains similar to the KRFC quotas allocated in previous years, then local economic impacts are expected to be unchanged. Neither scenario is expected to directly affect the ability of California businesses to compete with businesses in other states.

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

An estimated 30–50 businesses that serve sport fishing activities are expected to be directly and/or indirectly affected depending on the final KRFC quota. The impacts range from no impact to some transitory adverse impacts. (For additional information, please refer to Section VII of the Initial Statement of Reasons.)

Depending on the final KRFC quota, the Commission anticipates the potential for some impact on the creation or elimination of jobs in California. The potential adverse employment impacts range from no impact to the loss of 12 jobs. Under all alternatives, due to the limited time period of this regulation's impact, the Commission anticipates no impact on the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

For all of the proposed scenarios, the possibility of growth of businesses to serve alternative recreational activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of other species and grilse KRFC is permitted, than the impacts to jobs and/or businesses under a complete closure to all fishing. The impacted businesses are generally small business-

es employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulatory action is to increase sustainability in fishable salmon stocks and, consequently, promote the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages a healthy outdoor activity and the consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmonid resources.

The Commission does not anticipate any benefits to worker safety because the proposed action does not affect working conditions.

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

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

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

None.

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

None.

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

None.

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

None.

- (h) Effect on Housing Costs:

None.

## EFFECT ON SMALL BUSINESS

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

## CONSIDERATION OF ALTERNATIVES

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

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

## TITLE 14. FISH AND GAME COMMISSION

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 265, 270, 315, 316.5, 399 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 270, 316.5 and 2084 of said Code, proposes to amend subsections (b)(4), (b)(43), (b)(66), and (b)(80) of Section 7.40, Title 14, California Code of Regulations, relating to Central Valley sport fishing.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Current regulations in subsections (b)(4), (b)(43), (b)(66), and (b)(80) of Section 7.40 prescribe the 2021 seasons and daily bag and possession limits for Sacramento River fall-run Chinook Salmon (*Oncorhynchus tshawytscha*; SRFC) sport fishing in the American, Feather, Mokelumne, and Sacramento rivers, respectively. Collectively, these four rivers constitute the “Central Valley fishery” for SRFC for purposes of this document. Each year, the Department of Fish and Wildlife (Department) recommends new Chinook Salmon bag and possession limits for consideration by the Commission to align the fishing limits with up-to-date management goals, as set forth below.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2022 meeting and will adopt its final regulatory recommendations at its April 2022 meeting based on the PFMC salmon abundance estimates and

recommendations for ocean harvest for the coming season. Based on the April 2022 recommendation by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 21, 2022 meeting. The Commission will then consider adoption of the Central Valley sport fishing regulations at its May 19, 2022 meeting.

## PROPOSED REGULATIONS

### Chinook Salmon Bag and Possession Limits

The Department recognizes the uncertainty of SRFC in-river harvest projections. Therefore, for the 2022 Central Valley fishery, the Department is presenting three regulatory options for the Commission’s consideration to tailor 2022 Central Valley fishery management to target 2022 in-river fisheries harvest projections.

- Option 1 is the most liberal of the three options, and allows take of any size Chinook Salmon up to the daily bag and possession limits.
- Option 2 allows for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon (two-year old salmon) making up the remainder of the daily bag and possession limits.
- Option 3 is the most conservative option, and allows for a grilse-only Chinook Salmon fishery.

All options would be applicable to the following river segments and time periods:

American River, subsection 7.40(b)(4):

- (B) From the United States Geological Survey (USGS) gauging station cable crossing near Nimbus Hatchery to the Sacramento Municipal Utility District (SMUD) power line crossing the southwest boundary of Ancil Hoffman Park, July 16 through October 31
- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge, July 16 through December 31
- (D) From the Jibboom Street bridge to the mouth, July 16 through December 16

Feather River, subsection 7.40(b)(43):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp, July 16 through October 31
- (E) From 200 yards above the Live Oak boat ramp to the mouth, July 16 through December 16

Mokelumne River, subsection 7.40(b)(66):

- (A) From Comanche Dam to Elliott Road, July 16 through October 15

- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including Lodi Lake, July 16 through December 31
- (D) From the Lower Sacramento Road bridge to the mouth, July 16 through December 16  
Sacramento River below Keswick Dam, subsection 7.40(b)(80):
- (C) From Deschutes Road bridge to the Red Bluff Diversion Dam, August 1 through December 31
- (D) From the Red Bluff Diversion Dam to the Highway 113 bridge, July 16 through December 16.
- (E) From the Highway 113 bridge to the Carquinez Bridge, July 16 through December 16.

The following options are provided for Commission consideration:

**Option 1 — Any Size Chinook Salmon Fishery**

This option is the Department's preferred option if the 2022 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain in-river SRFC harvest.

Bag limit of [0–4] Chinook Salmon.

Possession limit — [0–12] Chinook Salmon.

**Option 2 — Limited Adult and Grilse Salmon Fishery**

Bag limit of [0–4] Chinook Salmon of which no more than [0–4] fish over 27 inches total length may be retained.

Possession limit — [0–12] Chinook Salmon of which no more than [0–4] fish may be over 27 inches total length.

**Option 3 — Grilse Salmon Fishery Only**

Bag limit of [0–4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit — [0–12] Chinook Salmon less than or equal to 27 inches total length.

**All Options**

Under all options, non-substantive edits are proposed for consistency with other subsections of Section 7.40.

**BENEFITS OF THE  
PROPOSED REGULATIONS**

The Commission anticipates benefits to the environment in the sustainable management of Central Valley Chinook Salmon resources. Other benefits of the proposed regulations are consistency with federal fishery management goals, health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

**CONSISTENCY AND COMPATIBILITY  
WITH EXISTING REGULATIONS**

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate sport fishing in waters of the state (Fish and Game Code sections 200, 205, 315 and 316.5). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to Chinook Salmon sport fishing seasons, bag, and possession limits for Central Valley sport fishing.

**PUBLIC PARTICIPATION**

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Monterey County Fair & Event Center, Seaside Room, 2004 Fairground Road, Monterey, California, on **Thursday, April 21, 2022** at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing originating in 715 P Street, Sacramento, California, on **Thursday, May 19, 2022** at 8:30 a.m., or as soon thereafter as the matter may be heard.

It is requested, but not required, that written comments be submitted on or before 5:00 p.m. May 6, 2022, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on May 16, 2022. All comments must be received no later than May 19, 2022, during the webinar/teleconference meeting. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244–2090.

**AVAILABILITY OF DOCUMENTS**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency

representative, Melissa Miller–Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or Maurene Trotter at [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) or at the preceding address or phone number. **Senior Environmental Scientist Karen Mitchell, Department of Fish and Wildlife, ((916) 376–1917), has been designated to respond to questions on the substance of the proposed regulations.**

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

#### IMPACT OF REGULATORY ACTION/ RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with business-

es in other states. The proposed changes are necessary for the continued preservation of the resource, while providing inland sport fishing opportunities and thus, the prevention of adverse economic impacts.

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

The Commission does not anticipate significant adverse economic impacts but acknowledges the potential for short–term negative impacts on the creation or elimination of jobs within the state. The Commission anticipates no adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California. Minor variations in the bag and possession limits and/or the implementation of a size limit are unlikely to significantly impact the volume of business activity. The loss of up to 44 jobs with Option 3 is not expected to eliminate businesses because reduced fishing days will be partially offset by opportunities to fish for grilse Chinook Salmon and other species.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Chinook Salmon sport fishery encourages consumption of a nutritious food. The Commission anticipates benefits to the environment by the sustainable management of Chinook Salmon resources in the Central Valley.

The Commission does not anticipate any benefits to worker safety.

Other benefits of the proposed regulations are concurrence with federal fishery management goals and promotion of businesses that rely on Central Valley sport fishing.

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

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

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

None.

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

None.

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



None.

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

None.

- (h) Effect on Housing Costs:

None.

## EFFECT ON SMALL BUSINESS

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

## CONSIDERATION OF ALTERNATIVES

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

## TITLE 14. FISH AND GAME COMMISSION

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 713, 1050, 7071, 7075, 7078, 8591, 8841, and 8842 of the Fish and Game Code and to implement, interpret or make specific sections 713, 1050, 1700, 7050, 7055, 7056, 7070, 7071, 7075, 7078, 8590, 8591, 8593, 8595, 8841, and 8842 of said Code, proposes to add sections 56.00 and 56.01 and amend sections 120, 120.1, and 705, Title 14, California Code of Regulations, relating to California Pink (Ocean) Shrimp, *Pandalus jordani*, fishery management plan implementing regulations and Form DFW 1419.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR), and all references to the pink shrimp (*Pandalus jordani*) fishery refer to the commercial pink shrimp fishery.

This proposal would implement the California Pink (Ocean) Shrimp, *Pandalus jordani*, Fishery Management Plan (FMP). The effort to develop and implement this FMP began in 2017, and the adoption of the FMP by the Commission is expected in April 2022. The purpose of the FMP and its implementing regulation is to update the management of California's pink shrimp fishery to be in line with Oregon and Washington. Updating the fishery's management would also assist the fishery in obtaining the Marine Stewardship Council (MSC) certification. This effort is expected to result in a more sustainable and less environmentally impactful fishery.

This regulatory proposal will add Article 7, sections 56.00 and 56.01, and amend sections 120 and 120.1 to implement the FMP and amend Section 705. The proposal will add a set of reference points that is part of a Harvest Control Rule (HCR) originally developed by scientists from the Oregon Department of Fish and Wildlife (ODFW) and adapted for use in California. In addition, the proposal will also add a Footrope Light Device (FLD) requirement to reduce bycatch of the threatened southern distinct population segment of eulachon (*Thaleichthys pacificus*). This proposal will make the following amendments:

- Adding Section 56.00 to describe the adoption of the FMP, its consistency with the Marine Life Management Act, and the Fish and Game Code subsection, subsection 8842(b), would be made inoperative as it applies to the pink shrimp fishery.
- Adding Section 56.01 to clarify the role of the FMP and to incorporate it into regulation by reference.
- Amend subsection 120(b) to clarify that pink shrimp trawling is prohibited within state waters except as permitted by the Commission.
- Adding subsections 120.1(b)(1)–(4), pink shrimp may be taken April 1 through October 31, except when the stock is deemed vulnerable under the HCR.
- Add a new subsection 120.1(c)(2), which will require pink shrimp trawl vessels operating north of Point Conception, Santa Barbara County to use FLDs.
- Amend subsection 120.1(e) to improve the clarity and enforceability of the rule requiring minimum count of 160 shrimp per pound.
- Add new subsections 120.1(f)(1)–(4) which stipulate how businesses must estimate the weight of pink shrimp landings when landed mixed with ice; this is necessary to ensure consistent estimation and reporting of the accurate weight of pink shrimp landed as required by section 197.
- Updating form FG 1419 (Rev. 5/13), the Northern Pink Shrimp Trawl Vessel Permit Transfer



Application, to DFW 1419 (New 01/01/22) as incorporated by reference in Section 705.

### BENEFIT OF THE REGULATIONS

The proposal would ensure the long-term sustainability and viability of the pink shrimp fishery in accordance with the objectives of the Marine Life Management Act through the precautionary measures implemented by the HCR. The proposed FLD requirement is expected to greatly reduce eulachon bycatch. These requirements are already required in Oregon and Washington; implementing the requirements in California will bring the state's pink shrimp management in line with that of Oregon and Washington. Bringing California's pink shrimp management in line with other states will also facilitate the fishery's effort to obtain MSC certification. Another added benefit if California's pink shrimp fishery obtains MSC certification is a reduced need for shrimp caught off northern California waters to be landed in southern Oregon ports, thus supporting the return of landings to California ports and reduce fuel consumption for many vessels and greenhouse gas emissions. Updating FG 1419 to DFW 1419 would modernize the form and improve processing.

### CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt the implementing regulation of an FMP (Fish and Game Code (FGC) section 7078). No other state agency has the authority to adopt FMP implementing regulations. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of FMP implementing regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

### PUBLIC PARTICIPATION

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Los Angeles/Orange County area of California, on **Wednesday,**

**June 15, 2022** at 8:30 a.m., or as soon thereafter as the matter may be heard.

It is requested, but not required, that written comments be submitted on or before 5:00 p.m. June 2, 2022 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on June 10, 2022. All comments must be received no later than June 15, 2022, at the hearing to be held in the Los Angeles/Orange County area of California. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090.

### AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Maurene Trotter at [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) or at the preceding address or phone number. **Tom Mason, Senior Environmental Scientist Supervisor, Department of Fish and Wildlife, ([R7RegionalMgr@wildlife.ca.gov](mailto:R7RegionalMgr@wildlife.ca.gov))**, has been designated to respond to questions on the substance of the proposed regulations.

### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

**IMPACT OF REGULATORY ACTION/  
RESULTS OF THE ECONOMIC  
IMPACT ASSESSMENT**

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action is expected to augment California competitiveness by bringing landings to ports in California in conjunction with MSC certification.

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

The Commission anticipates positive impacts on the creation of jobs, the creation of new business, and the expansion of businesses related to California pink shrimp commercial fishing activity in California. The Commission does not anticipate any impacts on the elimination of jobs or the elimination of existing businesses. The Commission does not anticipate any benefits to the health and welfare of California residents or worker safety. Benefits to the state's environment are anticipated through a more sustainable pink shrimp fishery and through the reduction of bycatch, particularly of federally threatened eulachon.

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

The proposed FLD lighting requirement on trawl lines is estimated to cost pink shrimp trawlers an estimated \$275 initially and \$175 in ongoing annual maintenance costs.

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

The Commission anticipates that there will be costs to the state, specifically the Department. Program implementation costs are estimated to be \$24,119 per fiscal year. These additional costs will be absorbed within existing Department

budgets. No effects on federal funding to the state are anticipated.

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

None.

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

None.

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

None.

- (h) Effect on Housing Costs:

None.

**EFFECT ON SMALL BUSINESS**

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

**CONSIDERATION OF ALTERNATIVES**

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

**TITLE 20. ENERGY COMMISSION**

**2021 APPLIANCE EFFICIENCY  
RULEMAKING FOR AIR FILTERS  
DOCKET NO. 20-AAER-02**

**INTRODUCTION**

Notice is hereby given that the California Energy Commission (CEC) proposes to adopt changes to the air filter regulations contained in the California Code of Regulations (CCR), Title 20 (the "Proposed Action"), after considering all comments, objections, and recommendations regarding the Proposed Action.

## PUBLIC HEARING

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

**Tuesday May 10, 2022**  
10:00 a.m. (Pacific Time)

## BUSINESS MEETING

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

**Wednesday, July 13, 2022**  
10:00 a.m. (Pacific Time)

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

## REMOTE ATTENDANCE

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

URL: <https://energy.zoom.us/j/91545828462?pwd=dXlhSmEvMmw0RlNkN0RwcWIRdGt0dz09>  
Webinar ID: 915 4582 8462  
Passcode: 847325

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the telephone, dial \*9 to

“raise your hand” and \*6 to mute/unmute your phone line.

## PUBLIC ADVISOR

The CEC's Office of the Public Advisor, Energy Equity and Tribal Affairs provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

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

## MEDIA INQUIRIES

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

## PUBLIC COMMENT PERIOD

The written public comment period for the Proposed Action will be held from March 25, 2022, through May 9, 2022. Any interested person, or their authorized representative, may submit written comments to the CEC for consideration on or prior to May 9, 2022. The CEC appreciates receiving written comments at the earliest possible date. Comments submitted outside this comment period are considered untimely. CEC may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

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

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-0> which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with Title 20, California Code of Regulations, Section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 20-AAER-02 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit  
Docket Number 20-AAER-02  
715 P Street, MS-4  
Sacramento, CA 95814

Pursuant to California Code of Regulations Title 20, Section 1104(e), any person may make oral comment on any agenda item at the July 13, 2022, Business Meeting. Please consult the public agenda, which will be posted ten days before the July 13, 2022, Business Meeting, for important details.

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

#### STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25213, 25218(e), and 25402(c) authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, and make specific Public Resources Code Sections 25402(c) and 25216.5(d).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

In 2016, the CEC learned that manufacturers of air filters were concerned about certain testing requirements regarding what size filters must be used in the relevant test procedures. The regulations, which required manufacturers to test "large," "medium," and "small" air filters, were meant to provide manufacturers flexibility when conducting required tests. However, manufacturers expressed concerns that they lacked adequate guidance on how to identify and select which air filter sizes were required to be tested. Further, manufacturers expressed concerns that it was unclear how to apply the test results from the small, medium, and large air filters to the rest of the manufacturers' air filters in the same product family. Manufacturers voiced their concern that the lack of an industry standard or accurate method to scale test results to different filter sizes made it impossible for manufacturers to consistently comply with the testing, marking, and certification requirements for air filters. These concerns were not raised during the original rulemaking; rather, they only became evident after the regulations were adopted.

On August 9, 2017, in response to these concerns, the CEC adopted emergency regulations to change the effective date by which air filters sold or offered for sale in California must comply with testing, marking, and certification requirements. These emergency regulations changed the effective date for these requirements from July 1, 2016, to the new effective date of April 1, 2019. This new effective date provided the CEC some additional time to collaborate with stakeholders to study, address, and resolve manufacturers' concerns with the existing testing requirements, while allowing manufacturers to continue to supply air filters to the California market. The rulemaking clarifying the test, certification, and marking requirements was not completed within the allotted time frame of one year, and as a result, the standard reverted to the original regulation. Ultimately, CEC staff concluded the regulations should be amended to be more specific with respect to different air filter sizes needed for testing and certification.

In this rulemaking, the CEC proposes to update the testing, certification, and marking requirements for air filters, addressing the concerns discussed above. The CEC proposes modifying the existing scope for air filters to clarify that only air filters for ducted systems are covered by the regulation. The CEC also proposes to update the test procedures to the most recent iterations of the American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 52.2-2017 and the Air-Conditioning, Heating, and Refrigeration Institute Standard 680 (I-P)-2017 test methods. The proposed regulation allows the size of the filter used for testing to be chosen by the manufacturer as the



basic model for the filter family. The certification and marking requirements have been updated to be consistent with test procedures described above.

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

The CEC has determined that there are no existing comparable federal regulations or statutes and there are no relevant Federal Trade Commission marking requirements for air filters.

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

The broad objective of the regulations is to carry out the CEC's statutory mandate to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy by updating the testing, certification, and marking requirements for air filters, which CEC staff project will lead to greater efficiency savings.

The specific benefits of the proposed regulations are modifications to the existing standards that will allow manufacturers to certify all sizes of air filters to the CEC. The modification will also enable consumers to purchase the correct air filter that is compatible with ducted forced-air heating or cooling systems. Although this regulation is not one which introduces an efficiency standard, it provides the necessary information, through database certification and product marking, for consumers to acquire an efficient air filter for heating, ventilation, and air conditioning (HVAC) systems. Since the air filter accounts for one percent of the total efficiency of an HVAC system, CEC staff calculate a total energy savings of approximately 30 GWh/year of electricity and 5.5 million therms of natural gas.

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

The CEC has conducted an evaluation for any other regulations in this topic area and found, effective July 1, 2014, the 2013 Building Energy Efficiency Standards (Energy Code) in Title 24, Part 6 of the California Code of Regulations began requiring the installation of air filters in newly constructed homes and certain alterations to residential HVAC systems, which were marked by the manufacturer to indicate particulate filtration efficiency and pressure drop. Beginning July 1, 2016, air filters sold or offered for sale in California must be certified to the CEC and marked by the manufacturer to indicate particulate filtration efficiency and pressure drop. These Title 20 regulations are intended to harmonize with, and complement, the Energy Code in Title 24. Therefore, the CEC has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**DOCUMENTS INCORPORATED  
BY REFERENCE**

The CEC proposes to incorporate by reference the following documents:

AHRI Standard 680 (I-P) 2017 Standard for Performance Rating of Residential Air Filter Equipment (AHRI 680–2017)

ANSI/ASHRAE Standard 52.2–2017 Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size (ANSI/ASHRAE 52.2–2017)

All documents are available for review at the CEC located at 715 P Street, Sacramento, CA, 95814 and on the CEC website found at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?doctnumber=20-aer-02>.

**MANDATED BY FEDERAL  
LAW OR REGULATIONS**

None.

**OTHER STATUTORY REQUIREMENTS**

None.

**FISCAL IMPACTS**

The CEC has made the following initial determinations:

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

**SIGNIFICANT EFFECT ON HOUSING COSTS**

None.

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

The CEC has made the initial determination that the proposed regulations will not have an adverse economic impact directly affecting business, including



the ability of California businesses to compete with businesses in other states.

The CEC proposes to update the testing, certification, and marking requirements for air filters. The CEC has modified the existing scope for air filters to clarify that only air filters for ducted systems are covered by the regulation. The CEC also proposes to update the test procedures to the most recent iterations of the American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 52.2-2017 and the Air-Conditioning, Heating, and Refrigeration Institute Standard 680 (I-P)-2017 test methods. The proposed regulation allows the size of the filter used for testing to be chosen by the manufacturer as the basic model for the filter family. The certification and marking requirements have been updated to specify requirements based on the test procedure used for testing. The CEC has calculated a \$0.03 incremental cost per filter to businesses to implement the air filter marking requirement.

Under the Appliance Efficiency Regulations, retailers are responsible for ensuring that the regulated products they sell are certified to the CEC and appear in the MAEDbS before they are sold or offered for sale in California. The CEC assumes that retailers will experience some minimal additional cost associated with checking MAEDbS to ensure that the products they sell are certified to the CEC and appear in the MAEDbS and are therefore compliant and lawful to sell in the state.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

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

The benefit of the proposed regulations are modifications to address the unclear certification requirements for air filters by updating the testing, certification and marking requirements to allow manufacturers flexibility when conducting the required tests for certification. Although this regulation is not one which introduces an efficiency standard, it provides the necessary information, through database certification and product marking, for consumers to acquire an efficient air filter for heating, ventilation, and air conditioning (HVAC) systems.

The proposed modification to the current air filter standards will lead to improved efficiency of HVAC

systems for California residents, as well as energy and energy bill savings. This energy savings translates to fewer power plants built and less pressure on the limited energy resources, land, and water use associated with energy production. In addition, lower electricity consumption results in reduced greenhouse gas and criteria pollutant emissions, primarily from lower generation in hydrocarbon-burning power plants, such as natural gas power plants.

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

#### COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

The CEC is proposing regulatory amendments to address the concerns expressed by manufacturers regarding the testing, certification, and marking requirements for air filters. The proposed updates to the regulations will clarify the testing, certification, and marking requirements for air filters. The proposed regulations provide consumers with information regarding replacement air filter pressure drop performance. This information allows the consumer to better match a replacement air filter with an HVAC system specification to run the system efficiently and prevent equipment damage.

#### BUSINESS REPORT

The regulations continue with a required reporting requirement for manufacturers of air filters.

State law (Public Resources Code Section 25402(c)(1)) requires manufacturers to certify to the CEC that their appliances comply with the applicable standard by certifying appliances to the CEC's Modernized Appliance Efficiency Database System (MAEDbS) to confirm compliance with the applicable standards and requirements, and to collect information to aid in the modification of existing or the adoption of new standards. MAEDbS is used by manufacturers and maintained by the CEC to list the appliances authorized to be sold or offered for sale in California. This is necessary to help the CEC and consumers verify compliance with applicable federal and state efficiency standards and other requirements. Some retailers may choose to act as a manufacturer when they rebrand a product and assume the certification burden for that model.

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

#### EFFECT ON SMALL BUSINESS

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

#### CONSIDERATION OF ALTERNATIVES

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

#### CONTACT PERSON

Questions should be addressed to:

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

Or:

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

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

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Initial Statement of Reasons (ISOR) and any documents relied upon. Copies may be obtained by contacting Corrine Fishman above or accessed through the CEC website at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=20-aaer-02>.

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

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

#### COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting the CEC website at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=20-aaer-02> or contacting the contact person listed above.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking have been posted on our website at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=20-aaer-02>.

#### INSTRUCTIONS FOR RECEIVING NOTICES AND DOCUMENTS IN THIS PROCEEDING

To stay informed about this project and receive documents and notices of upcoming workshops and hearings as they are filed, please subscribe to the project list server, which can be accessed here: <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-0>. The list server sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable or do not wish to sign up for the list server but still would like to receive documents and notices, please contact the contact person listed in this notice.

## TITLE 22. DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION

### TITLE 22, DIVISION 7, CHAPTER 10, ARTICLE 8: PATIENT DATA REPORTING REQUIREMENTS

§§ 97215, 97219, 97222, 97226, 97231, 97246,  
97255, 97259, and 97264

The Department of Health Care Access and Information (“the Department”), formerly known as the Office of Statewide Health Planning and Development, proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

The Department proposes to update several data element definitions to align them more closely with national standards, as the Department is required to do. Specifically, the Department proposes updating the source of admission data element with the addition of a route of admission for designated disaster alternate care site reporting, updating disposition code wording for consistency, and expanding the definition of the other diagnoses data element to include social determinants of health codes. In addition, the Department is proposing to make the data more useful by adding a requirement to report patient address, which includes a ZIP Code component and therefore repeal the existing ZIP Code only data element.

Included in the patient address data element, the Department is proposing to add an indicator of a patient’s housing status. The Department proposes updating the User Account Administrator Agreement form (HCAI-ISD-773–User Account Administrator Agreement) to remove outdated requirements from a decommissioned reporting system. To implement the changes to the data elements, the electronic reporting Format and File Specifications document incorporated by reference must also be updated to address the changes, and the sections incorporating them by reference must be updated with new document dates.

#### I. PUBLIC HEARING

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

#### II. WRITTEN PUBLIC COMMENT PERIOD AND CONTACT PERSON

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action. All comments must be received by the Department by May 9, 2022.

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

Anthony Tapney, Manager  
Information Services Division  
Department of Health Care Access and  
Information  
Fax: (916) 327–1262  
Telephone: (916) 326–3932  
Email: [anthony.tapney@hcai.ca.gov](mailto:anthony.tapney@hcai.ca.gov)

#### Mailing address:

2020 West El Camino Avenue, Suite 1100  
Sacramento, CA 95833–2988

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

Rob Fox, Manager  
Information Services Division  
Department of Health Care Access and  
Information  
Fax: (916) 327–1262  
Telephone: (916) 326–3943  
Email: [rob.fox@hcai.ca.gov](mailto:rob.fox@hcai.ca.gov)

#### III. AUTHORITY AND REFERENCE

Authority: California Health and Safety Code, Section 128810. Reference: California Health and Safety Code, Sections 128735, 128736, 128737, and 128738.

#### IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### a. *Summary of Existing Laws and Regulations*

Hospitals and freestanding ambulatory surgery clinics licensed by the California Department of Public Health are required by law to file certain patient-level information with the Department at specified intervals. Health and Safety (“H&S”) Code Section 128735, subdivision (g), requires that each California hospital file a Hospital Discharge Abstract Data Record including specified data elements for each patient discharged from the hospital. These records are sometimes referred to as the inpatient data. In addition,

hospitals must file an Emergency Care Data Record for each encounter in a hospital emergency department (H&S Code, Section 128736) and hospitals and licensed freestanding ambulatory surgery clinics must file an Ambulatory Surgery Data Record for each patient encounter during which at least one ambulatory surgery procedure is performed (H&S Code, Section 128737). These two types of records are sometimes referred to as outpatient data. These data reporting requirements have been implemented in the California Code of Regulations, Article 8 (Patient Data Reporting Requirements) of Chapter 10 of Division 7 of Title 22.

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

Under Health and Safety Code Sections 128735, subdivision (f); 128736, subdivision (d); and 128737, subdivision (d), “Data reporting requirements established by the department shall be consistent with national standards, as applicable.” This regulations package updates several data element definitions to more closely align with national standards. Under Health and Safety Code Section 128738, subdivision (a), “The department shall allow and provide for, in accordance with appropriate regulations, additions or deletions to the patient level data elements listed in subdivision (g) of Section 128735, Section 128736, and Section 128737, to meet the purposes of this chapter.”

Under HIPAA, all HIPAA-covered entities, which include all California licensed facilities, must comply with uniform standards for billing health care insurance and other similar entities for services provided. The United States Secretary of Health and Human Services (pursuant to 45 Code of Federal Regulations (“CFR”) section 162.910) has designated the National Uniform Billing Committee (NUBC) as a Designated Standards Maintenance Organization (DSMO). The DSMOs maintain standards for health care transactions adopted by the Secretary. The Secretary adopted the ASC X12N 837 — Health Care Claim: Institutional (45 CFR section 162.1102) as the standard that must be used by health care facilities in billing for services provided. The ASC X12N 837 was incorporated by reference in 45 CFR section 162.920. Current statute and program regulations specify that International Classification of Diseases (“ICD”) coding must be used for diagnoses for all three programs. The version of the code system currently used is the International Classification of Diseases, 10<sup>th</sup> Revision, Clinical Modification, commonly known as ICD–10–CM.

The Department proposes updating the source of admission data element with the addition of a route of admission for designated disaster alternate care site reporting, updating disposition code wording for consistency, and expanding the definition of the other diagnoses data element to include social determinants of health codes. These changes are to be more con-

sistent with the ASC X12N 837, NUBC UB–04, and ICD–10–CM.

In addition, the Department is proposing to make the data more useful by adding a requirement to report patient address, which includes a ZIP Code component and therefore repeal the existing ZIP Code only data element. Included in the patient address data element, the Department is proposing to add an indicator of a patient’s housing status.

Further, the Department proposes updating the User Account Administrator Agreement form (HCAI–ISD–773–User Account Administrator Agreement) to remove outdated requirements from a decommissioned reporting system.

Along with the changes to the data elements, the electronic reporting Format and File Specifications documents that are incorporated by reference must also be updated to implement the changes, and the sections incorporating them by reference must be updated with the new document dates. The new versions of the Format and File and Specifications that will be incorporated by reference to reflect these data element changes are titled “Format and File Specifications for Online Transmission: Inpatient Data Version 4.2 as revised on September 2021” and “Format and File Specifications for Online Transmission: Emergency Care and Ambulatory Surgery Data Version 2.2 as revised on September 2021.”

The January 2023 effective date for the implementation of the new definitions allows reporting facilities a generous period of time to implement the necessary changes to their electronic reporting systems.

The changes in the data element definitions are anticipated to be beneficial to the reporting facilities — while there may be minor initial implementation costs, reporting using standard data definitions already used by the facilities in their business will be easier, more efficient, and less burdensome. In addition, the data collected, especially the address data, will be more detailed, more reflective of the industry, all of which will enhance the value, usability, and usefulness of the data for data users.

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

As required by Government Code Section 11346.5, subdivision (a)(3)(D), the Department evaluated the language contained in the proposed amendments. The Department has determined that these proposed regulations are not inconsistent with or incompatible with existing state regulations. These regulations make modifications to existing programs.

*d. Documents Incorporated by Reference*

Format and File Specifications for Online Transmission: Inpatient Data Version 4.2 as revised on September 2021.

Format and File Specifications for Online Transmission: Emergency Care and Ambulatory Surgery Data Version 2.2 as revised on September 2021.

## V. DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

- a. Mandate on local agencies and school districts: None.
- b. Cost or savings to any state agency: None.
- c. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- d. Other nondiscretionary cost or savings imposed on local agencies: No direct impact on local governments; costs are incurred only by local governments that operate health facilities.
- e. Cost or savings in federal funding to the state: None.
- f. Cost impact on a representative private person or business/small business: The Department anticipates a minor one-time cost to facilities estimated to be less than \$6,000 for most facilities to reprogram software. Facilities can submit reports using an internet web browser either by file transfer or data entry. To meet current or proposed reporting requirements, small businesses can determine whether file transfer or data entry is most cost-effective. There are 1.2% of reporting facilities classified as small businesses. Therefore, the proposed regulations may affect small business.
- g. Statewide adverse economic impact directly affecting businesses and individuals: As described in the Initial Statement of Reasons, Sections VI and VII, the Department has made an initial determination that the regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- h. Significant effect on housing costs: None.
- i. Business Reporting Requirement. It is necessary for the health, safety, or welfare of the people of the state that this regulation apply to businesses.

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

The changes in the data elements are anticipated to be beneficial to the reporting facilities — while there may be minor initial implementation costs, reporting

using standard data definitions already used by the facilities in their business will be easier, more efficient, and less burdensome. In addition, the data collected will be more detailed, more reflective of the industry, and more comparable to other existing data, all of which will enhance the value, usability, and usefulness of the data for the facilities and other data users.

Therefore, the Department concludes that:

- (1) this regulatory action will not create jobs within the state;
- (2) this regulatory action will not eliminate jobs within the state;
- (3) this regulatory action will not create new businesses;
- (4) this regulatory action will not eliminate existing businesses;
- (5) this regulatory action will not affect the expansion of businesses currently doing business in the state; and
- (6) the benefit to the public is that more comparable and useful data will be available. Such data are used for understanding California's health-care environment, which may benefit the health and welfare of California residents. The proposed regulations are not expected to affect worker safety or the state's environment.

## VII. REASONABLE 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 action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the text of the proposed regulations, the Format and File Specifications documents incorporated by reference, the initial statement of reasons, and an economic impact analysis contained in



the initial statement of reasons, and one survey conducted by the Department.

#### **IX. AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL**

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

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

#### **X. AVAILABILITY OF FINAL STATEMENT OF REASONS**

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

#### **XI. AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at <http://www.hcai.ca.gov/LawsRegs/ProgramStatutes.html>.

### **TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT**

#### **AMENDMENT OF TITLE 22, CALIFORNIA CODE OF REGULATIONS SECTIONS 2706–1, 2706–2, 3302–1, AND 3303.1(A)–1**

##### **FAMILY TEMPORARY DISABILITY INSURANCE — QUALIFYING EXIGENCY**

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), Title 22, Sections 2706–1, 2706–2, 3302–1, and 3303.1(a)–1. The amendments would

assist in the Department’s administration and implementation of Senate Bill 1123 (Chapter 849, Statutes of 2018), which adds a new eligibility component to the Paid Family Leave program, as well as clarify the claimant identification and wage verification process for claimants applying for State Disability Insurance benefits.

The Department will amend these regulations after considering all comments, objections, or recommendations regarding the proposed regulatory action.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department administers the State Disability Insurance (SDI) program. The SDI program was established in 1946 to provide a partial wage replacement benefit to eligible workers in California who are unable to work due to a non–work related illness or injury.

Senate Bill (SB) 1661 (Chapter 901, Statutes 2002) added the Family Temporary Disability Insurance (FTDI) benefit to the California Unemployment Insurance Code (CUIC). The FTDI benefit, otherwise known as Paid Family Leave (PFL), expanded the scope of the SDI program to provide a partial wage replacement benefit to eligible workers who take time off of work to care for a seriously ill eligible family member, or to bond with a new child.

SB 1123 (Chapter 849, Statutes of 2018) added a new eligibility component to the PFL program. SB 1123 allows employees to take time off work to participate in a qualifying exigency related to a covered active duty or call to covered active duty of the employee’s child, spouse, domestic partner, or parent in the Armed Forces of the United States (AFUS). SB 1123 addresses the military member on covered active duty or call to covered active duty with a unique need for assistance or participation from an eligible family member in California’s workforce. This new law became effective January 1, 2021. Assembly Bill (AB) 2399 (Chapter 348, Statutes of 2020) clarified definitions in the CUIC that are relevant to administering the military exigency leave pursuant to SB 1123.

On January 1, 2021, SB 1123 expands the scope of the PFL program to include time off work to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual’s spouse, domestic partner, child, or parent in the AFUS. When an employee for the first time requests leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty, or notification of an impending call or order to covered active duty, of the employee’s spouse, domestic partner, child, or parent in the AFUS, SB 1123 provides that the Department may require the employee to pro-

vide documentation, such as a copy of the covered active duty orders or other documentation issued by the military that indicates that the employee's spouse, domestic partner, child, or parent is in the AFUS, is on covered active duty or call to covered active duty, and the dates of the covered active duty service.

This regulatory package would solve the problem of implementing SB 1123 by providing amendments to the regulations in order for the Department to administer SB 1123's new eligibility component.

This regulatory package would, in part, solve the problem of incorporating and implementing the new eligibility component and administrative requirements of SB 1123 into the Department's regulatory provisions.

The proposed regulatory amendments to Title 22, Sections 2706–2, 3302–1, and 3303.1(a)–1 of the CCR would, in part:

- Update existing and identify new elements for a properly completed initial or continued claim for PFL benefits due to participation in a qualifying exigency
- Update relevant definitions of terms for consistency pursuant to AB 2399 and SB 1123
- Add definitions of the terms “military assist claim”, “military member”, and “qualifying event” that are necessary to determine claimant's eligibility for PFL benefits due to participation in a qualifying exigency
- Provide examples of claimant's eligibility for PFL benefits due to participation in a qualifying exigency for clarity purposes

In addition, the proposed regulatory amendments to Title 22, Sections 2706–1 and 2706–2 would remove the social security number verification language from Sections 2706–1 and 2706–2, which is enumerated in an identical manner in both sections. The social security number verification language provides the Department the discretion to verify social security numbers as those belonging to claimants. The claimant identity and wage verification process are more comprehensively explained in existing Title 22, Section 2706–8, which currently applies to, and will continue to apply to, both Sections 2706–1 and 2706–2.

The proposed regulatory amendments are necessary to comply with, and for the Department to implement the new obligations pursuant to SB 1123. The amendments would ensure the Department's proper administration of the SDI program, which includes the proper administration of claimant identity and wage verification, and achieve SB 1123's goal of providing benefits to claimants who participate in a qualifying exigency related to the covered active duty or call to covered active duty.

## ANTICIPATED BENEFITS FROM THE PROPOSED REGULATION

The anticipated benefits from this proposed regulatory action would support the Department's administration of PFL by codifying the new eligibility element and the related definitions into existing regulations, providing consistency with the statutory authority for determining eligibility for benefits as established by SB 1123, and strengthening the Department's regulatory authority when making eligibility determinations, including claimant identity and wage verification.

This regulatory action would clarify existing definitions to include reference to military member on covered active duty or call to covered active duty in the AFUS and add definitions of terms related to participation in a qualifying exigency to align with SB 1123. Also, the proposed regulatory action would make clear the identity and wage verification process for claimants applying for SDI benefits by removing the discretionary social security number verification language in order to align with existing claimant identity and wage verification process that is delineated in the regulations.

Furthermore, the proposed regulatory action benefits the health and welfare of California residents by supporting the new eligibility component pursuant to SB 1123 and would offer members of the military and their families relief from the challenges of deployment by permitting them to participate in a qualifying exigency. For example, military assist benefits can be used by an eligible California worker to make legal, childcare, and parental care arrangements and to attend military-sponsored events while their family member is deployed or getting ready to deploy.

## DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Department has determined that this proposed regulatory action is 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 Family Temporary Disability Insurance — Qualifying exigency.

## AUTHORITY AND REFERENCE

Sections 305 and 306, Unemployment Insurance Code.

Sections 2701.5, 2706 and 3303.1, Unemployment Insurance Code.

Sections 140.5, 1253, 2656, 3300, 3301 and 3302, Unemployment Insurance Code.

Section 3303.1, Unemployment Insurance Code.

Sections 2602, 2608, 2626, 2701.5, and 2706, Unemployment Insurance Code.

## ECONOMIC AND FISCAL IMPACT

**Anticipated costs or savings in federal funding to the State:** None.

**Anticipated costs or savings to any State Agency:** The Department is the state agency responsible for administering SDI and, therefore, the new exigency leave component of PFL pursuant to SB 1123. The Department anticipates \$1.3 million in costs in order to implement its obligations pursuant to SB 1123. The Disability Branch of the Department estimates \$111,784.91 of that amount to implement its obligations pursuant to SB 1123, which includes the cost to develop business requirements for the programming efforts; update forms and publications; update information on the Department website; update manuals and procedures for staff; and provide training to staff regarding SB 1123 requirements. The remaining anticipated costs to the EDD derive from the necessary technological programming changes to the Department's databases and systems that will be carried out by the Information Technology Branch of the Department in order to implement its obligations pursuant to SB 1123, which includes project management, development, testing, implementation, and stabilization. The Department anticipates a cost of \$600,000 per year for the subsequent years. This is the cost of time that will be required by six Disability Insurance Program Representative positions to process the increased workload pursuant to SB 1123.

**Anticipated costs or savings to any local agency or school district:** The proposed regulations will not have significant anticipated costs or savings any local agency or school district.

**Anticipated non-discretionary costs or savings imposed upon local agencies:** The proposed regulations will not have significant anticipated non-discretionary imposed upon local agencies.

**Anticipated impact on housing costs:** The proposed regulations will have no effect on housing costs.

**Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:** The Department has made the determination that the proposed regulatory 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:** The Department has made the determination that the proposed regulatory action will not significantly affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. This is because businesses do not pay for the SDI benefits of their employees. The SDI program is funded through a payroll deduction from employees' wages. Businesses will continue to withhold and send SDI contributions of their employee(s) to the Department. The SDI contributions are deposited into a dedicated fund that is used to pay benefits to eligible employees and finance the program's operating costs. Businesses may likely have cost of approximately \$74.58 to comply with SB 1123, and, in turn, comply with the proposed regulatory action that administers SB 1123.

The proposed regulatory action benefits the health and welfare of California residents by supporting the new eligibility component pursuant to SB 1123 and would offer members of the military and their families relief from the challenges of deployment by permitting them to participate in a qualifying exigency. For example, military assist benefits can be used by an eligible California worker to make legal, child-care, and parental care arrangements and to attend military-sponsored events while their family member is deployed or getting ready to deploy. The proposed regulatory action will assist in the administration of PFL by providing required elements when filing a PFL claim to participate in qualifying exigency, defining related terms and providing consistency with existing regulations and the provisions of SB 1123.

**The cost impact on representative private persons or businesses:** As stated above, the Department has determined a cost of approximately \$74.58 for businesses to comply with SB 1123, and, in turn, comply with the proposed regulatory action that administers SB 1123. The cost includes the time a business allocates to communicating with an employee who has filed for the leave, reviewing and responding to EDD correspondence if needed, and updating the employee's personnel forms, if any.

**Small business impact:** The Department has determined that the proposed regulatory action will not have a significant impact on small businesses, as the exigency leave pursuant to SB 1123 is paid for by employee contributions to the SDI program. A small business will continue to withhold and send SDI contributions of its employee(s) to the Department. A small businesses may have a cost of approximately \$40.30 to comply with SB 1123, and, in turn, comply with the proposed regulatory action that administers SB 1123. The cost includes the time a small business allocates

to communicating with an employee who has filed for the leave, reviewing and responding to EDD correspondence if needed, and updating the employee's personnel forms, if any.

#### LOCAL MANDATE DETERMINATION

The Department has determined that the proposed regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

#### CONSIDERATION OF ALTERNATIVES

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

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Taran Kaler via U.S. mail, email, or fax (see U.S. mail and email addresses and fax number indicated below). ***Email comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, email, or fax, must be received by the Department no later than May 9, 2022.*** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

#### CONTACT PERSONS

Inquiries or comments should be directed to:  
(Mailing address)

Taran Kaler, Attorney  
Employment Development Department  
P.O. Box 826880  
Legal Office, MIC 53  
Sacramento, CA 94280-0001

(Hand delivery)

Taran Kaler, Attorney  
Employment Development Department  
800 Capitol Mall, Room 5040  
Legal Office, MIC 53  
Sacramento, CA 95814  
Telephone Number: (916) 654-8410  
Fax Number: (916) 654-9069  
Email Address: [ProposedRegulations@edd.ca.gov](mailto:ProposedRegulations@edd.ca.gov)

**Note:** In the event Mr. Kaler is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above:

Name: Linda Saeturn-Rodriguez, Senior Legal Analyst  
Telephone Number: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed at this time to:

Name: Taran Kaler, Attorney  
Telephone Number: (916) 654-8410

#### INTERNET WEBSITE ACCESS

The Department has posted on its internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed Regulations."

#### PUBLIC HEARING

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is on May 9, 2022.** A request for hearing can be made by contacting the persons noted above.

#### MODIFICATION OF PROPOSED ACTION

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled) whose comments were received by the agency during the public comment period and who requested notification from the agency of the availability of such changes.

## FINAL STATEMENT OF REASONS

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

## FURTHER INFORMATION

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; the initial statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND WILDLIFE

#### CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION Number 2080-2022-003-01

**Project:** Horse Creek Bridge Replacement Project

**Location:** Siskiyou County

**Applicant:** California Department of Transportation

#### Background

California Department of Transportation (Applicant) proposes to replace the existing Klamath River Bridge (Number 02-0117) on a new alignment, approximately 12 feet downstream (north) of the existing bridge, because existing Pier 2 has been determined to be scour critical and vulnerable to undermining. The Horse Creek Bridge Replacement Project

(Project) includes replacing the current bridge with a longer and wider bridge that is upgraded to the current design standards. The new bridge will be approximately 545 feet long and 44 feet wide. The new soft-fit will be approximately 34.1 feet above normal flow of the Klamath River and will be a three-span cast-in-place post-tensioned box girder bridge that ends in an 800-foot radius curve. There will be no scuppers on the deck as water will be directed off the bridge in the riparian vegetation. The superstructure will be supported on cantilever seat abutments and concrete piers on cast-in-drilled-hole concrete piles. The two piers will span the active channel. The new bridge will be constructed on a new alignment, and the roadway of the new bridge will have two, 12-foot-wide traffic lanes and two, eight-foot-wide shoulders to match the new bridge deck width and profile. The new bridge will be just west of the existing bridge and the existing bridge will remain in use while the new bridge is constructed. It is anticipated that it will require three construction seasons to build the new bridge. The Project limits are located on State Route 96 (SR) from post mile (PM) 76.8 to 78.0, near the community of Horse Creek in Siskiyou County. The bridge is located at PM 77.15 or longitude and latitude of -122.97745 and 41.826853 decimal degrees, respectively. The Project limits are in the Horse Creek USGS 7.5-minute quadrangle within Township 46 North, Range 10 West, and Sections 13 and 14.

The Project activities described above are expected to incidentally take<sup>1</sup> coho salmon (*Oncorhynchus kisutch*), of the Southern Oregon-Northern California Coast evolutionary significant unit (SONCC coho salmon) where those activities take place within the Klamath River. In particular, SONCC coho salmon could be incidentally taken as a result of capture during fish relocation. In addition, there is a small potential for take of juvenile coho associated with the placement of k-rails, gravel and/or dewatering. SONCC coho salmon are designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(2)(D).)

The proposed Project site is located within the geographical boundaries of the upper Klamath River coho salmon population of the SONCC coho salmon. SONCC coho salmon individuals are known to use

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



the Project site primarily as a migration corridor of adults moving upstream to spawn, or juveniles moving downstream on their migration to the sea. The Project site provides habitat for the migration of adults and young but primarily to support movement of the age classes and not residency in the area. Because of known migratory use of the Klamath River by SONCC coho salmon, dispersal patterns of SONCC coho salmon, and the presence of suitable habitat for SONCC coho salmon habitat within the Project site, the National Marine Fisheries Service (Service) determined that SONCC coho salmon is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of SONCC coho salmon.

According to the Service, the Project will result in the temporary loss of 0.659 acres of riparian vegetation of SONCC coho salmon habitat, totaling 0.659 acres of temporary habitat loss. Construction of the Project will also result in the permanent loss of 0.020 acres of riparian of SONCC coho salmon habitat, totaling 0.020 acres of permanent habitat loss.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the Applicant, as a Federal Highway Administration (FHWA) agent, consulted with the Service as required by the ESA. On December 15, 2021 the Service issued a biological opinion (Service file Number WCRO\_2021-02714) (BO) to the Applicant as an agent for the FHWA. The BO describes the Project, requires the Applicant to comply with terms of section 1.2 of the BO and its incidental take statement (ITS), and incorporates additional measures.

The ITS also requires the Applicant to implement and adhere to measures contained within the Project Biological Assessment (BA) dated October 2021.

On February 8, 2022, the Director of the Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS and its accompanying BO are consistent with CESA for purposes of the Project and SONCC coho salmon. (Cal. Reg. Notice Register 2022, Number 8-Z, page 202.)

### Determination

CDFW has determined that the ITS, along with its accompanying BO, is consistent with CESA as to the Project and SONCC coho salmon because the avoidance, minimization, and mitigation measures contained in the BO and ITS, as well as the conditions in the BA, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of SONCC coho salmon will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in

the ITS and BO, and BA will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of SONCC coho salmon. The mitigation measures in the ITS and BO and BA include, but are not limited to, the following:

### *Avoidance, Minimization, and Mitigation Measures*

- 1) All activities associated with the bridge construction work will be conducted during daylight hours. Support work such as equipment fueling, or repair may be conducted during hours of darkness in upland staging areas. All work within the stream channels, or that may affect fish in the streams will occur between June 15 and October 15, with the exception of blasting, which will take place between July 1 and September 30.
- 2) The portions of temporary access roads located within the riparian zone and below the ordinary high-water mark will be constructed with at least six inches of uncrushed, rounded, natural river rock of a minimum of 0.5 inches to 4 inches in diameter. The gravel will be washed to ensure it is free of oils, clay, debris, and organic matter. The gravel surface will be topped with geotextile fabric, which will then be covered by angular rock, which will allow full removal of the angular rock.
- 3) Access to the old and new bridge locations will be required for support of falsework (new bridge forms and demolition supports/containment) and for equipment access. These access structures will consist of a trestle supported on piles, or in-water gravel work pads, or a combination of both. The trestle will be up to 40 feet wide and 230 feet long with anticipated spans of 40 to 50 feet between pile supports. The contractor will determine the final number and size of piles, but the steel pipe piles will likely not exceed 24 inches in diameter or greater than 14 inches wide for steel H-piles. Both steel pipe piles and steel H-piles can be impact-driven, but the steel pipe piles can also be drilled in. The Applicant assumed piles will be impact driven to account for the potential hydroacoustic impacts to fish. Up to 1000 strikes per pile would be needed for up to 70 piles installed in water. The pile driving in water work window will be limited to the period of June 15 to October 15 when the water is usually too warm to support SONCC coho salmon; however, pile driving on or after October 1, would be limited to the hours between 6:00 a.m. and 1:00 p.m. in a given day to minimize potential impacts to adult coho salmon that may migrate through the action

area. The Applicant will submit the temporary work platform plan to Service and CDFW for review and concurrence.

- 4) The contractor may choose to construct gravel work pads in place of a portion of a trestle. Whether a work pad is installed on the east or the west side, or both sides of the river, it will extend from the river's edge into the river. Both gravel work pads will most likely be reinforced with stepped k-rail around the perimeter to prevent erosion and sloughing of material into the river. The in-water gravel work pads will vary in dimension and height depending upon future river morphology or hydraulic analysis. A minimum 85-foot-wide section of the active stream will be maintained, or a velocity of eight feet per second, or less, shall be maintained for winter-time adult fish passage. If a gravel work pad is needed for Pier 2 removal, a minimum 30-foot-wide section of the active stream shall be maintained to allow fish passage during summer flows.
- 5) When building the gravel work pads, the barriers (e.g., k-rails) will be installed first and will be slowly placed into the river from the top of the riverbanks. The rounded river gravel that are sized and washed as described above, will then be placed gradually from the edge of the river until a pad is formed. The barriers will be secured with cables or other authorized method. The Applicant will monitor gravel work pad daily during precipitation events to check that barriers stay intact. In the event that the pads are overtopped, a contractor-supplied biologist with fish relocation experience will survey the pads to ensure that no fish are present. If fish are found, the biologist will relocate them and notify the resident engineer. The resident engineer is responsible for notifying the Service and CDFW.
- 6) The Applicant will replant the access road area with appropriate native vegetation, so loss of vegetation for the access roads will be temporary. Loss of vegetation at the new bridge footings and culvert extension will be permanent; however, approximately 456 square feet of new vegetation will be planted in the location of the existing bridge footings after the bridge is removed. Temporary and permanent impacts to riparian vegetation will be mitigated on-site through additional planting and removal and control of Himalayan blackberry.
- 7) Water pollution control scheduling and methods will be specified in the contractor's Storm Water Pollution Prevention Plan. Specific methods are indicated in the Applicant's Construction Site Best Management Practices (BMP) Manual

(Caltrans 2017). The Applicant's BA provides details on specific measures.

- 8) Fish capture and relocation efforts will take place after the gravel pad barriers have been installed and prior to gravel being placed within the barriers. Fish capture and relocation attempts will be conducted by qualified fisheries biologists supplied by the contractor. The Applicant will prepare an Aquatic Species Relocation Plan for approval by the Service a minimum of 30 days prior to implementation. Methods may include seining gear, electrofishing gear, and dip nets. Remaining fish will then be removed from the area and released into suitable habitat. Electrofishing for salmonids will comply with the Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act (NMFS 2000), and any seining or other capture and removal techniques will adhere to the California Salmonid Stream Habitat Restoration Manual (Flosi et al. 2010). A qualified biologist will be present during all phases of in-stream construction to assist with relocation efforts as they arise.
- 9) Water drafting may be necessary for dust suppression or other construction activities (e.g., earthwork compaction operation or concrete curing). Water will be drafted from the Klamath River in the vicinity of the proposed new bridge on either side of the river. It is anticipated that water drafting will be intermittent and variable depending upon the type of work in progress. During earthwork operations, it may be necessary to draft water up to six times daily, between approximately 6 a.m. and 7 p.m., from April through October. Up to 20,000 gallons per day for major earthwork compaction operations and up to 1000 gallons per day for concrete curing operations may be required.
- 10) To comply with sections 2080.1 and 2081(b) of Fish and Game Code, the Applicant must minimize and fully mitigate the impacts of its activities and ensure adequate funding to implement mitigation including compliance and effectiveness monitoring. The Applicant is partnering with the Klamath National Forest, Mid-Klamath Watershed Council, and Karuk Tribe to develop the Lower Beaver Creek Aquatic Habitat Restoration Project (LBCP) and will be covered under Section 7(a)2 of the Endangered Species Act. The LBCP qualifies for authorization under the Department of the Army Nationwide Permit 27 for Aquatic Restoration Projects (82 Fed. Reg. 1860, January 6, 2017), pursuant to Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*). It has been certified

coverage under the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order); Order Number SB12006GN.

The objectives of the LBCP are to increase refugia and rearing habitat for coho salmon, in and adjacent to, the lower main-stem Beaver Creek, and to slow, halt, or reverse incision of the main-stem Beaver Creek and lower Buckhorn Gulch. The LBCP is located near the town of Klamath River within Township 47 North, Range 8 West, Sections 6 and 30: Mount Diablo Meridian. The LBCP is needed to increase the area and extent of winter and summer refugia for salmonids, and will create approximately 30,500 square feet (0.70 acre) of off-channel high quality rearing habitat for SONCC coho salmon. The Project needs 5,072 square feet (0.17 acre) of rearing habitat for mitigation. The full LBCP will manifest in the creation of three ponds constructed adjacent to the channel of lower main-stem Beaver Creek. Instream log structures will also be installed in the channel to increase suitable fish habitat, slow or reverse channel incision, and provide the hydraulic controls necessary to keep inlets of the constructed ponds open to adjacent streams. The ponds will be excavated to a depth of up to eight feet. A shallow bench, approximately one foot in depth, will be excavated around some of or all of the perimeter of the ponds to create shallow water habitat encouraging the growth of wetland vegetation. Pond connection to Beaver Creek will occur after the ponds have been constructed for fish access. Riparian vegetation and planting will also occur in conjunction with the creation of the ponds. Construction of the ponds will begin in the summer of 2022 and be completed prior to the initiation of construction of the new Horse Creek Bridge, currently planned to begin in 2024.

#### Monitoring and Reporting Measures

- 1) The temporary work platforms will be designed to resist the 25-year peak flow for the Klamath River. The deck of the temporary trestle will be removed during the rainy season. The Applicant will monitor any piles remaining over winter and remove any accumulated debris at least daily, or more often as necessary, to protect the temporary structure.
- 2) The Applicant will monitor the gravel work pads daily during precipitation events to check that the barriers stay intact. If the barriers come loose, the Applicant will resecure the barriers.
- 3) The Applicant shall make available to the Service data from any hydroacoustic monitoring on a

real-time basis (i.e., daily monitoring data should be accessible to the Service upon request).

*Although not a condition of this determination, CDFW requests a copy of the hydroacoustic monitoring reports as well.*

- 4) The Applicant must prepare and submit a post-construction report regarding the effects of fish relocation and construction activities.

*Although not a condition of this determination, CDFW requests a copy of the post-construction report as well.*

- 5) The Applicant shall provide a written report to the Service by January 15 of the year following construction of the Project. The report will contain information related on construction related activities and will include the dates construction began and was completed; a discussion of any unanticipated effects or unanticipated levels of effects on salmonids; a description of any and all measures taken to minimize those unanticipated effects, and a statement as to whether or not any unanticipated effects had any effect on ESA-listed fish; the number of salmonids (by evolutionarily significant unit) killed or injured during Project construction; and photographs taken before, during, and after the activity from photo reference points. The report will also contain a description of the location from which fish were removed and the release site(s) including photographs; the date and time or the relocation effort; a description of the equipment and methods used to collect, hold, and transport salmonids; the number of fish relocated by species; the number of fish injured or killed by species and a brief narrative of the circumstances surrounding salmonid injuries or mortalities; and a description of any problems which may have arisen during the relocation activities and a statement as to whether or not the activities may have any unforeseen effects.

*Although not a condition of this determination, CDFW requests a copy of this construction end report as well.*

#### Funding

Prior to any construction activities that could incidentally take SONCC coho salmon, the Applicant will submit to CDFW documentation to show that the Applicant has allocated sufficient funds, acceptable to and approved by CDFW, in the Expenditure Authorization for the Horse Creek Bridge Replacement Project and the Master Funding Agreement between CDFW and the Applicant, dated September 3, 2021, to ensure implementation of all measures to minimize and fully mitigate the incidental take of state listed species resulting from construction of the proposed Project. This documentation should identify specif-

ic Project minimization and mitigation components that are in accordance with California Fish and Game Code section 2081 subsections (b)(2) and (b)(4).

The Applicant has submitted documentation from the State Highway Operation and Protection Program for this Project that it has been fully funded along with the required mitigation as CT Project ID 0216000040 (PPNO 3629, EA 02-1H360).

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

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

## **DEPARTMENT OF FISH AND WILDLIFE**

### **FISH AND GAME CODE SECTION 1653 CONSISTENCY DETERMINATION REQUEST FOR CEDAR CREEK HATCHERY DAM REMOVAL PROJECT (TRACKING NUMBER 1653-2022-089-001-R1) MENDOCINO COUNTY**

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 3/15/2022, that California Trout proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves removing Cedar Creek Hatchery Dam, grading the channel, revegetating the area, and installing some large wood in the channel. The proposed project will be carried out on Cedar Creek, located at 66000 Drive Thru Tree Road, Leggett, Mendocino, California.

On 12/23/2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the

Cedar Creek Hatchery Dam Removal Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 1B21246WNME; ECM PIN Number CW-878609) for coverage under the General 401 Order on 1/26/2022.

California Trout is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, California Trout will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, California Trout will have the opportunity to submit under Fish and Game Code section 1652.

## **SUSPENSION OF ACTION REGARDING UNDERGROUND REGULATIONS**

### **STATE COUNCIL ON DEVELOPMENTAL DISABILITIES**

On September 14, 2021, the Office of Administrative Law (OAL) received a petition challenging the State Council on Developmental Disabilities (Council) Policy 2-900, specifically the clause stating grants of Authorized Representative status "will be limited to periods not to exceed one year, subject to renewal if requested and approved by the SCDD" as contained in the document entitled "STATE COUNCIL ON DEVELOPMENTAL DISABILITIES, Appointment of Authorized Representative."

On March 4, 2022, the Council certified to the OAL that the Administrative Bulletin had been rescinded; therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH THE SECRETARY OF STATE

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

California Health Facilities Financing Authority  
File # 2022-0125-01  
Investment in Mental Health Grant Program —  
Children/Youth

This timely Certificate of Compliance (2021-0901-01E, 2021-0923-01ER) is making permanent changes to the Investment in Mental Health Wellness Grant Program, within the Mental Health Wellness Act of 2013, specific to the needs of children and youth. (Government Code section 5848.5; Senate Bill 833, Stats. 2016, chapter 30.) Specifically, this action removes the ability to send in paper applications and make the only option an online application that must be submitted online.

Title 04  
Amend: 7313, 7316  
Filed 03/09/2022  
Effective 03/09/2022  
Agency Contact: Bianca Smith (916) 653-2408

Secretary of State  
File # 2022-0131-02  
Signature Verification, Petition Processing, Ballot  
Counting, and Ballot Processing

In this Certificate of Compliance action, the Secretary of State makes permanent regulations regarding signature verification, ballot processing and counting, and adopts new related regulations regarding elections-related petition processing.

Title 02  
Adopt: 20910, 20920, 20930, 20931, 20940, 20941,  
20942, 20950, 20960, 20961, 20962, 20970, 20980,  
20981, 20982, 20983, 20984, 20985, 20990, 20991,  
20992, and 20993  
Filed 03/15/2022  
Effective 03/15/2022  
Agency Contact:  
Robbie Anderson (916) 216-6488

Fish and Game Commission  
File # 2022-0308-04  
Recreational Clam, Sand Crab, and Shrimp Gear  
Emergency

This action by the Fish and Game Commission re-adopts emergency regulations that prohibit the use of hydraulic pumps for the recreational harvest of clams, sand crabs, and shrimp.

Title 14  
Amend: 29.20, 29.80  
Filed 03/16/2022  
Effective 04/11/2022  
Agency Contact: David Haug (916) 902-9286

Office of Energy Infrastructure and Safety  
File # 2022-0228-02  
Process and Procedure, Document Management  
Enforcement

This is the first readoption of emergency action no. 2021-0903-01E, which established processes and procedures enabling the Office of Energy Infrastructure Safety to ensure that electrical utilities take effective actions to reduce utility-related wildfire risks.

Title 14  
Adopt: 29100, 29101, 29102, 29200, 29300, 29301,  
29302  
Filed 03/10/2022  
Effective 03/15/2022  
Agency Contact: Jeff Brooks (916) 926-1672

Department of Managed Health Care  
File # 2022-0215-01  
Timely Access to Non-Emergency Health Care  
Services

Health plans are required to report to the Department, on an annual basis, compliance with timely access to care standards and the adequacy of the health plan's provider network. In this request for filing and printing, the Department is delaying the implementation of standardized reporting methodologies for the health plans' annual timely access reporting and annual network reporting adopted in OAL Matter Number 2021-0802-01S. This action is exempt from the Administrative Procedure Act pursuant to subdivision (f)(3) of Health and Safety Code section 1367.03.

Title 28  
Adopt: 1300.67.2.3  
Amend: 1300.67.2.2  
Filed 03/16/2022  
Effective 04/01/2022  
Agency Contact: Jennifer Willis (916) 324-9014



Board of Equalization  
File # 2022-0203-01  
The Board's Function and Jurisdiction

This action by the Board of Equalization makes changes without regulatory effect to regulations relating to the Board's function and jurisdiction.

Title 18  
Amend: 302  
Filed 03/09/2022  
Agency Contact: Honey Her (916) 274-3523

Commission on Peace Officer Standards and Training  
File # 2022-0217-02  
Addition of New Articles

In this action without regulatory effect, the Commission on Peace Officer Standards and Training relocates eleven regulations concerning peace officer and public safety dispatcher selection requirements from Article 3, Regulatory Procedures, to a new Article 5 which is specific to those selection requirements.

Title 11  
Amend: 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960  
Filed 03/09/2022  
Agency Contact: Katie Strickland (916) 227-2802

Board of Pilot Commissioners  
File # 2022-0128-01  
Amendments to Pilot Trainee Regulations

This action amends pilot trainee requirements to expand the qualified applicant pool and to alter the applicant procedures to include a candidate interview and alter the scoring process.

Title 07  
Amend: 202, 213  
Filed 03/14/2022  
Effective 03/14/2022  
Agency Contact: Brenda Pugh (415) 397-2253

California Horse Racing Board  
File # 2022-0204-02  
Prohibited Actions with Respect to Claims

In this rulemaking action, the Board amends its regulation to provide that a trainer, owner, or authorized agent representing more than one racing interest shall not file more than one claim for a particular horse in a claiming race.

Title 04  
Amend: 1652  
Filed 03/15/2022  
Effective 07/01/2022  
Agency Contact: Rick Pimentel (916) 274-6043

Department of Corrections and Rehabilitation  
File # 2022-0126-01  
Disabled Veteran Business Enterprise

This action amends existing regulations on contracting with Disabled Veteran Business Enterprises to align with underlying statutory changes.

Title 15  
Amend: 3000, 3466, 3468  
Filed 03/10/2022  
Effective 07/01/2022  
Agency Contact: Sarah Pollock (916) 445-2308

State Athletic Commission  
File # 2021-1027-04  
Examination of Boxer Applicants

This action by the State Athletic Commission amends requirements regarding examination of boxer applicants.

Title 04  
Amend: 280  
Filed 03/16/2022  
Effective 07/01/2022  
Agency Contact: Sophia Cornejo (916) 662-4622

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

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