



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

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

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

STATE AGENCY: Commission on State Mandates

A written comment period has been established commencing on April 29, 2022, and closing on June 13, 2022. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

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

Any interested person may present statements, arguments, or comments, in writing to the Executive Director of the Commission, relative to review of

the proposed conflict-of-interest code(s). Any written comments must be received no later than June 13, 2022. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

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

**EFFECT ON HOUSING COSTS AND BUSINESSES**

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

**AUTHORITY**

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

**REFERENCE**

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

**CONTACT**

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

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

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite

3000, Sacramento, California 95811, telephone (916) 322-5660.

#### TITLE 4. ALTERNATIVE ENERGY AND TRANSPORTATION FINANCING AUTHORITY

The California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”), organized and operating pursuant to Division 16 (commencing with section 26000) of the California Public Resources Code (the “Act”)—pursuant to the authority vested in it by the Public Resources Code Section 26009 to promulgate regulations and Public Resources Code Section 26011 to provide financial assistance to a participating party, and acting pursuant to the Memorandum of Agreement (“MOA”) between CAEATFA and the California Public Utilities Commission (“CPUC”) which sets forth the policies and procedures for establishment of a series of ratepayer-funded pilot programs as authorized and described in the initial CPUC-approved Decision 13-09-044, Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs (the “Decision”), issued September 20, 2013 and subsequent CPUC actions<sup>1</sup>—proposes to amend the Commercial Energy Efficiency Financing Program regulations described below after considering all comments, objections, and recommendations regarding the proposed action. The Commercial Energy Efficiency Financing Program is known publicly as the “GoGreen Business Program” and is also referred to in this document as “Program.”

#### PUBLIC HEARING

The Authority has not scheduled a public hearing on this proposed rulemaking. However, a public hearing will be held if any interested person, or their duly authorized representative, requests a public hearing to be held relevant to the proposed rulemaking by submitting a written request to the Agency Contact Person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representatives may submit written comments relevant to the regulations to the Authority. **The written comment period on the regulations ends on Monday, June 13, 2022.** All comments must be submitted in writing to

<sup>1</sup> CPUC has issued additional decisions and rulings addressing issues related to the implementation of the pilot programs, including: D. 15-06-008, D. 15-12-002, D. 17-03-026; and D.21.08.006.

[cheef@treasurer.ca.gov](mailto:cheef@treasurer.ca.gov) by that time in order for them to be considered by the Authority.

In the event that substantial changes are made to the regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for fifteen (15) calendar days after the date on which such regulations, as changed or modified, are made available to the public pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this notice.

#### AUTHORITY AND REFERENCE

*Authority: Public Resources Code Section 26006 and 26009.*

Section 26006 and 26009 of the Public Resources Code authorizes the Authority to adopt necessary regulations relating to its authority established by the Act, and Public Resources Code 26011 establishes the authority to provide financial assistance to a participating party.

*Reference: Public Resources Code Sections 26002, 26002.5, 26003(a)(3)(A), 26003(a)(6), 26003(a)(7)(A), 26003(a)(8)(A), 26011 and 26040.*

On September 19, 2013, the CPUC approved Decision 13-09-044 and requested the Authority act as the master administrator of the California Hub for Energy Efficiency Financing (“CHEEF”), funded by ratepayer funds collected by the four investor-owned utilities: Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company (collectively the “IOUs”). CAEATFA’s purpose is to advance the State’s goals of reducing the levels of greenhouse gas emissions, increasing the deployment of sustainable and renewable energy sources, implementing measures that increase the efficiency of the use of energy, creating high quality employment opportunities, and lessening the State’s dependence on fossil fuels. The Authority’s statute enables it to provide financial assistance to various participating parties that carry out eligible projects. In July 2014, CAEATFA received initial Legislative budget authority to administer the CHEEF functions and subsequently entered into a Memorandum of Agreement with the CPUC and a receivables contract with the IOUs to implement the CHEEF.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law establishes the California Alternative Energy and Advanced Transportation Financing

Authority and authorizes the Authority to provide “financial assistance” to “participating parties” for the implementation of “projects” as those terms are defined in Public Resources Code Section 26003. A Memorandum of Agreement between CAEATFA and the CPUC sets forth the policies and procedures for establishment of a series of ratepayer-funded programs as authorized and described in the CPUC-approved Decision 13–09–044, Decision Implementing 2013–14 Energy Efficiency Financing Pilot Programs, and associated governing actions (“Decision”).

The Decision established the California Hub for Energy Efficient Financing (“CHEEF”) to be administered by CAEATFA. CAEATFA was authorized to develop and implement a number of energy efficiency financing programs, intended to attract a greater amount of private capital to the energy efficiency retrofit market. The programs would make use of a credit enhancement to mitigate risk for finance companies, allowing them to offer more attractive rates and terms and to approve financing for individuals and businesses who might not be approved otherwise. The Decision also authorized on-bill repayment for several sectors including the commercial sector. Through on-bill repayment, customers can repay energy-related finance agreements through their utility bills.

The Office of Administrative Law (“OAL”) first approved emergency regulations for the Commercial Energy Efficiency Financing Program in December 2018. Following a period of financing company and contractor enrollment, the program was launched for small business participants in May 2019. The Certificate of Compliance was completed in December 2019. The Program was initially known publicly as the “Small Business Financing Program” and, beginning in August 2021, as the “GoGreen Business Energy Financing Program” or just “GoGreen Business.”

At the beginning of 2020, GoGreen Business was starting to gain momentum with contractor and project developer enrollments when, due to the pandemic, many small businesses shut down. Additionally, investor-owned utilities (“IOUs”) paused energy efficiency program outreach that was critical for small business’ awareness of the types of upgrades they could make. Since businesses have reopened, the need for energy efficiency financing has resumed. CAEATFA had received industry feedback related to eligible measures and the need for smaller dollar financing amounts than finance companies could practically offer through the program. Further, significant progress had been made between CAEATFA and the IOUs in reaching agreement on key aspects of the on-bill repayment structure and operations. To this end, and to allow for adequate time for the regular rulemaking process, Authority staff proposed making modifications through the emergency process in May 2021.

As part of the emergency rulemaking, CAEATFA made publicly available the proposed modified emergency stakeholder regulations, held stakeholder discussions soliciting input, and conducted a virtual public workshop on May 21, 2021, followed by a 10-day public comment period. Emergency regulations were initially approved by OAL on July 19th, 2021 (OAL File Number 2021–0707–01E) with subsequent approval by OAL for reoption on December 30th, 2021 (OAL File No 2021–1221–01EE) and April 12th, 2022 (OAL File Number 2022–0405–01EE).

The proposed regulations associated with this Notice seek to make permanent most of the emergency modifications. They clarify and establish the rules necessary to implement the On-Bill Repayment (“OBR”) feature described in the CPUC-approved Decision 13–09–044. These regulations also clarify and add eligible Energy Savings Measures (“ESMs”) to the program, expand the number of Self-Installed ESMs, and establish a streamlined Microloan pathway for loans less than \$10,000. These regulations are the result of stakeholder comments obtained since implementation in 2019 as well as during the emergency rulemaking process.

***Anticipated Benefits of the Proposed Action:***

The On-Bill Repayment feature is intended to act as a selling point for small businesses and increase program uptake, furthering the goal of reducing energy consumption and thereby greenhouse gases. The Microloan pathway is intended to allow finance companies to effectively serve the smallest businesses in California by providing credit-enhanced financing for energy efficient equipment, helping businesses to save money, and improving their bottom line. Changes to the Energy Saving Measures list are intended to more thoroughly represent the kinds of installations which are able to save energy and to ease restrictions on self-installation to allow small businesses a lower-cost option for energy saving projects. All these modifications are intended to drive uptake for the program and further goals of reduction in energy use. Changes to program requirements on reporting and proof of utility service are intended to simplify project submissions and make participation feasible for finance companies.

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

Government Code Section 11346.5(a)(3)(D) requires that the notice of proposed rulemaking include, “[an] evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” CAEATFA’s Staff reviewed the California Code of Regulations and found no existing regulations with which there might be inconsistency or incompatibility. Therefore, CAEATFA believes that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

The Executive Director of CAEATFA has made the following determinations regarding the effect of the regulations:

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

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

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

**Other nondiscretionary cost or savings imposed on 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 businesses including the ability of California businesses to compete with businesses in other states:** The Authority has made the determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Participation in the Program is voluntary for California businesses. For those businesses that choose to participate, they are likely to access financing at better rates and terms than they would find outside of the Program, which provides a benefit. In fact, the Authority finds that the proposed regulation will have a positive effect on the participating customers as well as the State's economy and environment generally as a result of reducing the cost of financing, potential utility bill savings and reduction of greenhouse gases.

**Effect on Small Business:** The proposed regulations will not have an adverse impact on small businesses in California. Participation is voluntary and designed to offer access to attractive financing that a small business otherwise may not have.

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

RESULTS OF ECONOMIC  
IMPACT ANALYSIS

The Authority finds that the regulations will have a positive effect on the state's economy as studies have cited access to attractive financing as a significant impediment for businesses to invest in energy upgrades. Therefore, the Authority finds there may be

increased economic activity for manufacturers and installers of energy efficiency measures, finance companies who participate in the Program, and contractors and project developers who participate in the program. Additionally, businesses that make energy upgrades are likely to experience energy savings which could be reinvested into their businesses and into the state economy as a whole.

**Creation or Elimination of California Jobs:** The Authority finds that the regulations may have a positive impact on the creation of jobs within California, through manufacturers of energy efficiency measures benefiting from increased demand, contractors and project developers hired to install measures and from businesses participating in the Program who save on energy bills and are able to reinvest those savings into their businesses and hire additional workers. The Authority has not estimated the number of green jobs that may be created as a result of this Program as participation is voluntary.

**Creation, or Elimination, of California Businesses:** As the regulations provide an incentive to finance companies offering credit to California business owners, the elimination of businesses within California is improbable. The regulations are unlikely to significantly affect the creation of new businesses within the State of California.

**Expansion of Existing Businesses in California**

The Authority finds there would be increased economic activity for certain businesses of project developers and contractors who conduct energy efficiency retrofits, thus potentially expanding existing businesses.

**Benefits of The Regulation to The Health and Welfare of California Residents, Worker Safety, and The State's Environment:** The goal of the Program is to increase access to financing for California businesses to invest in energy efficient upgrades, thus reducing greenhouse gas emissions and helping meet California's ambitious environmental goals.

SUMMARY OF THE PROPOSED  
CHANGES AND ADDITIONS

*Section 10092.1. Definitions.*

This section defines terms commonly used throughout the regulations and Program documents.

This section is being amended to add definitions necessary for On-Bill Repayment and the Microloan pathway.

*Section 10092.3. Additional Requirements for Entities that are not Financial Institutions.*

This section specifies additional program participation requirements on entities that are not regulated financial institutions.

This section is being amended to remove the requirement on proof of motor vehicle insurance.

*Section 10092.4. Contractor and Project Developer Participation.*

This section establishes the Participating Contractor and Participating Project Developer requirements and responsibilities in the Program.

This section is being amended to facilitate a streamlined Microloan pathway for self-installed projects and to add a requirement on retention of permitting documentation.

*Section 10092.6 Eligible Financing Customers.*

This section establishes the minimum credit and underwriting requirements that apply to Eligible Commercial Financing Customers.

The amendments to this section reflect the addition of the Microloan tier for financed agreements up to \$10,000 with fewer requirements than the higher tiers.

*Section 10092.7 Project Eligibility.*

This section details the requirements for Projects to be eligible for financing through the Program.

As the streamlined Microloan level of financing has been newly added, this section is being amended to remove the requirement for a Project Developer to be active on a self-installed project of less than \$10,000 to keep additional costs minimal. Further, it has been updated to make explicit the original intent of the types of data that may be expected of Participating Contractors and Participating Project Developers and may be required as part of the quality assurance/quality control process.

*Section 10092.8. Financing Submittal and Enrollment.*

The purpose of this section is to detail the full requirements for Project Eligibility, including the documentation, data, and signed certifications that must be submitted by each participant to the authority for the Eligible Financing Agreement for a Project to enroll in the Program.

This section is being amended to clarify the terms used and to consolidate the requirements for data, documentation, and certifications required for the submittal and enrollment of an eligible financing agreement. Amendments are also being made to designate certain data points as not required for the submission of Microloans. Lastly, the requirement of proof of IOU service to a property is being broadened to allow other methods of documentation than utility bills to make the program more compatible with utility program implementers.

*Section 10092.10. Claims*

The purpose of this section is to establish the process and terms whereby a Finance Provider Entity may claim and receive reimbursement for a loss incurred

from an Eligible Commercial Financing Customer's default on an Enrolled Financing Agreement.

The section has been amended to include "The date of the Charge-off" as part of the claim application and to clarify when the data point of "Whether or not enforcement proceedings have commenced" is required.

*Section 10092.12. Reporting.*

The purpose of this section is to establish the reporting requirements of Finance Provider Entities and the Authority under the Program.

This section is being amended to facilitate the automation of monthly data reporting through streamlining some requirements as well as making it the Authority's responsibility to request certain data on a monthly basis.

*Section 10092.13. California Hub for Energy Efficiency Financing Privacy Rights Disclosure.*

The purpose of this section is to discuss the Eligible Commercial Financing Customer's privacy rights relating to information collected through the Program and to obtain approval and acknowledgment that authorizes the Participating Project Developer, Participating Contractors, IOUs, and Finance Provider Entity to share information, some of which may be personally identifiable, with the authority.

This section is being amended to comply with CA Civil Code Section 1798.24 which requires a time limit to be established for a period of data collection and release. Further, it sets the term of the Privacy Rights Disclosure to last through the term of the Eligible Commercial Financing Customer's financing agreement.

*Section 10092.14. Energy Savings Measure List.*

The purpose of this section is to provide a list of Energy Saving Measures ("ESMs") that are pre-approved by the Authority for installation under the Program through the ESM list method.

This section was amended by adding new measures to the ESM list to remain current with emerging energy efficient technologies, to bring some measures in line with industry standards, and to expand the pool of measures which are eligible for self-installation by the customer.

*Section 10092.15. On-Bill Repayment.*

The purpose of this section is to provide rules governing a mechanism, known as On-Bill Repayment ("OBR") by which a utility customer repays third-party private capital financing charges when they pay their monthly utility bill. Including this feature as an option in the Program for customers to avoid making an additional monthly payment and to address their energy improvement costs through their utility bill is intended to attract additional business owners to save energy and additional finance company participation.

This section is necessary for the Authority to set the guidelines and provide a centralized, statewide hub for multiple finance companies to receive payments through the bills of all four IOUs. This section also is necessary to establish additional data submission and financing agreement eligibility requirements of Participating Finance Provider Entities beyond the basic program requirements as laid out in other sections. Also, this section specifies the obligations of the Authority and defines the operation of the Operational Reserve Fund (“ORF”) that protects repayment streams to Participating Finance Provider Entities in the cases of delayed bills or returned items.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Authority 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.

The Authority invites interested persons to present statements with respect to alternatives to the regulations during the written comment period.

#### AGENCY CONTACT PERSON

Written comments shall be submitted or directed to: [cheef@treasurer.ca.gov](mailto:cheef@treasurer.ca.gov).

Inquiries and any questions regarding the substance of the regulations shall be submitted or directed to:

Jonathan Verhoef  
Program Specialist  
CAEATFA  
915 Capitol Mall  
Sacramento, California 95814  
Telephone: 916-653-1375  
Email: [jverhoef@treasurer.ca.gov](mailto:jverhoef@treasurer.ca.gov)

or (backup contact)

Aaron Lingenfelter  
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915 Capitol Mall  
Sacramento, California 95814  
Telephone: 916-653-2509  
Email: [ALingenfelter@sto.ca.gov](mailto:ALingenfelter@sto.ca.gov)

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF THE PROPOSED REGULATIONS

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority’s office at 801 Capitol Mall, Second Floor, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the proposed text of the regulations, the Economic Impact Statement, and the Technical, Theoretical, and/or Empirical Studies, Reports, or Documents. Copies of these items are available upon request from the Agency Contact Person designated in this Notice or at the Authority’s website located at <https://www.treasurer.ca.gov/caeatfa/cheef/sbpl/regulations/index.asp/>.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the public hearing and at the end of the written comment period, the Authority may adopt the regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed regulations, as modified. Inquiries about and request for copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or at the Authority’s website located at <https://www.treasurer.ca.gov/caeatfa/cheef/sbpl/regulations/index.asp/>.

#### AVAILABILITY OF MATERIALS ON THE INTERNET

Materials prepared for this rulemaking, including this Notice, the Initial Statement of Reasons, the text of the proposed regulations, the Economic Impact Analysis, and Technical, Theoretical, and/or Empirical

Studies, Reports, or Documents may be accessed on the Authority’s website located at <https://www.treasurer.ca.gov/caeatfa/cheef/sblp/regulations/index.asp>.

**TITLE 4. GAMBLING CONTROL COMMISSION**

**REQUEST FOR REGULATIONS  
CGCC–GCA–2022–01–R**

**NOTICE IS HEREBY GIVEN** that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45–day public comment period. To be eligible for the Commission’s consideration, all written comments must be **received at its office no later than midnight on June 14, 2021. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.** Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e–mail, directed to one of the individuals designated in this notice as a contact person.

**PUBLIC HEARING**

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under *Contact Persons* no later than 15 days prior to the close of the written comment period.

**ADOPTION OF PROPOSED ACTION**

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception

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

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 19801, 19802, 19803, and 19840 of the Business and Professions Code; and to implement, interpret or make specific sections 19841 and 19842 of the Business and Professions Code and sections 11340.6, 11340.7, 11346.4, and 11346.8 of the Government Code, the Commission is proposing to adopt the following changes to Chapter 1 of Division 18 of Title 4 of the California Code of Regulations:

**INFORMATIVE DIGEST AND POLICY  
STATEMENT OVERVIEW**

**Introduction:**

The Commission is the state agency charged with the administration and implementation of the Gambling Control Act (Act).<sup>1</sup> The Commission is authorized to adopt regulations as necessary to implement the Act.

Government Code sections 11340.6 and 11340.7 provide a process by which a member of the public can petition a state agency to consider the adoption, amendment, or repeal of a regulation. These statutes include timelines and requirements; however, they lack the specificity to be effectively implemented without clarification. This proposed action will provide the clarification necessary for the Commission to receive and consider these petitions.

**Existing Law:**

Business and Professions Code section 19840 allows the Commission to adopt regulations for the administration and enforcement of the Act.

Section 11340.6 of the Government Code grants the right to file a petition with a state agency requesting the adoption, amendment, or repeal of a regulation. The petition is required to clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and the authority of the state agency to take the requested action.

Section 11340.7 of the Government Code provides that upon the receipt of a petition requesting the adoption, amendment, or repeal of a regulation, a state agency must, with 30 days of receipt, deny the petition

<sup>1</sup> Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

or schedule the matter for a public hearing. The granting of the petition may be in part and the state agency may take any other action it may determine is warranted by the petition. Any decision of the state agency must be transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register at the earliest practicable date.

**Effect of Regulatory Action:**

This proposed action has been prepared to modify the Commission’s regulations to make effective the petition requirements of Government Code sections 11340.6 and 11340.7. The proposed clarifications will ensure that the Commission has the necessary information to consider a petitioner’s request on the merits of the request. Additionally, the timelines required in Government Code sections 11340.6 and 11340.7 are clarified to ensure that the processes provide in the sections are not inconsistent with other statutory requirements.

**Anticipated Benefits of Proposed Regulation:**

This proposed action will have the benefit of providing the people of California with a clear method to participate in this aspect of the rulemaking process by providing the opportunity to have any ideas to adopt, amend, or repeal a regulation considered by the Commission through a consistent and feasible process.

**Specific Proposal:**

This proposed action will make changes within California Code of Regulations Title 4 Division 18 as follows:

*Chapter 1. General Provisions.*

*Article 1. Definitions and General Procedures.*

**Amend 12008. Request for Regulations.**

Section 12008 provides a process by which a person can submit a petition to the Commission for the purposes of requesting the consideration of the adoption, amendment, or repeal of a regulation. This section provides what is required to be submitted along with the timeline for review.

Subsection (a) provides that a person may submit a petition, resubmit an incomplete petition, or request reconsideration of a previously submitted petition by using the form Petition for Adoption, Amendment, or Repeal of Regulation, CGCC–CH1–05.

The form Petition for Adoption, Amendment, or Repeal of Regulation, CGCC–CH1–05, is a new form. The instructions include:

- That the form can be submitted by either mail to the Commission’s headquarters or by email to the Legislative and Regulatory Affairs Division. Additionally, it provides an option for the petitioner to receive any communications via email.
- The requested adoption, amendment, or repeal of regulations must be provided clearly and concisely.

- When completing the form, the petitioner can indicate “N/A” if a section does not apply to their request. Additionally, the form provides a notification that failure to provide the requested information may result in the petition being determined to be incomplete or denied.
- Directions are provided for Section 3 that indicate that the specific regulatory language must be provided.
- Directions are provided for Section 4 that indicate the petitioner must provide a description of the specific regulatory changes. This includes a general statement explaining the purpose and goals of the petition, along with the necessity, purpose, and goal for each specific part of the proposal. The instructions recommend that the petitioner include a statement explaining any anticipated benefits of the proposal and what types of the costs might be incurred by the Commission, Bureau, industry, or others as a result of the approval of the petition.
- Finally, the instructions provide that all information be in blue or black ink and that if space is insufficient additional pages may be submitted.
- Section 1 requires the petitioner’s contact information.
- Section 2 requires the type of the petition; is the petition a new petition (initial), a resubmittal of an incomplete petition, or the reconsideration of a previously decided petition. Additionally, if a resubmittal or reconsideration, the form requires the petition’s unique identifying number.
- Section 3 requires the sections to be repealed and amended. Additionally, there is a section for the specific adoption and amended language to be provided.
- Section 4 requires the reason for the request.
- Section 5 requires the statutes that provide the Commission the authority to adopt the proposal along with the statutory sections that would be implemented, interpreted, or made specific.
- Section 6 requires the petitioner to acknowledge the requirements of the petition; provides information about what could result from the petition; and provides notice that even should the petition go through the rulemaking process it is still possible that the Commission will ultimately choose to not adopt the proposal.

Subsection (b) provides a restatement of the requirements of Government Code section 11340.6.

Subsection (c) provides that within 10 business days of receipt of the petition, the Executive Director will send an acknowledgment of receipt of the petition to the petitioner.

Subsection (d) provides that within 30 calendar days of receipt of the petition, the Executive Director will review the petition, assign it a unique identifying number, and provide that number to the petitioner. Additionally, the subsection provides that the Executive Director will do one of the following:

1. Paragraph (1) provides that if the Executive Director determines that the petition is incomplete, the petition will be returned to the petitioner with an explanation of how it is incomplete.
2. Paragraph (2) provides that if the Executive Director determines that the petition is complete, the petitioner will be notified that either:
  - (A) The petition has been denied and will be provided an explanation of the denial; or,
  - (B) The petition has been approved, either in whole or in part, and if the Executive Director has determined that additional adoptions, amendments or repeals will be necessary.

Subsection (e) provides that if the Executive Director has determined that the petition has been approved, either in whole or in part, the Executive Director will provide notice to the Commission’s rulemaking list and on its website, of the Commission’s intent to issue a Notice of Proposed Action including a tentative public hearing date.

**CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS:**

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

The proposed action is intended to make the statutes allowing a petition to adopt, amend, or repeal regulations to the Commission is effective and consistent with the needs of the Commission to consider a petition on its merits, as in required by statute, and is neither inconsistent or incompatible with either the Commission’s regulations or any other existing state regulations pertaining to the petition or adoption of regulations.

**COMPARABLE FEDERAL LAW:**

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

**FISCAL IMPACT ESTIMATES**

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

There would be no fiscal impact on the Commission or to any state agencies, including costs or savings or costs/savings in Federal funding.

**Non-discretionary Cost or Savings Imposed Upon Local Agencies: None.**

**Mandate Imposed on any Local Agency or School District for which Part 7 (commencing with section 17500) of Division 4 of the Government Code Requires Reimbursement: None.**

**Cost to any Local Agency or School District for which Part 7 (commencing with section 17500) of Division 4 of the Government Code Requires Reimbursement: None.**

**Effect on Housing Costs: None.**

**Impact on Business:**

The Commission has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony: The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission’s current practices and procedures.

**Cost Impact on 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. The ability to submit a petition currently exists, and while the proposal does provide clarity on what is required, it does not add to or reduce, the ability of a petition to be submitted.

**Effect on Small Business:**

The Commission has made a determination that the proposed regulatory action would have no significant impact on small businesses as the proposed action only provides clarity to a currently exiting statutory process.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

**Impact on Jobs/New Businesses:**

The Commission has determined that this regulatory proposal will not have any impact on the creation of new jobs or businesses, the elimination of existing

jobs or businesses, or the expansion of businesses in California.

The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission's current practices and procedures. The proposed action only provides clarity to a process to submit for consideration a petition to adopt, amend, or repeal regulations.

**Benefits of Proposed Regulation:**

This proposed action will have the benefit of providing the people of California with a clear method to participate in this aspect of the rulemaking process by providing the opportunity to have any ideas to adopt, amend, or repeal a regulation considered by the Commission through a consistent and feasible process.

**Health and Welfare of California Residents:**

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by aiding and preserving the integrity of controlled gambling.

**Worker Safety:**

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

**State's Environment:**

It has been determined that the proposed action will not affect the State's environment because it has nothing to do with environmental issues.

**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.

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

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

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

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the primary contact person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Website listed below.

**CONTACT PERSONS**

All comments and inquiries concerning the substance of the proposed action should be directed to the following *primary* contact person:

Joshua Rosenstein, Legislative and Regulatory  
Specialist  
Legislation and Regulatory Affairs Division  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231  
Telephone: (916) 274-5823  
Fax: (916) 263-0499  
E-mail: [jrosenstein@cgcc.ca.gov](mailto:jrosenstein@cgcc.ca.gov)

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following *backup* contact person:

Adrianna Alcalá-Beshara, Deputy Director  
Legislation and Regulatory Affairs Division  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231  
Telephone: (916) 261-4259  
Fax: (916) 263-0499  
E-mail: [aalcalabeshara@cgcc.ca.gov](mailto:aalcalabeshara@cgcc.ca.gov)

**WEBSITE ACCESS**

Materials regarding this proposed action are also available on the Commission's Web site at [www.cgcc.ca.gov](http://www.cgcc.ca.gov).

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

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

**PUBLIC HEARING**

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

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory amendments to ABC. Comments may also be submitted by email to [RPU@abc.ca.gov](mailto:RPU@abc.ca.gov). The written comment period closes at **12:00 p.m. on June 14, 2022**. ABC will only consider comments received at ABC Headquarters by that time. Submit comments to:

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

**AUTHORITY AND REFERENCE**

Business and Professions Code Section 25681 and 25685 authorizes ABC to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific sections 25680–25686 of the Business and Professions Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

**Summary of Existing Laws and Regulations**

The legislature adopted the Responsible Beverage Service Training Program Act of 2017 (RBSTPA), codified as Business and Professions Code §§ 25680–25686. The RBSTPA requires the Department of Alcoholic Beverage Control (ABC) to develop, implement, and administer a curriculum for a statewide RBS program and promulgate regulations specifically addressing the approval of training providers on or

before January 1, 2020.<sup>1</sup> ABC is also granted general authority to adopt rules necessary for the administration of the RBSTPA.<sup>2</sup>

The RBSTPA regulations package was made effective on May 20, 2020, for Title 4 California Code of Regulations sections 160–173. Although the statewide RBS program was initially supposed to begin July 1, 2021, the passing of Assembly Bill 82, on June 29, 2020, extended the date for this requirement to July 1, 2022.

Since the passage of the initial regulations package, ABC has begun to approve training providers who are currently offering trainings to alcohol servers for certification prior to the institution of the legal mandate in July 2022. The proposed amendments are presented to address issues ABC, training providers, and alcohol servers have experienced in the implementation of the new program, and to correct grammatical and legal errors in the initial construction.

**Summary of Effect**

The proposed action will amend California Code of Regulations, Title 4, Division 1, Article 25 to correct grammatical errors, clarify specific training, training provider, and alcohol server requirements, and to address issues regarding payments by training providers and alcohol servers. The proposed amendments will ensure that training providers and alcohol servers in California have a better understanding of the requirements to meet the standards of responsible beverage service training to curb harms to the California community and economy caused by the overuse of alcohol.

**Comparable Federal Statute or Regulations**

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

**Policy Statement Overview**

This rulemaking action is needed to clarify, correct, and explain training provider and alcohol server requirements in order to comply with the RBSTPA.

**Benefits Anticipated**

By clarifying and explaining responsible beverage service training requirements, the proposed amendments will establish a better understanding and more transparent process for both training providers and alcohol servers. The proposed amendments and additions will ensure the continued viability and success of the RBSTPA program that is set to be effective July 1, 2022.

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

The ABC has determined that this proposed regulatory action is not inconsistent or incompatible

<sup>1</sup> Business and Professions Code § 25681(b)(1).

<sup>2</sup> Business and Professions Code § 25685(b).

with existing state regulations. The proposed action will provide clarity and additional information needed for previous regulations that address the minimum standards for the implementation of an RBS training course curriculum, and training provider and alcohol server requirements.

**Effect upon Small Businesses in California**

Although training providers may be small business owners, this proposed regulation will have limited effect on them unless they sell or reorganize their business. This should be a nominal cost limited to fund ABC’s actual costs for the investigation involved and should be a rare occurrence. The intent of this proposed regulation is to ensure the implementation of the RBSTPA is successful which will aid these small business owners find alcohol servers to train and expand their businesses.

**Disclosures Regarding the proposed Action**

The ABC has made the following initial determinations:

1. Mandate on local agencies or school districts: None.
2. Costs or Savings to any state agency: None
3. Cost to any local agency or school district that is required to be reimbursed by the state: None.
4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Cost impacts on housing costs: None.

**Determination of Statewide Adverse Economic Impact on Business**

The ABC has made an initial determination that the adoption of the amendments 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. However, the proposed amendments do directly affect a small percentage of responsible beverage service training providers who change ownership or officers by requiring a nominal fee to the ABC for investigative purposes to maintain the integrity of the quality of training providers.

**Results of the Economic Impact Assessment:**

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

The proposed amendments will benefit the health and welfare of California residents by refining and fixing problems with the current implementation of the RBSTPA regulations previously made effective May 20, 2020. The results of these limited amendments should provide clarity to ABC licensees, alcohol servers, ABC staff, training providers, and the public. The only economic impact is the additional procedure and accompanying fee for an approved training provider to be sold or reorganized and keep its approval without duplicating the entire initial application process. This will be a cost savings for training providers who are sold or reorganize even though a new fee is created to recover ABC’s cost of investigating to new owners or officers. There are no anticipated benefits to worker safety or the state’s environment.

**Description of all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.**

ABC approved responsible beverage service training providers who choose to change ownership or corporate officers will need to submit a transfer fee of \$250. This fee is necessary for the ABC to recover the reasonable costs of investigation of the new owners or corporate officers pursuant to Title 4 of the California Code of Regulations section 168 (d).

**The Need to Require Report from Businesses**

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

**CONSIDERATION OF ALTERNATIVES**

The ABC must determine that no reasonable alternative considered by the ABC or that has otherwise been identified and brought to the attention of the ABC 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. ABC invites interested persons to present statements or arguments with respect to alternatives to the proposed amended regulations during the written comment period.

**AGENCY CONTACT PERSON**

Inquiries concerning the proposed regulatory action prior to the open comment period may be directed to the agency representative Robert de Ruyter, Assistant General Counsel, (916) 419-8958, or Sarah Easter, Associate Government Program Analyst, (916) 928-7627. During the comment period, comments or questions should be addressed to [RPU@abc.ca.gov](mailto:RPU@abc.ca.gov).

AVAILABILITY OF DOCUMENTS

The ABC prepared an Initial Statement of Reasons for the proposed action, which includes a summary of the economic impacts of the proposal.

Copies of the Initial Statement of Reasons and the full text of the proposed regulations may be accessed on ABC’s website listed below or may be obtained from the Law and Policy Unit– RBS Regulation Amendments, Department of Alcoholic Beverage Control, 3927 Lennane Drive, Suite 100, Sacramento, CA 95834, on or after April 22, 2022.

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

CHANGE TO THE PROPOSED FULL TEXT OF THE REGULATION ACTION

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on ABC’s website for this rulemaking at <https://www.abc.ca.gov/law-and-policy/regulations/>.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

MODIFYING REGULATION CONCERNING TIME AND PLACE OF HEARING

The Occupational Safety and Health Appeals Board (“Appeals Board or Board”) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

The Board will hold a public hearing on **June 16, 2022**, at its normally scheduled public meeting held at 2520 Venture Oaks Way, Suite 300 in Sacramento, CA 95833 and 100 North Barranca Street, Suite 410, West Covina, CA 91791 at 9:30 a.m. The locations are wheelchair accessible. At the hearing, any person may present statements orally or in writing relating to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

The meeting will also be accessible to the public, and the Board will accept comment from the public, via ZOOM or telephonically.

To join the meeting utilize the web address or telephone number below:

- Video-conference at <https://zoom.us/join> (Meeting ID: 886 7179 9862)
- Teleconference: +1 669 900 9128 (Access Code 886 7179 9862).

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory actions to the Board. Comments may also be submitted by email to [ajackson@dir.ca.gov](mailto:ajackson@dir.ca.gov). The written comment period closes at 5:00 p.m. on **June 16, 2022**. The Board will consider only those comments received at the Board offices by that time. Written comments should be submitted to:

Aaron Jackson, Staff Counsel  
Cal/OSHA Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833

## AUTHORITY AND REFERENCE

Labor Code (LC) section 148.7 authorizes the Board to adopt, amend, or repeal rules of practice and procedure pertaining to hearing appeals and other matters falling within its jurisdiction. The Board is charged with hearing and resolving appeals filed by employers for occupational safety and health citations issued by the Division of Occupational Safety and Health (Division).

## INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The Board initiates this rulemaking to modify its Rules of Practice and Procedure.

Following the emergence of COVID-19, and the accompanying issuance of a number of local and Statewide safety and health orders, it became extremely difficult for the Board to conduct in-person hearings. Nonetheless, the Board still had a duty to proceed with hearings in a timely manner in order to advance occupational safety and health through timely adjudication of employer appeals, and to protect the rights of the parties. In order to discharge its obligations, the Board, like most other State agencies, transitioned to conducting hearings via videoconference for the safety of its employees, parties, representatives, and witnesses. The Board derived authority for videoconference hearings, at least on a temporary basis, from Paragraph 11 of Executive Order N-63-20, Government Code section 11440.30, and several other existing statutes and regulations. The Executive Order constituted an important, but not exclusive, pillar supporting the Board's authority to conduct videoconference hearings.

As a result of the experience gained with videoconference hearings, the Appeals Board found, and many parties noted, that videoconference hearings represent a practical, effective, and efficient method for conducting hearings in many circumstances.

However, paragraph 11 of Executive Order N-63-20 has recently been withdrawn, removing an important pillar supporting the Board's authority to conduct videoconference hearings. A new piece of authority takes its place. The California State Legislature, via Assembly Bill 1578 (2021-2022 Reg. Sess.),<sup>1</sup> took action to modify the Administrative Procedure Act (APA) to expand hearing officer discretion to set matters for remote hearings, by amending Government Code section 11440.30. Those amendments became effective on January 1, 2022.

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<sup>1</sup> Assembly Bill Number 1578 (2021-2022 Regular Session), approved by Governor, September 30, 2021 (hereinafter "AB 1578").

To ensure the recognized benefits of remote hearings may continue and administrative efficiencies maximized even after COVID-19 abates, and to avoid any confusion regarding the Board's processes, the Appeals Board proposes amendments to its Rules of Practice and Procedure to make them consistent with, and explicitly adoptive of, some of the provisions of the APA as amended by AB 1578. The Appeals Board proposes to codify a permanent rule permitting the Board discretion to set videoconference hearings, as well as delineating Board-specific procedures governing selection of the hearing format, through modification of Section 376<sup>2</sup> of the Board's Rules of Practice and Procedure. In sum, the proposed modifications to Section 376 will not only adopt the newly-amended Government Code section 11440.30, it will set forth how that section of the APA will be applied in Board proceedings, providing clear guidance to the regulated community.

For non-expedited hearings, the proposed modifications to section 376 will task the Administrative Law Judge with determining the following: the date(s), time(s), and length for the hearing; the format for conducting the hearing, whether in-person or by videoconference or a combination thereof; and, the physical location of the hearing if the hearing includes an in-person format. These decisions will be case-specific and will be guided by consideration of various listed criteria, such as, without limitation: the place of employment where the violation is alleged to have occurred; the location and suitability of Appeals Board hearing venues; the availability of Administrative Law Judges, witnesses, and parties; the location of the parties and the witnesses; evidentiary presentation and case management issues; whether multiple hearings can be set on the same day without necessitating a continuance; the parties' and Administrative Law Judge's projection of the length of time needed for the hearing; transportation barriers or travel distance required for attendance at a hearing, for any party or witness; hardship caused by time away from current employment or other responsibilities that would be required of a party or witness in order to attend a hearing; inability of a party or witness to secure care for children, other family members, or dependents that would unduly hinder travel to a hearing; the health and safety of parties, witnesses, representatives, and Appeals Board staff; any other factors, hardships, or impediments requiring a more expeditious hearing date; and stipulations of the parties.

For expedited hearings, the Appeals Board shall continue to set the hearings pursuant to the procedures and timeframes set forth in section 373. All expedited

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<sup>2</sup> References will be to California Code of Regulations, title 8, unless otherwise specified.

hearings shall initially be set for the videoconference format. However, the Appeals Board may, in its discretion, modify the hearing format after it is initially set.

The changes to Government Code section 11440.30, engendered by AB 1578, also permit a party to object to remote hearings, and require the Administrative Law Judge to consider the objections. The Appeals Board’s proposed modifications to section 376 will specify how such objections should be submitted in Appeals Board proceedings, and factors relevant to consideration of the objection. Except where otherwise provided, the objection must be submitted by motion. Factors relevant to consideration of the objection include whether the objecting party demonstrates that it will be prejudiced, or that its due process rights will be compromised, by conducting all or part of the hearing by videoconference.

Finally, the Board proposes three revisions to its rules of practice and procedure, representing clean-up efforts from prior rulemakings. First, section 372.8 contains an unnecessary reference to section 372.9, which should be removed because the section has been repealed. Second, section 376.8 has an incorrect cross-reference. It refers to the definition of “hearing record” by an incorrect citation; the definition of hearing record is located at section 347, subdivision (s), not (r). Third, there is a typographical error in section 372.6, subdivision (c). It references Government Code Section 11140.30, but the reference should be to section 11440.30.

*Anticipated Benefits of the Proposed Regulations:*

*Anticipated Benefits of Proposed Revisions to Section 376*—Videoconference hearings represent a practical and effective method for conducting hearings in appropriate circumstances. They also facilitate ease of public access to Board hearings. The proposed modifications to the Board’s Rules of Practice and Procedure will codify a permanent procedure for setting hearings by videoconference consistent with the amended Administrative Procedure Act.

*Anticipated Benefits of Proposed Revisions to Sections 372.6, 372.8 and 376.8*—The proposed changes to these rules will merely clean-up minor citation and cross-reference errors, ensuring the Board’s rules are internally consistent and clear.

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

The Board has concluded that these changes related to the Board’s Rules of Practice and Procedure are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Board has concluded that these are the only regulations that concern the Board’s internal rules of practice and

procedure concerning the selection of the hearing time, venue, and format.

DISCLOSURES REGARDING THE PROPOSED ACTION

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

**Cost or savings to any state agency:** The Board estimates some costs and savings for both the Appeals Board and the Division of Occupational Safety and Health (Division). On balance, as noted in the STD 399, the Board anticipates significantly more savings than costs for the Division and the Appeals Board.

*Estimated Costs:*

Division Costs: Total Division costs, both labor and equipment, are estimated to be \$28,668.96.

Appeals Board Costs: Total Board costs, both labor and equipment are estimated to be \$20,175.33.

*Estimated Savings:*

Division Savings: Total Division savings, both labor and equipment are estimated to be \$61,686.66.

Appeals Board Savings: Total Board savings, both labor and equipment, are estimated to be \$41,851.95.

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

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

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

**Cost impacts on a representative private person or business:** The proposed regulation will only have a cost impact on employers that receive citations for violations of workplace safety orders, and thereafter appeal to those citations to the Appeals Board and proceed to hearing. The Board estimates it conducts, on average, approximately 104 such hearings per year. In total, it is estimated that the cost impact of the proposed regulation is \$74,379.28 annually. However, it is estimated that savings substantially outweigh costs. Total employer savings are estimated to be \$172,329.73.

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

**Effect on Small Business:** In total, it is estimated that small business employers that appeal citations before the Appeals Board, and thereafter proceed to hearing, will accrue \$64,338.08 annually in total costs to comply with this regulation over its lifetime; however, as noted above, savings outweigh costs.

*Results of the Economic Impact Analysis*

The Board concludes that it is (1) unlikely that the proposed regulations will either create or eliminate any jobs in the State of California; (2) unlikely that the proposed regulations will lead to the creation of new businesses or the elimination of existing businesses within the State of California; (3) unlikely that the proposed regulations will lead to the expansion of businesses currently doing businesses within the state of California; and (4) unlikely that the proposed regulations will have any effect on housing costs.

Benefits of the Proposed Action: The procedural amendments directly benefit the health and welfare of California workers by clarifying and increasing the efficiency in the administrative process generally, which helps achieve the purpose of the Occupational Safety and Health Act and also benefits the public. The proposed rule changes will also increase the ease of public access to Board hearings. In addition, videoconference hearings represent an important public health tool when necessary to address emergency circumstances. Finally, the proposed regulations may have a positive effect on the environment in some circumstances. The proposed regulations will permit the Board to set some hearings via videoconference. When that occurs, it will negate the need for some parties and/or witnesses to travel to a hearing location, reducing pollutants associated with travel via car or airplane.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5 subdivision (a)(13), the Board must determine that no reasonable alternative it considered 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 or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

**CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Aaron Jackson, Staff Counsel  
[ajackson@dir.ca.gov](mailto:ajackson@dir.ca.gov)  
Cal/OSHA Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
Phone Number: (916) 274-5751

Please direct requests for 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 Mr. Jackson at the above address.

The designated backup contact person to whom inquiries may be made is J. Jeffrey Mojcher, and inquiries may be made to:

J. Jeffrey Mojcher, Chief Counsel  
[jmojcher@dir.ca.gov](mailto:jmojcher@dir.ca.gov)  
Cal/OSHA Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
Phone Number: (916) 274-5751

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

The Board 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 proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting Mr. Jackson at the contact information listed above.

**AVAILABILITY OF 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. Please send requests for copies of any modified regulations to the attention of Mr. Jackson at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Jackson at the above address.

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 strikethrough can be accessed through our website at <https://www.dir.ca.gov/oshab/Rulemaking.htm>.

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Appeals Board should contact the Disability Accommodation Coordinator at (916) 274-5751 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**TITLE 13. NEW MOTOR  
VEHICLE BOARD**

**NOTICE IS HEREBY GIVEN** that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050 proposes to adopt the proposed regulations as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

PROPOSED REGULATORY ACTION

The Board proposes to repeal section 550.20 and amend section 564 of Title 13 of the California Code of Regulations pertaining to case management.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered and adopted the proposed regulations at a noticed General Meeting held on December 7, 2021. Nineteen (19) days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to all individuals and entities on the Board's Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board's website.

No comments by the public were received at the December 7, 2021, General Meeting in relation to the regulations in this notice, and no further public discussion was held prior to publication of the notice.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board by e-mail at [danielle.phomsopha@nmvb.ca.gov](mailto:danielle.phomsopha@nmvb.ca.gov) or [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov) or by facsimile (FAX) at (916) 323-1632. The written comment period closes at midnight on June 14, 2022. The Board will only consider comments received at the Board's offices by that time. Submit comments to:

Danielle R. Phomsopha, Senior Staff Counsel  
New Motor Vehicle Board  
P.O. Box 188680  
Sacramento, CA 95818-8680  
(916) 327-3129 direct line  
(916) 445-1888 main line  
(916) 323-1632 fax  
[danielle.phomsopha@nmvb.ca.gov](mailto:danielle.phomsopha@nmvb.ca.gov)

AUTHORITY AND REFERENCE

Vehicle Code section 3050, subdivision (a), authorizes the Board to amend the proposed regulations.

The proposed regulations implement, interpret, and make specific Vehicle Code section 3050.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The adopted mission of the Board is to “enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner.” The adopted vision statement provides that the Board “demonstrate professionalism, integrity, and accountability in securing fair resolutions to motor vehicle industry disputes.”

The Board proposes to repeal Section 550.20 and amend Section 564 to update the information necessary to conform the regulations with statute. In addition, there are no longer any references in the Board’s statutes requiring the Board to send decisions by registered mail, so this specific language in the Board’s regulation should be removed.

Section 550.20 specifically describes the use of certified mail in lieu of registered mail. However, effective January 1, 2016, all references to registered mail in Vehicle Code sections 3066–3068 were replaced with certified mail. There are no remaining Vehicle Code sections that require the Board to send notices or other communications by registered mail.

Section 564 describes decisions in regard to petitions. This regulation is being amended to remove reference to registered mail because there are no remaining references to registered mail in the Board’s statutes.

**OBJECTIVE AND ANTICIPATED  
BENEFITS OF THE  
PROPOSED REGULATION**

The broad objective of the regulations is to clarify for litigants that appear before the Board the information necessary to effectively represent themselves or their clients.

The specific benefit anticipated from the regulations is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law.

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

The Board conducted an evaluation of the proposed regulations’ potential inconsistency or incompatibility with existing state regulations and has found that they are neither inconsistent nor incompatible with existing state regulations.

**DISCLOSURES REGARDING THE  
PROPOSED ACTION**

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business:

The Board 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 businesses, including the ability of California business to compete with businesses in other states: None.
- Significant effect on housing costs: None.

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

The Board concludes that the proposed regulations will not (1) create any jobs within the State of California, (2) eliminate any jobs within the State of California, (3) create any new businesses within the State of California, (4) eliminate any existing businesses within the State of California, or (5) cause the expansion of businesses currently doing business within the State of California.

**BENEFITS OF THE REGULATION**

The proposed regulations will promote the expeditious and economical resolution of disputes between

new motor vehicle dealers and their manufacturers or distributors.

#### SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulations will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulations, are legally required to enforce the regulations, or derive a benefit from or incur an obligation from the enforcement of the regulations. The proposed regulations merely clarify case management for franchised new motor vehicle dealers and their franchisors (new vehicle manufacturers or distributors) who choose to file a protest or petition with the Board.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered 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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present comments, statements or arguments with respect to alternatives to the proposed regulation, during the written comment period or at the public hearing, if one is requested.

#### CONTACT PERSONS

Please direct requests for 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 Ms. Phomsopha at the following address:

Danielle R. Phomsopha, Senior Staff Counsel  
New Motor Vehicle Board  
P.O. Box 188680  
Sacramento, CA 95818–8680  
(916) 327–3129 direct line  
(916) 445–1888 main line  
(916) 323–1632 fax  
[danielle.phomsopha@nmvb.ca.gov](mailto:danielle.phomsopha@nmvb.ca.gov)

The backup contact person for these inquiries is:

Robin P. Parker, Chief Counsel  
New Motor Vehicle Board  
P.O. Box 188680  
Sacramento, CA 95818–8680  
(916) 323–1536 direct line  
(916) 445–1888 main line  
(916) 323–1632 fax  
[robin.parker@nmvb.ca.gov](mailto:robin.parker@nmvb.ca.gov)

#### AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices by appointment. Please contact the contact persons listed above should you wish to make an appointment for in-office inspection and copying. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After 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. Requests for copies of any modified regulations should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Ms. Phomsopha or Ms. Parker at the above address.

#### 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 font can be accessed through the Board's website at [www.nmvb.ca.gov](http://www.nmvb.ca.gov).

## TITLE 14. OFFICE OF ENERGY INFRASTRUCTURE SAFETY

### CHAPTER 2. INVESTIGATION AND COMPLIANCE ARTICLE 1. REPORTING, INVESTIGATIONS, VIOLATIONS SECTIONS 29300, 29302

The Office of Energy Infrastructure Safety (Energy Safety) proposes to adopt the regulations described below (Proposed Regulation) after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

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

#### WRITTEN COMMENT PERIOD

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

**Comments may be submitted in the 2022 Rulemaking Docket at:**

<https://efiling.energysafety.ca.gov/EFiling/DocketInformation.aspx?docketnumber=2021-RM>

For e-filing questions, contact Energy Safety at:

[efiling@energysafety.ca.gov](mailto:efiling@energysafety.ca.gov)

**Comments can be mailed to:**

Office of Energy Infrastructure Safety  
715 P Street, 20th Floor  
Sacramento, California 95814

**Comments can be emailed to:**

[info@energysafety.ca.gov](mailto:info@energysafety.ca.gov)

The written comment period opens on April 29, 2022 and closes on June 13, 2022. Energy Safety will only consider comments received on or before that date. When commenting, please indicate the proposed rulemaking action to which your comment refers.

#### AUTHORITY AND REFERENCE

Government Code sections 15473 and 15475 authorize Energy Safety to adopt the proposed regulations. The proposed regulations implement, interpret, clarify, and make specific Government Code sections 15473 and 15475.

#### INFORMATIVE DIGEST & POLICY STATEMENT OVERVIEW

This rulemaking action sets forth the notification requirements for utilities in the event of a fault, outage, or other system anomaly; provides the scope of investigations; and defines notice of defect and notice of violation.

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

Pursuant to Government Code section 15473(c)(2)(E), the Energy Safety director may adopt, amend, and repeal regulations as necessary to carry out the powers, duties, and responsibilities of the California Energy Infrastructure Safety Act, section 326 and sections 8385 to 8389, inclusive, of the Public Utilities Code, and other statutes pertaining to Energy Safety.

Under Government Code section 15475, Energy Safety may require information and data, including monitoring, verification of every regulated entity (an entity that is regulated by Energy Safety)<sup>1</sup> and any business that is a subsidiary or affiliate of a regulated entity with respect to or that may influence any matter concerning wildfire safety.

Under Government Code section 15473(c)(2)(D), Energy Safety can conduct investigations in any part of the state, compel information, and hold hearings, public meetings, or workshops as necessary to carry out the powers, duties, and responsibilities of the office, consistent with the exercise of its authority pursuant to the California Energy Infrastructure Safety Act. Pursuant to Government Code section 15475.1, Energy Safety may determine that a regulated entity is not in compliance with any matter under its authority. Energy Safety may investigate whether the regulated entity is noncompliant with its duties and

<sup>1</sup> There are eight entities who are regulated by Energy Safety: (1) Pacific Gas and Electric Company (PG&E), (2) Southern California Edison Company, (3) San Diego Gas & Electric Company, (4) Liberty Utilities, (5) PacifiCorp, (6) Bear Valley Electric Service, Inc. (Bear Valley), (7) Horizon West, and (8) Trans Bay Cable LLC. (See Pub. Util. Code § 8385(b) [Energy Safety shall supervise an electrical corporation's compliance with the requirements of Chapter 6, Division 4.1 of the Public Utilities Code]; Pub. Util. Code § 218 [Electrical corporation includes every corporation or person owning, controlling, operating, or managing any electrical plant for compensation within California, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others].)

responsibilities or whether the entity violated any law, regulations, or guidelines within the authority of the office. Under Government Code section 15475.2, Energy Safety may issue a notice of defect or violation to direct the regulated entity to correct any defect or noncompliance with the approved wildfire mitigation plan or failure to comply with any laws, regulations, or guidelines within Energy Safety’s authority.

Energy Safety’s mission is to advance long-term utility wildfire safety by developing data-driven, comprehensive utility wildfire mitigation evaluation and compliance criteria, collaborating with local, state and federal agencies, and supporting efforts to improve utility wildfire safety culture and innovation. Energy Safety will ensure electrical utilities are taking effective actions to reduce utility-related wildfire risk by deploying measures to ensure an integrated, utility-related wildfire mitigation approach and to seek innovative problem solving to address utility wildfire risks.

**Effect of Proposed Rulemaking**

The Proposed Regulation will provide a clear framework for Energy Safety to interact with regulated entities so they understand how Energy Safety obtains information, what information is required to be provided, and how Energy Safety ensures compliance with requirements imposed on regulated entities. The Proposed Regulation sets forth the notification requirements for utilities in the event of a fault, outage, or other system anomaly; provides the scope of investigations; and defines notice of defect and notice of violation.

**Objective and Anticipated Benefits of the Proposed Regulation**

The overall objective of the Proposed Regulation is to provide a clear framework to interact with regulated entities through establishing notification requirement for faults, outage, and anomalies, providing the scope of Energy Safety’s investigation, and defining notice of defect and notice of violation, thereby creating a clear compliance process. A clear process will assist Energy Safety with its compliance activities and will assist the regulated entities’ in efficiently responding to these activities. This, in turn, will promote better wildfire safety.

Specifically, submission of this information will help Energy Safety better understand and study the types of events that Wildfire Mitigation Plans are intended to prevent. This understanding, in turn, helps Energy Safety better ensure compliance with applicable law, regulations, and guidelines and improve wildfire safety. Relatedly, a clear scope of investigation and definitions as to what “notice of defect” and “notice of violation” entail will provide a better result to the compliance process. Regulated entities will understand exactly the type of investigation they are under,

what deficiency, error, risky condition, or non-compliance Energy Safety identified, and what regulated entities need to do in response to a notice of defect or violation. This will protect the people of California and the environment from deadly wildfires that may result from regulated entities’ infrastructure.

**Evaluation of Inconsistency or Incompatibility with Existing State Regulations**

Energy Safety has determined that this proposed regulation is not inconsistent or incompatible with existing regulations.

After conducting a review for any regulations that would relate to or affect this area, Energy Safety has concluded that these are the only regulations that concern notification requirement for faults, outage, and anomalies for data collection and compliance purposes, scope of Energy Safety’s investigation, and definitions of notice of defect and notice of violation in California.

**Comparable Federal Regulations or Statutes**

Energy Safety has determined that there are no comparable federal regulations or statutes.

**Other Matters Prescribed by Statute Applicable to the Agency or Any Specific Regulation or Class of Regulations**

Under Government Code section 15473(c)(2)(E), the Energy Safety director may adopt, amend, and repeal regulations as necessary to carry out the powers, duties, and responsibilities of the California Energy Infrastructure Safety Act, section 326 and sections 8385 to 8389, inclusive, of the Public Utilities Code, and other statutes pertaining to Energy Safety.

Under Government Code section 15475, Energy Safety may require information and data, including monitoring, verification of every regulated entity (an entity that is regulated by Energy Safety)<sup>2</sup> and any business that is a subsidiary or affiliate of a regulated entity with respect to or that may influence any matter concerning wildfire safety.

Under Government Code section 15473(c)(2)(D), Energy Safety can conduct investigations in any part of the state, compel information, and hold hearings, public meetings, or workshops as necessary to carry out the powers, duties, and responsibilities of the office, consistent with the exercise of its authority pursuant to the California Energy Infrastructure Pursuant to Government Code section 15475.1, Energy Safety may determine that a regulated entity is not in compliance with any matter under its authority, and investigate as to whether the regulated entity is noncompliant

<sup>2</sup> There are eight entities who are regulated by Energy Safety: (1) Pacific Gas and Electric Company (PG&E), (2) Southern California Edison Company, (3) San Diego Gas & Electric Company, (4) Liberty Utilities, (5) PacifiCorp, (6) Bear Valley Electric Service, Inc. (Bear Valley), (7) Horizon West, and (8) Trans Bay Cable LLC.

with its duties and responsibilities or if the entity violated any law, regulations, or guidelines within the authority of the office. Under Government Code section 15475.2, Energy Safety may issue a notice of defect or violation to direct the regulated entity to correct any defect or noncompliance with the approved wildfire mitigation plan or failure to comply with any laws, regulations, or guidelines within Energy Safety's authority.

DISCLOSURES REGARDING THE PROPOSED ACTION

Energy Safety has made the following initial determinations.

1. **Mandate on local agencies or school districts:** Energy Safety has determined the adoption of the Proposed Regulation will not impose a local mandate.
2. **Cost or savings to any state agency:** Energy Safety will absorb additional costs associated with reviewing notifications provided pursuant to section 29300 with its staff. Energy Safety estimates that the total fiscal costs to state government for reviewing all notifications will range from \$6,218.40 to \$19,358.40. Energy Safety has determined there will not be any additional costs to any state agency as associated with section 29302.
3. **Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:** Energy Safety has determined that the adoption of the Proposed Regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other non-discretionary costs or savings imposed on local agencies.
4. **Other nondiscretionary costs or savings imposed on local agencies:** Energy Safety has determined that the adoption of the Proposed Regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.
5. **Cost or savings in federal funding to the state:** Energy Safety has determined that adoption of the Proposed Regulation will not result in cost or savings in federal funding to the state. Energy Safety determined that no fiscal impact to federal funding or state programs exists.

6. **Cost impacts on a representative private person or business:** Energy Safety estimates the initial annual cost for the eight (8) affected regulated entities for providing notifications to Energy Safety would range from \$14,416 to \$469,374.10. Because each regulated entity varies in size and has their own business operations, Energy Safety cannot predetermine the actions a regulated entity will take in the subsequent years, such as reallocation of its staff, redistribution of work to existing staff, or consolidation of staff functions. Wildfires caused by regulated entities may also change regulated entities' internal structure and reporting needs. Therefore, Energy Safety cannot speculate as to the costs over the regulated entities' lifetime.

Energy Safety relied on its past data collection data, information provided by regulated entities, and U.S. Bureau of Labor Statistics. Due to the widely divergent responses (three<sup>3</sup> regulated entities responded to Energy Safety's request for cost estimates), Energy Safety's analysis pulled estimates from its past data collection and used wage estimates from U.S. Bureau of Labor Statistics for an independent analysis. Given a lack of data and many uncertainties surrounding the effort required to complete the notification process defined in the Proposed Regulation, these initial costs may be overestimated. In addition, as noted above Energy Safety cannot predetermine the actions a regulated entity will take in the subsequent years, such as change in its internal processes and reporting needs, reallocation of its staff, redistribution of work to existing staff, or consolidation of staff functions.<sup>4</sup> Therefore, the cost estimates

<sup>3</sup> PG&E, SCE, and Bear Valley responded, but SCE's data did not include sufficient information to derive the cost per notification to be comparable with other data. Therefore, Energy Safety did not include the data in its analysis.

<sup>4</sup> Given the small number of notifications across multiple regulated entities that Energy Safety has received in the past pursuant to its emergency regulations, it is unlikely that regulated entities will expend the initial expenditure continuously in subsequent years. Regulated entities may consolidate work functions or reallocation staff time to cover multiple types of reporting for efficiency. For example, regulated entities report to Public Utilities Commission (CPUC) electric incidents (accidents involving electric facilities) that meets the below criteria:

- A fatality or injury involving electric facilities.
- Damage to property of the utility or others in excess of \$50,000.
- Significant media coverage.
- A major outage to at least 10% of the utilities entire service territory is experienced at a single point in time. Electric utility must report these types of incidents to CPUC within two (2) hours of their occurrence.

(See <https://www.cpuc.ca.gov/regulatory-services/safety/electric-safety-and-reliability-branch/electric-generation-safety-and-reliability/incident-investigations-for-electric-and-communication-facilities>.)

provided here are unlikely to duplicate over subsequent years.

7. **Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:** Although the proposed action will directly affect eight regulated entities in California, Energy Safety concludes that there will be no significant adverse economic impact, including on the ability of California businesses to compete with businesses in other states.
8. **Effect of Housing Costs:** Energy Safety has determined that the Proposed Regulation will have no significant effect on housing costs.
9. **Effect on Small Businesses:** Energy Safety has determined that no small businesses will be affected by the adoption of the Proposed Regulation. The Proposed Regulation will affect eight (8) regulated entities, and they are not small businesses. Energy Safety assessed the potential for this proposed regulation to cause adverse impacts to California businesses and individuals. Following a review of cost estimation provided by regulated entities and an economic analysis performed by its consultant, Energy Safety determined the proposed regulation is not a major regulation<sup>5</sup> and is unlikely to have a significant adverse impact on business. This Economic Impact Assessment is also based on the conclusion there are only eight (8) regulated entities that meet the definition of “electrical corporation” and are currently under Energy Safety’s authority.
10. **Business Reporting Requirement:** Energy Safety finds that it is necessary for the health, safety, or welfare of the people of this state that proposed section 29300, which require a report, apply to regulated entities.  
The reporting requirement is necessary to promote better wildfire safety. Good data submission will help Energy Safety better understand and study the types of events that Wildfire Mitigation Plans are intended to prevent. This understanding, in turn, helps Energy Safety better enforce and ensure compliance by regulated entities with applicable law, regulations, and guidelines to ensure improved wildfire safety. Relatedly, a clear scope of investigation and definitions as to what notice of defect and notice of violation entail will provide a better result to the compliance process.

<sup>5</sup> Major regulation: Government Code section 11342.548 defines a “major regulation” as any proposed adoption of a regulation that will have an economic impact on California businesses in an amount exceeding \$50 million dollars as estimated by the adopting agency.

Regulated entities will understand exactly the type of investigation they are under, what deficiency, error, risky condition, or non-compliance Energy Safety identified, and what regulated entities need to do in response to a notice of defect or violation. This in turn will promote better wildfire safety, which in turn will protect California’s people and environment from deadly wildfires that may result from regulated entities’ infrastructure.

11. **Benefits to health and welfare, worker safety, and the environment** The primary goal of the Proposed Regulation is to ensure better wildfire safety with respect to regulated entities by ensuring better compliance through clearer parameters for data submission, investigation scope, and notice definitions. By providing clear directives to regulated entities, Energy Safety sets in motion its process to ensure regulated entities comply with applicable law, regulations, and guidelines. This will reduce future chances of wildfires from regulated entities’ infrastructure and provide a safer and healthier environment to California residents and wildlife with fewer wildfires. Less wildfires will also benefit California workers, consumers, employers, and the environment.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Energy Safety determined that it is:

- Unlikely that the Proposed Regulation will eliminate existing or create new businesses providing electrical power within California.
- Unlikely that the Proposed Regulation will eliminate jobs for regulated entities.
- Unlikely that the Proposed Regulation will create jobs for regulated entities to assist regulated entities in providing notifications to Energy Safety.
- Unlikely that any business in California will be expanded because of any financial impact of the Proposed Rulemaking for both Section 29300 and Section 29302.

#### CONSIDERATION OF ALTERNATIVES

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

Energy Safety invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed action may be directed to,

Jeff Brooks  
Office of Energy Infrastructure Safety  
715 P Street, 20<sup>th</sup> Floor  
Sacramento, California 95814  
[jeff.brooks@energysafety.ca.gov](mailto:jeff.brooks@energysafety.ca.gov)  
(916) 926-1672

Or, if unavailable, to,

Joy Peng  
Office of Energy Infrastructure Safety  
715 P Street, 20<sup>th</sup> Floor  
Sacramento, California 95814  
[joy.peng@energysafety.ca.gov](mailto:joy.peng@energysafety.ca.gov)  
(279) 336-1768

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Jeff Brooks using the contact information above.

#### AVAILABILITY OF DOCUMENTS

##### **Availability of Statement of Reasons, Text of Proposed Regulation, and Rulemaking File**

Energy Safety 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 proposed text of the regulation, the Initial Statement of Reasons, and the documents relied upon. Copies may be obtained by contacting Jeff Brooks using the contact information above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, Energy Safety may adopt the proposed regulation substantially as described in this Notice. If Energy Safety 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 ENERGY SAFETY adopts the regulation as revised. Please send requests for copies of any modified text to the attention of Jeff Brooks using the contact information above. Energy Safety will accept written comments on the modified text for 15 days after the date on which it is made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Jeff Brooks using the contact information above.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice, the proposed text of the regulation, and the Initial Statement of Reasons can be accessed at:

<https://efiling.energysafety.ca.gov/Lists/DocketLog.aspx?docketnumber=2022-RM>

### **TITLE 14. OFFICE OF ENERGY INFRASTRUCTURE SAFETY**

#### **CHAPTER 1. RULES OF PRACTICE AND PROCEDURE**

##### **ARTICLE 2. PROCEEDINGS SECTIONS 29100, 29101**

##### **ARTICLE 3. DATA COLLECTION, DATA ACCESS AND CONFIDENTIALITY SECTION 29200**

##### **E-FILING, FORMATTING REQUIREMENTS, SUBMISSION OF CONFIDENTIAL INFORMATION**

The Office of Energy Infrastructure Safety proposes to adopt the regulations described below (e-filing, document formatting, confidential information) after considering all comments, objections, and recommendations regarding the proposed action.

#### **PUBLIC HEARING**

Energy Safety has not scheduled a public hearing on this proposed action. However, the Energy Safety will hold a public hearing to accept comments if a written

request is received from any interested person, or his or her authorized representative, no later than 15 days before the close of the 45-day written comment period, pursuant to Government Code section 11346.8. Submit requests to the contact person indicated below.

#### WRITTEN COMMENT PERIOD

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

Comments may be submitted in the 2022 Rulemaking Docket at:

<https://efiling.energysafety.ca.gov/EFiling/DocketInformation.aspx?docketnumber=2021-RM>

For e-filing questions, contact Energy Safety at:

[efiling@energysafety.ca.gov](mailto:efiling@energysafety.ca.gov)

Comments can be mailed to:

Office of Energy Infrastructure Safety  
715 P Street, 20th Floor  
Sacramento, California 95814

Comments can be emailed to:

[info@energysafety.ca.gov](mailto:info@energysafety.ca.gov)

The written comment period opens on April 29, 2022 and closes on June 13, 2022. Energy Safety will consider only comments received on or before that date. When commenting, please indicate the proposed rulemaking action to which your comment refers.

#### AUTHORITY AND REFERENCE

Government Code sections 15473 and 15475 authorize Energy Safety to adopt the proposed regulations. The proposed regulations implement, interpret, clarify, and make specific sections 6250 through 6254, 7405, 15472, 15473, and 15475 of the Government Code, and section 583 of the Public Utilities Code.

#### INFORMATIVE DIGEST & POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the directions for requesting confidential treatment of information submitted to Energy Safety and for formatting and submitting documents to Energy Safety.

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

Government Code section 15473(c)(2)(E) authorizes Energy Safety to Adopt, amend, and repeal regulations as necessary to carry out the powers, duties, and responsibilities of the office.

Government Code section 6253.10 requires Energy Safety to ensure that documents published on its website are in an open format that is Retrievable, downloadable, indexable, and electronically searchable.

Government Code section 7405 requires Energy Safety to ensure that documents published on its website comply with the accessibility requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

Government Code section 15475(g) requires regulated electricity utilities to provide information “in the form and detail as the office prescribes.”

Government Code section 6250, et seq., the California Public Records Act, requires Energy Safety to provide members of the public with access to documents used to conduct Energy Safety’s business.

Public Utilities Code section 583 prohibits the California Public Utilities Commission from disclosing information that a public utility submits to the Commission except for information which the Public Utilities Act (Pub. Util. Code §§ 201 – 2282.5) requires “to be open to the public.” Government Code section 15475(c) provides that Energy Safety will continue to receive information that was submitted to the Public Utility Commission’s former Wildfire Safety Division. This subdivision requires Energy Safety to comply with the Public Utilities Code section 583 prohibitions against disclosure of information.

Government Code section 15475(c) also requires Energy Safety to (1) maintain the confidentiality of information submitted by public utilities in a manner “consistent with appropriate protections,” and (2) to “provide for the confidentiality of records, the protection of proprietary information, and the protection of the reasonable expectation of customers of public utilities in the privacy of customer-specific records maintained by” the public utility.

#### Objective and Anticipated Benefits of the Proposed Regulations

The broad objectives of the regulations are to ensure that Energy Safety is able to efficiently receive, organize, work with, and publish large quantities of information. And further, to ensure that information which is exempt from public disclosure is maintained in confidence.

The specific benefits anticipated from the regulation are, through the e-filing interface, providing members of the public with the ability to locate and immediately access documents that relate to wildfire mitigation matters, thereby increasing the level of public participation in, and trust in, Energy Safety’s work. Further, the regulations will increase public participation, which Energy Safety anticipates will lead to

new perspectives, ideas, and innovation that can be brought to bear on problems involving utility-caused wildfires.

The regulations will ensure that published documents comply with the accessibility requirements established by Government Code section 7405, which will serve the interests of transparency and public participation by ensuring that submitted documents are accessible to individuals with disabilities.

**Evaluation of Inconsistency or Incompatibility with Existing State Regulations**

Energy Safety has determined that this proposed regulation is not inconsistent or incompatible with existing regulations.

**Comparable Federal Regulations or Statutes**

Pursuant to Government Code section 7405, these regulations implement the requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

**Other Matters Prescribed by Statute Applicable to the Agency or Any Specific Regulation or Class of Regulations**

There are no other related matters prescribed by statute applicable to Energy Safety or to any specific regulation.

**Documents Incorporated by Reference**

Proposed regulations section 29100, Submission of Documents for Filing, incorporates the following document:

1. Energy Safety E-Filing System User Guide (April 2022)

**DISCLOSURES REGARDING THE PROPOSED ACTION**

Energy Safety has made the following initial determinations:

1. **Mandate on local agencies or school districts:** Energy Safety has determined the adoption of the Proposed Regulation will not impose a local mandate.
2. **Cost or savings to any state agency:** Energy Safety will absorb additional costs associated with reviewing notifications provided pursuant to section 29300 with its staff. Energy Safety estimates that the total fiscal costs to state government for reviewing submitted documents for compliance will range from \$11,243.60 to \$22,263.50.
3. **Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:** Energy Safety has determined that the adoption of the Proposed Regulation will not

result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other non-discretionary costs or savings imposed on local agencies.

4. **Other nondiscretionary costs or savings imposed on local agencies:** Energy Safety has determined that the adoption of the Proposed Regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.
5. **Cost or savings in federal funding to the state:** Energy Safety has determined that adoption of the Proposed Regulation will not result in cost or savings in federal funding to the state. Energy Safety determined that no fiscal impact to federal funding or state programs exists.
6. **Cost impacts on a representative private person or business:** Energy Safety anticipates that the cost of compliance for each the eight regulated electrical corporations will be \$ 1,780,000.
7. **Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:** Although the proposed action will directly affect businesses statewide, Energy Safety concludes that the adverse economic impact, including the ability of California businesses to complete with businesses in other states, will not be significant.
8. **Significant effect on housing costs:** Energy Safety has determined that the Proposed Regulation will have no significant effect on housing costs.
9. **Small Business Determination:** Energy Safety has determined that the proposed regulation will not affect small business.

Pursuant to Public Utilities Code section 8385(b), Energy Safety is responsible for supervising electrical corporations' compliance with the requirements of Chapter 6 (Wildfire Mitigation, §§ 8385 – 8389.) "Electrical corporation" is defined in Public Utilities Code section 218, and there are eight electrical corporations in California which fall within the scope of that definition. Those eight are San Diego Gas & Electric, Southern California Edison, Pacific Power, Bear Valley Electric Service, Liberty Utilities, Horizon West Transmission, Trans Bay Cable, and Pacific Gas & Electric. None of the eight companies is a small

business within the meaning of Government Code section 11346.3(b)(4)(B).

RESULTS OF THE ECONOMIC  
IMPACT ANALYSIS

Energy Safety concludes that it is (1) unlikely that the proposal will eliminate any jobs for the regulated electrical corporations (2) unlikely that the proposal will create an unknown number of jobs for regulated electrical corporations (3) unlikely that the proposal will create an unknown number of new electrical corporations providing electricity service in California, (4) unlikely that the proposal will eliminate any existing businesses, (5) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

**Benefits to health and welfare, worker safety, and the environment**

In adopting the California Energy Infrastructure Safety Act, the Legislature recognized that effective management of electrical infrastructure is critical for the health and welfare of California’s residents and workers. (Gov. Code section 15470(a), (b).) Energy Safety anticipates that the proposed regulations will benefit worker safety and the health and welfare of California residents by enabling Energy Safety to more effectively and efficiently ensure that the regulated entities develop and implement plans to reduce the risk of wildfires in California. Further, Energy Safety anticipates that the proposed regulations will benefit the state’s environment by reducing the amount of paper used to create documents that are submitted to Energy Safety and by reducing carbon emissions by fewer documents transmitted through the mail.

CONSIDERATION OF ALTERNATIVES

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

Energy Safety invites interested persons to present statements or arguments with respect to alternatives during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to,

Jeff Brooks  
Office of Energy Infrastructure Safety  
715 P Street, 20<sup>th</sup> Floor  
Sacramento, California 95814  
[jeff.brooks@energysafety.ca.gov](mailto:jeff.brooks@energysafety.ca.gov)  
(916) 926-1672

Or, if unavailable, to,

Joy Peng  
Office of Energy Infrastructure Safety  
715 P Street, 20<sup>th</sup> Floor  
Sacramento, California 95814  
[joy.peng@energysafety.ca.gov](mailto:joy.peng@energysafety.ca.gov)  
(279) 336-1768

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Jeff Brooks using the contact information above.

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

Energy Safety 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 proposed text of the regulation, the Initial Statement of Reasons, and the documents relied upon. Copies may be obtained by contacting Jeff Brooks using the contact information above.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, Energy Safety may adopt the proposed regulation substantially as described in this Notice. If Energy Safety 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 Energy Safety adopts the regulation as revised. Please send requests for copies of any modified text to the attention of Jeff Brooks using the contact information above. Energy Safety will accept written comments on the modified text for 15 days after the date on which it is made available.

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Jeff Brooks using the contact information above.

**AVAILABILITY OF DOCUMENTS  
ON THE INTERNET**

Copies of this Notice, the proposed text of the regulation, and the Initial Statement of Reasons can be accessed at: <https://efiling.energysafety.ca.gov/Lists/DocketLog.aspx?doctetnumber=2022-RM>.

**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(c), 265, 399, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and sections 36725(a) and 36725(e), Public Resources Code and to implement, interpret or make specific sections 200, 205(c), 265, 399, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code and sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code, proposes to amend subsections 632(b)(9), 632(b)(37), 632(b)(41), 632(b)(42), and 632(b)(91), Title 14, California Code of Regulations, relating to state marine recreational management areas.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

Unless otherwise specified, all references in this informative digest are regarding Title 14 of the California Code of Regulations (CCR).

The Marine Life Protection Act (MLPA) of 1999 (Fish and Game Code sections 2850–2863) required California to re-examine and redesign California’s existing Marine Protected Area (MPA) system to increase its coherence and effectiveness at protecting the state’s marine life, habitats, and ecosystems. In 2000, the Marine Managed Areas (MMAs) Improvement Act (Public Resources Code sections 36600–36900) standardized and clarified the designations of MMAs, which include MPAs. The overriding goal of these acts is to protect California’s valuable marine resources, including natural biodiversity and abundance of marine life, sustaining and rebuilding species of economic value, and improving recreational and educational opportunities in areas subject to minimal human disturbance.

The Commission adopted MPA regulations that were implemented, by region, between 2007 to 2012.

In 2015, the Commission adopted a rulemaking package intended to clarify and clean-up regulations associated with MPAs and MMAs. The 2015 rulemaking unintentionally removed the take restrictions intended to be included by regional stakeholders and the Commission within five State Marine Recreational Management Areas (SMRMAs): South Humboldt Bay SMRMA, Russian River SMRMA, Estero Americano SMRMA, Estero de San Antonio SMRMA, and Morro Bay SMRMA. As a result, under current regulations (Section 632), SMRMAs no longer have language prohibiting take of marine resources as intended by the regional stakeholders and the Commission. Current regulations for each of the five SMRMAs specify that area restrictions apply as defined in subsection 632(a)(1)(D), however the definition in subsection 632(a)(1)(D) does not have any take restrictions identified.

The proposed amendments will return the regulatory text to similar language used prior to the 2015 amendment regarding take of living marine resources. In addition, the new amendments would prohibit take of geological and cultural marine resources to align SMRMAs with state marine reserve and state marine conservation area designation definitions to improve consistency amongst protected areas.

The following is a summary of the proposed language change for Section 632:

- South Humboldt Bay SMRMA and Morro Bay SMRMA
  - Current language to be replaced: “Area restrictions defined in subsection 632(a)(1)(D) apply, with the following specified exceptions”
  - Proposed language to be used: “Take of all living, geological, or cultural marine resources is prohibited except”
- Russian River SMRMA, Estero Americano SMRMA, and Estero de San Antonio SMRMA
  - Current language to be replaced: “Area restrictions defined in subsection 632(a)(1)(D) apply”
  - Proposed language to be used: “Take of all living, geological, or cultural marine resources is prohibited”

In addition, subsections 632(b)(9)(B) and (C) are proposed to be renumbered for consistency with other subsections and language in subsection 632(b)(91)(B) concerning the hunting of waterfowl in Morro Bay SMRMA is proposed to be revised for consistency with the language concerning hunting of waterfowl in other MMAs.

BENEFITS OF REGULATIONS

California’s MMAs are one of many tools for resource managers to use for protecting, conserving, and managing the state’s valuable marine resources. MMAs can offer many benefits, including protecting habitats, species, geological and cultural resources, and water quality; enhancing recreational opportunities; and contributing to the economy through such things as increased tourism. MMAs may also benefit fisheries management by protecting representative habitats and reducing extractive uses [Public Resources Code subdivision 36601(a)(3)]. The primary goal of the proposed regulation amendments is to ensure the five SMRMAs are used to protect and conserve the marine resources within their designated area as intended when they were implemented. Additionally, the proposed amendments to improve consistency of regulatory language will help reduce any confusion about regulations that apply to MMAs.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The proposed regulations are consistent with regulations concerning sport and commercial fishing found in Title 14, CCR. The State Water Resources Control Board may designate State Water Quality Protection Areas and the State Park and Recreation Commission may designate State Marine Reserves, State Marine Conservation Areas, State Marine Recreational Management Areas, State Marine Parks and State Marine Cultural Preservation Areas; however, only the Commission has authority to regulate commercial and recreational fishing and any other taking of marine species in Marine Managed Areas. Department staff has searched the CCR and has found no other regulations pertaining to authorized activities in marine protected areas and therefore has determined that the proposed amendments 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 webinar/teleconference hearing to be held on Thursday, May 19, 2022 at 8:30 a.m., or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916–653–4899.

**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 Los Angeles County or Orange County, California, on Wednesday

June 15, 2022 at 8:30 a.m., or as soon thereafter as the matter may be heard. The exact location of this meeting has not yet been determined. As soon as this information is available but not less than thirty days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published in the California Regulatory Notice Register and will be published on the Commission’s website. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916–653–4899.

It is requested, but not required, that written comments be submitted on or before 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 5:00 p.m. on June 13, 2022. All comments must be received no later than June 15, 2022, at the hearing in Los Angeles/Orange County, California or during the webinar/teleconference. 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, PO 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 Sherrie Fonbuena at [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) or at the preceding address or phone number. **Environmental Scientist, Amanda Van Diggelen, Department of Fish and Wildlife, (562) 522–3901 or [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 because the proposed amendments return SMRMAs to their originally intended design and permitted uses that were established during the MLPA planning process. The proposed action is to remedy an inadvertent omission of take restrictions while also adding language regarding take of geologic and cultural resources for consistency with other protected areas which are central to the intent of the SMRMA habitat protection goals that may also be associated with increased recreational activities and tourism.

- (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 any impacts on creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California because the proposed amendments are to return SMRMAs to their originally intended design and permitted uses that were established during the MLPA planning process and to prohibit take of geologic and cultural resources for consistency amongst protected areas.

The Commission does not anticipate any benefits to the health and welfare of California residents or worker safety.

The Commission anticipates benefits to the environment by restoring and adding enhanced protection of marine and estuarine habitats and species within the five areas designated as SMRMAs.

- (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, 1050 and 2003 of the Fish and Game Code and to implement, interpret or make specific sections 67, 200, 205, 711, 1050, 2003 of said Code, proposes to amend section 230, Title 14, California Code of Regulations (CCR), relating issuance of permits for contests offering prizes for the taking of game fish.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

Unless otherwise specified, all section references in this document are to Title 14, CCR.

The California Department of Fish and Wildlife (Department) is recommending that Commission amend Section 230 to resolve issues with the current permit issuance requirements and processes which do not meet the needs of today’s contest applicants.

Under current regulations (Section 230), the Department may issue two types of permits depending on expected number of participants and amount of prizes and inducements offered at each contest. Applicants may submit permit applications beginning July 1 for contests to be held the following calendar year. Issuance of Type A contests are issued through a random drawing conducted by the Department during the month of July preceding the contest date. Applications for Type B contests are accepted July 1 of the year preceding the contest and issued on a first come first serve basis. To protect the welfare of fish populations, additional restrictions are placed on contests targeting black bass. All contest applicants must submit a report of contest results to the department within 30 days of the conclusion of the contest.

The proposed regulation changes include: 1) adding a definitions section to define some terms in Section 230, both existing and proposed; 2) redefining the contest permit types in Section 230 (Type A and Type B permits) and adding two new permit types (Type C and Type D permits) to allow for new types of contests being held today; 3) revising the requirements and procedures to apply for and obtain permits to ensure that all applicants have the same opportunity to conduct fishing contests; 4) revising the number of contests the Department issues per water per month to ensure a satisfactory angling experience for all resource user groups and to allow the Department to consider potential impacts to resources when issuing permits; 5) increasing the observer fee to reflect the current salaries of Department environmental scientists and game wardens charged with monitoring fishing contests for

regulation compliance; 6) broadening the criteria to add additional conditions to permits to protect the resource; 7) changing the requirements on how to submit applications and report forms; 8) Require notice to applicants and permittees before the Department denies or revokes a permit application, a permit change request, or a permit; 9) clarifying and broadening the bases for denial and revocation; and 10) adding language allowing an applicant or permittee to request the Department to reconsider any denial or revocation.

*Benefit of the Regulations*

The goals and benefits of these regulations will establish contest conditions that provide for the welfare and conservation of fish populations and the environment, and limit the impact to other recreational users while also allowing the offering of prizes for the taking of game fish.

The fishing contest types offered to today’s anglers has changed significantly. There has also been an increased demand for fishing contest permits, especially for contests targeting black bass. To ensure the welfare of fish populations, the department limits the number and type of contests that may be held on each water each day. The regulation changes proposed herein will provide for equitable distribution of contest permits as well as ensure for the welfare of fish populations.

*Consistency and Compatibility with Existing 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 Commission has reviewed its own regulations and finds that the proposed regulatory action is 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 the permitting of game fish contests.

**PUBLIC PARTICIPATION**

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Thursday, May 19, 2022, at 8:30 a.m. or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916-653-4899.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Thursday, June 16, 2022, at 8:30 a.m. or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/

teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916-653-4899.

It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on 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 June 13, 2022. All comments must be received no later than June 16, 2022, during the webinar/teleconference hearing. 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, PO 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 Jenn Greaves at [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) or at the preceding address or phone number. Karen Mitchell, Senior Environmental Scientist (Specialist), California Department of Fish and Wildlife, Fisheries Branch, designated to respond to questions on the substance of the proposed regulations. Ms. Mitchell can be reached at (916) 376-1917 or [tournaments@wildlife.ca.gov](mailto:tournaments@wildlife.ca.gov).

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 regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the game fish contests are specific to water bodies within the state of California.

- (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 any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents or worker safety.

The new regulations will benefit the environment by expanding the Department's authority to consider potential impacts to the resources when issuing permits. Existing Section 230 states that the Department shall issue a permit if the fishery or health of individual fish are not impacted. The new regulations allow for a holistic consideration of potential impacts to the environment and other resource users before issuing a permit.

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

Fish and Game Code Section 2003 provides that an "application for [a fishing contest permit] shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit." Last year, the application fee was \$68.50. For 2022, the fee is being adjusted for inflation to \$70.30 in accordance with Fish and Game Code Section 713. The total cost for application is \$72.41, which includes a 3% non-refundable ALDS fee (Section 700.4(e)).

In addition, the contest observer fee is proposed to increase from \$100 to \$275. Although a contest observer is rarely required, this adjustment is necessary to allow the Department to more

fully recover staff salary and benefit costs when an observer is required. To minimize the fee increase, travel time and vehicle expenses have not been included. Thus, the amount charged for a Department contest observer will allow for only the partial recovery of necessary expenses incurred by the Department.

- (d) **Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**  
None. No change in costs or savings to state agencies are expected as a direct result of the proposed amendments to Section 230. However, the Department has estimated that the initial offering process continues to engage staff time throughout the state, and particularly Fisheries Branch staff in the Department’s headquarters. Currently, there is no fee to submit a form DFW 774 to participate in the initial offering. The Department cost per entry is estimated to be approximately \$230.92. The Department receives an average of 70 forms DFW 744 per year. The total annual staff time costs (with benefits and overhead) are estimated to be approximately \$16,165 in a typical year.
- (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.

**OTHER BENEFITS OF THE REGULATORY ACTION**

The proposed changes to Section 230 and form DFW 775 and new forms DFW 774, 776, and 777 will enable the Department to align the fishing contest permit application process to better meet the needs of today’s applicants. The Department has seen a tremendous demand for the limited number of permits that are issued to popular waters. Revising the application procedure will help minimize financial impacts to permit applicants.

Fishing contests are popular with sport fish anglers. Revising the permit application process will facilitate the continuation of the many annual fishing contests and may encourage new contests. Providing fishing

contests may encourage new anglers to participate in sport fishing activities, keep those anglers already engaged, or encourage anglers who have not sport fished in recent years to join this outdoor activity that they previously participated in.

**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.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND WILDLIFE**

**HABITAT RESTORATION AND ENHANCEMENT ACT**

**CONSISTENCY DETERMINATION NO.**  
1653–2022–089–001–R1

- Project:** Cedar Creek Hatchery Dam Removal Project
- Location:** Mendocino County
- Applicant:** Darren Mierau/California Trout
- Background**

*Project Location:* The Cedar Creek Hatchery Dam Removal Project (Project) is located at 66000 Drive Thru Tree Road, Leggett, California, 95585, at a property owned by Rangjung Yeshe Gomde Retreat Center, Assessor Parcel Number (APN) AP#53–400–42 and affects Cedar Creek. Cedar Creek supports populations of Coho Salmon (*Oncorhynchus kisutch*), Chinook Salmon (*O. tshawytscha*), Steelhead Trout (*O. mykiss*), Foothill yellow-legged frog (*Rana boylei*),

Northern spotted owl (*Strix occidentalis caurina*) and other aquatic and riparian species.

*Project Description:* California Trout (Applicant) proposes to enhance or restore habitat within Cedar Creek to provide a net conservation benefit for Coho Salmon, Chinook Salmon and Steelhead Trout. Conservation benefits are proposed by improving salmonid access to approximately nine miles of upstream spawning and rearing habitat within Cedar Creek. Applicant will improve passage by removing remnants of a concrete dam that is a partial barrier to listed salmonids.

In addition, the Applicant proposes removing existing concrete structures out of the stream channel and planting riparian vegetation along the banks within the Project work area. Trees removed from streambanks for equipment access to the Project site will be placed in or near the stream channel to provide immediate cover for juvenile salmonids.

The California Department of Fish and Wildlife (CDFW) Fisheries Restoration Grant Program funded the Project design that CDFW Engineering and Fisheries staff reviewed and approved. Detailed Project plans, discussion of proposed work, species protection measures, site photos and maps are on file with CDFW's Habitat Conservation Planning Branch.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 1.68 acres and 490 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

*Project Associated Discharge:* Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 15 logs (2) 694 cubic yards of small gravel/cobbles with sand (3) willow cuttings.

*Project Timeframes:* Start date: June 2022

Completion date: June 2027

Work window: June 15 – October 31.

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve fish passage to nine miles of spawning and rearing habitat, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) Waste Discharge Identification (WDID) No. 1B21246WNME, Electronic Content Management

Identification (ECM PIN) No. CW-878609 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to Coho Salmon, Chinook Salmon and Steelhead Trout.

*Receiving Water:* Cedar Creek, tributary to South Fork Eel River

*Filled / Excavated Area:* Permanent Area Impacted: 0.487 acres

Temporary Area Impacted: 1.193 acres

Total Linear Impacts: Length Permanently Impacted: 490 feet

*Discharge Volume:* 694 cubic yards (cy) of small gravel/cobbles with sand, 15 logs and willow cuttings.

*Dredge Volume:* None

*Latitude/Longitude:* 39.83985° N, 123.70750° W (centerpoint), APN: AP#53-400-42

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

On March 15, 2022, the Director of the CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on March 15, 2022, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2022-0 315-12) on March 25, 2022. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

**Determination**

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

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

Quality Certification for Small Habitat Restoration Projects.

**Avoidance and Minimization Measures**

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Specific Measures for Endangered, Rare, or Threatened Species; (2) Cultural Resources; (3) General Protection Measures (4) Limitations on Size and Footprint of Projects, and (6) Human Health and Safety. The specific avoidance and minimization requirements are found in an attachment to the NOI, Additional Pages for the GENERAL 401 WATER QUALITY CERTIFICATION ORDER FOR SMALL HABITAT RESTORATION PROJECTS, Section IV. Protective Measures.

**Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, Additional Pages for the GENERAL 401 WATER QUALITY CERTIFICATION ORDER FOR SMALL HABITAT RESTORATION PROJECTS, Section V. Monitoring, Long-Term Maintenance, and Reporting Plan.

**Notice of Completion**

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

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

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

**Project Authorization**

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

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

**FISH AND GAME COMMISSION**

To All Interested and Affected Parties:

At the time of publication of Notice Z 2022–0315–16 in California Regulatory Notice Register 2022, Number 12–Z, on March 25, 2022, revisions to Form DFW 1419 were inadvertently omitted from the regulatory text. This notice is to inform you that revised form DFW 1419 is available on the Commission’s website, [www.fgc.ca.gov](http://www.fgc.ca.gov), or upon request from California Fish and Game Commission representative, Melissa Miller–Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899 or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Please refer to the original notice for more information.

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

NOTICE OF PUBLIC MEETING  
AND BUSINESS MEETING OF THE  
OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

**PUBLIC MEETING:**

On **June 16, 2022**, at 10:00 a.m.  
in the Byron Sher Auditorium of the  
Cal/EPA Building  
1001 I Street, Sacramento, California

as well as via the following:

- Video-conference at [www.webex.com](http://www.webex.com) (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**BUSINESS MEETING:**

On **June 16, 2022**, at 10:00 a.m.  
in the Byron Sher Auditorium of the  
Cal/EPA Building  
1001 I Street, Sacramento, California

as well as via the following:

- Video-conference at [www.webex.com](http://www.webex.com) (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:**

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System

(ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**ACCEPTANCE OF PETITION  
TO REVIEW ALLEGED  
UNDERGROUND REGULATIONS**

**DEPARTMENT OF CORRECTIONS  
AND REHABILITATION**

**OFFICE OF ADMINISTRATIVE LAW**

(Pursuant to title 1, section 270, of the  
California Code of Regulations)

The Office of Administrative Law has accepted the following petition for consideration. A memorandum dated June 23, 1998, titled: Clarification of "Stacking" as Related to the Inmate Disciplinary Process

Please send your comments to:

Elizabeth Heidig, Deputy Director  
Office of Administrative Law  
300 Capitol Mall, Ste. 1250  
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

David Stiles, B97794  
California Men's Colony  
Post Office Box 8103  
San Luis Obispo, California 93409

Agency contact:

Ying Sun, Associate Director  
Department of Corrections and Rehabilitation  
Post Office Box 942883  
Sacramento, California 94283-0001

Please note the following timelines:

Publication of Petition in Notice Register:  
4/29/2022  
 Deadline for Public Comments: 5/31/2022  
 Deadline for Agency Response: 6/13/2022  
 Deadline for Petitioner Rebuttal: No later than  
 15 days after receipt of the agency's response  
 Deadline for OAL Decision: 8/29/2022

**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.

Office of Administrative Law  
 File # 2022-0304-03  
 Electronic Submission of APA-Related Documents

This Certificate of Compliance action by the Office of Administrative Law makes permanent submission requirements to establish a process for electronic submissions and allow for digital signatures.

Title 01  
 Adopt: 6.5, 101  
 Amend: 1, 5, 6, 50, 52, 100  
 Filed 04/18/2022  
 Effective 04/18/2022  
 Agency Contact: Eric Partington (916) 323-6225

State Allocation Board  
 File # 2022-0317-03  
 Leroy F. Greene School Facilities Act of 1998; \$250 Million General Fund

Assembly Bill 130 (2021-2022 Regular Session) appropriated \$250,000,000 from the General Fund to the State Allocation Board (the "Board") for deposit into the 2016 State School Facilities Fund for certain school new construction and modernization projects (the "AB 130 Apportionment"). (Stats. 2021, chapter 44, § 163.) These funds are to be allocated to eligible projects, by the Board, until June 30, 2022. In this Certificate of Compliance, the Board is making permanent the emergency changes made in OAL Matter No. 2021-1019-01E, wherein the Board adopted regulations

that allow the Board to waive the 30-calendar-day filing provision in Section 1859.90.2 in the event that unexpected cash proceeds from sources other than bond funds become available for use for priority funding Apportionments, including the AB 130 Apportionment.

Title 02  
 Amend: 1859.90.2  
 Filed 04/14/2022  
 Effective 04/14/2022  
 Agency Contact: Lisa Jones (279) 946-8459

Commission on State Mandates  
 File # 2022-0406-01  
 Emergency Digital Signatures

This action amends the signature requirement for electronically filed Commission forms to require the use of a digital signature instead of a scanned manual signature, and it clarifies electronic filing requirements for all other documents filed with the Commission.

Title 02  
 Amend: 1181.3  
 Filed 04/18/2022  
 Effective 04/18/2022  
 Agency Contact: Jill Magee (916) 323-3562

Department of Housing and Community  
 Development  
 File # 2022-0411-02  
 MP/ SOP Permit to Operate Penalty Fees Waiver  
 -Readopt

This emergency regulatory action readopts a waiver application process and criteria for the waiver of penalties for late payment of permit-to-operate fees due to economic hardship experienced by mobile home park and special occupancy park permit holders during States of Emergency.

Title 25  
 Amend: 1002, 1009, 2002, 2009  
 Filed 04/20/2022  
 Effective 04/26/2022  
 Agency Contact: Laura Turner (916) 820-1222

Department of Human Resources  
 File # 2022-0408-02  
 Excluded Employee Benefits, Holiday and Buy Backs

In this request for filing and printing, the Department of Human Resources ("CalHR") is adopting regulations to provide clarification to excluded employees regarding compensation on holidays that fall on Saturdays and regular days off. CalHR is also amending regulations regarding paid leave buy-back for specified employees. This action is exempt from OAL review pursuant to Government Code section 3539.5.

Title 02  
Adopt: 599.754.1  
Amend: 599.744  
Filed 04/14/2022  
Effective 04/14/2022  
Agency Contact: Katie Narvaez (916) 324-9724

Department of Insurance  
File # 2022-0302-02  
CAARP Plan of Operations

This action makes changes to the California Automobile Assigned Risk Plan (CAARP) Plan of Operations, which is incorporated by reference in title 10, California Code of Regulations, section 2498.4.9. This action is exempt from the Administrative Procedure Act pursuant to Insurance Code section 11620(c).

Title 10  
Amend: 2498.4.9  
Filed 04/13/2022  
Effective 04/13/2022  
Agency Contact: Michael Riordan (415) 538-4226

California Architects Board  
File # 2022-0308-01  
Landscape Architects Technical Committee Rules of Professional Conduct

In this non-substantive action the California Architects Board updates one section to use gender-neutral pronouns and renumber and reorder the subdivisions.

Title 16  
Amend: 2670  
Filed 04/18/2022  
Agency Contact: Stacy Townsend (916) 575-7235

Department of Human Resources  
File # 2022-0310-05  
Retirement Saving Plans

This action without regulatory effect changes the term "Department" to "California Department of Human Resources" throughout sections 599.946 and 599.947 of Title 2 of the California Code of Regulations.

Title 02  
Amend: 599.946, 599.947  
Filed 04/18/2022  
Agency Contact: Jodi LeFebre (916) 323-8490

Department of Resources Recycling and Recovery  
File # 2022-0304-02  
Food Service Packaging

This change without regulatory effect by the Department of Resources, Recycling and Recovery

updates the definition of "food service packaging" to align with statutory changes made by Assembly Bill 1570 (Stats. 2021, ch. 755, sec. 5).

Title 14  
Amend: 17989  
Filed 04/18/2022  
Agency Contact: Daniel Zlatnik (916) 341-6211

Physical Therapy Board of California  
File # 2022-0302-01  
Physical Therapy Assistant Applicant Supervision & Sponsored Free Health Care Events

This change without regulatory effect repeals or amends existing regulations pertaining to sponsored health care events as required to be consistent with the repeal of Business and Professions Code section 901.

Title 16  
Amend: 1399.12  
Repeal: 1399.99.1, 1399.99.2, 1399.99.3, 1399.99.4  
Filed 04/13/2022  
Agency Contact: Elsa Ybarra (916) 561-8262

California Institute for Regenerative Medicine  
File # 2022-0209-01  
Conflict-of-Interest Policy for Members of Advisory Task Forces

This action by the California Institute for Regenerative Medicine adopts conflict-of-interest rules for its advisory task force members.

Title 17  
Adopt: 100005  
Filed 04/18/2022  
Effective 04/18/2022  
Agency Contact: James Harrison (510) 346-6203

Department of Justice  
File # 2022-0301-01  
California Pawn & Secondhand Dealer System

This rulemaking action by the Department of Justice (Department) updates California Pawn and Secondhand Dealer System requirements to align with Assembly Bill 1969 (Stats. 2020, chapter 185). The Department is also seeking to update authority and reference citations, and revise existing language to include gender-neutral pronouns.

Title 11  
Amend: 999.500, 999.502, 999.503, 999.504, 999.505, 999.506  
Filed 04/13/2022  
Effective 01/01/2023  
Agency Contact: Kevin Sabo (916) 210-7639

Department of Motor Vehicles  
File # 2022-0323-02  
Driver's Licenses and Identification Cards: REAL ID

This action eliminates the requirement to submit separate documentation of a valid social security number to apply for a REAL ID-compliant driver's license or identification card.

Title 13  
Amend: 17.00  
Repeal: 17.04  
Filed 04/18/2022  
Effective 07/01/2022  
Agency Contact: Randi Calkins (916) 657-8898

Fish and Game Commission  
File # 2022-0318-04  
Big Game Preference Points and Tag Refunds

The Fish and Game Commission in this action is providing a way to allow tag holders to return their unfilled tag and request preference point reinstatement if their hunt zone was inaccessible for 66% or more of a hunt season due to public land closures caused by wildfires. This action would allow a request for preference point reinstatement and award one preference point for the license year for certain deer tags. It would also refund tag fees, reinstate preference points, and award one preference point for the license year for bighorn sheep, pronghorn antelope, and elk hunts whose hunt zones are inaccessible for sixty-six percent (66%) or more of the season because of public land closures caused by wildfires.

Title 14  
Amend: 708.14  
Filed 04/18/2022  
Effective 04/18/2022  
Agency Contact: David Thesell (916) 653-4899

State Personnel Board  
File # 2022-0301-03  
Merit Issue Complaints

This rulemaking by the State Personnel Board amends procedures and requirements relating to merit issue complaints.

Title 02  
Amend: 66.1  
Filed 04/13/2022  
Effective 07/01/2022  
Agency Contact: Lori Gillihan (916) 651-1043

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

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

