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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 14. BOARD OF FORESTRY AND
FIRE PROTECTION**

“NOTICE OF INTENT AMENDMENTS, 2022”

TITLE 14 OF THE CALIFORNIA CODE OF
REGULATIONS (14 CCR), DIVISION 1.5,
CHAPTER 4,
SUBCHAPTER 7, ARTICLE 2 & 6.8

NATURE OF PROCEEDING

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

PUBLIC HEARING

The Board will hold a public hearing on July 14, 2022, at its scheduled meeting held at the Courtyard Marriott, 313 Riverside Ave, Santa Cruz, CA 95060. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends on the conclusion of the public hearing on July 14, 2022.

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

Written comments shall be submitted to the following address:

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

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

Board of Forestry and Fire Protection
715 P Street, 9th Floor
Sacramento, CA 95814

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

(916) 653–0989

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

PublicComments@BOF.ca.gov

AUTHORITY AND REFERENCE

(pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14 and 14 CCR § 1122)

Authority cited: Sections 4551, 4552 and 4582.3, Public Resources Code. Reference: 4551, 4581, 4582.3, 21080 and 21092, Public Resources Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

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

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

Pursuant to PRC § 4551.5, the rules and regulations that the Board is authorized to adopt include measures for the conduct of Timber Operations and for the preparation of Timber Harvesting Plans.

Additionally, pursuant to PRC § 4582, Timber Harvesting Plans must “...be filed with the department

in writing by a person who owns, leases, or otherwise controls or operates on all or any portion of any Timberland and who plans to harvest the timber thereon.” One of the requirements of the Timber Harvesting Plan is “[a] description of the silvicultural methods to be applied...” (PRC § 4582(d)).

Furthermore, PRC § 4582.3 requires the Board to adopt regulations regarding” ...notice of intent to harvest timber, to be given within two working days following submission of a timber harvesting plan” — in order to notify both the Department of Forestry and Fire Protection (Department), and those who may be affected by Timber Operations of proposed activities. The Board has adopted such regulations for Timber Harvesting Plans (THP), and Programmatic Timber Harvesting Plans (PTHP) (a similar permitting scheme), within 14 CCR §§ 1032.7 and 1092.04, respectively.

Currently, the Forest Practice Rules include provisions for multiple silvicultural method types which may be utilized in a THP or PTHP, however the regulations regarding notices of intent to harvest timber only require disclosure of some of those silvicultural methods. The problem is that notice of intent to harvest timber regulations which do not require disclosure of all silvicultural methods proposed in a THP or PTHP fail to accurately disclose proposed project activities to the Department and persons which may be potentially affected by Timber Operations.

The purpose of the proposed action is to require the disclosure of all proposed silvicultural methods within the footprint of a THP or PTHP.

The primary benefit of the proposed action is the maintenance of a comprehensive regulatory scheme which allows for the clear and consistent application and enforcement of notice of intent with THP/PTHP. Additionally, the improvement of notification processes will benefit the efficiency of the Department review and enforcement of the regulations.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to the licensing of timber operators within State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules.

Statutes to which the proposed action was compared: 4511 *et seq.*

MANDATED BY FEDERAL LAW OR REGULATIONS

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

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

There are no comparable Federal regulations related to stocking requirements on nonfederal forest lands. No existing Federal regulations meeting the same purpose as the proposed action were identified.

OTHER STATUTORY REQUIREMENTS (pursuant to GOV § 11346.5(a)(4))

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

LOCAL MANDATE (pursuant to GOV § 11346.5(a)(5))

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

FISCAL IMPACT (pursuant to GOV § 11346.5(a)(6))

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

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

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

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

The proposed action will not result in costs to any State agency. The proposed action represents a continuation of existing forest practice regulations related to stocking requirements on substantially damaged timberland and will not result in any direct or indirect costs or savings to any state agency.

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

HOUSING COSTS
(pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS, INCLUDING
ABILITY TO COMPETE**
(pursuant to GOV §§ 11346.3(a), 11346.5(a)(7)
and 11346.5(a)(8))

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

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

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of contemplating fire safety in land use and development in California that the Board brings to bear on regulatory development.

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

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

- Will not create jobs within California (GOV § 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A));
- Will not create new businesses (GOV § 11346.3(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)) through the promotion of a

clear an enforceable regulatory scheme. The proposed action will not affect the health and welfare of California residents, worker safety.

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

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

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

The proposed action does not impose a business reporting requirement.

SMALL BUSINESS
(defined in GOV 11342.610)

The proposed action will affect small business. Small business, pursuant to 1 CCR § 4(a):

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

ALTERNATIVES INFORMATION

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

CONTACT PERSON

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

Board of Forestry and Fire Protection
Attention: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9633

FINAL STATEMENT OF REASONS

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

INTERNET ACCESS

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

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

AVAILABILITY STATEMENTS

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

All of the following are available from the contact person:

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

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) section 12838.5 and Penal Code (PC) section 5055, and the rulemaking authority granted by PC section 5058, proposes to amend sections 3999.216, 3999.365, 3999.366, 3999.367, and 3999.368 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 2, concerning health information and dental care.

PUBLIC HEARING

A virtual public hearing will be held on June 21, 2022. Go to <https://cchcs.ca.gov/health-care-regs/> for the link to join the virtual hearing, or you may call (916) 701-9994 and enter phone conference ID 442065119# to join by phone (audio only) between the hours of 1:00 p.m. and 1:30 p.m. on June 21, 2022.

PUBLIC COMMENT PERIOD

The public comment period will close on **June 21, 2022, at 5:00 p.m.** Any person may submit public comments in writing (by mail or by email) regarding the proposed changes. To be considered, comments must be submitted to California Correctional Health Care Services (CCHCS), Health Care Regulations and Policy Section, P.O. Box 588500, Elk Grove, CA, 95758, or by email to HealthCareRegulations@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

R. Hart
Associate Director (A)
Risk Management Branch
California Correctional Health Care Services
P.O. Box 588500
Elk Grove, CA 95758
(916) 691-2922

T. Adams
Staff Services Manager II
Health Care Regulations and Policy Section
California Correctional Health Care Services
(916) 691-2921

AUTHORITY AND REFERENCE

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

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

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

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

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

References cited pursuant to this regulatory action are as follows: Sections 4040(a)(2), 4076, 4170 and 4171(b), Business and Professions Code; Section 1157, Evidence Code; Section 11150, Health and Safety Code; Sections 3424 and 5054, Penal Code; *Perez, et al. v. Cate, et al.*, (Number C05-05241 JSW), U.S. District Court, Northern District of California; and *Plata v. Newsom* (Number C01-1351 JST), U.S. District Court, Northern District of California.

**INFORMATIVE DIGEST/POLICY
 STATEMENT OVERVIEW**

The CDCR and CCHCS propose to amend sections 3999.216, 3999.365, 3999.366, 3999.367, and 3999.368

of the CCR, Title 15, Division 3, Chapter 2, governing health information and dental care. Sections 3999.365 through 3999.368 contain language from 24 dental care related sections of the CDCR Health Care Department Operations Manual (HCDOM). This presents a problem when trying to determine regulatory impact resulting from revisions to HCDOM sections related to dental care. Because HCDOM sections related to dental care do not directly correspond to the current regulations sections in Article 6, it can be difficult determining what parts of Article 6 are impacted by revised HCDOM dental care policies without excessive time and resources. Additionally, there is always the possibility that CDCR staff will miss the regulatory impact to Article 6 whenever HCDOM dental care policies are revised, thereby creating underground regulations as defined in Title 1, Section 250.

This action provides the following:

- Reduces the amount of staff time and resources spent conducting lengthy analyses to determine regulatory impact from changes to HCDOM dental care policies.
- Significantly reduces future chances of CDCR operating with underground regulations.
- Provides more organized dental care regulations.
- Brings provisions in-line with recent revisions to CDCR health information and dental care policies.

**BENEFITS ANTICIPATED BY THE
 PROPOSED REGULATIONS**

The Department anticipates the proposed regulations will benefit CDCR staff and the regulated public by decreasing the amount of staff resources needed to determine regulatory impact of revised dental policies, prevent underground regulations, promote openness and transparency by improving the organization and coherence of dental care regulations, and ensure continued consistent treatment standard for the delivery of dental services to CDCR patients.

FORMS INCORPORATED BY REFERENCE

Not applicable.

**EVALUATION OF CONSISTENCY/
 COMPATIBILITY WITH
 EXISTING REGULATIONS**

Pursuant to GC section 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has determined these proposed regulations

are not inconsistent or incompatible with any existing regulations within CCR, Title 15, Division 3.

LOCAL MANDATES

The proposed regulatory action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to GC section 17500–17630.

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs because the proposed regulations will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in–line with recent revisions to CDCR health information and dental care policies, which only affects inmates and staff within CDCR.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has determined that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in–line with recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The proposed regulatory action will reorganize and amend standards regarding the provision of dental care to patients within CDCR. The proposed changes will benefit the health and welfare of California residents incarcerated in CDCR, staff, and the general public by improving the organization and coherence of dental care regulations, and will ensure continued consistent

treatment standard for the delivery of dental services to CDCR patients.

The Department has determined that the proposed action will have no impact on the creation of new or the elimination of existing jobs or businesses within California or affect the expansion of businesses currently doing business in California because the proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in–line with recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The Department anticipates the proposed regulations will benefit CDCR staff and the regulated public by decreasing the amount of staff resources needed to determine regulatory impact of revised dental policies, prevent underground regulations, promote openness and transparency by improving the organization and coherence of dental care regulations, and ensure continued consistent treatment standard for the delivery of dental services to CDCR patients. This regulation change will not have an impact on the State’s environment, as the State’s environment is not impacted by the administration of the CDCR’s dental program.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in–line with recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will have no significant adverse economic impact on small businesses because the proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in–line with recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been

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

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony, reasonable alternative, or other evidence provided that would alter the CDCR's initial determination to proceed with this action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the proposed text and the Initial Statement of Reasons (ISOR) of the proposed regulatory action. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the contact person listed in this Notice. The proposed text, ISOR, and Notice of Proposed Action will also be made available on CCHCS's website <https://cchcs.ca.gov> and CDCR institution law libraries.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the contact person listed in this Notice.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person listed in this Notice. The Department will accept written comments on the modified regulations for 15 calendar days after the date on which they are made available.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) section 12838.5 and Penal Code (PC) section 5055, and the rulemaking authority granted by PC section 5058, proposes to amend sections 3000 and 3095 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 1 and sections 3999.98 and 3999.396 of the California Code of Regulations, Title 15, Division 3, Chapter 2, concerning Reading Glasses.

PUBLIC HEARING

A virtual public hearing will be held on June 21, 2022. Go to <https://cchcs.ca.gov/health-care-regs/> for the link to join the virtual hearing, or you may call (916) 701-9994 and enter phone conference ID 876715426# to join by phone (audio only) between the hours of 10:30 a.m. and 11:00 a.m. on June 21, 2022.

PUBLIC COMMENT PERIOD

The public comment period will close on **June 21, 2022, at 5:00 p.m.** Any person may submit public comments in writing (by mail or by email) regarding the proposed changes. To be considered, comments must be submitted to California Correctional Health Care Services (CCHCS), Health Care Regulations and Policy Section, P.O. Box 588500, Elk Grove, CA, 95758, or by email to HealthCareRegulations@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

R. Hart
Associate Director (A)
Risk Management Branch
California Correctional Health Care Services
P.O. Box 588500
Elk Grove, CA 95758
(916) 691-2922

T. Adams
Staff Services Manager II
Health Care Regulations and Policy Section
California Correctional Health Care Services
(916) 691-2921

AUTHORITY AND REFERENCE

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

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

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

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

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

References cited pursuant to this regulatory action are as follows: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Armstrong Remedial Plan. *Armstrong v. Newsom* (Number C94–2307 CW), U.S. District Court, Northern District of California; and *Plata v. Newsom* (Number C01–1351 JST), U.S. District Court, Northern District of California.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CDCR and CCHCS propose to amend sections 3000 and 3095 of the CCR, Title 15, Division 3, Chapter 1 and sections 3999.98 and 3999.396 of the CCR, Title 15, Division 3, Chapter 2, concerning Reading Glasses. Existing regulations lack the clarity on specific processes required for providing reading glasses to patients. For example, no specific quantity or frequency is currently outlined, or the circumstances under which a replacement pair of reading glasses should be provided. There is no current language to clarify that patients are provided the opportunity to self-identify which strength of reading glasses are needed. In addition, the existing canteen privilege language does not appropriately reflect that a patient may still lose canteen privileges for a non-serious disciplinary hearing, but that reading glasses must still be provided.

This action will:

- Provide a consistent standard for the distribution of reading glasses within CDCR institutions.
- Clarify certain patient rights and responsibilities related to reading glasses.

BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The Department anticipates the proposed regulations will benefit the CDCR staff and inmates by creating a consistent standard for the distribution of reading glasses within CDCR institutions. It shall also clarify certain patient rights and responsibilities related to reading glasses.

DOCUMENTS INCORPORATED BY REFERENCE

- Not applicable.

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING REGULATIONS

Pursuant to GC section 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has determined these proposed regulations are not inconsistent or incompatible with any existing regulations within CCR, Title 15, Division 3.

LOCAL MANDATES

The proposed regulatory action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to GC section 17500–17630.

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs because the proposed action will clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.

SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESS

The Department has determined that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed action will clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.

RESULTS OF ECONOMIC
IMPACT ASSESSMENT

CDCR has determined the proposed regulations may have a positive impact on public safety, the health and welfare of California's residents, worker safety, and on inmates by ensuring a consistent standard for the distribution of reading glasses to CDCR patients and clarifying certain patient rights and responsibilities related to reading glasses.

The Department has determined that the proposed regulations will have no impact on the creation of new or the elimination of existing jobs or businesses within California or affect the expansion of businesses currently doing business in California because the proposed action will clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.

BENEFITS ANTICIPATED BY THE
PROPOSED REGULATIONS

The Department anticipates the proposed regulations will benefit the CDCR staff and inmates by creating a consistent standard for the distribution of reading glasses within CDCR institutions. It will also clarify certain patient rights and responsibilities related to reading glasses. This regulation change will not have an impact on the State's environment, as the State's environment is not impacted by processes for providing reading glasses to CDCR patients.

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed action will clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will have no significant adverse economic impact on small businesses because the proposed action will clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.

CONSIDERATION OF ALTERNATIVES

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

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony, reasonable alternative, or other evidence provided that would alter the CDCR's initial determination to proceed with this action.

AVAILABILITY OF PROPOSED TEXT AND
INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the proposed text and the Initial Statement of Reasons (ISOR) of the proposed regulatory action. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the contact person listed in this Notice. The proposed text, ISOR, and Notice of Proposed Action will also be made available on CCHCS's website <https://cchcs.ca.gov> and CDCR institution law libraries.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the contact person listed in this Notice.

AVAILABILITY OF CHANGES TO
PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will

make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person listed in this Notice. The Department will accept written comments on the modified regulations for 15 calendar days after the date on which they are made available.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
SOUTH FORK FLOODPLAIN RESTORATION
PHASE III
(TRACKING NUMBER:
1653-2022-091-001-R1)
SISKIYOU COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 4/19/2022, that California Trout proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves expanding upon restoration efforts that have occurred adjacent to the project reach by implementing one inset floodplain, an apex logjam, three large wood structures, five root-wad groupings, and seven small wood structures. The proposed project will be carried out on South Fork Scott River, located at 3044 Cecilville Road, Callahan, Siskiyou County, California.

On 7/1/2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the South Fork Floodplain Restoration Phase III. The Regional Water Board determined that the project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 – Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 1A21148WNSI; ECM PIN Number CW-875118) for coverage under the General 401 Order on 9/20/2021.

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

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

**DEPARTMENT OF
FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION
REQUEST FOR
STONY POINT FLATS APARTMENTS
2080-2022-008-03
SONOMA COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on April 21, 2022, that Stony Point Flats, LP proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the demolition of all existing buildings onsite and construction of four buildings to create a 50-unit affordable apartment community. Proposed activities will include, but are not limited to, excavation and shoring, foundation and below-grade construction, and construction of the building and finishing interiors. The proposed project will occur at 2268 Stony Point Road (APN 125-521-008), Santa Rosa, Sonoma County, California.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (BO) (Service Ref. Number 2022-0021147) in a memorandum to the U.S. Army Corps of Engineers on April 20, 2022, which considered the effects of the proposed project on the federally endangered and state threatened Sonoma County Distinct Population Segment of California tiger salamander (*Ambystoma californiense*), state and federally endangered Sebastopol meadowfoam (*Limnanthes vinculans*), and state and federally endangered Sonoma sunshine (*Blennosperma bakeri*).

Pursuant to California Fish and Game Code section 2080.1, Stony Point Flats, LP is requesting a determination that the BO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes

of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, Stony Point Flats, LP will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF
FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION
REQUEST FOR
REDWOOD NATIONAL AND STATE
PARK VISITOR CENTER AND
RESTORATION PROJECT
2080R-2022-007-01
HUMBOLDT COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on April 15, 2022, that the Save the Redwoods League proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the restoration of approximately 89 acres of the lower Prairie Creek watershed (major tributary to Redwood Creek) and enhancement of aquatic habitat in approximately three-quarters of a mile of mainstem Prairie Creek. Proposed activities will include, but are not limited to, improving stream connectivity with the adjacent floodplain and creation of a diversity of habitats (primary channel, backwater channels, installation of large wood, wetlands) to improve salmonid habitat. The restoration also includes removing non-native vegetation and planting native vegetation across the site, removing 21 acres of asphalt, and restoring old mill roads. The proposed project will occur in the lower part of the Prairie Creek sub-basin of the Redwood Creek watershed near Orick, California.

The National Marine Fisheries Service (Service) issued a federal biological opinion (BO) (Service Ref. Number WCRO-2021-01006) in a memorandum to the U.S. Army Corps of Engineers and the National Oceanic and Atmospheric Administration Restoration Center, which considered the effects of the proposed project on state and federally threatened Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*), and federally threatened Northern California steelhead (*O. mykiss*), of which the summer-run population is a candidate for listing under CESA.

Pursuant to California Fish and Game Code section 2080.1, the Save the Redwoods League is requesting a determination that the BO and its associated

Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, the Save the Redwoods League will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF
FISH AND WILDLIFE**

PROPOSED RESEARCH FOR A FULLY
PROTECTED SPECIES
RESEARCH ON THE BLUNT-NOSED
LEOPARD LIZARD (*GAMBELIA SILA*)

The Department of Fish and Wildlife (Department) received a proposal on April 8, 2022, from Dr. Rory Telemeco requesting authorization to take the Blunt-nosed Leopard Lizard (*Gambelia sila*) ('BNLL') for scientific research purposes consistent with conservation and recovery of the species. The BNLL is a Fully Protected reptile and is also listed as Endangered under the California and federal Endangered Species Acts.

Dr. Telemeco is an Assistant Professor in Biology at California State University, Fresno, with extensive experience conducting research on lizard reproductive and thermal ecology, including U.S. Fish and Wildlife Service- and Department-approved research on BNLL for the past two years. Part of this work involved a collaborative effort to establish the first of its kind captive breeding program for the species at the Fresno Chaffee Zoo (FCZ), with Mr. Mark Halvorsen as the Principal Investigator in his capacity as the Curator of Reptiles. This work was previously noticed on February 28, 2020 (Telemeco; 9-Z, pages 323-325) and July 24, 2020 (Halvorsen; 30-Z, page 1072).

Past research has demonstrated that drought adversely affects BNLL recruitment, resulting in population declines, but nothing is known about potential climate change impacts on nesting success. Dr. Telemeco is proposing to examine the feasibility of using the closely related Long-nosed Leopard Lizard (*G. wislizenii*, LNLL) as a surrogate for BNLL in experiments aimed at identifying and ameliorating the potential adverse effects from climate change on nesting success. The proposed validation experiment involves placing BNLL eggs that were produced from the captive breeding program, along with eggs from wild-caught LNLL, under various thermal and hydric treatments and comparing the outcomes between the two species. The incubation work will be conducted at the FCZ under the direct oversight of Mr. Halvorsen and authorized staff. Future post-hatching fitness

monitoring and experiments will be undertaken in the animal lab at Fresno State University under the direct oversight of Dr. Telemeco.

The Department intends to issue, under specified conditions, MOUs to authorize qualified wildlife researchers, with Dr. Telemeco and Mr. Halvorsen as the Principal Investigators, to carry out the proposed activities. Dr. Telemeco, Mr. Halvorsen, and the researchers are also required to have a valid federal recovery permit for the BNLL, and a scientific collecting permit (SCP) to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected reptile species after a 30 days' notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected reptiles, it would issue the MOU on or after June 6, 2022, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, Laura.Patterson@wildlife.ca.gov, 916-373-6633.

RULEMAKING PETITION DECISION

AIR RESOURCES BOARD

Sent via email:
April 25, 2022

Tom Frantz
tom.frantz49@gmail.com
Association of Irrigated Residents

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Animal Legal Defense Fund

Re: Petition for Reconsideration of the Denial of the Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard Program

Dear Phoebe Seaton, Michael Claiborne, Jamie Katz, Brent Newell, Tom Frantz, Tarah Heinzen, Tyler Lobdell, Cristina Stella, and Christine Ball-Blakely,

This is in response to your petition for reconsideration,¹ submitted by the Association of Irrigated Residents (AIR), Leadership Counsel for Justice & Accountability, Law Offices of Brent J. Newell, Food & Water Watch, and Animal Legal Defense Fund, on March 25, 2022, relating to petitioners' October 27, 2021 petition for rulemaking to the California Air Resources Board (CARB).² CARB initially acknowledged receipt of the petition for reconsideration on April 8, 2022.³

In your petition for rulemaking and your petition for reconsideration, you requested that CARB amend the Low Carbon Fuel Standard (LCFS) regulations found at title 17, California Code of Regulations (CCR), sections 95480 through 95503, which are authorized by the Global Warming Solutions Act of 2006 (AB 32).⁴ Specifically, the petitions request that CARB exclude

¹ Submitted pursuant to Government Code, § 11340.6 and § 11340.7(c).

² The petition is available from CARB upon request.

³ See letter from Mr. Matthew Botill, Chief, Industrial Strategies Division, CARB, to petitioners, attached as Exhibit A.

⁴ See, e.g., Health & Saf. Code, §§ 38560 and 38560.5. Petitioners argue that the LCFS violates Health and Safety Code section 38562, but the LCFS was not developed based upon that section's authority, and is not bound by its requirements. No version of the LCFS regulations has ever referenced Health and Safety Code section 38562 as authorizing authority. Health and Safety Code section 38562 applies to the Cap-and-Trade regulations published at title 17, CCR, sections 95801 through 96022, but does not apply to the LCFS. See, e.g., CARB response to GROWTHENERGY1 comment B4-33 in the *Responses to Comments on the Draft EA* (available here: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2018/lcfs18/ricea.pdf?ga=2.136319792.1612206215.1649357322-380047974.1536712726>) for the 2018 LCFS amendments (available here: <https://ww2.arb.ca.gov/rulemaking/2018/low-carbon-fuel-standard-and-alternative-diesel-fuels-regulation-2018>). In particular, the LCFS has never contained a general additionality requirement. The LCFS is designed to incentivize increased production of low carbon intensity fuels by rewarding the supply of volumes of such fuels.

all fuels derived from biomethane from dairy and swine manure from the LCFS, or, in the alternative, to reform the LCFS treatment of those fuels to account for additional greenhouse gas (GHG) emissions. The sections of the regulation that the petitions request that CARB amend are title 17, CCR, sections 95488.3 and 95488.9(f).

CARB partially denied and partially granted the October 27, 2021 petition for rulemaking on January 26, 2022.⁵ CARB partially denied the petition by declining to amend the LCFS Regulation in the manners suggested but granted the petition in part by affirming CARB's commitment to continue to engage with petitioners on the programmatic, environmental justice, and environmental integrity concerns raised in the petition through ongoing public processes.

Since January, CARB has followed up on this element of the response to the petition by continuing the ongoing AB 32 Climate Change 2022 Scoping Plan update development process,⁶ and by hosting a comprehensive public workshop on "Methane, Dairies and Livestock, and Renewable Natural Gas in California" on March 29, 2022.⁷ Representatives of the petitioners participated in the full-day workshop panels along with academics; community representatives; dairy and livestock industry representatives; investors; State, regional, and local environmental regulators, and others. The workshop provided a public forum to seek comment on topics pertinent to the concerns raised by petitioners' petitions. Those topics included State mandates for reductions in methane emissions, trends in the dairy and livestock industry, State programs that reduce dairy methane, environmental regulations affecting dairy operations (including concerns raised about potential impacts associated with environmental policies and programs), and stakeholder perspectives on dairies. CARB also opened a public comment docket following the workshop to solicit additional input from the public on workshop topics.

⁵ CARB Response to Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard Program (Jan. 26, 2022), available here: <https://ww2.arb.ca.gov/sites/default/files/2022-01/LCFS%20Petition%20Response%202021.pdf>.

⁶ 2022 AB 32 Climate Change Scoping Plan update workshop materials available here: <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/scoping-plan-meetings-workshops>. As noted in CARB's January 26, 2022 response to the October 27, 2021 petition, AB 32 directs CARB to develop, and update at least once every five years, the overarching climate change strategy known by the statutory term as a "scoping plan." See Health & Saf. Code, § 38561.

⁷ March 29, 2022 Methane, Dairies and Livestock, and Renewable Natural Gas in California public workshop agenda available here: <https://ww2.arb.ca.gov/sites/default/files/2022-03/dairy-workshop-agenda-03-29-2022.pdf>, and presentations available here: <https://ww2.arb.ca.gov/resources/documents/dairy-workshop-presentations-03-29-2022>.

As the petition for reconsideration notes, this March 29, 2022, workshop followed from a suggestion from Board Chair, Liane Randolph, consistent with interests expressed by other Board members during the January 27, 2022, CARB Board hearing, that CARB staff convene public opportunities to explore and share findings and discussion on the issues raised in the petitioners' initial petition in the near term. Following that March 29, 2022, workshop, CARB staff are working to summarize and synthesize the discussion and outcomes for a report to the Board and the public.

In addition, CARB staff recently finalized an "Analysis of Progress toward Achieving the 2030 Dairy and Livestock Sector Methane Emissions Target" and overcoming technical and market barriers to methane emissions reductions projects,⁸ as required by SB 1383 (Lara, Stats. of 2016, chapter 395).⁹ Completion of this analysis is one of several elements required by SB 1383 as preconditions for the requirement that CARB adopt and implement regulations to reduce methane emissions from livestock manure management operations and dairy manure management operations to meet the 2030 methane reduction target after January 1, 2024.¹⁰ The analysis shows that, primarily as a result of the State's investment, as well as reductions in animal populations,¹¹ the dairy and livestock sector is

⁸ CARB, Final Analysis of Progress toward Achieving the 2030 Dairy and Livestock Sector Methane Emissions Target (Mar. 2022) available here: <https://ww2.arb.ca.gov/resources/documents/dairy-livestock-sb1383-analysis> (Final Analysis).

⁹ Health & Saf. Code, § 39730.7(c) ("the state board, in consultation with the department, shall analyze the progress the dairy and livestock sector has made in achieving the goals identified in the strategy and specified in paragraph (1) of subdivision (b). The analysis shall determine if sufficient progress has been made to overcome technical and market barriers, as identified in the strategy."). The goals specified in Health and Safety Code, section 39730.7(b)(1) are to "reduce methane emissions from livestock manure management operations and dairy manure management operations [...] up to 40 percent below the dairy sector's and livestock sector's 2013 levels by 2030."

¹⁰ Health & Saf. Code, § 39730.7(b). Specifically, among other preconditions for adopting the methane emissions reduction regulations required, CARB must, in consultation with the California Department of Food and Agriculture, determine that the regulations are technologically and economically feasible, cost-effective, include provisions to minimize and mitigate potential leakage, and include an evaluation of the achievements made by incentive-based programs. Health & Saf. Code, § 39730.7(b)(4).

¹¹ As discussed on pages 10–11 in the CARB Final Analysis, *supra* note 7, CARB staff calculated an average annual decline of 0.5 percent in animal populations from the dairy and livestock sector in California between 2008 and 2017. Many market factors, including sustained low commodity prices, high production costs, reduced state, national, and international demand, and expansion of alternative product markets, suggest this trend in population decrease will continue. Many of these same trends, along with improved production efficiency from economies of scale, have also contributed to the ongoing consolidation trend throughout the dairy industry in California and the United States that has been occurring for decades. Petitioners have not demonstrated that the LCFS rather than industry trends or other factors are responsible for the harms petitioners highlight.

expected to achieve 4.6 MMTCO₂e annual methane emissions reductions by 2030 — or only about half of the emissions reductions needed to achieve the 2030 target. The analysis further shows that anaerobic digesters account for the primary share of statewide methane reductions achieved and expected from the dairy dairy and livestock sector. Accordingly, without digesters, California would not be able to meet its 2030 dairy and livestock sector methane emissions reduction goal. The evidence suggests that the LCFS Regulation has been helpful in incentivizing the development of well-designed and operated digester projects in order to support achieving these emissions reductions.

CARB is currently developing the 2022 Scoping Plan update to identify a pathway to achieve carbon neutrality by no later than 2045, and as part of this work, identifying options for reducing California methane emissions in support of achieving carbon neutrality. The need for methane reduction approaches, like anaerobic digesters, and the utilization of dairy biomethane to better achieve various state policy goals is currently part of a public discussion and ongoing information gathering. As the March 2022 analysis describes, “[w]hile dairy biomethane is currently directed to the transportation fuel market through the LCFS Program, other market-based programs could play a role in directing the biomethane to alternative end uses, including towards industries that are difficult to electrify and otherwise decarbonize.”¹² This and other important policy questions relevant to the petition will be considered by CARB during the 2022 Scoping Plan update process. Because a broad statewide planning effort in this area is currently in progress in the context of the ongoing development of the 2022 Scoping Plan update, initiating amendments to the LCFS Regulation without first allowing the 2022 Scoping Plan update to proceed would be premature. As previously noted, we anticipate initiating a public process to discuss opportunities to amend the LCFS upon completion of the Scoping Plan update.

Moreover, for the reasons explained to petitioners in the January 26, 2022, CARB letter to petitioners,¹³ your renewed request that CARB stop implementing the elements of the LCFS that you propose that CARB amend is denied. The current LCFS Regulation was lawfully adopted through the required robust public rulemaking process, and it is functioning to bring the environmental and economic benefits to California

that it was designed at adoption to incentivize. Petitioners’ request for “interim relief” is a request for CARB to effectively bypass the legally-required open public regulatory amendment process. Granting such a request would go against the basic principles of the Administrative Procedure Act and the underlying open public process policy interests.

Determination and Conclusion

California needs methane reductions from the dairy and livestock sector now, and the LCFS provisions that petitioners propose to amend support achievement of those reductions. Although the information contained in the petition for reconsideration underscores the need for continued action and coordination to address the complex issues associated with dairy and livestock operations in the Central Valley, petitioners have not presented information that changes the response as reflected in our January 26, 2022 letter to the petitioners and that would warrant shortcutting the public process for the Scoping Plan and any subsequent LCFS rulemaking. All of the reasons for the initial denial of the petition for rulemaking still apply.¹⁴

Therefore, after careful consideration of the petition for reconsideration, the relevant law, and the current context of ongoing development of the next 2022 Scoping Plan update and anticipated subsequent regulatory activity, the petitioners’ petition for reconsideration, pursuant to Government Code section 11340.7¹⁵ is **denied**. The record upon which this decision is based includes the petition and its exhibits, this letter, and the materials referenced herein.

While CARB is denying the petition for reconsideration, CARB appreciates and welcome petitioners’ continued engagement and information sharing within these ongoing public processes to improve our programs and the achievement of our shared important policy goals.

In accordance with Government Code section 11340.7(d), a copy of this letter is being transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. The agency contact person in this matter is Gabriel Monroe, Senior

¹⁴ Gov. Code § 11340.7 provides that an agency addressing a petition shall “identify the agency, the party submitting the petition, the provisions of the California Code of Regulations requested to be affected, reference to authority to take the action requested, the reasons supporting the agency determination, an agency contact person, and the right of interested persons to obtain a copy of the petition from the agency.” This response fulfills those requirements.

¹⁵ The Board may delegate any duty it deems appropriate to its Executive Officer (Health & Saf. Code, § 39515(a)). The Board is conclusively presumed to have delegated any of its powers to the Executive Officer unless it has expressly reserved that power to itself (Health & Saf. Code, § 39516). The Board has not reserved the power to act on rulemaking petitions and it is, therefore, appropriate for me to act on this petition pursuant to my delegated authority.

¹² *Id.* at 41.

¹³ This CARB Letter to Petitioners Re: Requests to Deny or Delay Consideration of Low Carbon Fuel Standard (LCFS) Pathway Certifications (Jan. 26, 2022) was included as Attachment 5 to the petition for reconsideration, and is also available here: https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/carb_response.pdf.

Attorney, available at (916) 324-2132 or Gabriel.Monroe@arb.ca.gov. Interested parties may obtain a copy of the petition upon request to Chris Hopkins, available at (279) 208-7347 or Chris.Hopkins@arb.ca.gov. Upon request physical copies may be obtained from 1001 I Street, Sacramento, California, 95814.

Sincerely,

/s/

Richard W. Corey
Executive Officer
California Air Resources Board

cc: (via email only)

Liane M. Randolph, CARB Chair
Honorable Board Members
Rajinder Sahota, CARB Deputy Executive Officer
Chanell Fletcher, CARB Deputy Executive Officer
Ellen M. Peter, CARB Chief Counsel

**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.

Secretary of State
File # 2022-0414-01
Conditional Voter Registration

This action adds a method for military and overseas voters and voters with disabilities to complete conditional voter registration and cast a provisional or non-provisional ballot.

Title 02
Adopt: 20024.5
Amend: 20021, 20022, 20023, 20024, 20025, 20026, 20027
Filed 04/25/2022
Effective 04/25/2022
Agency Contact:
Rachelle Delucchi (916) 764-5934

Department of Developmental Services
File # 2022-0415-01
Readoption of Children's Community Crisis Homes

This emergency rulemaking action by the Department of Developmental Services readopts the changes approved in OAL File Number 2021-0615-08ER. That action updated facility program plan requirements, staff training requirements, continuing education requirements, and individual behavior supports plan requirements for Community Crisis Homes licensed as adult residential facilities and group homes. That action also updated Form DS 6023 and Form DS 6024, which pertain to rate development for Community Crisis Homes.

Title 17
Adopt: 59009.5, 59010.1, 59010.2, 59010.3, 59010.4, 59010.5
Amend: 59000, 59002, 59006, 59007, 59008, 59009, 59010, 59012, 59022, 59050, 59072
Filed 04/25/2022
Effective 04/25/2022
Agency Contact: Amy Whiting (916) 654-4418

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

California Science Center
File # 2022-0322-01
Conflict-of-Interest Code

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

Title 02
Amend: 46000, 46001
Filed 04/27/2022
Effective 05/27/2022
Agency Contact: Alfred Konuwa (213) 744-2308

Acupuncture Board
File # 2022-0310-07
Omnibus Clean-Up Amendments

This action makes changes without regulatory effect to the Acupuncture Regulations. Specifically, this action standardizes formatting, numbers, and terms; eliminates gendered pronouns; replaces the word “oriental” with “Asian”; adds Oxford commas; makes grammatical changes; updates cross-references; and updates reference citations.

Title 16
Amend: 1399.400, 1399.403, 1399.405, 1399.406, 139.9.411, 1399.413, 1399.414, 1399.416, 1399.417, 1399.419, 1399.419.1, 1399.419.2, 1399.421, 1399.422, 1399.423, 399.424, 1399.425, 1399.426, 1399.427, 1399.428, 1399.430, 1399.431, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439, 1399.434, 1399.440, 1399.441, 1399.443, 1399.444, 1399.451, 1399.455, 1399.463, 1399.464, 1399.465, 1399.467, 1399.468, 1399.469, 1399.469.1, 1399.469.2, 1399.475, 1399.476, 1399.477, 1399.479, 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, 1399.489.1
Repeal: 1399.456
Filed 04/22/2022
Agency Contact:
Heather Hoganson (916) 574-8227

Board of Pilot Commissioners
File # 2022-0325-01
Trainee Minimum Qualifications

This change without regulatory effect adds a reference citation and corrects the subsection hierarchy in the regulation by eliminating a duplicate letter.

Title 07
Amend: 213
Filed 04/26/2022
Agency Contact: Allen Garfinkle (415) 397-2253

California Highway Patrol
File # 2022-0310-01
Child Safety Alarm Systems

The California Highway Patrol in this action is removing expired provisions and repetitive language. Additionally, language is being amended to define the requirements for deactivation of the child safety alarm system required to be in certain vehicles.

Title 13
Amend: 1294
Filed 04/22/2022
Effective 07/01/2022
Agency Contact: Kasonja Pochop (916) 843-3400

Occupational Safety and Health Standards Board
File # 2022-0317-04
Applications for Permanent Variances

In this regular rulemaking action, the Occupational Safety and Health Standards Board amends the requirements for permanent variance applications to reduce the number of copies of applications and supporting documents that must be submitted.

Title 08
Amend: 411
Filed 04/25/2022
Effective 07/01/2022
Agency Contact: Christina Shupe (916) 274-5721

State Water Resources Control Board
File # 2022-0311-03
Toxicity Provisions

This action adopts the State Policy for Water Quality Control: Toxicity Provisions as a state policy for water quality control for all inland surface waters, enclosed bays, estuaries, and coastal lagoons of the state, and for inclusion in the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of the United States.

Title 23
Adopt: 2927, 3014
Filed 04/25/2022
Effective 04/25/2022
Agency Contact: Zane Poulson (916) 341-5254

**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.