



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

MULTI-COUNTY: Valley Regional Occupational Program

ADOPTION

MULTI-COUNTY: Excel Academy Charter School

A written comment period has been established commencing on August 5, 2022 and closing on September 19, 2022. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

The Executive Director of the Commission, upon his or its own motion or at the request of any interested

person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than September 19, 2022. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 2. SECRETARY OF STATE

EXPERIMENTAL USE OF A VOTING
SYSTEM IN A
PILOT PROGRAM

NOTICE IS HEREBY GIVEN that the California Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under *Contact Persons* in this Notice, must be received by the SOS at its office not later than **September 19, 2022**.

A public hearing is scheduled for **September 20, 2022, at 10:00 a.m. PST**, on the Experimental Use of a Voting System in a Pilot Program Regulations. The hearing information is as follows:

**Voting System Pilot Program Regulations
Hearing
Sep 20, 2022, 10:00 a.m. Pacific Time**

Join from PC, Mac, Linux, iOS or Android:

<https://sos-ca-gov.zoom.us/j/88041299499?pwd=SVoyb0ZhK1dYMGlhNVJxMWdqaUM5dz09>
Password: X\$4xMMC\$

Or iPhone one-tap:

US: +16699006833,,88041299499# or
+16694449171,,88041299499#

Or Telephone:

US: +1 669 900 6833 or +1 669 444 9171 or
+1 346 248 7799 or +1 253 215 8782 or
+1 564 217 2000 or +1 646 931 3860 or
+1 929 436 2866 or +1 301 715 8592 or
+1 312 626 6799
Meeting ID: 880 4129 9499

Following the public hearing, the SOS, upon its own motion or at the instance of any interested party, may thereafter 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 persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal. If you have any questions, please contact the Office of Voting Systems Technology Assessment at: (916) 695-1680, or email at votingsystems@sos.ca.gov.

Public Comment Period: **August 5, 2022, through September 19, 2022**.

AUTHORITY AND REFERENCE

Elections Code section 19209(g) requires the SOS to adopt regulations related to governing voting system pilot programs.

Authority cited: Section 19209(g), Elections Code.

Reference cited: Section 19209(g), Elections Code.

INFORMATIVE DIGEST

As required by Elections Code section 19209(g), the SOS is seeking to adopt regulations governing the experimental use of a voting system in a pilot program. The SOS was initially charged with development of these regulations with the passage of Senate Bill 360 in 2013.

Policy Statement Overview/Anticipated Benefits of Proposal

The governing board of a California jurisdiction, without formally adopting a voting system, may provide for the experimental use of the voting system in a pilot program held in one or more precincts at a single election or, in the case of a special election, the special primary election and the special general election, if the voting system complies with either of the following: 1) The voting system is certified or conditionally approved prior to its experimental use, 2) The voting system meets all of the following requirements: A) Uses only software and firmware with disclosed source code, except for unmodified commercial off-the-shelf software and firmware, B) Meets the requirements of subdivision (b) of Section 19101, C) Meets the requirements of the regulations adopted by the Secretary of State pursuant to subdivision (g), and D) Implements risk-limiting audits. A voting system that meets the requirements listed above need not be certified or conditionally approved prior to its experimental use in a pilot program if all applicable portions of Elections Code section 19209 are also met.

California jurisdictions attempting to provide for the experimental use of a voting system in a pilot program have not have adequate direction when submitting to the Secretary of State their plan for pilot program im-

plementation. The SOS is proposing, with these regulations, to make permanent regulations governing voting system pilot programs. The regulations include but are not limited to, application requirements, requirements for plans, implementation and use requirements, and review requirements.

The regulations offer the following benefits:

- 1) To create regulations for the purpose of governing the experimental use of a voting system in a pilot program pursuant to section 19209(g) of California Elections Code.
- 2) To create clear and concise requirements for voting system pilot programs.

Consistency/Compatibility with Existing State Regulations

The SOS has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the SOS has concluded that these are the only regulations that concern the experimental use of a voting system in a pilot program in California.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing the Regulations: None.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The SOS has made an initial determination that this 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.

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

Effect on Housing Costs: None.

Effect on Small Business: The SOS has made an initial determination that the proposed regulatory action will have no effect on small business. These regulations make complying with statutory requirements re-

lated to digital signatures more straightforward, which if anything will have a positive impact on small businesses that provide digital signatures and small businesses that use digital signatures to communicate with state agencies.

Result of Economic Impact Assessment/Analysis Summary Comments: There are no direct benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment. The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. These regulations make complying with statutory requirements related to digital signatures more straightforward.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action.

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The SOS has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the SOS’s website.

Copies of the express language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the SOS contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

California Secretary of State
Political Reform Division
1500 11th Street, Room 495
Sacramento, CA 95814

Due to restrictions related to COVID-19, the SOS's public counter is not open to the public. Please contact the contact persons below to arrange for public inspection of the rulemaking documents. Options for public inspection during COVID-19 may include having the rulemaking documents emailed to you or scheduling an in-person review.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

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

Rodney Rodriguez
California Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814
(916) 695-1477
rrodriguez2@sos.ca.gov

The backup contact person is:

NaKesha Robinson
California Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814
(916) 695-1635
nrobinson@sos.ca.gov

Website Access: Materials regarding this proposal can be found at:

<https://www.sos.ca.gov/administration/regulations/>

**TITLE 10. BUREAU OF REAL ESTATE
APPRAISERS**

**PROPOSED REGULATORY ACTION
CONCERNING FORMS**

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers (hereafter Bureau or BREA) is proposing to take the action described in the Infor-

mative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or the interested person's authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Bureau at its office no later than Tuesday, September 20, 2022, by 5:00 p.m.**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 115.5, 135.4, 11313, 11314, 11327, 11340, 11345, 11360, and 11361 of the Business and Professions Code (BPC), Section 11180 of the Government Code, and to implement, interpret, or make specific BPC section 30, 31, 114.5, 115.5, 135.4, 480, 490, 494.5, 11310.3, 11320, 11320.5, 11328.1, 11340, 11341, 11343, 11345, 11345.05, 11345.1, 11345.2, and 11345.3, and Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (Public Law 101-73), the Bureau is considering amending sections 3527, 3561, 3563, 3568, 3570, 3575, 3602, 3603, 3681, and 3726 of title 10 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Existing federal law, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (Public Law 101-73), established the Appraiser Foundation. The Appraiser Qualifications Board is an independent board of the Appraiser Foundation and establishes the minimum education, experience, and examination requirements for appraisers to qualify for state licensure or certification.

Assembly Bill (AB) 948 (Holden) Chapter 352, Stats. 2021 required the Bureau to include on its complaint form particular questions related to the complainant's opinion of market value of the property, as

well as collect demographic data related to the complainant's identity within a protected class. (It made other changes not relevant here.)

Business and Professions Code section 11314 provides the Bureau broad rulemaking authority to establish and amend licensing forms. The Bureau proposes to revise the following forms: Log of Appraisal Experience Form REA 3004 (Rev. 1/01/2023); Appraisal Management Company Certificate of Registration Application form, REA 5001 (Rev. 1/01/2023); Miscellaneous Requests Form REA 5011 (Rev. 1/01/2023); and Appraisal Management Company Renewal Application Form REA 5012 (Rev. 1/01/2023) to better serve applicants and comply with changes in the law. The Bureau proposes to establish the Complaint Form REA 4001 (New 01/01/2023) to standardize complaints and comply with Bureau laws and regulations. The revisions will also make the forms easier to use. The aforementioned forms are or will be incorporated by reference.

INCORPORATION BY REFERENCE

The Bureau seeks to incorporate by reference the following forms: REA 3004 (Rev. 01/01/2023); REA 4001 (New 01/01/2023); REA 5001 (Rev. 01/01/2023); REA 5011 (Rev. 01/01/2023); and REA 5012 (Rev. 01/01/2023).

Anticipated Benefits of Proposal

The proposal will standardize complaints, implementing AB 948, and update licensing forms to comply with Bureau laws and regulations, as well as make the forms easier to use. This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

Consistency and Compatibility with Existing State Regulations

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

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Bureau has made the following initial determinations:

FISCAL IMPACT ESTIMATES

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

The Bureau estimates one-time absorbable costs of approximately \$3,600 to update the various forms.

Because the Bureau currently processes existing versions of each form, no additional workload or costs are anticipated as a result of the updates. The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to any Local Agency or School District for which Government Code Sections 17500–17630 Require Reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete

The Bureau has made the initial 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 because it simply updates existing application forms and incorporates the Bureau's complaint form by reference, collecting the information required by AB 948.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS BUSINESS IMPACT ESTIMATES

Impact on Jobs/Businesses

The Bureau has determined that this regulatory proposal will not impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California because it simply updates existing application forms and incorporates the Bureau's complaint form by reference, collecting the information required by AB 948.

Benefits of Regulation

This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Bureau.

Effect on Small Business

The Bureau has determined that the proposed regulations will not affect small businesses because they simply update existing application forms and incorporate the Bureau's complaint form by reference.

Cost Impact on Representative Private Person or Business

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

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 3075 Prospect Park Drive, Suite 190, Rancho Cordova, CA 95670, or via e-mail to the Contact Person listed below.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and all documents incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau at 3075 Prospect Park Drive, Suite 190, Rancho Cordova, CA 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own review or at the request of any interested party, may thereafter 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written

or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Loretta Dillon
Address: Bureau of Real Estate Appraisers
3075 Prospect Park Drive, Suite 190
Rancho Cordova, CA 95670.
Telephone Number: (916) 610-9879
Email: Loretta.Dillon@brea.ca.gov

The backup contact person is:

Name: Mary Ann Lopez
Address: Bureau of Real Estate Appraisers
3075 Prospect Park Drive, Suite 190
Rancho Cordova, CA 95670.
Telephone Number: (916) 610-9891
Email: Maryann.Lopez@brea.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Actions, the Initial Statement of Reasons, and the proposed text of the regulations, as well as the Final Statement of Reasons when completed and text modified from the original proposed text, if any, can be accessed through the Bureau's website at <https://www.brea.ca.gov/html/Rulemaking.html>.

**TITLE 16. PROFESSIONAL
FIDUCIARIES BUREAU**

**CULTURAL COMPETENCY IN
PRELICENSING AND
CONTINUING EDUCATION**

NOTICE IS HEREBY GIVEN that the Professional Fiduciaries Bureau (Bureau) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Persons” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Persons” in this Notice, must be **received by the Bureau at its office no later than Tuesday, September 20, 2022, by 5:00 p.m.**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 6517 and 6538 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 6538, the Bureau is considering amending sections 4440, 4442, and 4444 of title 16 of the California Code of Regulations (CCR).

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

This regulatory proposal will conform existing pre-licensure and continuing education regulations with the new requirements imposed by Assembly Bill (AB) 465 (Nazarian, Chapter 167, Statutes of 2021), with the intent of ensuring course providers and licensees have a clear understanding of the new requirements.

The Professional Fiduciaries Bureau (Bureau) was created within the Department of Consumer Affairs (Department) by the Professional Fiduciaries Act

(Chapter 6 [commencing with section 6500] of Division 3 of the Business and Professions Code) (Act), added by Chapter 491 of the Statutes of 2006 (SB 1550, Figueroa) as part of the Omnibus Conservatorship and Guardianship Reform Act of 2006 (Chapters 49093, Statutes of 2006 [SB 1116, Scott; SB 1550, Figueroa; SB 1716, Bowen; AB 1363, Jones]), to protect the “increasing number of people in the state [who] are unable to provide properly for their personal needs, manage their financial resources, or resist fraud or undue influence as well as fiscal, emotional, and physical harm,” and are therefore vulnerable to neglect or physical, emotional, or financial abuse by professional fiduciaries. (Chapter 491, Statutes of 2006, § 2.)

The Act defines the “professional fiduciaries” who are subject to its provisions to include guardians, conservators, trustees, personal representatives of a decedent’s estate, and agents under durable power of attorney, with certain exceptions. (Business and Professions Code [BPC] sections 6501 and 6530.) The Act makes the Bureau responsible for licensing and regulating professional fiduciaries and enforcing licensing requirements. (BPC sections 6510, 6518.) The Bureau currently licenses and regulates 839 professional fiduciaries actively engaged in the profession as guardians, conservators, trustees, personal representatives of a decedent’s estate, and agents under durable power of attorney. The Bureau has issued 1,323 licenses as of May 31, 2022.

The protection of the public is the Bureau’s highest priority in exercising its licensing, regulatory, and disciplinary functions. (BPC section 6516.) The Bureau protects persons who seek and receive professional fiduciary services by, among other things, ensuring that licenses are issued only to eligible and qualified applicants (BPC sections 29.5, 144, 480, 494.5, 6518, 6533, 6533.5, 6536, 6538, 6540); ensuring that licensees receive continuing education (BPC sections 166, 6518, 6538, 6540, 6541); requiring licensees to submit an annual statement and ongoing reports with information confirming their continued fitness for licensure (BPC section 6561; California Code of Regulations, title 16, section 4544 [16 CCR section 4544]); investigating complaints against licensees (BPC sections 108, 129, 464(c), 6580); disciplining licensees for violations of the Act (BPC sections 108, 118, 125.9, 141, 490, 6580, 6583, 6584); maintaining a file on each license and making certain information on the license publicly available, such as disciplinary history and license status (BPC sections 27, 6534, 6580); and informing the public of its functions (BPC section 129(e)). BPC section 6517 gives the Bureau authority to “adopt, amend, or repeal...regulations necessary to enable the [B]ureau to carry into effect the provisions of law relating to [the Act].”

Applicants seeking licensure as a professional fiduciary must meet certain educational and/or experience requirements, pass a licensing examination, submit fingerprints, submit an application, and take 30 hours of pre-licensure coursework, among other requirements (BPC section 6533). Once licensed, a licensee must comply with various ongoing requirements including completing 15 hours of continuing education courses each year, submitting an annual statement, and paying an annual renewal fee. (BPC sections 6538(b), 6541(b).) The annual 15-hour continuing education requirement currently includes two hours of instruction regarding ethics.

Eligible education coursework must be related to fiduciary responsibilities and impart knowledge and increase understanding of the fiduciary profession or of the California judiciary or the legal process as it relates to the administration of fiduciary responsibilities in at least one of the following topics: conservatorship; guardianship; trust administration; durable power of attorney; the California court system including court jurisdiction and responsibilities; the state and federal constitution, California statutes, rules of court, case law, administrative law, and current issues in the California court system relevant to the fiduciary profession; and ethics for fiduciaries. (CCR section 4444 (b) and (e).)

This regulatory proposal will:

- Make it clear to prospective applicants that one hour of coursework in cultural competency is required as part of the 30-hour requirement for pre-licensure coursework as a condition of licensure.
- Ensure current licensees understand that the long-standing requirement to take two hours of coursework in ethics as part of the annual 15-hour continuing education requirement can also be satisfied with either two hours of cultural competency coursework or two hours of instruction in both ethics and cultural competency.
- Ensure that coursework taken in cultural competency will qualify toward meeting pre-licensing or continuing education requirements.

Anticipated Benefits of Proposal

This proposal will benefit consumers by ensuring licensees of the Bureau are appropriately educated in matters of cultural competency consistent with the definition of that term and the requirements of AB 465. This proposal will benefit the public at large by allowing the Bureau to review continuing education credit as it is submitted and to conduct continuing education audits. These benefits will ensure a well-regulated licentiate, improving the standard of service rendered to the public.

Consistency and Compatibility with Existing State Regulations

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

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Bureau has made the following initial determinations:

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The regulations do not result in a fiscal impact to the state. This proposal specifies continuing education coursework for licensees and does not increase the number of hours required. As a result, the Bureau does not anticipate an increase in workload or costs.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to any Local Agency or School District for which Government Code Sections 17500–17630 Require Reimbursement: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS BUSINESS IMPACT ESTIMATES

The Bureau has made the initial 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 initial determination is based on the following facts:

Applicants for licensure are required to complete 30 hours of pre-licensing coursework, and once licensed, are required to complete 15 hours of continuing education as part of the annual renewal process. Amendments to BPC 6538 and this related proposed regulation do not change the overall total number of hours required, presenting no financial burden to the licensee.

Impact on Jobs/Businesses

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

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

This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

Business Reporting Requirements

The Bureau does not license businesses and this rulemaking does not create any business reporting requirements as specified in Government Code section 11346.5(a)(11) or 11346.3(d).

Effect on Small Business

The Bureau has determined that the proposed regulations will not affect small businesses, as it does not change the overall number of hours required for continuing education and there is no increased cost to the licensees' business to comply with this regulation.

Cost Impact on Representative Private Person or Business

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

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 1625 North Market Boulevard, Suite S-209, Sacramento, California 95834.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau at 1625 North Market Boulevard, Suite S-209, Sacramento, California 95834.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Angela Cuadra
 Address: Professional Fiduciaries Bureau
 1625 North Market Boulevard, Suite-209
 Sacramento, CA 95834
 Telephone Number: 916-574-7498
 Fax Number: 916-574-8645
 E-Mail Address: angela.cuadra@dca.ca.gov

The backup contact person is:

Name: Rebecca May
Address: Professional Fiduciaries Bureau
1625 North Market Boulevard, Suite S-209
Sacramento, CA 95834
Telephone Number: 916-574-7340
Fax Number: 916-574-8645
E-Mail Address: fiduciary@dca.ca.gov

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 2531.95, 2532.2, and 2532.6, and to implement, interpret, or make specific BPC sections 2530.5, 2532.2, 2532.25, and 2532.6 the Board is considering amending sections 1399.153 and 1399.153.3 of Title 16 of the CCR.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Bureau's website at https://fiduciary.ca.gov/laws_regs/index.shtml.

TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

REQUIRED PROFESSIONAL EXPERIENCE (RPE) DIRECT SUPERVISION REQUIREMENTS AND TELE-SUPERVISION

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

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 prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this Notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail or e-mail to the address listed under "Contact Person" in this Notice, must be received by the Board at its office no later than **Tuesday, September 20, 2022, by 5:00 p.m.**

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is vested with the authority to regulate the practices of speech-language pathology, audiology, and hearing aid dispensing. (BPC § 2530.1.) The Board's mandate and mission is to protect the public. (BPC § 2531.02.)

BPC section 2532.2 requires speech-language pathology applicants to submit evidence of no less than 36 weeks of supervised professional full-time experience or 72 weeks of supervised professional part-time experience under the supervision of a licensed speech-language pathologist. BPC section 2532.25 requires audiology applicants to submit evidence of no less than 12 months of supervised professional full-time experience or its part-time equivalent obtained under the supervision of a licensed audiologist. The Board issues a temporary license for this Required Professional Experience (RPE) for the practices of speech-language pathology and audiology.

Under the supervision of a licensed speech-language pathologist or licensed audiologist, the Board requires direct supervision of RPE temporary licensees for a minimum of eight hours per month for full-time RPEs and four hours per month for part-time RPEs. There is currently a lack of clear authority for RPE temporary licensees and their supervisors to utilize tele-supervision to meet the direct supervision requirement.

Through this rulemaking, the Board proposes to amend sections 1399.153 and 1399.153.3 of Title 16 the CCR to allow for the tele-supervision of RPE temporary licensees for up to half of the required monthly supervision hours under specified circumstances. This proposal is necessary to provide clarity to RPE temporary licensees and their supervisors.

Amend Section 1399.153

Specifically, "direct supervision" will be defined as in person, one-on-one audiovisual observation, and guidance, as needed by the RPE supervisor of activities related to the practice of speech-language pathology or audiology. "Tele-supervision" will be defined as synchronous, one-on-one audiovisual observation, and guidance, as needed through electronic audio and video monitoring by the RPE supervisor of activities related to the practice of speech-language patholo-

gy or audiology while care is being provided to the patient.

Amend Section 1399.153.3

Section 1399.153.3 currently outlines the RPE supervisor’s responsibilities, specifies that the current required supervision hours are eight (8) hours per month for full–time RPEs and four (4) hours per month for part–time RPEs, and specifies the functions that may be directly monitored. This proposal will provide how often and under what circumstances tele–supervision may be utilized to meet the required monthly supervision hours. This proposal will also require the RPE supervisor to inform the patient about the use of tele–supervision and obtain verbal or written consent from the patient and require the RPE temporary licensee to be physically present with the patient while patient services are being provided. This proposal will make other grammatical and clarifying changes.

ANTICIPATED BENEFITS OF PROPOSAL

This regulatory proposal will provide clarity to the regulated community regarding when and to what degree tele–supervision can be utilized to meet the monthly supervision requirements for RPE temporary licensees. Allowing tele–supervision for up to half of the required monthly supervision hours will allow RPE temporary licensees and their supervisors greater flexibility in meeting this requirement. In some instances, RPE supervisors may be supervising RPE temporary licensees in multiple locations. Allowing tele–supervision may reduce travel time, which could help the RPE supervisor better manage other responsibilities.

This proposal will also protect the consumer by requiring an RPE supervisor to inform the patient about the use of tele–supervision and obtain verbal or written consent from the patient, while also ensuring an adequately trained workforce. Grammatical and other clarifying changes will also ensure consistency throughout the regulations.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulatory proposal, the Board conducted a search of any similar regulations of these topics and has concluded that these regulations are neither duplicative, inconsistent, nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Board has made the following initial determinations:

FISCAL IMPACT ESTIMATES

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

None. The regulations do not result in a fiscal impact to the state.

The Board does not anticipate an increase in workload because this regulatory proposal does not create a new requirement but instead provides an option to utilize tele–supervision in lieu of direct supervision. The purpose of this regulatory proposal is to provide RPE temporary licensees and RPE supervisors the ability to meet a portion of the required monthly supervision hours via tele–supervision.

There are no costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to any Local Agency or School District for which Government Code Sections 17500–17630 Require Reimbursement: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses

The Board has determined that this regulatory proposal will not have any significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Board has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs in the State of California because it only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.
- It will not create new businesses within the State of California because it only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.
- It will not expand or eliminate existing business because this regulation only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.
- This regulatory proposal will affect the health and welfare of California residents because it ensures

consumer protection by requiring the RPE supervisor to inform the patient about the use of tele-supervision and obtain verbal or written consent and requiring the RPE temporary licensee to be physically present with the patient while patient services are being provided.

- This regulatory proposal will not affect worker safety because it does not relate to worker safety.
- This regulatory proposal will not affect the state's environment it does not relate to the environment.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses because this proposal only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.

Cost Impact on Representative Private Person or Business

There may be potential technology costs for private persons or businesses in order to utilize tele-supervision to meet the required supervision hours. However, any expenses would be optional since utilizing tele-supervision is not required by this regulation. Additionally, this regulation does not specify that a specific form of technology must be utilized if RPE temporary licensees and RPE supervisors choose to utilize tele-supervision. 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.

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1601 Response Road, Suite 260, Sacramento, California 95815 or by e-mail to SpeechandHearingRegulations@dca.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons, proposed regulatory text, and all the information on which this proposal is based. The material is contained in the rulemaking file that is available for public inspection upon request to the "Contact Person" named in this Notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1601 Response Road, Suite 260, Sacramento, California 95815 or by e-mail to SpeechandHearingRegulations@dca.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the "Contact Person" and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the "Contact Person" named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Heather Olivares, Legislation/
Regulation Analyst
Address: Speech–Language Pathology and
Audiology and Hearing Aid
Dispensers Board
1601 Response Road, Suite 260
Sacramento, California 95815
Telephone
Number: (916) 905–5486
E–Mail Address:
SpeechandHearingRegulations@dca.ca.gov

The backup contact person is:

Name: Cherise Burns, Assistant Executive
Officer
Address: Speech–Language Pathology and
Audiology and Hearing Aid
Dispensers Board
1601 Response Road, Suite 260
Sacramento, California 95815
Telephone
Number: (916) 905–5454
E–Mail Address:
SpeechandHearingRegulations@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board’s website at www.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml

TITLE 16. PHYSICAL THERAPY BOARD

CLINICAL SERVICE REQUIREMENTS FOR FOREIGN EDUCATED APPLICANTS

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California (Board) is proposing to take the action described in the Informative Digest.

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 a person’s authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request, in writing, addressed to the individuals listed under “Contact Persons” in this Notice.

WRITTEN COMMENT PERIOD

Any interested person, or a person’s authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at 916 263–2560 or by e–mail to ptbc.rulemaking@dca.ca.gov. The Board will consider only comments received at the Board’s office by **5:00 p.m., Tuesday, September 20, 2022**, or at the public hearing, if one is requested. Submit comments to the Contact Persons listed in this Notice.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter 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 persons designated in this Notice as the Contact Persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 2615 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 2650 and 2653, subdivision (c), of said BPC, the Board is considering changes to Division 13.2 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

BPC section 2615, authorizes the Board to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable the Board to carry out the provisions of the Physical Therapy Practice Act (Act).

BPC section 2650 defines the requisite educational standards of physical therapists and physical therapist assistants.

BPC section 2653, subdivision (c), requires physical therapist applicants from non–accredited programs to complete nine months of clinical service in a location approved by the Board under the supervision of a physical therapist licensed by a United States jurisdiction, in a manner satisfactory to the Board. The subdivision further requires that the supervising physical therapist shall evaluate the applicant and report their findings to the Board.

Proposed Amendment to 16 CCR 1398.26.5

This section requires applicants who are graduates of non-accredited physical therapy education programs that are not located in the United States to demonstrate clinical competence through a period of clinical service supervised by a licensed physical therapist. Subsections (a) and (c) specify that at least one supervising physical therapist be the Center Coordinator of Clinical Education (CCCE) and/or the Clinical Instructor (CI), as defined by the American Physical Therapy Association (APTA). Subsection (d) requires that the CCCE and/or the CI report the clinical service evaluation of the physical therapist applicant on the Physical Therapist Clinical Performance Instrument (CPI) issued by the APTA.

The amendments would allow for use of the Federation of State Boards of Physical Therapy’s (FSBPT) Supervised Clinical Practice Performance Evaluation Tool (PET), as an alternative to use of the APTA’s CPI. Additionally, the amendments make non-substantive changes such as replacing the word “credentialed” for “certified” in reference to the CI. This is consistent with APTA’s terminology and adds clarity to the regulation, since it eliminates confusion between the clinical service being certified and the CI’s being certified. It also corrects a typographical error in subsection (d) by replacing the word “elevations” with “evaluations.”

Anticipated Benefits of Proposed Regulations

The purpose of supervised clinical service for a physical therapist, who is a graduate of a non-accredited physical therapy educational program, is to promote public protection by evaluating the physical therapist’s ability to practice competently within the United States’ healthcare system. Completion of a supervised clinical practice under the supervision of a licensed physical therapist better prepares a physical therapist applicant from a non-accredited program outside of the United States for successful entry into the United States workforce, promotes clinical competence and the delivery of safe and effective care, assists in addressing cultural competence, and ensures a necessary level of public protection. Since completing the supervised clinical service is a critical component in meeting licensure requirements and the APTA has limited use of the CPI to the 1997 paper-based instrument, the FSBPT developed the PET, which is valid, defensible, and can be consistently applied. By providing both options (CPI or PET), this may lower a barrier to licensure by expanding available clinical service sites.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and has concluded

these regulations are neither inconsistent, nor incompatible, with existing state regulations.

Incorporation by Reference

- *Physical Therapist Clinical Performance Instrument*, issued by the American Physical Therapy Association in December of 1997.
- *Supervised Clinical Practice Performance Evaluation Tool*, issued by the Federation of State Boards of Physical Therapy’s, dated September 2013.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations do not result in a fiscal impact to the state.

Because the workload and costs to process the PET is the same as processing the CPI and because the number of total evaluations (PET or CPI) processed per year is not anticipated to increase, no additional workload or costs are anticipated.

The Board does not anticipate any impact on federal funding.

This proposal does not impact any government-owned business.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The Board has made the initial determination that the proposed regulation 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 all applicants for licensure have to meet an education standard set by CAPTE, which includes a clinical service component.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The representative private persons or directly affected businesses are physical therapist applicants.

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses

The Board has made the initial determination that this regulatory proposal will have the following impact:

- It is not likely to create or eliminate jobs within the State of California. This initial determination is based on the fact that these proposed amendments simply add the use of an additional tool for evaluating clinical equivalency of physical therapist applicants from non-accredited physical therapy educational programs.
- It is not likely to create new businesses or eliminate existing businesses within the State of California. This initial determination is based on the fact that the proposed amendments simply identify an additional tool for the purpose of determining clinical equivalency of physical therapist applicants from non-accredited foreign physical therapy educational programs.
- It will not likely affect the expansion of businesses currently doing business within the State of California. This initial determination is based on the fact that these proposed amendments simply identify an additional tool for the purpose of determining clinical equivalency of physical therapist applicants from non-accredited foreign physical therapy educational programs.
- It will benefit the health and welfare of California residents because it ensures applicants who are graduates of non-accredited foreign physical therapy educational programs demonstrate clinical equivalency to that of a domestically trained applicant.
- It will not have a significant impact on worker safety because these proposed amendments simply identify an additional tool to be used for the purpose of determining clinical equivalency of physical therapist applicants from non-accredited foreign physical therapy educational programs.
- It will not have an impact on the state's environment because these proposed amendments simply identify an additional tool to be used for the purpose of determining educational equivalency of physical therapist applicants from non-accredited foreign physical therapy educational programs.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations will not significantly affect small businesses.

Although small businesses owned by licensees of the Board who supervise may be positively impacted by the option to use the PET, the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation, 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments in writing to the address under "Contact Persons" with respect to alternatives to the proposed regulations during the written comment period or orally at a hearing, if one is scheduled.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 2600, Sacramento, California 95815, or on the Board's website at: http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file

which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSONS

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

Brooke Arneson
2005 Evergreen Street, Suite 2600
Sacramento, California 95815
Telephone: (916) 561-8260
Fax: (916) 263-2560
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The backup contact person is:

Sarah Conley
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Sacramento, California 95815
Telephone: (916) 561-8210
Fax: (916) 263-2560
Email Address: Sarah.Conley@dca.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

TITLE 16. PHYSICAL THERAPY BOARD

SATISFACTORY DOCUMENTARY EVIDENCE OF EQUIVALENT FOREIGN EDUCATION (COURSEWORK TOOL)

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California (Board) is proposing to adopt amend Sections 1398.26.1 of Article 2 of Division 13.2 of Title 16 of the California Code of Regulations (CCR), as described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

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 a person's authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request, in writing,

addressed to the individuals listed under "Contact Persons" in this Notice.

WRITTEN COMMENT PERIOD

Any interested person, or a person's authorized representative, may submit written comments relevant to the proposed regulatory action to the address listed under *Contact Person* in this Notice. Comments may also be submitted by facsimile (FAX) at 916 263-2560 or by e-mail to ptbc.rulemaking@dca.ca.gov. The Board will consider only comments received at the Board's office by **5:00 p.m., Tuesday, September 20, 2022**, or at the public hearing, if one is requested. Submit comments to the Contact Persons listed in this Notice.

AUTHORITY AND REFERENCE

Business and Professions Code (BPC) section 2615 authorizes the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific sections 2650, 2653, and 2654 of the BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Physical therapists (PT) are licensed health care practitioners that perform physical therapy and physical therapist assistants (PTA) are licensed health care practitioners that provide physical therapy services under the supervision of a licensed physical therapist (BPC section 2630.3). Both are regulated pursuant to the Physical Therapy Practice Act (BPC 2600 and following).

The Board is one of the jurisdictions of the 53 member-driven Federation of State Boards of Physical Therapy (FSBPT), a non-profit organization that supports member boards by providing service and leadership that promotes safe and competent physical therapy practice. The FSBPT is the developer of the coursework evaluation tool used by credential evaluation services to report education equivalency of the foreign educated applicants.

BPC section 2650 sets the educational requirements for both licensees. BPC section 2653 specifies that an applicant for a license as a physical therapist who has graduated from a physical therapist education program that is not approved by the board and is not located in the United States shall complete an education program substantially equivalent as set forth in paragraph (2) of subdivision (a) of Section 2650. It also states and that the board may require documentation be submitted to a credential evaluation service for review and report.

BPC Section 2654 affords applicants graduating from a physical therapist education program that is not approved by the Board and is not located in the United States and does not qualify to take the physical therapist examination, their education may be evaluated to take the physical therapist assistant examination.

CCR section 1398.26.1 makes specific that the Board only accepts the Federation of State Boards of Physical Therapy's Coursework Evaluation Tool as documentation for the credential evaluation services to report educational equivalency.

The Board's proposal would address the foregoing issues by amending CCR section 1398.26.1 to:

- (1) update the revision date of the existing FSBPT's coursework evaluation tools (CWT) 1–5, which correspond with the applicant's graduation date;
- (2) adds FSBPT's CWT 6 which evaluates all foreign educated physical therapist's education regardless of the graduation date;
- (3) adds a provision for accepting FSBPT's CWT 6 in lieu of the coursework tool which corresponds with the graduation date;
- (4) specifies the credential evaluation services shall use the corresponding FSBPT's coursework evaluation tool for the purposes of determining educational equivalency for physical therapist assistant licensure;
- (5) updates the revision date on the FSBPT coursework tool for physical therapist assistants — PTA Tool 1 and adds PTA Tool 2.

INCORPORATION BY REFERENCE

The current regulations have the following incorporated by reference:

- FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated Before 1978 — CWT 1 (2004);
- FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1978 to 1991 — CWT 2 (2004);
- FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1992 to 1997 — CWT 3 (2004);
- FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1998 to June 30, 2009 — CWT 4 (2004); and
- FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From June 30, 2009 — CWT 5 (2004).

These proposed regulations will update the above with the current versions and will also incorporate by reference:

- FSBPT Coursework Tool For Foreign Educated Physical Therapists — CWT 6 (Rev. 2016–10) for implementation January 1, 2017; and,
- FSBPT Coursework Tool for Physical Therapist Assistants — PTA Tool 2 Implementation Date February 15, 2017.

Anticipated Benefits of Proposed Regulations

The benefit anticipated by the proposed amendment is the assurance to consumers of physical therapy that a physical therapist or physical therapist assistant, who is a graduate of a non-accredited foreign physical therapy educational program, has provided evidence of education equivalency to that of an accredited domestic educated licensee. It also affords licensee mobility from state to state since the standard for demonstrating education equivalency is a nationwide standard set by the Commission on Accreditation of Physical Therapy Education (CAPTE).

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Consistency and Compatibility with Existing State Regulations

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

PTA tool 2007 was developed by the FSBPT in response to the 2008 published regulation number CMS–1385 by the Centers for Medicare and Medicaid Services (CMS) for Medicare reimbursement. This CMS regulation requires a foreign educated physical therapist assistant to show certification of education which is substantially equivalent to an entry-level physical therapist assistant's education in the United States.

FISCAL IMPACT ESTIMATES

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

The Board does not anticipate any impact on federal funding.

This proposal does not impact any government owned business.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The Board has made the initial determination that the proposed regulation will not have a significant, statewide adverse economic impact directly affecting business, including the inability of California businesses to compete with businesses in other states, because all applicants for licensure have to meet an education standard set by CAPTE.

Effect on Small Business:

The Board has determined that the proposed regulations may affect small businesses.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impact that a representative private person or business will necessarily incur in reasonable compliance with the proposed action. The representative private persons or directly affected businesses are physical therapist and physical therapist assistant applicants.

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

The Board has made the initial determination that this regulatory proposal will have the following impact:

- It is not likely to create or eliminate jobs within the State of California. This initial determination is based on the fact that these proposed amendments simply add the use of additional Coursework Tools for evaluating educational equivalency to reflect currency in academic requirements;
- It is not likely to create new businesses or eliminate existing businesses within the State of California. This initial determination is based on the fact that these proposed amendments simply identify additional Coursework Tools to be used by approved Credential Evaluation Services for the purpose of determining educational equivalency for physical therapist and physical therapist assistant applicants who graduated from non-accredited foreign physical therapy educational programs.
- It will not likely affect the expansion of businesses currently doing business within the State of California. This initial determination is based on the fact that these proposed amendments simply identify additional Coursework Tools to be used by approved Credential Evaluation Services for the purpose of determining educational equivalency for physical therapist and physical therapist assistant applicants from non-accredited foreign physical therapy educational programs.

- It will benefit the health and welfare of California residents because it ensures applicants who are graduates of non-accredited foreign physical therapy educational programs demonstrate educational equivalency to that of a domestically trained applicant from an accredited educational program.
- It will not have a significant impact on worker safety because these proposed amendments simply identify additional Coursework Tools, to be used by approved Credential Evaluation Services for the purpose of determining educational equivalency, for physical therapist and physical therapist assistant applicants from non-accredited foreign physical therapy educational programs.
- It will not have an impact on the state's environment because these proposed amendments simply identify additional Coursework Tools, to be used by approved Credential Evaluation Services for the purpose of determining educational equivalency, for physical therapist and physical therapist assistant applicants from non-accredited foreign physical therapy educational programs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 111346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments, orally or in writing, with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed

to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons (ISOR), and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 2600, Sacramento, California 95815.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, documents incorporated by reference, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the Contact Persons named in this Notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the Contact Persons named in this Notice.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Brooke Arneson
2005 Evergreen Street, Suite 2600
Sacramento, California 95815
Telephone: (916) (916) 561-8260
Fax: (916) 263-2560
Email Address: ptbc.rulemaking@dca.ca.gov

The backup contact person is:

Sarah Conley
2005 Evergreen Street, Suite 2600
Sacramento, California 95815
Telephone: (916) 561-8200
Fax: (916) 263-2560
Email Address: ptbc.rulemaking@dca.ca.gov

Website Access: Materials regarding this proposal can be found at https://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at: https://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
BONE RANCH WET MEADOW
ENHANCEMENT PROJECT
(Tracking Number: 1653-2022-096-001-R1)
Modoc County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 7/21/2022, that US Fish and Wildlife Service proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the installation of rock weirs and other habitat components to slow flowing water and spread it over a greater surface of a wet meadow. The proposed project will be carried out on an unnamed stream, ditch, and wet meadow, near Alturas, Modoc, California.

On 6/10/2022, the Central Valley 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 Bone Ranch Wet Meadow Enhancement Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 5A25CR00064) for coverage under the General 401 Order on 7/21/2022.

US Fish and Wildlife Service 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, the Service 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, the Service will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION
NUMBER 2080-2022-010-05**

Project: Ramona Municipal Water District Santa Maria Effluent Transmission Main Project

Location: San Diego County

Applicant: Ramona Municipal Water District

Background

Ramona Municipal Water District (Applicant) proposes to construct a new high-density polyethylene, 20-inch diameter effluent pipeline to convey secondary-treated effluent flows from the Santa Maria Wastewater Treatment Plant to storage in the effluent storage pond off of Rangeland Road. The Santa Maria Effluent Transmission Main Project (Project) includes trenching and placement of the effluent pipeline in the Ramona Grasslands area, as well as minimal vegetation removal within a temporary 15-foot-wide construction easement.

The Project activities described above are expected to incidentally take¹ Stephens’ kangaroo rat (*Dipodomys stephensi*) where those activities take place within the Ramona Grasslands in San Diego County. In particular, Stephens’ kangaroo rat could be incidentally taken as a result of crushing from pipeline construction, trapping activities, or by other animals within traps. Stephens’ kangaroo rat is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish and

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

Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(6)(C).)²

Stephens’ kangaroo rat individuals are documented as present within the pipeline alignment at the Project site, and there is occupied Stephens’ kangaroo rat habitat within and adjacent to the Project site. Because of the presence of Stephens’ kangaroo rat within the Project site, dispersal patterns of Stephens’ kangaroo rat, and the presence of suitable Stephens’ kangaroo rat habitat within the Project site, the United States Fish & Wildlife Service (Service) determined that Stephens’ kangaroo rat is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of Stephens’ kangaroo rat.

According to the Service, the Project will result in the temporary loss of 8.61 acres of Stephens’ kangaroo rat habitat, and 2.98 acres of unoccupied upland habitat, totaling 11.59 acres of temporary upland habitat loss.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the applicant drafted a habitat conservation plan (HCP) and submitted it to the Service in October 2021. The Service issued an incidental take permit (Permit number ESPER0044183, ITP) for the implementation of the HCP on May 31, 2022. The ITP describes the Project, requires the Applicant to comply with terms of the HCP, and incorporates additional measures.

On June 10, 2022, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from Ramona Municipal Water District requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITP and accompanying HCP are consistent with CESA for purposes of the Project and Stephens’ kangaroo rat. (Cal. Reg. Notice Register 2022, Number 26-Z, page 760)

Determination

CDFW has determined that the ITP, along with its accompanying HCP, is consistent with CESA as to the Project and Stephens’ kangaroo rat because the mitigation measures contained in the ITP and HCP meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of Stephens’ kangaroo rat will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITP and HCP will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance, minimization, and mitigation measures and to monitor compliance

² The federal incidental take permit and accompanying habitat conservation plan address take of the Stephens’ kangaroo rat and Arroyo toad (*Anaxyrus californicus*). Because the Arroyo toad is not listed pursuant to CESA, this Consistency Determination only covers the CESA-listed Stephens’ kangaroo rat.

with, and effectiveness of, those measures; and (4) the Project will not jeopardize the continued existence of Stephens' kangaroo rat. The mitigation measures in the ITP and HCP include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

The ITP and HCP include the following measures to avoid, minimize, and mitigate for impacts to the Stephens' kangaroo rat:

1. A qualified biologist shall perform three nights of intensive trapping and Stephens' kangaroo rat removals from the work area prior to initiation of clearing and grubbing.
2. A monitoring biologist approved by the Service and CDFW (collectively, the Wildlife Agencies) will be on site during initial clearing and grubbing of habitat; and project construction within 300 feet of preserved habitat to ensure compliance with all conservation measures. The biologist must be knowledgeable of upland and wetland biology and ecology, as well as Stephens' kangaroo rat biology and ecology. The applicant shall submit the biologist's name, address, telephone number, and work schedule on the Project to the Wildlife Agencies at least 30 days prior to initiating Project impacts.

The monitoring biologist shall perform the following duties:

- a. Oversee installation of and inspect temporary fencing and erosion control measures within or up-slope of all restoration and/or preservation areas a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately;
- b. Monitor the work area weekly to ensure that work activities do not generate excessive amounts of dust;
- c. Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training will include:
 - i. the purpose for resource protection;
 - ii. a description of the Stephens' kangaroo rat and its habitat;
 - iii. the conservation measures that shall be implemented during project construction, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas

delineated on maps or on the project site by fencing);

- iv. environmentally responsible construction practices;
 - v. the protocol to resolve conflicts that may arise at any time during the construction process;
 - vi. the general provisions of CESA, the need to adhere to the provisions of CESA, and the penalties associated with violating CESA.
- d. Halt work, if necessary, and confer with the Wildlife Agencies to ensure the proper implementation of species and habitat protection measures.
3. Applicant will install exclusionary fencing to prevent direct access into the construction site for Stephens' kangaroo rats.
 4. The construction contract(s) will include the following requirements:
 - a) Employees will strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.
 - b) To avoid attracting predators of Stephens' kangaroo rat, the Project site will be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site.
 - c) Pets of project personnel will not be allowed on the project site.
 - d) Disposal or temporary placement of excess fill, brush or other debris will not be allowed in waters of the United States or their banks.
 - e) All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas outside of waters of the United States within the fenced Project impact limits. These designated areas shall be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering waters of the United States, as shown on the construction plans. Fueling of equipment will take place within existing paved areas greater than 100 feet from waters of the United States. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary. "No-fueling zones" shall be designated on construction plans.
 5. The Applicant proposes to mitigate for temporary impacts to habitat for Stephens' kangaroo rat at a 1:1 ratio for anticipated permitted project impacts (8.61 acres). A total of 8.61 acres of impacts

to suitable Stephens' kangaroo rat would require 8.61 acres of mitigation as summarized in Table 1 of the HCP. Additionally, to mitigate previously unpermitted impacts, the Applicant proposes to preserve and manage 14.92 acres of occupied Stephens' kangaroo rat habitat.

The Applicant has already protected a 79-acre area within the Ramona Grasslands, through a conservation easement, as mitigation for a project that did not move forward. Instead, this 79-acre area will be used to offset previous unauthorized impacts as described in the HCP as well as mitigating the impacts proposed in the HCP. The Applicant will not seek to use additional land within this 79-acre area to mitigate future projects. This protected land includes occupied Stephens' kangaroo rat habitat within the same population that will be impacted. These lands have been transferred to and are managed by The Nature Conservancy (TNC).

Monitoring and Reporting Measures

- 1) The monitoring biologist approved by the Wildlife Agencies will:
 - a. Report any violation to the Wildlife Agencies within 24 hours of its occurrence;
 - b. Submit site observation reports (including photographs of impact areas) via fax and/or email to the Wildlife Agencies during clearing of habitat and/or Project construction within 300 feet of avoided habitat. The weekly reports will document that authorized impacts were not exceeded, work did not occur within the 300-foot setback except as approved by the Wildlife Agencies, and general compliance with all conditions. The reports will also outline the duration of species monitoring, the location of construction activities, the type of construction which occurred, and equipment used. These reports will specify numbers, locations, and sex of Stephens' kangaroo rat, observed species behavior (especially in relation to construction activities), and remedial measures employed to avoid, minimize, and mitigate impacts to sensitive species. Raw field notes will be available upon request by the Wildlife Agencies; and
 - c. Submit a final report to the Wildlife Agencies within 60 days of project completion that includes as-built construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were to be avoided, and other relevant summary information documenting that authorized impacts were not exceeded and that

general compliance with all conditions was achieved.

- 2) The Applicant will provide ongoing Stephens' kangaroo rat monitoring and reporting for a 24.53-acre "Conservation Area" within the 79-acre mitigation parcel.
- 3) The ITP requires the Applicant to submit monitoring reports to the Service annually, by October 1 of each year. The reporting requirements include Habitat Conservation Plan Compliance, Construction Surveys, Stephens' Kangaroo Rat Monitoring, Mitigation Site Status, and Predator Management as shown in Table 2 of the HCP.

Although not a condition of the ITP, CDFW requests a copy of the monitoring reports as well.

Endowment

Management of the 79 acres is provided by TNC and they maintain their own funding source for this. In this particular case, when the Applicant originally procured the property from TNC, TNC was paid \$2.4 million by the Applicant. In order to provide 79 acres of mitigation, land was transferred back to TNC for its management. The Applicant also provided \$50,000 to TNC to enhance habitat on this land.

The Applicant will provide a \$60,000 non-wasting endowment to the San Diego Foundation to support long-term monitoring of the Stephens' kangaroo rat population and habitat quality within 24.53 acres of mitigation land (note that this is a subset of the overall mitigation but includes that which is required). This will cover estimated monitoring costs of \$6,000 every three years. Also, the Applicant will provide a \$20,000 wasting fund that will also be managed by the San Diego Foundation and is subject to approval by the Wildlife Agencies but is intended for minor management activities. These activities are not anticipated, but this is provided as a back-stop.

Conclusion

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

CDFW's determination is that the Service ITP and HCP are consistent with CESA, and this determination is limited to Stephens' kangaroo rat.

**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.

Board of Education
File # 2022-0719-03
Physical Fitness Test

This action readopts emergency regulations which eliminate the Body Composition subtest and all Healthy Fitness Zone performance standards from the California Physical Fitness Test. The action also readopts the emergency definition of the term “results” as used in Education Code section 60800(b), (c) and (d).

Title 05
Amend: 1040
Filed 07/27/2022
Effective 08/03/2022
Agency Contact: Lori Adame (916) 319-0860

Department of Developmental Services
File # 2022-0715-02
Second 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 and 2022-0415-01EE. Those actions 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. Those actions 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 07/25/2022
Effective 07/25/2022
Agency Contact: Amy Whiting (916) 654-4418

Fish and Game Commission
File # 2022-0712-02
Low Flow Inland Sport Fishing Restrictions Due to Drought

This is the first readoption of emergency action Number 2022-0107-01E, which extended the low-flow closure periods in the current low-flow inland sport fishing restrictions for the north coast and central coast streams to remove angling as an additional stress on steelhead and salmon populations.

Title 14
Amend: 7.40, 8.00
Filed 07/22/2022
Effective 08/01/2022
Agency Contact: David Thesell (916) 902-9291

Health and Human Services Agency
File # 2022-0714-04
Conflict-of-Interest Code

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

Title 22
Amend: 10100
Filed 07/27/2022
Effective 07/27/2022
Agency Contact: Lisa Wilson (916) 263-1719

Department of Food and Agriculture
File # 2022-0613-02
Gypsy Moth

This action by the Department of Food and Agricultural makes changes without regulatory effect to update the common name of species *Lymantria dispar* from “gypsy moth” to “spongy moth.”

Title 03
Amend: 3162, 3408, 3591.6
Filed 07/26/2022
Agency Contact: Rachel Avila (916) 403-6813

Board of Pharmacy
File # 2022-0613-04
Inventory Reconciliation

In this action the Board of Pharmacy defines “inventory activities,” and “reportable losses” for purposes of the inventory reconciliation activities required for pharmacies and clinics to prevent the loss of controlled substances. It also identifies four non-Schedule II controlled substances that will require an inventory at least once every twelve months and specifies that all other controlled substances must have an inventory completed within 3 months of a discovered loss,

and if no loss is found, at least once every two years. Additionally, this action establishes that all individuals involved in completing the inventory or preparing the report must be identified and requires a signature and date of the individual who performs the inventory. This action will allow for the use of a digital, electronic, or biometric identifier in lieu of a physical signature if a printed signed statement confirming the accuracy of the report is retained. This action also establishes the inventory requirements for an inpatient hospital pharmacy within a drug storage area under the pharmacy's control and for the inventory of an automated drug delivery system (ADDS) within the inpatient hospital.

Title 16
Amend: 1715.65
Filed 07/20/2022
Effective 01/01/2023
Agency Contact: Lori Martinez (916) 518-3078

Department of Justice
File # 2022-0609-02
Selection Process for Private A&E Firms

This action creates a process for the Department of Justice to contract with private architectural and engineering (A&E) firms.

Title 11
Adopt: 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 612, 613
Filed 07/22/2022
Effective 10/01/2022
Agency Contact: Marlon Martinez (213) 269-6437

Occupational Safety and Health Standards Board
File # 2022-0225-01
Cranes and Derricks in Construction

This action by the Occupational Health Standards Safety Board adopts, amends, and repeals regulations intended to consolidate crane safety orders, currently contained in both the Construction Safety Orders and General Industry Safety Orders, into the General Industry Safety Orders.

Title 08
Adopt: 1610, 4880, 4881, 4883, 4884.1, 4928.1, 4959, 4960.1, 4960.2, 4960.3, 4960.4, 4962.1, 4965.1, 4968.1, 4968.2, Article 97.1, Sections 4988.1, 4988.2, 4988.3, 4988.4, 4988.5, 4988.6, 4988.7, 4988.8, 4991.1, 5001.1, 5001.2, 5001.3, 5003.1, 5003.2, 5003.3, 5003.4, 5005, 5006.2, 5008.1, 5010, 5010.1, 5010.2, 5010.3, 5010.4, 5011, 5012, Article 98.1, Sections 5017, 5018, 5431.1, 5031.2, 5031.3, 5033.1, 5036, 5037
Amend: 1504, 1600, 1694, 2946, 3207, 4884, 4885, 4924, 4949, 4960, 4961, 4965, 4966, 4968, 4991, 4994, 4999, 5001, 5002, 5004, 5006.1, 5008, 5022, 5031, 6060
Repeal: 1610.1, 1610.2, 1610.3, 1610.4, 1610.5, 1610.6, 1610.7, 1610.8, 1610.9, 1611, 1611.1, 1611.2, 1611.3, 1611.4, 1611.5, 1612, 1612.1, 1612.2, 1612.3, 1612.4, 1613, 1613.1, 1613.2, 1613.3, 1613.4, 1613.5, 1613.6, 1613.7, 1613.8, 1613.9, 1613.10, 1613.11, 1613.12, 1614, 1615, 1651.1, 1615.2, 1615.3, 1616, 1616.1, 1616.2, 1616.3, 1616.4, 1616.5, 1616.6, 1616.7, 1617, 1617.1, 1617.2, 1617.3, 1618, 1618.1, 1618.2, 1618.3, 1618.4, 1619, 1619.1, 1619.2, 1619.3, 1619.4, 1619.5
Filed 07/26/2022
Effective 07/26/2022
Agency Contact: Christina Shupe (916) 274-5721

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 oal.ca.gov.