



# California Regulatory Notice Register

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Association of Bay Area Governments

Laguna Irrigation District

Transbay Joint Powers Agency

Trona Joint Unified School District

Marin County Office of Education

Metropolitan Transportation Commission

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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:** ABAG Publicly Owned Energy Resources  
 Association of Bay Area Governments  
 Laguna Irrigation District  
 Transbay Joint Powers Agency  
 Trona Joint Unified School District  
 Marin County Office of Education  
 Metropolitan Transportation Commission
- STATE AGENCY:** Department of Transportation  
 California Department of Human Resources (CalHR)

**ADOPTION**

- MULTI-COUNTY:** Madera-Chowchilla Water and Power Authority
- A written comment period has been established commencing on August 26, 2022 and closing on October 10, 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 codes will be submitted to the Commission’s Executive Director for his review, unless any interested person or his or her duly autho-

ri- rized 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 codes will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest codes, 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 codes 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 codes. Any written comments must be received no later than October 10, 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 codes 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

#### CONDITIONAL VOTER REGISTRATION NOTICE

NOTICE IS HEREBY GIVEN that the 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 **Tuesday, October 11, 2022**.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact persons listed below no later than 5:00 p.m., on Monday, September 26, 2022. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, 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.

Public Comment Period: August 26, 2022, through October 11, 2022.

#### AUTHORITY AND REFERENCE

Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code.

Reference cited: Sections 300, 303.3, 305.5, 2150, 2151, 2152, 2156, 2157, 2170, 2171, 2712, 2173, 2196, 2500, 3016.7, 3018, 3102, 4005, 4007, 14279, 14310, 14311, 15375, and 19281, Elections Code.

#### INFORMATIVE DIGEST

##### A. *Informative Digest*

These proposed regulations are intended to make permanent the emergency regulations that were approved by the Office of Administrative Law on April 25, 2022. The purpose of the permanent regulations are to ensure that future elections are held in a uniform manner by California's 58 county elections officials, and that elections are held in a safe and accessible manner.

On March 31, 2022, Senate Bill 504 (SB 504, Chapter 14 of the Statutes of 2022) became law. Amongst other things, SB 504 authorizes the Secretary of State to adopt emergency regulations to implement SB 504. The Legislature further found and declared that that the emergency regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare because the regulations will ensure that elections officials have sufficient time to ensure that elections are held in a safe and accessible manner.

The proposed regulations provide a structure for county elections officials to allow qualified military and overseas voters and voters with disabilities to complete a conditional voter registration and cast a provisional ballot or nonprovisional ballot under the new provisions of California Elections Code section 2170 (Amended by SB 504).

The purpose of these regulations is as follows:

1. Provide updated definitions for the conditional voter registration and remote accessible vote-by-mail ballot processes.
2. Establish procedures for a conditional registrant to utilize the remote accessible vote-by-mail ballot process.
3. Update procedures for receipt and processing of ballots cast utilizing the conditional voter registration and/or remote accessible vote-by-mail system processes.

These proposed regulations are necessary to ensure that voters, interested persons, and members of the public are fully aware of the process of a CVR voter using a remote accessible vote by mail system to

register and cast a ballot. Further the regulations will ensure that elections officials have sufficient time to ensure that elections are held in a safe and accessible manner.

*B. Consistency/Compatibility with Existing State Regulations*

After conducting an evaluation of regulations in this area, the SOS has determined that these are the only regulations related to conditional voter registration. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

*C. Documents Incorporated by Reference:* None.

*D. Documents Relied Upon in Preparing the Regulations:*

Senate Bill 504 (Chapter 14 of the Statutes of 2022)

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB504](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB504)

DISCLOSURES REGARDING THE PROPOSED REGULATIONS

*The SOS has made the following initial determinations:*

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.

Mandate on Local Agencies and School Districts: None.

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

Business Impact: The SOS has made an initial determination that the proposed regulatory action will have no 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 Secretary of State 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.

Effect on Small Business: These regulations will have no effect on small businesses. These regulations pertain to conditional voter registration only.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The SOS has determined that the proposed regulations are (1) unlikely to create or eliminate any jobs

in California, (2) unlikely to create or eliminate any California businesses, and (3) unlikely to result in the expansion of businesses currently doing business within California. These regulations pertain to conditional voter registration only. These regulations do not significantly change existing business practices such that jobs or businesses would be created or eliminated.

Benefits of the Proposed Regulations: The benefits of the regulation to the health and welfare of California residents lies in the fact that these regulations will provide greater confidence in the conduct of California’s election activities by providing uniform guidance for voters who utilize the conditional voter registration process. These regulations will ultimately benefit California residents as rules conditional voter registration will be clear and uniformly applied throughout California’s 58 counties.

The regulations do not provide any benefits for worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the SOS 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 or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The SOS has determined that there are no reasonable alternatives to these regulations. There are existing regulations relating to conditional voter registration, and these proposed regulations make changes to those regulations based upon a statutory mandate.

Any interested person may present statements or arguments relevant to the above determinations.

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.

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:

Rachelle Delucchi  
Secretary of State  
1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 657-2166  
[rdelucch@sos.ca.gov](mailto:rdelucch@sos.ca.gov)

The backup contact person is:

Raj Bathla  
Secretary of State  
1500 11<sup>th</sup> Street, Room 495  
Sacramento, CA 95814  
(916) 657-2166  
[rbathla@sos.ca.gov](mailto:rbathla@sos.ca.gov)

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

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

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

DIVISION 17. OFFICE OF ENERGY  
INFRASTRUCTURE SAFETY  
CHAPTER 1, ARTICLE 2  
SECTION 29104  
WRITTEN HEARING PROCESS

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

PUBLIC HEARING

Energy Safety has not scheduled a public hearing on this proposed action. However, Energy Safety will

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

WRITTEN COMMENT PERIOD

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

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

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

**E-Filing questions may be submitted to Energy Safety at:**

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

**Comments can be mailed to:**

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

**Comments can be emailed to:**

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

The written comment period will close on October 10, 2022. Energy Safety will consider only comments received on or before that date. When commenting, please indicate the proposed rulemaking action to which your comment refers.

AUTHORITY AND REFERENCE

The Proposed Regulation is being adopted under the following authorities:

- Government Code section 15473(c)(2)(E) authorizes Energy Safety to adopt, amend, and real regulation as necessary to carry out the powers, duties, and responsibilities of the office, consistent with Government Code section 15475. The adoption, amendment, or repeal of regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.
- Government Code section 15475 authorizes Energy Safety to adopt, amend, and real regulation as necessary to carry out the powers, duties, and responsibilities of the office and the adoption, amendment, or repeal of regulations shall be deemed to be an emergency and necessary for

the immediate preservation of the public peace, health and safety, or general welfare.

- Government Code section 15475.4 authorizes and requires Energy Safety to adopt regulations that set forth the policies and procedures for administering the duties of Government Code section 15475.4. Government Code section 15475.4 provides that Energy Safety may issue notice of defect or violation to any regulated entity, and that a regulated so served may request a hearing to take public comment or present additional information within 30 days of service of the notice.

The proposed regulations implement, interpret, clarify, and make specific Government Code section 15475.4.

### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

In enacting the Energy Infrastructure Safety Act (Government Code sections 15470–15476), the Legislature acknowledged the critical nature of energy and communication infrastructure as the “driving the engine of the state’s prosperity, in the hardships placed on the state’s residents in the absence of the services the infrastructure provides, and in the devastation that can occur when the operators of the infrastructure lose operational control of the infrastructure.” (Gov. Code § 15470.) To ensure that the operations of energy and communication infrastructure within the state are managed adequately, the Legislature created Energy Safety.

Energy Safety is the successor to, and is vested with, all of the duties, powers, and responsibilities of the Wildfire Safety Division established pursuant to Public Utilities Code section 326, including, but not limited to, the power to compel information and conduct investigations. Energy Safety’s mission is to advance long-term utility wildfire safety by developing data-driven, comprehensive utility wildfire mitigation evaluation and compliance criteria, collaborating with local, state and federal agencies, and supporting efforts to improve utility wildfire safety culture and innovation.

Energy Safety will ensure electrical utilities are taking effective actions to reduce utility-related wildfire risk by deploying measures to ensure an integrated, utility-related wildfire mitigation approach and to seek innovative problem solving to address utility wildfire risks. Those measures include, but are not limited to, notices of defect or violation in the event of any defect or noncompliance with the approved wildfire mitigation plan or failure to comply with any laws, regulations, or guidelines within the authority of the office.

The adoption of the Proposed Regulation furthers Energy Safety’s mission of reducing wildfire risk by establishing a process under which the regulated entities can present additional information to the office regarding their notice of defect or violation as well as facilitating public engagement in the review of the notice.

### SUMMARY OF EXISTING LAWS

Government Code section 15470 et seq. sets forth the legislative findings regarding the importance of energy infrastructure and the need for Energy Safety to support the state’s efforts to ensure the operations of energy infrastructure will be managed adequately as well as the authorities of Energy Safety to carry out those objectives. Proposed section 29104 is consistent with and in furtherance of those goals.

Proposed Regulation, section 29104, is consistent with existing state regulation.

### EFFECT OF THE PROPOSED ACTION

The adoption of the Proposed Regulation furthers Energy Safety’s mission of reducing wildfire risk by establishing a process under which the regulated entities can present additional information to the office regarding their notice of defect or violation as well as facilitating public engagement in the review of the notice.

### OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The overall objective of the Proposed Regulation is to set forth the process under which the regulated entities can present additional information to the office regarding their notice of defect or violation as well as facilitating public engagement in the review of the notice.

For Energy Safety to continue to perform its vital work in wildfire mitigation as a new office, Energy Safety needs to make permanent regulation that establish processes that will form the structure of its operations in meeting its statutory mandates. The Proposed Regulation will continue to provide a framework for Energy Safety to interact with regulated entities so they can present additional information to Energy Safety regarding their notice of defect or violation as well as facilitating public engagement in the review of the notice. This process will allow Energy Safety to better understand the issue at hand and to ensure regulated entities take effective actions to reduce utility-related wildfire risk by deploying measures to ensure an integrated, utility-related wildfire mitiga-

tion approach and to seek innovative problem solving to address utility wildfire risks.

Energy Safety's mission is to advance long-term utility wildfire safety by developing data-driven, comprehensive utility wildfire mitigation evaluation and compliance criteria, collaborating with local, state and federal agencies, and supporting efforts to improve utility wildfire safety culture and innovation. The Proposed Regulation will further Energy Safety's mission by providing for better enforcement efforts and thus ensuring electrical utilities are taking effective actions to mitigate wildfire risks.

#### EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

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

After conducting a review for any regulations that would relate to or affect this area, Energy Safety has concluded that these are the only regulations that sets forth the hearing process for notices of defect or violation pursuant to Government Code section 15475.4 in California.

#### COMPARABLE FEDERAL REGULATIONS OR STATUTES

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

#### OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Related matters prescribed by statute applicable to Energy Safety are set forth as follows.

- Government Code section 15473(c)(2)(E) authorizes Energy Safety to adopt, amend, and repeal regulations as necessary to carry out the powers, duties, and responsibilities of the office, consistent with Government Code section 15475. The adoption, amendment, or repeal of regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.
- Government Code section 15475 authorizes Energy Safety to adopt, amend, and repeal regulations as necessary to carry out the powers, duties, and responsibilities of the office and the adoption, amendment, or repeal of regulations shall be deemed to be an emergency and necessary for

the immediate preservation of the public peace, health and safety, or general welfare.

- Government Code section 15475.4 authorizes and requires Energy Safety to adopt regulations that set forth the policies and procedures for administering the duties of Government Code section 15475.4. Government Code section 15475.4 provides that Energy Safety may issue notice of defect or violation to any regulated entity, and that a regulated so served may request a hearing to take public comment or present additional information within 30 days of service of the notice.

#### DOCUMENTS INCORPORATED BY REFERENCE

Proposed Regulation section 29104, Written Hearing Process, incorporates the following document:

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

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Energy Safety has made the following initial determinations:

1. **Mandate on local agencies or school districts:** Energy Safety has determined the adoption of the Proposed Regulation will not impose a local mandate.
2. **Cost or savings to any state agency:** Energy Safety will absorb additional costs associated with reviewing notifications provided pursuant to section 29104 with its staff. Energy Safety estimates that the total fiscal costs to state government for the hearing process will be up to \$288,000 per year. Energy Safety has determined there will not be any additional costs to any state agency as associated with section 29104.
3. **Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:** Energy Safety has determined that the adoption of the Proposed Regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.
4. **Other nondiscretionary costs or savings imposed on local agencies:** Energy Safety has determined that the adoption of the Proposed Regulation will not result in costs or savings for any local agency or school district required to be



reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

5. **Cost or savings in federal funding to the state:** Energy Safety has determined that adoption of the Proposed Regulation will not result in cost or savings in federal funding to the state. Energy Safety determined that no fiscal impact to federal funding or state programs exists.
6. **Cost impacts on a representative private person or business:** Energy Safety estimates the initial annual cost for each of the eight (8) affected regulated entities for providing notifications to Energy Safety would be \$42,120 for the initial year and for each year after. The total cost to all eight (8) affected regulated entities will be \$336,960 per year.
7. **Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:** Although the Proposed Regulation will directly affect eight regulated entities in California, Energy Safety has made an initial determination that the adoption of this regulation will not exert a significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states. In making this determination, Energy Safety relied on:
  1. California State Civil Service Pay Scales — Online Manual (54th Edition), available at: <https://www.calhr.ca.gov/state-hr-professionals/pages/pay-scales.aspx>.
  2. Governor Newsom Announces Appointments 6.30.21 (Caroline Thomas Jacobs), available at: <https://www.gov.ca.gov/2021/06/30/governor-newsom-announces-appointments-6-30-21/>.
  3. Agreement Number OEIS-21-110853 (Office of Administrative Hearing Agreement).
8. **Effect of Housing Costs:** Energy Safety has determined that the Proposed Regulation will have no significant effect on housing costs.
9. **Effect on Small Businesses:** Energy Safety has determined that no small businesses will be affected by the adoption of the Proposed Regulation. The Proposed Regulation will affect eight (8) regulated entities, and they are not small businesses. Energy Safety assessed the potential for this proposed regulation to cause adverse impacts to California businesses and individuals. Following a review of cost estimation provided by regulated

entities and an economic analysis performed by its consultant, Energy Safety determined the Proposed Regulation is not a major regulation<sup>1</sup> and is unlikely to have a significant adverse impact on business. This Economic Impact Assessment is also based on the conclusion there are only eight (8) regulated entities that meet the definition of “electrical corporation” and are currently under Energy Safety’s authority.<sup>2</sup>

10. **Business Reporting Requirement:** Energy Safety finds that it is necessary for the health, safety, or welfare of the people of this state that proposed section 29104, which sets forth a hearing process for notices of defect and violation, apply to regulated entities.

The reporting requirement is necessary to promote better wildfire safety. For Energy Safety to continue to perform its vital work in wildfire mitigation as a new office, Energy Safety needs to make permanent regulations that establish processes that will form the structure of its operations in meeting its statutory mandates. The Proposed Regulation will continue to provide a framework for Energy Safety to interact with regulated entities so they can present additional information to Energy Safety regarding their notice of defect or violation as well as facilitating public engagement in the review of the notice. This process will allow Energy Safety to better understand the issue at hand and to ensure regulated entities take effective actions to reduce utility-related wildfire risk by deploying measures to ensure an integrated, utility-related wildfire mitigation approach and to seek innovative problem solving to address utility wildfire risks.

Energy Safety’s mission is to advance long-term utility wildfire safety by developing data-driven, comprehensive utility wildfire mitigation evaluation and compliance criteria, collaborating with local, state and federal agencies, and supporting

<sup>1</sup> Major regulation: Government Code section 11342.548 defines a “major regulation” as any proposed adoption of a regulation that will have an economic impact on California businesses in an amount exceeding \$50 million dollars as estimated by the adopting agency.

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

efforts to improve utility wildfire safety culture and innovation. The Proposed Regulation will further Energy Safety’s mission by providing for better enforcement efforts and thus ensuring electrical utilities are taking effective actions to mitigate wildfire risks.

**11. Benefits to health and welfare, worker safety, and the environment:**

The goal of the Proposed Regulation is to ensure better wildfire safety with respect to regulated entities by ensuring better compliance with applicable law, regulations, and guidelines under Energy Safety’s authority. By providing better and more effective directives to regulated entities, Energy Safety furthers its mission to advance long-term utility wildfire safety by developing data-driven, comprehensive utility wildfire mitigation evaluation and compliance criteria, collaborating with local, state and federal agencies, and supporting efforts to improve utility wildfire safety culture and innovation. This will reduce future chances of wildfires from regulated entities’ infrastructure, and provide a safer and healthier environment to California residents and wildfire. Less wildfires will also benefit California workers, consumers, employers, and the environment with cleaner and safer air.

**RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

Energy Safety determined that it is:

- Unlikely that the Proposed Regulation will eliminate existing or create new businesses providing electrical power within California.
- Unlikely that the Proposed Regulation will eliminate jobs for regulated entities.
- Unlikely that the Proposed Regulation will create jobs for regulated entities to assist regulated entities in providing notifications to Energy Safety.
- Unlikely that any business in California will be expanded because of any financial impact of the Proposed Rulemaking for section 29104.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), Energy Safety must determine that no reasonable alternative considered by Energy Safety or that has otherwise been identified and brought to the attention of Energy Safety would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to af-

ected private persons and equally effective in implementing the statutory policy or other provision of law. Energy Safety invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

**CONTACT PERSONS**

Inquiries concerning the proposed action may be directed to the following person(s):

Joy Peng  
 Office of Energy Infrastructure Safety  
 715 P Street, 20th Floor  
 Sacramento, California 95814  
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Or, if unavailable, to:

Jeff Brooks  
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 (916) 926-1672

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

**AVAILABILITY OF DOCUMENTS**

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

Energy Safety will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, the Initial Statement of Reasons, and the documents relied upon. Copies may be obtained by contacting Joy Peng using the contact information above.

**Availability of Changed or Modified Text**

After holding the hearing and considering all timely and relevant comments received, Energy Safety may adopt the proposed regulation substantially as described in this Notice. If Energy Safety makes modifications which are sufficiently related to the originally proposed text it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before Energy Safety adopts the regulation as revised. Please send requests for copies of any

modified text to the attention of Joy Peng using the contact information above. Energy Safety will accept written comments on the modified text for 15 days after the date on which it is made available.

**Availability of the Final Statement of Reasons**

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

**Availability of Documents on the Internet**

Copies of this Notice, the proposed text of the regulation, and the Initial Statement of Reasons can be accessed on <https://energysafety.ca.gov/who-we-are/legal-division/electrical-infrastructure-rulemaking/>.

**TITLE 20. ENERGY COMMISSION**

**NOTICE OF INTENTION TO AMEND  
CONFLICT-OF-INTEREST CODE**

NOTICE IS HEREBY GIVEN that the California Energy Commission, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on August 26, 2022, and closing on October 10, 2022. All inquiries should be directed to the contact listed below.

The California Energy Commission proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include the following:

- Broadening Disclosure Category 8 to require disclosure of all real property interests that are used for primarily residential purposes.
- Removing all Energy Commission Supervisor II positions and replacing them with Energy Resources Specialist III (Supervisory) positions.
- Adding one new position in the Office of the Executive Director (Staff Services Manager I), one new position to the Media and Public Communications Office (Staff Services Manager II), two new positions in the Office of Compliance Assistance and Enforcement (Associate Governmental Program Analyst, Electrical Engineer), two new positions in the Office of Governmental and International Affairs (Staff Services Manager I (Supervisory) and Staff

Services Manager I (Specialist)), two new positions in the Energy Data and Analytics Office (Energy Commission Specialist III, Research Data Specialist I), one new position in the Office of the Chief Counsel (Staff Services Manager I), two new positions in the Office of Public Participation, Energy Equity and Tribal Affairs (Information Officer II, Energy Resources Specialist III (Supervisory)), one new position in the Administrative and Financial Services Division (Associate Governmental Program Analyst), three new positions in the Efficiency Division (Air Resources Engineer, Electric Generation System Specialist, Staff Services Manager I), two new positions in the Renewable Energy Division (Electric Generation System Program Specialist, Associate Governmental Program Analyst), five new positions in the Energy Research and Development Division (Utilities Engineer, Air Resources Engineer, Electric Transmission System Program Specialist, Air Pollution Specialist, Associate Governmental Program Analyst), and one new position in the Energy Assessments Division (Research Data Specialist). These new positions involve participating in making decisions that may foreseeably have a material effect on any financial interest.

- Updating position titles in the Informational Technology Services Branch to reflect their reclassification by CalHR.
- Requiring Assistant Deputy Directors to disclose under Disclosure Category 1.
- Updating the offices in each Division or Program based on current organizational charts.
- Updating disclosure categories for existing positions based on the duty statement and work of the position.
- Eliminating positions that are no longer being used.

Information on the code amendment is available on the agency’s intranet site and attached to this email.

Any interested person may submit written comments relating to the proposed amendments by submitting them no later than October 10, 2022, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than September 26, 2022. Written comments and any request for a hearing should be submitted to the contact listed below.

The California Energy Commission has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.

3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Josephine Crosby, Attorney, (916) 907-4278, [Josephine.Crosby@energy.ca.gov](mailto:Josephine.Crosby@energy.ca.gov).

**TITLE 23. DELTA STEWARDSHIP COUNCIL**

AMEND SECTION 5001. DEFINITIONS AND SECTION 5012. PRIORITIZATION OF STATE INVESTMENTS IN DELTA LEVEES AND RISK REDUCTION

NOTICE IS HEREBY GIVEN that the Delta Stewardship Council (Council) proposes to amend California Code of Regulations, Title 23, Section 5012, *Prioritization of State Investments in Delta Levees and Risk Reduction*, to incorporate the Delta Levees Investment Strategy (DLIS). The Council also proposes to amend California Code of Regulations, Title 23, Section 5001 to add definitions for terms used in Delta Plan Policy RR P1.

The Council will conduct a public hearing at the time and place noted below to hear comments, objections, and recommendations. At a separate meeting on a future date, the Council may consider approving for adoption the proposed amendments.

OPPORTUNITY FOR PUBLIC COMMENT

- *Written Comment Period.* Interested members of the public may provide comments by mail or by electronic submittal. **The public comment period for this regulatory action will begin on Friday, August 26, 2022, and close at 11:59 p.m. on Thursday, October 13, 2022. The Council will consider only comments received by the Council by that time.** Any interested person, or her or his authorized representative, may submit

written comments relevant to the proposed regulatory action.

- Submit written comments to:

Erin Mullin  
Delta Stewardship Council  
715 P Street, Suite 15-300  
Sacramento, CA 95814  
(916) 902-6482

- *Electronic Submittal of Comments.* Any interested person, or her or his authorized representative, may submit comments by electronic submittal at or before 11:59 p.m. on **Thursday, October 13, 2022. The Council will consider only comments received by the Council by that time.** Electronic submittals of comments are preferred, and must be submitted to the following address to be considered:

[amend.rrpl@deltacouncil.ca.gov](mailto:amend.rrpl@deltacouncil.ca.gov)

- *Public Hearing.* The Council will conduct a public hearing at the time and location set forth below to consider public input, comments, objections, and recommendations to this proposed action. Interested members of the public may present statements, arguments, and comments, verbally or in writing, with respect to the proposed action at the hearing prior to the closing of the hearing. This hearing will be held in accordance with the requirements set forth in Government Code section 11346.8. A remote virtual option to attend the meeting will also be provided.

**Date: October 27, 2022**

**Time:** This item will be considered at a regularly scheduled public meeting of the Council, which is anticipated to commence at **9:00 a.m.** This item may be heard at any time during the regularly scheduled meeting. The public hearing item will remain open as long as attendees are presenting testimony and will conclude after all testimony is given. Please consult the agenda, which will be available at <http://deltacouncil.ca.gov> at least ten (10) days before October 27, 2022, to determine the time at which this item will be heard and to obtain information regarding the remote virtual participation option.

**Location:** *California Natural Resources Building, 2<sup>nd</sup> Floor Room 221, 715 P Street, Sacramento, CA 95814.* The hearing room is wheelchair accessible.

If you have any questions, please contact:

Erin Mullin  
Delta Stewardship Council  
715 P Street, Suite 15-300

Sacramento, CA 95814  
 (916) 902-6482  
[amend.rrp1@deltacouncil.ca.gov](mailto:amend.rrp1@deltacouncil.ca.gov)

## AUTHORITY AND REFERENCE

Water Code (Wat. Code) sections 85210(i), 85210(h), and 85306 provide the Council authority for the proposed amendments to California Code of Regulations, Title 23, sections 5001 (“Section 5001”) and 5012 (“Section 5012”). Water Code section 85210(i) authorizes the Council to adopt regulations or guidelines as needed to carry out its powers and duties; Water Code section 85210(h) grants the Council the authority “to request reports from state, federal, and local governmental agencies on issues related to the implementation of the Delta Plan”; and Water Code section 85306 authorizes the Council, in consultation with the Central Valley Flood Protection Board (CVFPB), to recommend priorities for state investments in levee operation, maintenance, and improvements in the Delta. This action is proposed to implement, interpret, and make specific one or more of the following: sections 85020, 85022, 85054, 85057.5, 85225, 85300, 85305, 85306, 85307, and 85309 of the Water Code.

## INFORMATIVE DIGEST

### Plain English Requirements

The Council prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements set forth in Government Code Sections 11342.580 and 11346.2(a)(1). The Council considers the proposed regulations non-technical and drafted to be easily understood by those parties that will use them.

### Summary of Existing Laws and Regulations Related Directly to the Proposed Rulemaking

This proposed rulemaking action implements, interprets, and makes specific certain provisions of the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) (Wat. Code, § 85000 *et seq.*). The Delta Reform Act requires the Council to adopt and implement a legally enforceable long-term management plan for the Sacramento-San Joaquin Delta (Delta) to further the “coequal goals” for the Delta of “providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem” to “be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.” (Wat. Code, §§ 85001(c) and 85300(a); the coequal goals are set forth in Wat. Code, § 85054.) The Delta Plan also furthers the State of Califor-

nia (State) policies specified in Water Code sections 85020 through 85023 of the Delta Reform Act, which include: providing for the sustainable management of the Delta ecosystem, a more reliable water supply for California, and protecting and enhancing the quality of water supply from the Delta, as well as reducing risks to people, property, and State interests through appropriate land use and flood protection. State interests in the Delta include the economic and social well-being of Californians, environmental protection, use and conservation of resources, public access and recreation, habitat restoration and enhancement, water quality, and flood protection.<sup>1</sup>

Pursuant to the Delta Reform Act, in 2013 the Council adopted the Delta Plan as a comprehensive, long-term management plan for the Delta. The Delta Plan provides guidance and recommendations to state and local agencies on actions they may take to further the coequal goals for the Delta and implement the subgoals and strategies for the Delta set forth in the Delta Reform Act. (Wat. Code, §§ 85059 and 85300.) The Delta Plan also includes regulatory policies with which State and local public agencies are required to comply. (Wat. Code, § 85210(i).) The Delta Reform Act grants the Council regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh, which are referred to as “covered actions”; State and local agencies are required to demonstrate consistency with applicable regulatory policies (which are incorporated into the Delta Plan) when carrying out, approving, or funding a covered action. (Wat. Code, §§ 85022(a) and 85057.5.)

The Delta Reform Act requires the Delta Plan to attempt to reduce risks to people, property, and State interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments (Wat. Code, § 85305(a)); and to recommend priorities for State investment in levee operation, maintenance, and improvements in the Delta, including both project levees (which are a part of the State Plan of Flood Control), and nonproject levees (which are not a part of the State Plan of Flood Control) (Wat. Code, § 85306).

To guide discretionary State investments in Delta flood risk management prior to the completion and adoption of the updated priorities developed pursuant to Water Code section 85306 (which are included in this amendment), the Council adopted Policy RR P1, *Prioritization of State Investments in Delta Levees and Risk Reduction*, included in the 2013 Delta Plan and codified in California Code of Regulations, Title

<sup>1</sup> Delta Stewardship Council (Council). 2013. The Delta Plan: Ensuring a reliable water supply for California, a healthy Delta ecosystem, and a place of enduring value. May 2013.

23, Section 5012 (hereafter Section 5012), which set forth interim priorities for State investments in levee operation, maintenance, and improvements.

The existing Section 5001 defines words and phrases used in the Delta Plan policies and associated regulations and the Delta Reform Act. These definitions are necessary to clarify the meaning of terms used in Section 5012.

The existing Section 5012 outlines a process to prioritize State investments in levee operation, maintenance, and improvements in the Delta and sets forth “interim” priorities for State investment in Delta flood risk management to be followed while longer-term guidelines were being developed pursuant to Water Code section 85306.<sup>2</sup>

**Summary of the Effect of the Proposed Amendment**

The Council proposes to amend Section 5012 to carry out the legislative requirement that the Council adopt a legally enforceable long-term management plan for the Delta and to carry out the legislative intent of achieving the coequal goals<sup>3</sup> and objectives specified in Water Code sections 85054, 85020 through 85023, and 85306. Specifically, for Water Code section 85306, the Legislative requirement directs the Council, in consultation with the Central Valley Flood Protection Board, to recommend priorities for State investments in levee operation, maintenance, and improvements in the Delta. The Delta Reform Act states that, inherent in the coequal goals for management of the Delta, the policy of the State is to achieve the objective of reducing risks to people, property, and State interests in the Delta through effective emergency preparedness, appropriate land uses, and investments in flood protection (Wat. Code, § 85305).

The proposed amendment to Section 5012 is necessary to ensure that state-funded improvements to Delta levees are based on updated priorities to reduce the likelihood and consequences of levee failures, and to protect people, property, and State interests, while advancing the coequal goals.

In addition, Section 5001 must be amended to include new terms associated with the proposed amendment to Section 5012 in order to assist with interpretation of Section 5012 and provide clarity to the proposed regulations.

**Policy Statement Overview**

The Delta is the largest estuary on the west coast of the Americas and is the hub of the State’s major water supply systems. The Delta is home to about 500,000

people and comprises approximately 1,300 square miles of low-lying, flood-prone lands bound by 1,100 miles of levees. Before the Delta was modified by levees and other human structures, the natural flows of the San Joaquin River and Sacramento River overflowed the Delta’s low-lying islands and floodplains for long periods each spring. Today, flooding of the Delta’s complex labyrinth of islands and waterways is prevented by levees.

The Suisun Marsh, located immediately downstream from the Delta and north of Grizzly Bay, is the largest contiguous brackish wetland on the west coast of North America. The Suisun Marsh is a critical part of the San Francisco Bay–Delta estuary ecosystem encompassing 116,000 acres, including 52,000 acres of managed wetlands, 30,000 acres of bays and sloughs, 27,700 acres of uplands, and 6,300 acres of tidal wetlands. Suisun Marsh includes about 230 miles of levees that reduce flood risk and help manage flows for wetlands; about 80 miles of these levees protect Delta water quality and terrestrial and aquatic habitat of statewide importance.<sup>4</sup>

The Delta and Suisun Marsh levees reduce flood risk to people, property, water supply, the Delta ecosystem, and infrastructure of statewide importance. However, levee failure (such as a levee breach) can cause catastrophic flooding, and can potentially cause injury or loss of life, disrupt water supplies, and possibly damage property, infrastructure, and environmental resources of importance to the entire State. Though levee maintenance and improvements over the past three decades have reduced the frequency of levee failures, the State does not have a comprehensive method to prioritize its investments in operations, maintenance, and improvement projects for levees in the Delta and Suisun Marsh. Without a prioritization methodology, the apportionment of public resources into levees may not occur in a manner that reflects a strategic, long-term approach.<sup>5</sup>

A key objective of the Delta Reform Act is to “reduce risks to people, property, and State interests in the [Sacramento–San Joaquin] Delta by promoting effective emergency preparedness, appropriate land use, and strategic levee investments.” (Water Code, § 85305). This must be carried out in a manner that advances the state’s coequal goals for the Delta of: “... providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem,” achieved in a manner that protects and enhances the “unique cultural, recreational, natural

<sup>2</sup> These longer-term guidelines are provided in the proposed amendment to Section 5012.

<sup>3</sup> In addition, the Council adopted Resolution 2018–1 in April 2018, which determined that implementation of the proposed amendment is necessary to achieve the coequal goals as enumerated in the Delta Reform Act and to be consistent with the amended Delta Plan.

<sup>4</sup> Council. 2017. Delta Levees Investment Strategy. Final Report. July 2017. page 1.

<sup>5</sup> Council. 2013. The Delta Plan: Ensuring a reliable water supply for California, a healthy Delta ecosystem, and a place of enduring value. May 2013. page 271.

resource, and agricultural values of the Delta as an evolving place.” (Public Resources Code, § 85054.)

The Delta Reform Act explicitly sets State policy for the Delta, including a specific policy in Water Code section 85020 for achieving the following objectives inherent in the coequal goals for the management of the Delta:

- (a) Manage the Delta’s water and environmental resources and the water resources of the state over the long term.
- (b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.
- (c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.
- (d) Promote statewide water conservation, water use efficiency, and sustainable water use.
- (e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.
- (f) Improve the water conveyance system and expand statewide water storage.
- (g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.
- (h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

Public funds currently available for flood management are not sufficient to significantly raise the level of flood protection throughout the Delta to the levels called for by local agencies and prior State plans. The State remains the primary source of funding for flood protection. Spreading inadequate funding thinly throughout the Delta cannot effectively address the serious flood risks to State interests in the Delta. Lacking a strategy to systematically guide strategic levee investments in the Delta toward islands and tracts that represent the greatest risks to people, property, and State interests, California is challenged to meet the risk reduction objectives of the Delta Reform Act in a manner that advances the coequal goals.

**Objective (Goal)** — The broad objectives of this proposed regulatory action are to achieve the requirements of the Delta Reform Act by:

- Setting priorities for strategic Delta levee investments that maximize protection of people, property, and State interests.
- Investing public resources in Delta levees with the greatest potential to protect people, property, and State interests, before investing public

resources in Delta levees with lower potential to achieve these objectives; and

- Increasing public awareness of how levee expenditures maximize public safety and protect State interests in the Delta.

**Benefits** — The anticipated benefits, including any nonmonetary benefit to the protection of public health and safety of California residents, worker safety, and the State’s environment, from this proposed regulatory action are:

- Reduced risk of damage to property and infrastructure, including reduced cost to repair failed levees (19 Very–High Priority or High Priority islands and tracts with expected annual damages (EAD) greater than \$900,000 per year (at least 80 percent of Delta–wide EAD).
- Reduced annual risk of fatalities from a levee failure (17 Very–High Priority or High Priority islands and tracts with an expected annual fatality (EAF) greater than 0.02 lives per year (at least 90 percent of Delta–wide EAF).
- State water supply reliability benefits (23 Very–High Priority or High Priority water supply islands and tracts with a probability of flooding greater than 0.5 percent per year (1–in–200–year probability).
- “Delta as a Place” benefits from cultural, recreational, and natural resource, and agricultural qualities that distinguish the Delta; and
- Improved transparency and public awareness of State levee funding decisions, provided by annual reports from the California Department of Water Resources (DWR).

**Substantial Differences from Existing, Comparable Federal Regulations or Statutes**

There are no federal regulations or statutes that address the specific subject addressed by the proposed regulations.

**Consistency with Existing State Laws and Regulations**

Pursuant to Government Code section 11346.5(a)(3) (D), the Council evaluated the proposed amendment to determine whether it is inconsistent or incompatible with existing State regulations and concluded that the proposed amendments to Sections 5001 and 5012 are neither inconsistent nor incompatible with existing State regulations.

**Documents Incorporated by Reference**

A map showing the proposed Delta Levees Investment Strategy (DLIS) priority designation for each island and tract in the Delta and Suisun Marsh, which are set forth in proposed Table 1 of proposed Section 5012, is incorporated by reference into Section 5012 as Appendix P [adopted August 2021] to the Delta

Plan. All other regulatory provisions of Section 5001 and Section 5012 are within the body of the proposed regulations.

**MANDATED BY FEDERAL  
LAW OR REGULATIONS**

The proposed amendments to Section 5001 and Section 5012 are not mandated by federal law or regulations.

**OTHER STATUTORY REQUIREMENTS**

None.

**LOCAL MANDATE DETERMINATION  
REGARDING THE  
PROPOSED REGULATIONS**

Pursuant to Government Code 11346.5(a)(5), the Council has made the preliminary determination that the proposed amendments to Sections 5001 and 5012 do not impose a mandate on local agencies or school districts and that no reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 is required.

Pursuant to Government Code 11346.5(a)(6), the Council has made a preliminary determination that the proposed amendments to Sections 5001 and Section 5012 could create costs or savings to any State agency. The Council has determined that the proposed amendment would not create costs to or mandates to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies. The Council has determined that the proposed amendment would not create costs or savings in federal funding to the State.

**FISCAL IMPACT DETERMINATION  
REGARDING THE  
PROPOSED REGULATIONS**

**Cost or Savings to Local Agencies or Schools  
Requiring Reimbursement**

There are no non-discretionary costs or savings imposed upon local agencies or schools. The proposed regulations would not require local governments or schools to do anything different or new, and nothing would change with respect to any local subvention programs. Therefore, local agencies would not be directly affected by the DLIS prioritization and would not incur any additional fiscal costs beyond current requirements. This is because the proposed amendments do not place any additional requirements on

local agencies. Instead, the proposed regulations impose a reporting requirement on DWR to ensure transparency. Local agencies do not have to report to the Council or justify to the Council why they received levee improvement funding. The proposed regulations do not impose a mandate on local agencies that would cause them to incur additional costs, nor does it create potential for savings.

**Costs or Savings to Any State Agency**

**Fiscal Impact on State Government**

The proposed amendment to Section 5001, which adds definitions for terms used in proposed Section 5012, would not cause any direct or indirect economic or fiscal impacts to state agencies. Any fiscal impacts related to these definitions would be caused by proposed amendments to Section 5012, where these terms are applied.

The Council estimates that that the proposed amendments will create fiscal costs to State agencies of approximately \$405,000 per year. DWR would be required to prepare and submit an annual report to the Council describing Delta levee investments, and if necessary, justifying why funding decisions deviated from the priorities in the proposed amendment. The Council would be required to review the annual report prepared by DWR. The additional cost of preparing an annual report is generally moderate and can be completed by existing staff that are familiar with Delta levee investments and the Delta Plan; thus, it is likely these additional costs would be absorbed within existing DWR and Council budgets.<sup>6</sup>

**Non-Discretionary Costs or Savings Imposed  
Upon Local Agencies**

The proposed amendment to Section 5001, which adds definitions for terms used in proposed Section 5012, would not cause any direct or indirect economic or fiscal impacts to local agencies. The proposed amendments to Section 5012 would not impose fiscal costs on local governments. The proposed regulations would not require local governments or schools to do anything different or new, and nothing would change with respect to any local subvention programs. Therefore, local agencies would not be directly affected by the DLIS prioritization and would not incur any additional fiscal costs beyond current requirements.

**Costs or Savings in Federal Funding to the State**

No additional federal funding is required. There are no costs associated with the proposed amendments because there is no reduction in any funding. No direct

<sup>6</sup> This estimate is based on analysis in the *Economic and Fiscal Impact Analysis of Proposed Amendments to Prioritization of State Investments in Delta Levees and Risk Reduction (EFIA)* which is included as Attachment 1 to the Initial Statement of Reasons and summarized in the Form 399: *Economic and Fiscal Impact Statement*.



or indirect fiscal impacts are anticipated to federally funded State agencies or programs as a result of the proposed amendments because the proposed amendments could affect the timing of levee investment but do not change the overall level of funding. Because there is no change to the overall level of funding, there are no savings in federal funding to the State.

### HOUSING COSTS

The Council has made an initial determination that the proposed amendments to Sections 5001 and 5012 would not have a significant effect on housing costs. The proposed amendments could shift the distribution of benefits from levee investment within the Delta, indirectly affecting land values either positively or negatively. Any overall effect on housing costs would be insignificant.

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

The Council has made an initial determination that the proposed amendments to Sections 5001 and Section 5012 would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

While land is typically an asset and not a separate value-added economic activity, the proposed amendments could result in a net economic cost (higher EAD as a result of reallocation of prospective levee investments) of \$212,700 per year (\$3,900,000 in net present value). Any additional indirect economic effects are likely to be negligible (less than \$232,000 over the analysis period). However, these indirect costs would not eliminate, create, encourage, or restrict expansion of businesses currently doing business within the state and geographic extent of regulations (the Sacramento San-Joaquin Delta and Suisun Marsh). Furthermore, since the proposed amendments would have a negligible effect on businesses, they would not have a significant statewide adverse effect on the ability of those businesses to compete within the State or with businesses in other states.

### STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Pursuant to Government Code 11346.3(b), the Council has prepared an economic impact analysis, which is set forth in the Economic and Fiscal Impact Analysis (EFIA), Attachment 1 to the Form 399, of the proposed amendments. Based on the analysis and sup-

porting information provided in the EFIA, the Council makes the following initial determinations:

- *Creation or elimination of jobs within California:* The proposed amendment would have a minimal effect on the creation or elimination of jobs within California. The proposed regulations may result in a reduction of 2.1 jobs over the analysis period, due to a reduction in real estate commissions. However, the direct economic cost of the proposed amendments to businesses, jobs, and individuals is negligible because while they could change the timing of State investment in Delta levees, they would not change the overall level of investment.
- *Creation of new businesses or elimination of existing businesses within California:* The proposed amendment would not affect the creation of new businesses or elimination of existing businesses within California. The proposed amendments would not change the overall level of State investment in Delta levee improvements and would be unlikely to have any significant effect on businesses in the State. Any potential effect would only occur at the sale of land and then only indirectly.
- *Expansion of businesses currently doing business within the state:* The proposed amendment would not affect the expansion of businesses currently doing business within the State. Since the proposed amendments would not change the overall level of State investment in Delta levee improvements and would be unlikely to have any significant effect on businesses in the State. Any potential effect would only occur at the sale of land and then only indirectly and therefore unlikely to affect business expansion.
- *Benefits:* The benefits of the regulation to the health and welfare of California residents, worker safety, and the State’s environment are as follows:
  - Reduced risk of damage to property and infrastructure, including reduced cost to repair failed levees;
  - Reduced annual risk of fatalities from a levee failure;
  - Improving transparency and public awareness of State levee funding decisions;
  - State water supply reliability benefits;
  - Ecosystem/habitat benefits; and
  - “Delta as a Place” benefits from cultural, recreational, and natural resource, and agricultural qualities that distinguish the Delta.<sup>7</sup>

<sup>7</sup> For example, legacy communities, recreation, and prime agriculture.

**COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

The requirements of the amended regulations apply to State agencies — they do not apply to representative persons or businesses. The Council is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Business Reporting Requirements**

The proposed amendments to Sections 5001 and 5012 do not have a reporting requirement that applies to businesses. The proposed amendments would establish a new reporting requirement for a State agency (DWR). The proposed amendments would require DWR to prepare an annual report to the Council identifying its decisions to award State funds for Delta levee operation, maintenance, repair, rehabilitation, replacement, and improvement projects and include specific information in the report.

**Small Business**

The Council makes an initial determination that any potential indirect effects on small businesses would be insignificant. The direct cost of the proposed amendment would fall on State agencies, not on businesses. Therefore, it would have no direct effect on businesses, including small businesses. Businesses could potentially be affected indirectly through changes in landowner expenditures or real estate sales commission, but this effect is negligible. Since the effect on general businesses is negligible, it follows that small businesses (using the consolidated definition of small business set forth in Cal. Gov. Code Section 11346.3(b)(4)(B)) would not be disproportionately affected or overly burdened by the proposed amendments.

**CONSIDERATION OF ALTERNATIVES**

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

The Council has prepared an Initial Statement of Reasons that contains an analysis of alternatives considered and rejected due to reasons as described. Interested persons may present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

**CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Erin Mullin  
Delta Stewardship Council  
715 P Street, Suite 15–300  
Sacramento, CA 95814  
(916) 902–6482  
[amend.rrpl@deltacouncil.ca.gov](mailto:amend.rrpl@deltacouncil.ca.gov)

The backup contact person to whom inquiries concerning the proposed administrative action may be directed to is:

Eva Bush  
Delta Stewardship Council  
715 P Street, Suite 15–300  
Sacramento, CA 95814  
(916) 284–1619  
[amend.rrpl@deltacouncil.ca.gov](mailto:amend.rrpl@deltacouncil.ca.gov)

All comments must be submitted as set forth in the “Opportunity for Public Comment” section, above.

**AVAILABILITY STATEMENTS**

The Council will have the entire rulemaking file, including the express terms of the proposed regulations, the Initial Statement of Reasons, and all information that provides the basis for the proposed action, available for inspection and copying throughout the rulemaking process.

As of the date this Notice is published in the Notice Register, the rulemaking file consists of the following materials that are available for public review:

- Text of Proposed Amendment to Existing Regulation Sections 5001 and 5012; proposed Appendix P
- Notice of Proposed Rulemaking
- Initial Statement of Reasons (ISOR)
  - Please note: There is an attachment to the ISOR (*see* Attachment 1 to ISOR)
- Form 400 (Notice Publications/Regulation Submission)
- Form 399 (Economic and Fiscal Impact Statement)
- Attachment 1 to Form 399 (“EFIA”)
- Information upon which proposed amendment is based, including
  - Addendum to Delta Plan Amendments Program Environmental Impact Report: Delta Levees Investment Strategy Update. Council, 2021.
  - Comparison of PL 84–99 Analyses Delta Levees Investment Strategy (DLIS)

- Technical memorandum. Delta Stewardship Council (Council), 2017.
- Cost Analysis for Proposed Delta Plan Regulations in Support of Economic and Fiscal Impact Statement. Council. 2012.
  - Economic Sustainability Plan for the Sacramento–San Joaquin Delta. Delta Protection Commission, 2012.
  - Delta As Place: Agriculture White Paper. Council. 2010.
  - Delta Flood Management Investment Strategy Principles. Council, Approved as Interim Guidance on July 24, and August 27, 2015.
  - Delta Flood Risk Management Assessment District Feasibility Study and Delta Levee Financing Options Report. Delta Protection Commission. 2018.
  - Delta Levees Investment Strategy Issue Paper. Council, 2015.
  - Delta Levees Investment Strategy Final Report, Council, 2017.
  - Delta Levees Investment Strategy Risk Analysis Methodology Report. Council. 2017.
  - Delta Levees Special Flood Control Projects. DWR. 2017.
  - DLIS MOU and Joint Implementation Plan. Council, June 22, 2017 Meeting.
  - Delta Memorandum of Understanding (MOU) Working Group Meeting with Delta Stewardship Council (Council) and Central Valley Flood Protection Board (CVFPB). Attendees: Laura Hollender (DWR), Chris Williams (DWR), Erin Mullin (Council), Ryan Stanbra (Council), Meghan Sullivan (CVFPB), and Erica Bishop (GEI). DWR. 2019.
  - Delta Plan: Ensuring a reliable water supply for California, a healthy Delta ecosystem, and a place of enduring value. Council, 2013.
  - Delta Plan Program Environmental Impact Report. Council, 2013.
  - Delta Plan Amendments. Council, April 2018.
  - Delta Plan Ecosystem Amendment: Draft Appendix Q1. Methods Used to Update Ecosystem Restoration Maps Using New Digital Elevation Model and Tidal Data. 2020.
  - Delta Plan Amendments Program Environmental Impact Report Addendum and Rulemaking Authorization for Delta Plan Policy RR P1. Council Staff Report. August 2021.
  - Delta Plan Executive Summary, Delta Plan Policies and Recommendations. Council, 2013.
  - DLIS Risk Analysis Methodology Report. Council, Revised June 2017.
  - DLIS: Sea Level Rise Methodology. Council, 2015.
  - Delta Reclamation District Financing and Budgets. Council, 2015.
  - Delta Risk Management Strategy, Phase 1. Risk Report: Section 2. DWR, 2009.
  - Discussion Draft of Potential Revisions to Chapter 7 Policies and Recommendations. Council, March 23, 2017. Meeting.
  - Draft Report: Earthquakes and High Water as Levee Hazards in the Sacramento–San Joaquin Delta. Delta Independent Science Board (Delta ISB), 2016.
  - Economic Sustainability Plan for the Sacramento–San Joaquin Delta. Delta Protection Commission, 2012.
  - Final: Levee Related Habitat Review Issue Paper. Council, 2015.
  - Impacts for Planning and Analysis Model. <http://www.implan.com/>. 2014 R3 California Counties Database (Delta Counties). MIG Inc. 2014.
  - Inspection and Local Maintaining Agency Report of the Central Valley State–Federal Flood Protection System. DWR, 2013.
  - Light Detection and Ranging Data. <https://data.cnra.ca.gov/dataset/delta-lidar-2017>. 2019
  - Map of the Sacramento–San Joaquin Delta. Council, 2014.
  - Map of the Sacramento–San Joaquin Delta and Suisun Marsh prepared by the Flood SAFE Environmental Stewardship and Statewide Resources Office (FESSRO). DWR, 2013.
  - Personal communication with Erin Mullin. Senior Engineer. Delta Stewardship Council. January 29, 2019. Updated to 2021 dollars using GDP–IPD. Council. 2019.
  - Reclamation District Ability to Pay (ATP) Analysis Technical memorandum. Council, 2017.
  - Resolution 2018–1. Certification of the Delta Plan Amendments Program Environmental Impact Report, Adoption of Findings and

a Statement of Overriding Considerations, Mitigation Measures, and a Mitigation Monitoring and Reporting Program, and Adoption of the Delta Plan Amendments. Council, April 26, 2018.

- Resolution 2021–02. Approval of the Delta Plan Amendments Program Environmental Impact Report Addendum and Rulemaking Authorization for Delta Plan Policy RR P1. Council, August 26, 2021.
- Review Technical Memoranda from Delta Levee Prioritization Methodology Peer Review Meeting. Council, May 19–20, 2015.
- Revisions to Current DLIS Amendment. Council, March 23, 2017. Meeting.
- Sacramento–San Joaquin Delta Atlas. DWR, 1995.
- Sacramento–San Joaquin Delta Reform Act of 2009
- Staff–Recommended DLIS Prioritization Table and Map; Staff–Recommended Modified Preliminary Draft Regulatory Language for Delta Plan Policy RR P1. Council. 2021.
- State Investments in Delta Levees. Key Issues for Updating Priorities. Council, 2014.
- State Investments in Delta Levees. Key Issues for Updating Priorities. Council, 2015.
- Suisun Marsh Properties Map. Suisun Marsh RCD, 2015.
- U.S. Bureau of Economic Analysis, Gross Domestic Product: Implicit Price Deflator, retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/GDPDEF>.
- Final Statement of Reasons (upon completion)
- Final Text of Regulation (upon completion)

To obtain copies or to arrange for an in–person review, copying or inspection of records, please contact Erin Mullin at the address or e–mail or phone number listed above. For more timely access to these materials, and in the interest of waste prevention, interested parties are encouraged to access the Council’s Internet webpage at: <https://deltacouncil.ca.gov/dlis/>

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Council may adopt the proposed amendment as described in this notice at a subsequently noticed public meeting. If the

Council makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Council adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Erin Mullin at the address indicated above. The Council will transmit any modified text to all persons who testify at the public hearing, all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

**FINAL STATEMENT OF REASONS**

The Final Statement of Reasons will be posted on <https://deltacouncil.ca.gov/dlis/>, and may also be obtained from the individuals listed above once it has been prepared. If the amendment is approved by the Office of Administrative Law, the date the regulation is filed with the Secretary of State and the effective date of the regulations will also be posted on the Council’s website.

**INTERNET ACCESS**

Copies of this Notice, the Initial Statement of Reasons, the text of the proposed regulations in underline and strikeout, and all materials published or distributed by the Council regarding this proposed action are available at <https://deltacouncil.ca.gov/dlis/>.

**TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 PROPOSITION 65**

**AMENDMENT TO SECTION 25705 SPECIFIC REGULATORY LEVELS POSING NO SIGNIFICANT RISK:**

**ANTIMONY TRIOXIDE**

Public Availability Date: August 26, 2022

Deadline for Public Comment: October 11, 2022

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHA)

proposes to adopt a Proposition 65<sup>1</sup> No Significant Risk Level (NSRL) for antimony trioxide by amending Title 27, California Code of Regulations, section 25705(b).<sup>2</sup> The proposed NSRL for antimony trioxide is 0.13 micrograms per day.

#### SUBMISSION OF PUBLIC COMMENTS

All written comments must be submitted to OEHHA by electronic submission, mail, or hand-delivery, by October 11, 2022, as indicated below. OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments> rather than in paper form. Alternatively, comments can be submitted in paper form, by either mail or delivered in person.

Electronic Submission (preferred):

Through OEHHA website at: <https://oehha.ca.gov/comments>

Mailed Submission:

Esther Barajas–Ochoa  
Office of Environmental Health Hazard  
Assessment  
P.O. Box 4010  
Sacramento, California 95812–4010

In–person delivery submission:

Attention: Esther Barajas–Ochoa  
Office of Environmental Health Hazard  
Assessment  
1001 I Street, 23rd Floor  
Sacramento, California 95814

OEHHA encourages all commenters to submit their comments in a format compliant with Section 508 of the federal Rehabilitation Act, Web Content Accessibility Guidelines 2.0<sup>3</sup> and California Government Code (Gov. Code) sections 7405 and 11135, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and e–mail may be available to third parties.

Inquiries concerning the action described in this notice may be directed to Esther Barajas–Ochoa, in writing at the address given above, by email at

[esther.barajas-ochoa@oehha.ca.gov](mailto:esther.barajas-ochoa@oehha.ca.gov), or by telephone at: 916–445–6900

#### PUBLIC HEARING

A public hearing on these proposed regulatory amendments will only be scheduled upon request. The hearing would be virtual due to the COVID–19 emergency.<sup>4</sup> To request a hearing, send an e–mail to Esther Barajas–Ochoa at [esther.barajas-ochoa@oehha.ca.gov](mailto:esther.barajas-ochoa@oehha.ca.gov) or letter to the address listed above by no later than **September 26, 2022**. If one is scheduled, OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA website at least ten days before the public hearing date. The notice will provide the date, time, and instructions for participating in the hearing.

#### CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Esther Barajas–Ochoa at (916) 445–6900, or by e–mail to [esther.barajas-ochoa@oehha.ca.gov](mailto:esther.barajas-ochoa@oehha.ca.gov). Kristi Morioka is a back–up contact person for inquiries concerning processing of this action and is available at (916) 322–5624 or [kristi.morioka@oehha.ca.gov](mailto:kristi.morioka@oehha.ca.gov).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposition 65 prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual.<sup>5</sup> The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water.<sup>6</sup>

For carcinogens, an exemption from the warning requirement is provided by the Act when the exposure for which the person is responsible can be demonstrated to produce no significant risk, or when a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water.<sup>7</sup> A determination that a level of

<sup>1</sup> The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq., referred to herein as “Proposition 65” or “The Act.”

<sup>2</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated.

<sup>3</sup> <https://www.w3.org/WAI/standards-guidelines/wcag/>

<sup>4</sup> Executive Orders N–25–20 and N–29–20.

<sup>5</sup> Health and Safety Code section 25249.6.

<sup>6</sup> Health and Safety Code section 25249.5.

<sup>7</sup> Health and Safety Code sections 25249.9 and 25249.10.

exposure poses no significant risk may be made utilizing regulations that have previously been adopted by OEHHA (Sections 25701–25721). Section 25701 describes alternative methods for making such a determination. Section 25705 sets forth the process for determining “no significant risk” levels for purposes of Proposition 65 and establishes those levels for certain listed chemicals.

Details on the basis for the proposed NSRL for antimony trioxide are provided in the Initial Statement of Reasons for this regulatory amendment, which is available on request from Esther Barajas–Ochoa at [esther.barajas-ochoa@oehha.ca.gov](mailto:esther.barajas-ochoa@oehha.ca.gov) and is posted on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

This proposed amendment to section 25705 would add an NSRL for antimony trioxide by amending Section 25705(b) as follows (addition in underline):

(b) Chemical name	Level (micrograms per day)
Acrylonitrile	0.7
...	
<i>Antimony oxide (Antimony trioxide)</i>	<i>0.13</i>
...	

To develop the proposed NSRL for antimony trioxide, OEHHA relied on the 2017 National Toxicology Program (NTP) technical report entitled “Toxicology and Carcinogenesis Studies of Antimony Trioxide (CAS Number 1309–64–4) in Wistar Han [CrI:WI (Han)] Rats and B6C3F<sub>1</sub>/N Mice (Inhalation Studies)”<sup>8</sup> and the NTP Report on Carcinogens “Monograph on Antimony Trioxide.”<sup>9</sup> The NTP technical report and the NTP Report on Carcinogens (RoC) monograph summarize the available data from rodent carcinogenicity studies, as well as other information relevant to the carcinogenic activity of antimony trioxide.

The NSRL for antimony trioxide is based upon the results of the most sensitive scientific study deemed to be of sufficient quality.<sup>10</sup>

**Anticipated Benefits of the Proposed Regulation**

Some businesses may not be able to afford the expense of establishing an NSRL and therefore may be exposed to litigation for a failure to warn or for a prohibited discharge of the listed chemical. By providing an NSRL, this regulatory proposal spares businesses the expense of calculating their own NSRL and may

<sup>8</sup> National Toxicology Program (NTP 2017). Toxicology and Carcinogenesis Studies of Antimony Trioxide (CAS Number 1309–64–4) in Wistar Han [CrI:WI (Han)] Rats and B6C3F<sub>1</sub>/N Mice (Inhalation Studies). NTP Technical Report Series Number 590. US Department of Health and Human Services, NTP, Research Triangle Park, NC. Available from <https://ntp.niehs.nih.gov/go/tr590>.

<sup>9</sup> National Toxicology Program (NTP 2018). Report on Carcinogens Monograph on Antimony Trioxide. RoC Monograph 13. US Department of Health and Human Services, NTP, Research Triangle Park, NC. Available from [https://ntp.niehs.nih.gov/ntp/roc/monographs/antimony\\_final20181019\\_508.pdf](https://ntp.niehs.nih.gov/ntp/roc/monographs/antimony_final20181019_508.pdf).

<sup>10</sup> Section 25703(a)(4).

also enable them to reduce or avoid litigation costs. In addition, the NSRL does not require, but may encourage, businesses to reduce exposures to the listed chemical to a level that does not cause a significant exposure, thereby providing a public health benefit to Californians. This in turn may reduce resident, worker and environmental exposures to antimony trioxide.

**No Inconsistency or Incompatibility with Existing Regulations**

After conducting an evaluation on any related regulations in this area, OEHHA has found that these are the only regulations dealing with Proposition 65 No Significant Risk Levels for this specific chemical. Therefore, OEHHA has determined that the proposed regulation is neither inconsistent nor incompatible with existing state regulations. The proposed regulation does not impose any mandatory requirements on businesses, state or local agencies and does not address compliance with any other law or regulation.

RESULTS OF ECONOMIC IMPACT ANALYSIS  
(Gov. Code section 11346.3(b))

**Impact on the Creation, Elimination, or Expansion of Jobs/Businesses in California**

This regulatory proposal will not affect the creation or elimination of jobs within the State of California. Proposition 65 requires businesses with ten or more employees to provide warnings prior to exposing people to chemicals that are known to cause cancer. The law also prohibits the discharge of listed chemicals into sources of drinking water. Antimony trioxide is listed under Proposition 65; therefore, businesses must provide a warning if their product or activity exposes the public or employees to significant amounts of antimony trioxide. The regulatory proposal does not create additional compliance requirements, but instead provides a “safe harbor” value that aids businesses in determining whether a warning is required for a given exposure.

The proposed NSRL provides compliance assistance to businesses subject to the Act, but does not impose any mandatory requirements on those businesses. Therefore, OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Benefits of this regulation include sparing businesses the expense of calculating their own NSRL and possibly enabling them to reduce or avoid litigation costs. By providing an NSRL, it may encourage businesses to reduce exposures to the listed chemical to a level that does not cause a significant exposure, thereby providing a public health benefit to Californians. This in

turn may reduce resident, worker and environmental exposures to antimony trioxide.

#### PEER REVIEW

This notice, the proposed regulatory change, and the Initial Statement of Reasons are being provided to the OEHHA Science Advisory Board's Carcinogen Identification Committee for review and comment.<sup>11</sup>

#### AUTHORITY

Health and Safety Code Section 25249.12.

#### REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Because Proposition 65 expressly<sup>12</sup> does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

#### COSTS OR SAVINGS TO STATE AGENCIES

Because Proposition 65 expressly<sup>13</sup> does not apply to any State agency, OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

#### EFFECT ON FEDERAL FUNDING TO THE STATE

Because Proposition 65 expressly<sup>14</sup> does not apply to any federal agency, OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

#### EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs because

<sup>11</sup> Title 27, Cal. Code of Regs., section 25701(e).

<sup>12</sup> See Health and Safety Code section 25249.11(b).

<sup>13</sup> See Health and Safety Code section 25249.11(b).

<sup>14</sup> See Health and Safety Code section 25249.11(b).

it provides compliance assistance to businesses subject to Proposition 65 but does not impose any mandatory requirements on those businesses.

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

Because the proposed regulatory level provides compliance assistance to businesses subject to Proposition 65, but does not impose any mandatory requirements on those businesses, OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The proposed NSRL was developed to provide compliance assistance for businesses in determining whether a warning is required, or a discharge is prohibited. The NSRL provides a level of exposure at or below which a warning is not required, and a discharge is not prohibited. Use of the NSRL is not mandatory. The implementing regulations allow a business to calculate its own level and provide guidance in order to assist businesses in doing so.<sup>15</sup> However, conducting such a process can be expensive and time consuming, and the resulting levels may not be defensible in an enforcement action. OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any mandatory requirements on small business. Rather, the proposed NSRL will provide compliance assistance for small businesses subject to Proposition 65 because they will help businesses determine whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition of Proposition 65.

#### CONSIDERATION OF ALTERNATIVES

Government Code section 11346(a)(13) requires that a rulemaking agency must determine that no reasonable alternative considered by the agency or that has

<sup>15</sup> Title 27, Cal. Code of Regs., section 25701 et seq.

otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has made available for public review an Initial Statement of Reasons for the regulation, all the information upon which the regulation is based, and the text of the regulation. A copy of the Initial Statement of Reasons, the text of the regulation and the documents relied on to develop the proposed regulation are available upon request from OEHHA at the address and telephone number indicated above. These documents are also posted on OEHHA's website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted written comments at the public hearing, if held, or whose comments were received by OEHHA during the public comment period, and anyone who requests notification from OEHHA of the availability of such changes. Copies of the notice and the changed regulation will also be available on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons for this regulatory action may be obtained, when it becomes available, from OEHHA at the address and telephone number indicated above, and on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov).

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NUMBER 1653-2022-095-001-R1

**Project:** South Fork Trinity River (SFTR) Spring Run Chinook Salmon Restoration Project Phase 2

**Location:** Trinity County

**Applicant:** Watershed Research and Training Center, represented by Nick Goulette

**Background:**

*Project Location:* The SFTR Spring Run Chinook Salmon Restoration Project Phase 2 (Project) is located on the South Fork Trinity River, approximately 3.5 miles upstream of Highway 36, near Forest Glen, CA. Coordinates for the Project are 40.3103° North, 123.2464° West (upstream extent) and 40.3276° North, 123.2817° West (downstream extent), on a combination of private parcels and federal lands managed by the USDA Forest Service. Assessor Parcel Numbers (APN) are as follows: 019-190-07-00, 020-130-07-00, 021-020-03-00, 018-350-11-00 and 019-190-03-00, and affects the South Fork Trinity River. The South Fork Trinity River supports populations of state-listed threatened Upper Klamath-Trinity River (UKTR) spring-run Chinook Salmon (*Oncorhynchus tshawytscha*) and fall-, winter-, and summer-run populations of steelhead (*O. mykiss*), as well as foothill yellow-legged frog (*Rana boylei*), western pond turtle (*Emys marmorata*), and Pacific lamprey (*Entosphenus tridentatus*). Suitable habitat for Southern Oregon Northern California Coast (SONCC) Coho Salmon (*O. kisutch*) exists within the project reach, however the most recent record of juvenile Coho presence was in 2009 in the lower reaches of tributaries below the community of Hyampom.

*Project Description:* The Watershed Research and Training Center (Applicant) proposes to enhance and restore habitat within the South Fork Trinity River to provide a net conservation benefit for all of the species listed above, but in particular UKTR spring-run Chinook Salmon (*O. tshawytscha*). The Project proposes to improve the habitat quality, ecological function, and geomorphic processes in a 3.1-mile reach by provid-



ing complexity with the placement of approximately 300 whole trees into the stream. The goal is to improve adult salmon and steelhead holding, spawning, and migration habitat, while also providing juvenile rearing habitat. Large wood structures will be placed through the combination of helicopter and road-based cable yarding to pull or tip trees into place at 32 discrete locations. Approximately 260 conifers ranging from 12–40 inches in diameter at breast height and averaging 80–feet long will be placed via helicopter in log jam configurations, using 5–35 trees per assemblage. Approximately 50–60 live and dead trees (both conifer and hardwood) will be pulled or tipped used a road-based cable yarder from five upland locations on the private parcel. Using pulley blocks, these trees will be yarded into place in the stream. The intent during construction is to interlock the individual trees together during placement to increase structural integrity and residence time. Trees will also be keyed into natural anchor points such as between live trees or boulders to improve stability and longevity. Depending on the location, the intended function of a log structure will be either for habitat improvement, improve geomorphic characteristics, or create hydraulic scour. Wood slash will be harvested as a last step and incorporated into the structures to help lock them together and provide structural rigidity, while also deterring undercutting and deterioration of large wood structures. The slash will be harvested from the private parcels and will build on fuels reduction already occurring in the area.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 1.98 acres and 499.50 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

*Project Associated Discharge:* Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 310 Whole conifer and oak trees with rootwads attached; (2) Biodegradable roping.

*Project Timeframes:* Start date: September 1, 2022

Completion date: October 31, 2022

Work window: Approximately 45 days within September 1–October 31, with an option for a work window variance with written approval from the Regional Water Board and California Department of Fish and Wildlife

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to restore and enhance the quality of waters in California and increase wild spring-run Chinook pop-

ulations through the improvement of adult and juvenile salmonid habitat, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SBI2006GN (Order) Waste Discharge Identification (WDID) Number 1A22053WN-TR, Electronic Content Management Identification (ECM PIN) Number CW-880743 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to UKTR spring-run Chinook Salmon, steelhead, and Coho Salmon.

*Receiving Water:* South Fork Trinity River

*Filled or Excavated Area:* Permanent area impacted: none

Temporary area impacted: 1.98 acres maximum

Length temporarily impacted: 499.5 linear feet

Length permanently impacted: 0 linear feet

*Dredge Volume:* None.

*Discharge Volume:* 33,700 cubic yards as large wood

*Project Location:* 40.3103° North, 123.2464° West (upstream extent) and 40.3276° North, 123.2817° West (downstream extent.) (NAD 83); APNs: 019-190-07-00, 020-130-07-00, 021-020-03-00, 018-350-11-00 and 019-190-03-00

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

On July 12, 2022, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on July 12, 2022], for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Regulatory Notice File Number Z-2022-0712-03) on July 22, 2022. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

#### **Determination**

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set

forth in Fish and Game Code section 1653 for authorizing the Project.

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

**Avoidance and Minimization Measures**

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) General Conservation Measures; (2) Specific Conservation Measures to Minimize Disturbance from In-stream Construction; (3) Specific Conservation Measures to Minimize Degradation of Water Quality; (4) Specific Conservation Measures to Minimize Loss or Destruction of Riparian Vegetation and Wetlands; (5) Specific Conservation Measures Applicable to Fisheries Research/Monitoring; (6) Specific Conservation Measures to Protect Wildlife Resources, Including Special Status Species. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Appendix B Species Conservation Measures South Fork Trinity River–Spring Run Chinook Salmon Restoration Project Phase II, derived from the Trinity River Restoration Program 2019 Biological Assessment Document.*

**Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan South Fork Trinity River – Spring Run Chinook Salmon Restoration Project Phase II, Trinity County, California*, prepared by the Watershed Research and Training Center.

**Notice of Completion**

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

- photographs with a descriptive title;
- date the photograph was taken;

- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

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

**Project Authorization**

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

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

**DEPARTMENT OF FISH AND WILDLIFE**

**CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
SPL&T'S FORESTLAND MANAGEMENT  
PROGRAM HABITAT CONSERVATION PLAN  
2080–2022–013–00**

The California Department of Fish and Wildlife (CDFW) received a notice on August 12, 2022, that Sierra Pacific Land & Timber Company (SPL&T) proposes to rely on a federal permit to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves forestland management activities and certain mitigation and conservation measures. Proposed activities will include, but are not limited to, timber harvesting; road construction, use, maintenance, and reconstruction; prescribed burns; and fire

suppression. The proposed project will occur within the Trinity and Sacramento River Basins on approximately 355,061 acres owned by SPL&T in planning watersheds within the known limits of anadromy.

SPL&T prepared a Habitat Conservation Plan (HCP) which considered the effects of the proposed project on state and federally threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*); state and federally endangered Sacramento River winter-run Chinook salmon (*O. tshawytscha*); and state and federally threatened Southern Oregon/Northern California Coast coho salmon (*O. kisutch*). The National Marine Fisheries Service (Service) issued a federal incidental take permit (ITP) (Permit Number 24396) to SPL&T on September 29, 2021.

Pursuant to California Fish and Game Code section 2080.1, SPL&T is requesting a determination that the ITP and its associated HCP are consistent with CESA for purposes of the proposed project. If CDFW determines the ITP and its associated HCP are consistent with CESA for the proposed project, SPL&T will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

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

**OFFICE OF ADMINISTRATIVE LAW**

ACCEPTANCE OF PETITION  
TO REVIEW ALLEGED  
UNDERGROUND REGULATIONS

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

The Office of Administrative Law has accepted for consideration a petition challenging the policies and procedures established in the memorandum entitled, "Senate Bill 132 Implementation," issued by the California Department of Corrections and Rehabilitation on December 18, 2020.

Please send your comments to:

Eric Partington, Senior Attorney  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

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

Petitioner:

DeeDee Wakefield, BK-0965  
Salinas Valley State Prison  
Post Office Box 1050, Z9-134L  
Soledad, CA 93960

Agency contact:

Ying Sun, Associate Director  
Department of Corrections and Rehabilitation  
Regulations and Policy Management Branch  
Post Office Box 942883  
Sacramento, CA 94283-0001

Please note the following timelines:

Publication of Petition in Notice Register:  
8/26/2022  
Deadline for Public Comments: 9/26/2022  
Deadline for Agency Response: 10/10/2022  
Deadline for Petitioner Rebuttal: No later than 15  
days after receipt of the agency's response  
Deadline for OAL Decision: 12/27/2022

**SUMMARY OF  
REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE  
SECRETARY OF STATE**

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

California Alternative Energy and Advanced  
Transportation Financing Authority  
File # 2022-0701-02  
Commercial Energy Efficiency Financing Program

This certificate of compliance action makes permanent, with minor amendments, emergency regulations regarding the Commercial Energy Efficiency Financing Program.

Title 04  
Adopt: 10092.15  
Amend: 10092.1, 10092.2, 10092.3, 10092.4,  
10092.5, 10092.6, 10092.7, 10092.8, 10092.9,  
10092.10, 10092.11, 10092.12, 10092.13, 10092.14  
Filed 08/15/2022  
Effective 08/15/2022

Agency Contact:  
Aaron Lingenfelter (916) 653-2509

## CALIFORNIA REGULATORY NOTICE REGISTER 2022, VOLUME NUMBER 34-Z

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State Water Resources Control Board  
File # 2022-0802-01  
Emergency Reporting and Curtailment Regulation,  
Delta Watershed

This action renews and amends emergency regulations to curtail water diversions in the Delta Watershed.

Title 23  
Adopt: 877.1, 878, 879.1, 879.2  
Amend: 876.1, 878.1, 878.2, 879, 879.3  
Filed 08/12/2022  
Effective 08/12/2022  
Agency Contact: Dana Heinrich (916) 341-5188

California State University  
File # 2022-0725-01  
Blended Academic Program Requirements

This action by the Board of Trustees of the California State University, submitted to OAL for courtesy filing with the Secretary of State and for printing in the California Code of Regulations, amends blended academic program requirements. This action is exempt from the Administrative Procedure Act and takes effect upon filing with the Secretary of State pursuant to Education Code sections 89030 and 89030.1, respectively.

Title 05  
Amend: 40510  
Filed 08/11/2022  
Effective 08/11/2022  
Agency Contact: Jason Taylor (562) 951-4500

Department of Food and Agriculture  
File # 2022-0719-02  
Industrial Hemp

In this action, the Department of Food and Agriculture is adding to its list of approved industrial hemp cultivars and amending the term used to describe cultivars. Adding cultivars to the list of approved cultivars and amending the methodology and procedure for amending the list is exempt from the Administrative Procedure Act pursuant to Food and Agricultural Code section 81002(c)(2) and (4).

Title 03  
Amend: 4920, 4921  
Filed 08/12/2022  
Effective 08/12/2022  
Agency Contact: Rachel Avila (916) 403-6813

California Coastal Commission  
File # 2022-0701-03  
Annual Increases to Permit Fees and Major Public Works Threshold

This action by the California Coastal Commission makes changes without regulatory effect to adjust the threshold amount to qualify as a major public works or energy project and the fees for permit applications and other filings.

Title 14  
Amend: 13012; 13055  
Filed 08/10/2022  
Agency Contact: Claire Wilkens (760) 419-8607

California Prison Industry Authority  
File # 2022-0722-01  
Employee Work Schedules

This action without regulatory effect changes syntax in a regulation on setting employee work schedules.

Title 15  
Amend: 8110  
Filed 08/12/2022  
Agency Contact: Moira Doherty (916) 413-1140

Board of Registered Nursing  
File # 2022-0630-02  
Continuing Education Courses

In this action the Board of Registered Nursing is adding three new definitions to their continuing education regulations, "Experimental medical procedure or treatment," "Implicit bias," and "Direct patient care." This action will require continuing education courses to include the understanding of implicit bias unless the course is related solely to research or other non-direct patient care components. This action also establishes that continuing education courses can include experimental medical procedures or treatments if they meet certain benchmark requirements.

Title 16  
Amend: 1450, 1456  
Filed 08/12/2022  
Effective 10/01/2022  
Agency Contact: Marissa Clark (916) 574-7438

Commission on Peace Officer Standards and Training  
File # 2022-0629-03  
Senate Bill 2 Amendments: Peace Officer Employment Status Notification and Certification

In this regular rulemaking, the Commission on Peace Officer Standards and Training is amending regulations regarding conditions for continuing employment as a peace officer. These requirements per-

tain to obtaining a Proof of Eligibility under specified circumstances.

Title 11  
 Amend: 1012  
 Filed 08/10/2022  
 Effective 10/01/2022  
 Agency Contact: Michelle Weiler (916) 227-4870

Department of Pesticide Regulation  
 File # 2022-0705-01  
 Carbon Monoxide Pest Control Devices

In this rulemaking action, the Department adopts a regulation to set limitations on the use of carbon monoxide pest control devices. It also establishes requirements for employers who hire persons to operate carbon monoxide pest control devices.

Title 03  
 Adopt: 6695  
 Filed 08/15/2022  
 Effective 10/01/2022  
 Agency Contact: Lauren Otani (916) 445-5781

Bureau of Automotive Repair  
 File # 2022-0708-02  
 Smog Check Equipment Security and Fraud Prevention

The Bureau of Automotive Repair is adding biometric security and remote access solutions to a licensed Smog Check inspector's use of the Emissions Inspection System and On-Board Diagnostic Inspection System.

Title 16  
 Amend: 3340.15, 3340.41, 3340.45, 3394.26  
 Filed 08/15/2022  
 Effective 10/01/2022  
 Agency Contact: Holly O'Connor (916) 403-8627

Dental Board of California  
 File # 2022-0721-08  
 Senate Bill 501 — Anesthesia and Sedation

This rulemaking action by the Dental Board of California updates requirements governing the use of deep sedation and general anesthesia, moderate sedation, and pediatric minimal sedation for dental patients. This action updates terminology, fees, application requirements, facility and equipment requirements, recordkeeping requirements, and drug requirements. This action also adopts a new application process for pediatric endorsements.

Title 16  
 Adopt: 1017.1, 1043.8.1, 1043.9, 1043.9.1, 1043.9.2  
 Amend: 1016, 1017, 1018.1, 1021, 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1044, 1044.1, 1044.2, 1044.3, 1044.5, 1070.8  
 Filed 08/16/2022  
 Effective 08/16/2022  
 Agency Contact:  
 Lawrence Bruggeman (916) 263-2027

Department of Corrections and Rehabilitation  
 File # 2022-0701-04  
 Recommendation to Recall Sentence and Resentence PC 1170.03

This rulemaking by the Department of Corrections and Rehabilitation adopts, amends and repeals regulations concerning the recommendation to recall of inmate commitments and resentencing of inmates by the Secretary pursuant to Penal Code section 1170.03.

Title 15  
 Amend: 3076, 3076.1, 3076.2, 3076.3, 3076.4, 3076.5  
 Filed 08/11/2022  
 Effective 10/01/2022  
 Agency Contact: Josh Jugum (916) 445-2266

Department of Justice  
 File # 2022-0707-05  
 Controlled Substance Utilization Review and Evaluation System (CURES)

The Department of Justice ("DOJ") maintains the Controlled Substance Utilization Review and Evaluation System ("CURES") "for the electronic monitoring of, and internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, Schedule IV, and Schedule V controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances." (Health and Safety Code, section 11165, subdivision (a).) In this regular rulemaking, DOJ is amending regulations concerning the access and use of information within CURES.

Title 11  
 Adopt: 822.1, 822.2, 822.3, 822.4, 822.5, 822.6, 824.1, 824.2, 824.3, 824.4, 824.5, 824.6, 824.7, 824.8, 824.9  
 Amend: 820, 821.1, 821.2, 821.3, 821.4, 821.5, 821.6, 822.1 (renumbered to 823.1), 822.2 (renumbered to 823.2), 822.3 (renumbered to 823.3), 822.4 (renumbered to 823.4), 822.5 (renumbered to 823.5), 822.6 (renumbered to 823.6), 823.1 (renumbered to 825.1), 823.2 (renumbered to 825.2), 823.3 (renumbered to 825.3), 823.4 (renumbered to 825.4), 823.5 (renumbered to 825.5), 824.1 (re-

numbered to 826.1), 824.2 (renumbered to 826.2), 824.3 (renumbered to 826.3), 824.4 (renumbered to 826.4), 824.5 (renumbered to 826.5), 824.6 (renumbered to 826.6), 825.1 (renumbered to 827.1), 825.2 (renumbered to 827.2), 825.3 (renumbered to 827.3), 825.4 (renumbered to 827.4), 825.5 (renumbered to 827.5), 825.6 (renumbered to 827.6), 826.1 (renumbered to 828.1), 826.2 (renumbered to 828.2), 826.3 (renumbered to 828.3), 826.4 (renumbered to 828.4), 826.5 (renumbered to 828.5), 826.6 (renumbered to 828.6), 827.1 (renumbered to 829.1), 827.2 (renumbered to 829.2), 828.1 (renumbered to 830.1), 828.2 (renumbered to 830.2), 828.3 (renumbered to 830.3)  
Repeal: 821.7, 822.7  
Filed 08/15/2022  
Effective 08/15/2022  
Agency Contact: Marlon Martinez (213) 269-6437

ScholarShare Investment Board  
File # 2022-0714-03  
CalKIDS Program

In this rulemaking action the ScholarShare Investment Board is establishing regulations for the California Kids Investment and Development Savings Program (CalKids) to provide the process to provide each child born in California with funds for a college savings account. These regulations establish

definitions, eligibility, deposits of funds as well as the process to opt out and to appeal the forfeiture of funds.

Title 05  
Adopt: 31010, 31011, 31012, 31013, 31014, 31015, 31016, 31017, 31018  
Filed 08/15/2022  
Effective 08/15/2022  
Agency Contact: Noah Lightman (916) 201-6382

**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](http://oal.ca.gov).