



California Regulatory Notice Register

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California State Library

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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: 375 Beale Condominium Corporation
Tri Valley San Joaquin Valley Regional Rail Authority
STATE AGENCY: California Exposition and State Fair
California State Library

A written comment period has been established commencing on September 16, 2022 and closing on October 31, 2022. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than October 31, 2022. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING
COSTS AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

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

**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **October 20, 2022** at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **October 18, 2022**.

BACKGROUND/OVERVIEW

Commission staff has identified a need for clarification on various reporting requirements under the Political Reform Act (“the Act”) related to state and local recall elections. The proposed amendments will clarify that the Act’s voluntary expenditure ceiling limit for a “general election” applies to state recall replacement candidates, specify that the target officer of a recall is not required to file a candidate statement of economic interests, clarify that preelection reports and late contribution reports are not required for a target officer’s other controlled committees by virtue of the recall being on the ballot, address the termination requirements for a target officer recall committee, and specify which disclosures are required on recall and replacement candidate campaign advertisements. Proposed amendments include amendments to Regulation 18531.5.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

REGULATORY ACTION

Amend 2 Cal. Code Regs., Section 18531.5, subdivision (b)(2) — Voluntary Expenditure Ceiling Limit for State Replacement Candidates

The Commission may consider amending Regulation 18531.5 to add a reference to the “general election” voluntary expenditure limit language in subdivision (b)(2) of 18531.5 to clarify that the Act’s general election voluntary expenditure limit applies to replacement candidates as opposed to the primary election limit.

Amend 2 Cal. Code Regs., Section 18531.5, subdivision (c)(1) — Preelection Reports & Late Contribution Reports

The Commission may consider amending Regulation 18531.5(c)(1) to clarify that a target officer’s other controlled committees are not required to file campaign statements pursuant to Regulation 18405(a) though they may otherwise be required to under Section 84200.5. Additionally, the Commission may consider adding language to specify that contributions to any other controlled committee of the target officer will not incur late contribution reporting requirements pursuant to Sections 82036 and 84203 by virtue of the recall measure pertaining to the target officer appearing on the ballot.

Amend 2 Cal. Code Regs., Section 18531.5, subdivision (c)(1) — Recall Target Statement of Economic Interests

The Commission may consider amending Regulation 18531.5(c)(1) to include language clarifying that a recall target officer is not required to file a candidate Statement of Economic Interests (SEI).

Amend 2 Cal. Code Regs., Section 18531.5, subdivision (c)(2) — Replacement Candidate Statement of Economic Interests

The Commission may consider amending Regulation 18531.5(c)(2) to include language clarifying that a replacement candidate is required to file a candidate Statement of Economic Interests (SEI).

Amend 2 Cal. Code Regs., Section 18531.5 to add new subdivision (d) — Target Officer Recall Committee Termination

The Commission may consider amending Regulation 18531.5 to add a new subdivision (d) to specify that after the recall election, the target officer’s committee must wind down its activities and dissolve within 12 months. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days. However, the committee may remain open for more than 30 days only to receive refunds from vendors and government entities for items paid on or prior to the recall date, and to pay expenses associated with winding down the committee including expenses associated with tax preparation, audit compliance, and

to pay outstanding invoices for items incurred on or before the recall election date.

Amend 2 Cal. Code Regs., Section 18531.5 to add new subdivision (e) — Advertisements by Target and Replacement Candidates

The Commission may consider amending Regulation 18531.5 to add a new subdivision (e) to specify:

- (1) Advertisements paid for by a target officer’s committee formed to oppose the recall shall include the disclosures required for ballot measure advertisements paid for by a committee other than a candidate–controlled committee established for elective office of the controlling candidate or political party committee.
- (2) Advertisements paid for by a replacement candidate’s committee for election that both support the candidate and pertain to the recall shall include the same disclosures as a candidate’s advertisements for the candidate’s own campaign.
- (3) Advertisements pertaining to the recall paid for from a separate ballot measure committee controlled by the replacement candidate shall include the disclosures required for ballot measure advertisements paid for by a committee other than a candidate–controlled committee established for elective office of the controlling candidate or a political party committee.
- (4) Non–candidate controlled committees primarily formed to support or oppose the recall shall include the disclosures required for ballot measure advertisements paid for by a committee other than a candidate–controlled committee established for elective office of the controlling candidate or political party committee.

SCOPE: The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on any local entity or program.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind

rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 82007, 82036, 82043, 84200.5, 84200.8, 84203, 84107, 84211, 84214, 84305, 84310, 84502, 84503, 84504, 84504.1, 84504.2, 84504.3, 84504.4, 84504.7, 84511, 85200, 85301, 85302, 85315, 85702.5, and 87201.

CONTACT

Any inquiries should be made to Erika M. Boyd, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811; telephone (916) 322–5660 or 1–866–ASK–FPPC, or by email at eb-oyd@fppc.ca.gov. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **OCTOBER 20, 2022**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on OCTOBER 18, 2022**.

BACKGROUND/OVERVIEW

Commission staff has identified a need for committees to disclose the names of individuals who have authorization to obtain campaign bank account records on the committee’s Statement of Organization (Form 410). This issue was raised by the Commission’s Audits & Assistance Division (“Audit Division”). The Audit Division has had difficulty attempting to locate

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

a person who has the authority to provide the Audit Division with needed financial records when a treasurer is unavailable (e.g., death or incapacity) for purposes of completing an audit. Having this information available to Audit Division staff will allow for staff to complete more efficient and timely audits and will limit the need for Audit Division staff to rely on the Commission's Enforcement Division staff to issue subpoenas to gain this information. These amendments will also assist the Franchise Tax Board Political Reform Audit Program when conducting its committee audits. Proposed amendments include amendments to Regulation 18410.

REGULATORY ACTION

Amend 2 Cal. Code Regs. Section 18410 — Statement of Organization

The Commission may consider amendments to Regulation 18410. Regulation 18410 currently provides rules for what must be disclosed on the Form 410 when a committee qualifies under the Act. Section 84101 of the Act requires the filing of a Form 410 for persons who raise \$2,000 or more in contributions in a calendar year in order to form a campaign committee.² Section 84102 and Regulation 18410 set forth what is required to be disclosed on the Form 410 including the name and address of the committee, name and address of the committee's treasurer and principal officer(s), the name and address of the financial institution where the committee's bank account is located and the bank account number.

The proposed amendments to existing Regulation 18410 will add a requirement that all qualified committees disclose on the Form 410 the names of at least three persons authorized to obtain the financial records of the committee from the financial institution where the bank account is maintained, but to have the names redacted in the same manner as bank account numbers pursuant to Sections 84602 and 84615. In the case where there are less than three persons authorized to obtain the financial records from the financial institution where the bank account is maintained, then all persons that are authorized shall be listed.

SCOPE: The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

² A committee may file the form prior to qualifying (i.e., prior to receiving \$2,000 or more in contributions) and will mark "not yet qualified" on the Form 410. However, bank account information is not required if the committee has not yet qualified. The Form 410 must be amended to include the bank account information within 10 days of qualifying as a committee pursuant to Section 84101.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on any local entity or program.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 84101, 84102, 84103, 84602 and 84615.

CONTACT

Any inquiries should be made to Katelyn Greene, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

comments should be received at the Commission offices no later than **5:00 p.m. on October 19, 2022.**

BACKGROUND/OVERVIEW

The Act seeks to address the influence of campaign contributions and abusive practices through effective campaign finance disclosure laws. The Act requires the disclosure of receipts and expenditures in an election campaign and maintains a vigorous enforcement of these requirements. These laws act to fully inform voters and inhibit improper practices. (Sections 81002(a) and (f).)

Treasurer and Assistant Treasurer

To this end, the Act requires that every recipient committee (defined in Section 82013(a)) have a publicly identified treasurer in order to function, and that the individual in this role is responsible for ensuring a committee's compliance with the Act's campaign finance rules, record retentions and disclosures. (Sections 84100(a), 84102(c) and (d), and Regulation 18401.) The treasurer must sign all the committee's filings under the Act and verify under penalty of perjury that "the filer has used all reasonable diligence in its preparation and that to the best of the filer's knowledge it is true and complete." (Section 81004(b).) A treasurer in violation of these duties could face in criminal, civil, or administrative penalties. (Section 84102(c) and (d).) A recipient committee's designated assistant treasurer shares the same verification duties as the treasurer in signing and verifying campaign statements. (Section 84100(b).)

Responsible Officer and Principal Officer

Similarly, an entity's "responsible officer" or "principal officer," each has important compliance, record-keeping, and campaign statement signing and verification duties under the Act. A principal officer must likewise sign and verify statements under Section 81004(b), be publicly disclosed, and has record-keeping and compliance duties under the Act. (Sections 82047.6, 84104, 84213(b), and Regulation 18402.1.) In addition to signing and verification duties under Section 81004(b), a responsible officer must be publicly identified, and a limited liability company's responsible officer may be held liable for a violation of the Act pursuant to Section 83116.5. (Regulation 18402.2(a) and (c).)

Capacity Issues: Minors

The Act does not explicitly exclude a minor² from acting as a recipient committee treasurer or assistant treasurer, or as an entity's responsible officer or principal officer. However, a minor has a limited legal capacity. The state of California has made certain con-

tracts entered into by minors void or voidable since at least 1874. (*I.B. v. Facebook, Inc.*, (2015) 82 F. Supp. 3d 1115, 1118, [citing former Sections 33 and 34 of the Civil Code, now located in Family Code sections 6701(c) and 6710.]) A minor cannot give a delegation of power, nor make a contract relating to real property, or relating to any personal property not in their immediate possession or control. (*Ibid.*) A minor may make any other contract, in the same manner as an adult, however, that contract is subject to the minor's power of disaffirmance, meaning the minor may void such a contract before or shortly after reaching adulthood. (Family Code sections 6700, 6710.) In a criminal law context, a minor's capacity to know of the wrongfulness of their actions in committing a crime is an issue as well. (Penal Code section 26.)

If allowed to assume the role of treasurer, assistant treasurer, responsible officer, or principal officer, it is likely that campaign finance violations or the signature and verification of campaign statements under penalty of perjury would therefore not be enforceable against a minor. It is equally a concern that a minor could be improperly placed in these roles by design in order to avoid the purposes of the Act's campaign reporting laws.

Proposed Regulation 18400

To address this issue, staff proposes regulatory language setting 18 as the minimum age for an individual to serve in the role of treasurer, assistant treasurer, responsible officer, or principal officer. This language is necessary to ensure the Act's purposes. The Commission has the implied authority to set qualifications for these roles so that proper campaign finance practices and reporting are maintained, and effective enforcement may be carried out.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18400.

Commission staff proposes Regulation 18400 to set a minimum age of 18 for an individual to serve as a treasurer, assistant treasurer, responsible officer, or principal officer.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issue identified above or any related issue.

² A minor is defined as an individual under 18 years of age. (Family Code Section 6500.)

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. None.
Fiscal Impact on State Government. None.
Fiscal Impact on Federal Funding of State Programs. None.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

Sections 81004, 82047.6, and 84100, Government Code.

CONTACT

Any inquiries should be made to L. Karen Harrison, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811; email: KHarrison@FPPC.CA.Gov; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture (Department) proposes to repeal Section 3434 of Title 3 of the California Code of Regulations (CCR) pertaining to the Light Brown Apple Moth (LBAM) interior quarantine.

PUBLIC HEARING

A public hearing is not scheduled. However, 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 Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulations to the Department. Comments may be submitted by USPS or email. The written comment period closes on November 11, 2022. The Department will consider only comments received at

the Department offices by that time or postmarked no later than November 11, 2022. Submit comments to:

Erin Lovig, Senior Environmental Scientist Supervisor
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N St,
Sacramento, CA 95814
Erin.Lovig@cdfa.ca.gov
916.403.6650

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Rachel Avila at (916) 698-2947 or rachel.avila@cdfa.ca.gov.

Unless there are substantial changes to the proposed regulations prior to adoption, the Department may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to repeal CCR Section 3434 pursuant to the authority vested by Sections 401 and 407 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 407, 5301, and 5302 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The effect of the repeal of this regulation is to remove the State's interior quarantines that regulates the interstate movement of LBAM host material and other regulated articles.

ANTICIPATED BENEFITS FROM THIS REGULATORY ACTION

The repeal of this regulation benefits interstate shippers of California of host commodities and regulated articles which would otherwise face unnecessary interstate commerce restrictions. Nurseries shipping regulated material in California from within the quarantines areas will benefit by not having to hold their material for proper certification. Additionally, counties currently receiving regulated material will benefit by not being required to enforce the quarantines. They

will be able to direct resources toward more effective activities.

It is the Department's responsibility to repeal regulations that the Department no longer has authority to enforce, and due to LBAM is no longer being considered a threat to California agriculture or the environment, CDFA lacks authority to enforce an LBAM quarantine.

EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH EXISTING
STATE REGULATIONS

The Department considered other possible related regulations in this area and found that these are the only regulations dealing in this subject area, and the only State agency that can implement plant quarantines is the Department. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of these regulations and has determined that it is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING
THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

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

Cost impacts on a representative private person or business: None.

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

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

Significant effect on housing costs: None.

Small business determination: The Department has determined that the proposed regulations should not affect small businesses because the repeal of these regulations removes all regulatory requirements and there are no costs associated with compliance.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS

Amendment of these regulations:

(1) will have no significant impact on the creation or elimination of jobs in the State of California, (2) will have no impact on the creation or elimination of businesses within the State of California, (3) will have no impact on the expansion of businesses within the State of California, (4) is not expected to benefit the health and welfare of California residents, (5) is not expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

The proposed repeal of these regulations ensures the responsibility to repeal regulations that the Department no longer has authority to enforce.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered to the regulations or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice. Alternative approaches would not be authorized under the Food and Agricultural Code. It is the Department's responsibility to repeal regulations that the Department no longer has authority to enforce. LBAM is no longer considered a threat to California agriculture or the environment so CDFA cannot enforce a quarantine.

AVAILABILITY OF STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed actions, has made available all the information upon which its proposal is based, and has available the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html). A copy of the initial statement of reasons and the proposed repeal of regulations in strikeout form may be obtained upon request.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.

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

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

PUBLIC HEARING

ABC has scheduled a public hearing on this proposed action on Tuesday, November 1, 2022, from 10:00 a.m. to 2:00 p.m. at ABC Headquarters at 3927 Lennane Drive, Suite 100, Sacramento, CA 95834. This public hearing will also be livestreamed with the link to the meeting available two weeks prior to the meeting on the ABC website here: <https://www.abc.ca.gov/law-and-policy/regulations-rulemaking/>.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to ABC. The written comment period closes at 5:00 p.m. on Tuesday, November 1, 2022. ABC will consider only comments received at ABC Headquarters by that time. Submit comments to:

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

Comments may also be submitted by email to RPU@abc.ca.gov. Please include “Licensing of Permanent Non-Contiguous Areas” in the subject line of your email.

AUTHORITY AND REFERENCE

Authority: Section 25750.5, Business and Professions Code.

Reference: Sections 23300, 23399, 24041, 24042.5, 24045.17, 25607, and 25750.5, Business and Professions Code; Section 65907, Government Code; and Section 114067, Health and Safety Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Summary of Existing Laws and Regulations

During the COVID-19 pandemic, ABC instituted a regulatory relief notice that allowed licensees who sell alcohol to consumers for consumption on the licensed premises to obtain a COVID-19 Temporary Catering Authorization (TCA). The TCAs allowed expansions of licensed premises to limit the spread of COVID-19 while allowing licensees to remain open for business. These expansions were done without prior ABC investigation, but also could be revoked through complaints or objection by local law enforcement without a formal administrative hearing process. This led to licensees seeking a large amount of premises expansions in a short amount of time, some of them non-contiguous to the licensed premises. In the past, ABC issued some limited non-contiguous expanded premises on a limited case-by-case basis while making sure each one was not a danger to the public health, safety, or welfare. Pursuant to AB 61 (Gabriel, Chapter 651, Statutes of 2021) and SB 314 (Wiener, Chapter 656, Statutes of 2021), the Legislature temporarily continued the TCA program by referring to the Fourth Notice of Regulatory Relief implemented by ABC within Business and Professions Code section 25050.5. ABC anticipates many requests for permanent extensions of licensed premises for non-contiguous areas due to the large influx of temporary non-contiguous premises expansions pursuant to the new law, it is necessary for ABC to establish a standard policy for permanent non-contiguous licensed premises away from the main previously licensed premises to protect the public health, safety, and welfare.

Summary of Effect

The proposed regulations seek to formally implement standards ABC has used on a case-by-case basis for the approval of non-contiguous licensed premises. The regulatory package was created in response to the influx of non-contiguous TCAs requested pursuant to the Fourth Notice of Regulatory Relief instituted by ABC in response to the COVID-19 state of emergency, and the Legislature’s subsequent codification of the program in Business and Professions Code section 25050.5. ABC anticipates many licensees will seek to make TCA’s permanent prior to when they expire pursuant to Business and Professions Code section 25050.5. The regulatory package will notify the public, ABC licensees, local governments, and local law enforcement agencies of the standards that ABC will apply when approving permanent non-contiguous licensed areas for continued use by licensees, and how those permanent non-contiguous licensed areas must operate after their approval. However, this proposed regulatory package has no effect upon the currently operable TCAs instituted by the Legislature that are set to expire pursuant to Business and Professions Code section 25050.5.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

The mission of ABC is to provide the highest level of service and public safety to the people of the State through licensing, education, and enforcement. This proposed regulation will provide transparency to licensees subject to the laws and regulations regarding a permanent non-contiguous premises expansion under their license. It also informs the public, local governments, and local law enforcement agencies how to navigate notifying ABC if any non-contiguous premises expansion poses a threat or danger to the public health, welfare, or safety by non-compliance with the ABC standards pursuant to the proposed regulation.

Benefits Anticipated

By establishing the policies and procedures for the issuance and administration of permanent non-contiguous licensed premises within a regulation, ABC can ensure uniform enforcement and transparent interactions with the public, local governments, local law enforcement agencies and ABC licensees. This will provide benefits to ABC licensed businesses while also protecting the public health, safety, and welfare.

Determination of Inconsistency/Incompatibility with Existing State Regulations

ABC has determined that this proposed regulatory action is not inconsistent or incompatible with existing state regulations.

Effect Upon Small Businesses in California

Although licensees are often small business owners, this proposed regulation will have negligible regulatory effect on them. It only seeks to make clear and concise ABC’s policy for the issuance and administration of permanent non-contiguous premises expansions. This regulatory package has no effect upon the currently operable TCAs instituted by the Legislature that are set to expire pursuant to Business and Professions Code section 25050.5.

Disclosures Regarding the Proposed Action

The ABC has made the following initial determinations:

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

Determination of Statewide Adverse Economic Impact on Business

The ABC initially determines that the adoption of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Assessment:

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

ABC does anticipate the proposed regulations will facilitate some small business licensees continuing to maintain staff that would otherwise have been let go at the expiration of the TCA’s due to not having a permanent non-contiguous premises expansion.

ABC has determined that the proposed regulation has a minimal effect upon the current health and welfare of California residents due to the permanent non-contiguous expansion of licensed premises because many of these permanent approvals are already currently in use. However, it will ensure the ongoing use of non-contiguous licensed premises will not cause any harm to the health, safety, or welfare of California residents and this protection will provide a benefit.

ABC has determined that with the proper delineation of non-contiguous licensed premises required by the proposed regulation, it will have no effect upon worker safety because the licensed areas will remain subject to the same rules as all current premises licensed for the consumption of alcoholic beverages.

ABC has determined this proposed regulation will have no effect upon the environment because it does not change a licensee's current duty to keep their licensed premises free of debris and trash that might harm the environment from activity on a permanently licensed non-contiguous premises.

Description of All Economic Impacts That a Representative Private Person or Business Would Necessarily Incur in Reasonable Compliance with the Proposed Action

The ABC has made an initial determination that the adoption of this regulation will have negligible economic impact on private persons or businesses. There is no foreseeable impact on private persons or businesses based on the process laid out in the proposed regulation.

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

The Need to Require Report from Businesses

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

Consideration of Alternatives

ABC must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to effected private persons, than the proposed action, or would be more cost-effective to effected private persons and equally effective in implementing the statutory policy or other provision of law. ABC invites interested persons to present statement or arguments with respect to alternatives to the proposed regulation during the written comment period.

Agency Contact Person

Inquiries concerning the proposed regulatory action may be directed to the agency representative Robert de Ruyter, Assistant General Counsel, (916) 419-8958, (designated backup contact) Sarah Easter, Associate Governmental Program Analyst, Law and Policy Unit, (916) 823-1310 or via email at RPU@abc.ca.gov.

Availability of Documents

ABC prepared an Initial Statement of Reasons for the proposed action. Copies of the Initial Statement of Reasons, and the full text of the proposed regulations may be accessed on ABC's website listed below

or may be obtained from the Law and Policy Unit, Department of Alcoholic Beverage Control, 3927 Lenane Drive, Suite 100, Sacramento, CA 95834, on or after Monday, September 16, 2022.

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

Change to the Proposed Full Text of the Regulation Action

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

Final Statement of Reasons Availability

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

Internet Access

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

TITLE 4. GAMBLING CONTROL COMMISSION

INCIDENT REPORTING
CGCC-GCA-2022-04-R

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on November 1, 2022. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received**

after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person.

PUBLIC HEARING

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

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19801(g), 19826(b), 19840, 19841, 19857, 19924, and 19984 of the Business and Professions Code; and to implement, interpret or make specific sections 19826, 19841, 19857, 19920, 19922, 19924, and 19984 of the Business and Professions Code, the Commission is proposing to adopt the following changes to Chapter 1 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The California Gambling Control Commission (Commission) is proposing regulations that would modify the Commission's incident reporting requirements. These regulations would implement various as-

pects of the Gambling Control Act (Act)¹ and provide guidance to the procedures required to submit incident reports. The proposed regulations would apply the requirements to both cardroom business licensees and third-party providers of proposition player services (TPPPS) business licensees.

EXISTING LAW:

Business and Professions Code section 19801, subdivision (g), provides that the California Legislature finds that the public trust that gambling will not endanger the public health, safety, or welfare requires comprehensive measures be enacted to ensure that gambling is free from criminal and corruptive elements.

Business and Professions Code section 19826, in pertinent part, assigns the Bureau with the responsibility to investigate suspected violations of the Act; to investigate complaints against licensees; to initiate appropriate disciplinary actions; and, to approve the play of any controlled game, as specified.

Business and Professions Code section 19857 provides that no gambling license will be issued unless the Commission is satisfied that an applicant is a person of good character, honesty, and integrity, does not have a background that includes any prior activities, criminal record, reputation, habits, or associates that pose a threat to the effective regulation of controlled gambling, and that a person in all other respects is qualified to be licensed.

Business and Professions Code sections 19840, and 19841 provide the authority and ability for the Commission to promulgate regulations regarding the application process within the controlled gambling industry.

Business and Professions Code section 19920 provides that it is the policy of the State of California that all locations where gambling is conducted is operated in a manner suitable to protect the public health, safety, and general welfare, and that it is the responsibility of operator to employ and maintain of suitable methods of operation and that failure to do so will constitute grounds for disciplinary action.

Business and Professions Code section 19922 provides that an operator in must operate in a manner consistent with the Act and those regulations adopted under the Act.

Business and Professions Code section 19924 requires operators to maintain security controls over the gambling premises and all operators conducted within, and that those controls are subject to the approval of the Commission.

Business and Professions Code section 19984 provides the Commission the authority to provide regulations to provide for the licensure of TPPPS, and pro-

¹ Business and Professions Code, Division 8, Chapter 5, Section 19800, *et seq.*

vides the Department of Justice the authority to conduct background checks, financial audits, and other investigatory services as necessary to assist the Commission in regulating TPPPS.

EFFECT OF REGULATORY ACTION:

This proposed action is drafted to streamline the incident reporting requirements and to effectively identify the types of violations that should be reported. This regulation provides clear direction to cardroom business licensees and TPPPS business licensees by adopting specific requirements for submitting reports.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

These proposed regulations have the benefit of providing specific procedures that must be followed when filing an incident report. These revised procedures will provide employees of a cardroom business licensee with an understanding of what types of violations must be reported without requiring them to make legal judgements that are best left to law enforcement officials. By ensuring the Bureau is able to receive the required information, the Bureau’s role in monitoring compliance and protecting the public welfare can be more effective.

SPECIFIC PROPOSAL:

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

Chapter 3. Conditions of Operations TPPPS Businesses

Article 1. Security and Use of Player’s Banks

Adopt Section 12282. Incident Reports.

Section 12282 provides incident reporting requirements for TPPPS business licensees. The reporting of incident reports by TPPPS business licensees utilizes the same form as cardroom business licensees, the Incident Report Form.

Subsection (a) provides that a TPPPS business licensee must submit an incident report after obtaining evidence that a reasonably suspected incident, as specified, occurred within any space owned, managed, controlled, or rented by the TPPPS business license and involves a TPPPS category licensee, non-licensed employee, or a subcontractor or independent contractor hired by the TPPPS business licensee. The notification requirement is limited to incidents for which a cardroom is not required to submit an incident report and to just those employees, subcontractors, or independent contractors whose duties are directly related to the underlying business purposes or required administrative processes of the TPPPS business licensee. The specific incidents requiring reporting are the same as required by cardroom business licensees, pursuant to Section 12395(a)(3). Unlike the requirements provided in Section 12395, Section 12282 contains limitations

to a TPPPS business licensee’s requirement to report an incident:

Subsection (b) provides that a TPPPS business licensee must submit an incident report when any of its employees or owners have a local city, county, or city and county license, permit, or authorization to work in a gambling establishment approved with conditions, denied, suspended, or revoked.

Subsection (c) provides that a TPPPS business licensee must submit an incident report if any of its associated TPPPS endorsee licensees or TPPPS employee type licensees are arrested.

Chapter 7. Conditions of Operations for Gambling Establishments

Article 3. Minimum Internal Control Standards (MICS) for Cardroom Business Licensees

Amend Section 12395. Security.

Subsection (a) provides the minimum security standards that must be included in the gambling enterprise’s policies and procedures.

- Paragraph (1) provides that access to restricted areas of the gambling establishment, including cages, count rooms, and security offices is limited to authorized personnel.
 - Subparagraph (A) is amended to provide clarity to the access of non-public areas of the gambling establishment. The areas covered by this provision are limited to those with access to currency or unsecured gambling equipment, other than gaming tables. These areas, as provided, include but are not limited to cages, count rooms, vaults, and security offices.

A new category of persons has been added to those allowed access to non-public spaces. Specifically, these are individuals who have been historically excluded from the term “authorized personnel.” These “other persons” will be allowed access to these non-public spaces only if escorted and observed at all times by an authorized cardroom employee (cardroom category licensee or holder of a local work permit) either in person or observed through a continuous live surveillance system.

- Subparagraph (B) is added to create a separate category of rooms for the media storage for the surveillance system. This type of space had previously followed the same rules as the other non-public spaces; however, its separation is necessary to acknowledge the unique security concerns of these spaces. If the media storage space does not include any currency or unsecured gambling equipment, access is limited to authorized cardroom employees or other persons

if escorted and observed at all times by an authorized cardroom employee, like the other spaces, or if observed or reviewed by a cardroom employee using a continuous surveillance system.

- Subparagraph (C) is added to clarify that this does not interfere with the third-party proposition contract regulations.
- Paragraph (3) provides that cardroom business licensees must file an incident report with the Bureau’s Criminal Intelligence Unit within five business days of specific events occurring. Paragraph (3) is amended to require cardroom business licensees to submit the form “Incident Report Form.”

Paragraph (3) is further amended to require incident reports for violations occurring “within the gambling establishment or in any adjacent spaces owned, managed, controlled, rented, or utilized by the cardroom business licensee for or in connection with the gambling operation.” Additionally, incidents in locations within the gambling establishment or adjacent spaces owned, managed, or rented by the cardroom but are solely utilized by a TPPPS business licensee under the terms of a TPPPS contract need not be reported by the cardroom business licensee.

- Subparagraph (A) of paragraph (3) provides a list of areas of violation that must be reported; including, violations of the Gambling Control Act, the Commission and Bureau’s regulations, and specified provisions of the Civil Code, Health and Safety Code, and Penal Code. Subparagraph (A) has been amended and expanded to subparagraphs (A) through (K).
- Existing subparagraph (B) of paragraph (3) provides an additional reporting standard of an owner or key employee obtaining knowledge or notice of any reasonably suspected violation of the provisions identified in subparagraph (A). Subparagraph (B) is repealed.
- Existing paragraph (4) is repealed.
- Paragraph (5) provides that when a gambling enterprise submits a Title 31 Suspicious Activity Report with the Financial Crimes Enforcement Network (FinCEN), the licensee must submit an Incident Report Form to the Bureau and provide a copy of the report along with any transactions or documents upon which the report was based.
- Paragraph (6) provides that when a forfeiture of any unredeemed jackpot or prize is made consistent with the gambling establishment’s policies and procedures for either the Self-Restriction or

Self-Exclusion Program, the gambling enterprise must provide notification to the Bureau.

- Paragraph (7) provides that the cardroom business licensee must submit an incident report within five business days of determining that any associated work permittee or licensee was arrested.
- Paragraph (8) provides that a cardroom must submit an incident report within five business days of any of its employees or owners having a local city, county, or city and county license, permit, or authorization to work in a gambling establishment approved with conditions, denied, suspended, or revoked.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

The proposed action modifying an existing reporting requirement of cardroom business licenses and creates a new reporting requirement for TPPPS business licenses, and is neither inconsistent or incompatible with either the Commission’s regulations or any other existing state regulations pertaining to the petition or adoption of regulations.

COMPARABLE FEDERAL LAW

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

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

While there will be a reduction of incident reports submitted by cardroom business licenses it is mostly offset by the new requirement for incident reports by TPPPS business licenses. As such, the work requirements of the California Gambling Control Commission and Bureau of Gambling Control will remain unchanged and will not result in either additional costs or savings. Additionally, there will no costs or savings with regard to Federal funding.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES: None.

MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SEC-

TION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

EFFECT ON HOUSING COSTS: None.

IMPACT ON BUSINESS:

The Commission has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony:

It is estimated that there will be an industry wide savings for cardrooms and an industry wide cost for TPPPS. Specifically, it is anticipated that there will be an annual savings of \$515,262 for cardrooms and a cost of \$83,028 for TPPPS for a total of savings of \$432,234 per year. These costs and savings will not inhibit a California business from competing with business in other states as the gambling industry does not cross state lines and the amounts involved are not significant enough to effect industry competitiveness.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission has determined that this regulatory proposal amends an existing reporting requirement for cardroom business licenses, which is currently conducted by employees and managers who have other work tasks that they are of a higher priority. The Commission is estimating an annual savings of \$8,310 for an average cardroom. Additionally, the new reporting requirement of TPPPS business licensees will likely not be sufficient to require the hiring of additional staff. The Commission estimates an annual cost of \$4,370 for an average TPPPS.

EFFECT ON SMALL BUSINESS:

The Commission has made a determination that the proposed regulatory action would have similar impact on small businesses as it would on a representative business, as noted above. For this purpose, the definition of a small business as defined by the federal Small Business Administration was utilized.

BUSINESS REPORT:

The Commission finds that it is necessary for the health, safety, or welfare of the people of the state that the regulation require businesses to submit the required reports.

The basis for this determination is that by providing the Bureau with prompt reporting of the identified incidents will allow the Bureau to respond or coordinate with local law enforcement, as necessary, to ensure the continued safety of controlled gambling within the State of California.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

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

The basis for this determination is that this proposed action amends an existing reporting requirement for cardroom business licenses, which is currently conducted by employees and managers who have other work tasks that they are of a higher priority. Additionally, the new reporting requirement of TPPPS business licensees will not be sufficient to require the hiring of additional staff.

BENEFITS OF PROPOSED REGULATION:

These proposed regulations have the benefit of providing specific procedures that must be followed when filing an incident report. These revised procedures will provide employees of a cardroom business licensee with an understanding of what types of violations must be reported without requiring them to make legal judgements that are best left to law enforcement officials. By ensuring the Bureau is able to receive the required information, the Bureau's role in monitoring compliance and protecting the public welfare can be more effective.

HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

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

WORKER SAFETY:

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

STATE'S ENVIRONMENT:

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

CONSIDERATION OF ALTERNATIVES

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

INITIAL STATEMENT OF REASONS,
INFORMATION AND TEXT OF PROPOSAL

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

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

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

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

CONTACT PERSONS

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

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

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

Alex Hunter, Legislative and Regulatory Specialist
Legislation and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499
E-mail: ahunter@cgcc.ca.gov

WEBSITE ACCESS

Materials regarding this proposed action are also available on the Commission's website at www.cgcc.ca.gov.

TITLE 4. HORSE RACING BOARD

ARTICLE 6. ENTRIES AND DECLARATIONS

RULE 1616. MINIMUM WEIGHTS
TO BE CARRIED

RULE 1683. MAXIMUM OVERWEIGHT

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1616, Minimum Weights to Be Carried, to raise the minimum weight to be carried for all races and to establish separate weight minimums for quarter horse races. This Association of Racing Commissioner's International (ARCI) approach differs slightly from the model rule approach and the Board's current rule which both set minimum weights, but allow for assigned weights to fall below those minimums when sex and age allowances are considered, as well as allow for exceptions for apprentice allowances and stake races. However, raising the floor for minimum weights also presents the unintended consequence of creating a higher maximum weight which could detrimentally effect animal welfare. Therefore, the Board is proposing amendments to Rule 1683, Maximum Overweight, to decrease the allowable overweight for a rider to ride from 7 pounds to 5 pounds, before being removed from his or her mount.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her au-

thorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **October 31, 2022**. The Board must receive all comments by that time. Submit comments to:

Zachary Voss, Policy and Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6036
Fax: (916) 263-6042
Email: zavoss@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19562 and 19590, Business and Professions Code (BPC). Reference: Sections 19562 and 19590, BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19562 provides that the Board may prescribe rules, regulations, and conditions under which all horse races with wagering on their results shall be conducted in California. BPC section 19590 provides that the Board shall adopt rules governing, permitting, and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering.

Board Rule 1616 sets minimum weights to be carried in a race to, but as currently written the Rule encourages an unhealthy lifestyle that is unattainable for jockeys. The proposed amendment to Board Rule 1616 will raise the minimum weight to be carried for all races and to establish separate weight minimums for quarter horse races which will promote jockey safety and health. However, raising the floor for minimum weights presents the unintended consequence of creating a higher maximum weight which could detrimentally effect animal welfare, so the Board is additionally proposing to amend Board Rule 1683, Maximum Overweight, which sets the maximum weight that a horse can carry in any race. The proposal to Board Rule 1683 will decrease the allowable overweight for a rider to ride from 7 pounds to 5 pounds, before being removed from his or her mount, thus ensuring the horse is not overly burdened and ensuring horse safe-

ty and welfare, while continuing to promote jockey health and safety.

ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

The proposed amendment to Board Rule 1616 and Rule 1683 will improve animal and human welfare by ensuring specific, realistic standards are set for weights to be carried by horses. Since humans are getting bigger and heavier, the proposed amendments to Board Rules 1616 and 1683 will ensure there are still a plentiful number of jockeys and riders that are able to ride racehorses without causing danger to the horse's well-being by adding unnecessary weight. These changes to the minimum and maximum weight requirements for riders will benefit the health and welfare of both the human riders and the racehorses by decreasing the likelihood of injury or harm to a racehorse and, consequently, those riding or taking care of the horse.

CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the amendment, the Board conducted a search for any similar regulation on this topic and has concluded that Board Rules 1616 and 1683 are the only regulations that address the use of the minimum and maximum weights in racing.

Therefore, the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code (GC) sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Board Rule 1616 and Rule 1683 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed amendment will improve animal and human welfare by ensuring specific, realistic standards are set for weights to be carried by horses. Since humans are getting bigger and heavier, these amendments to the rules will ensure there are still a plentiful number of jockeys

and riders that are able to ride racehorses without being a detriment and danger to the horse's well-being. These changes to the minimum and maximum weight requirements for riders will benefit the health and welfare of both the human riders and the racehorses by decreasing the likelihood of injury or harm to a racehorse and, consequently, those riding or taking care of the horse.

The following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: none. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendment to Board Rule 1616 and Rule 1683 will not (1) create or eliminate jobs within the state; (2) create new businesses or eliminate existing businesses within the state; (3) result in the expansion of businesses currently doing business with the state; or (4) benefit the state's environment. However, it will benefit the health and welfare of racehorses and California riders by ensuring both the humans and the horses maintain good health and realistic expectations for safety.

Effect on small business: none. The proposal to amend Board Rule 1616 and Rule 1683 does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Zachary Voss, Policy and Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6036
Fax: (916) 263-6042
Email: zavoss@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Amanda Drummond, Manager
Regulations, Industry Applications, and
Administrative Hearings
Telephone: (916) 263-6033
Email: amdummond@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices 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, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Zachary Voss or the alternative contact person at the address, phone number, or email address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Zachary Voss at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Zachary Voss at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is www.chrb.ca.gov.

**TITLE 5. BUREAU FOR PRIVATE
POSTSECONDARY EDUCATION**

REPEAL OF ABILITY-TO-
BENEFIT LANGUAGE

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs, Bureau for Private Postsecondary Education (hereinafter "Bureau" or "BPPE") is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail to the addresses listed under *Contact Person* in this Notice, to be considered by the Bureau, must be *received* by the Bureau at its office no later than **Tuesday, November 1, 2022, by 5 p.m.**, or must be received by the Bureau at the hearing, if a hearing is held.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Education Code sections 94803, 94877, 94888, and 94891 and to implement, interpret, or make specific sections 94802, 94885, 94887, 94888, 94889, 94900, 94904, 94909, 94910, 94927.5, and 94931 of the Education Code, the Bureau is proposing to adopt the following changes to California Code of Regulations Title 5, Division 7.5, Chapter 3.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Bureau for Private Postsecondary Education (Bureau) protects students and consumers through the regulatory oversight of California's private postsecondary educational institutions ("institutions") pursuant to the California Private Postsecondary Education Act of 2009 ("Act" — Ed. Code, §§ 94800–94950), including conducting qualitative reviews of educational programs and operating standards

In 2021 the legislature passed, and the Governor signed, SB 607 (Chapter 367, Statutes of 2021) which, among other things, repealed sections 94811 and 94904 of the Education Code and amended section 94909 of the Education Code to delete a reference to "Ability-to-Benefit" tests. These changes to the Education Code removed references to students being able to demonstrate their capacity for postsecondary study by passing an "Ability-to-Benefit" test in lieu of possessing a high school diploma or an equivalent. Ability-to-Benefit tests are tests approved by the United States Department of Education that, if passed, demonstrated that a student who lacked a high school diploma was capable of successfully completing study in a variety of subject matter areas and had the ability to benefit from the instruction.

References to Ability-to-Benefit tests occur in four of the Bureau's regulations. In section 71210 institutions are directed to list information for each educational program, including "If applicable, information regarding the ability-to-benefit examination as required by section 94904 of the Code." In section 71475 institutions applying for renewal of their approval to operate are directed to list in their application information about each educational program, including, "If applicable, information regarding the ability-to-benefit examination as required by section 94904 of the Code." In section 71770(a), institutions are told that in developing admissions standards, "Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code." Finally, section 71920 states that an in-

stitution must maintain student records that include, “Verification of high school completion or equivalency or other documentation establishing the student’s ability to do college level work, such as successful completion of an ability–to–benefit test.”

Because of the removal of language referring to Ability–to–Benefit tests from the Education Code, it is no longer accurate for regulations to refer to Ability–to–Benefit tests as being required by statute. However, if institutions wish to incorporate Ability–to–Benefit tests in their admissions process, then that fact should be reported in the same way statutorily required tests were required before SB 607.

For the regulations to conform to the revised statutory language, the Bureau for Private Postsecondary Education is proposing to amend 5 CCR sections 71210, 71475, 71770, and 71920 to delete references to passing an Ability–to–Benefit test as required by statute, either by deleting the reference entirely (as in section 71770), or replacing the reference to the repealed statute with a reference to whether the institution chooses to use passage of an Ability–to–Benefit test in its admission process. The regulations will also now contain a definition of what is meant by an “ability–to–benefit” test by reference to the federal statute creating them, the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.) as it is, from time to time, amended, as there is no longer a statutory reference to ability–to–benefit tests in statute.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

The specific benefit anticipated from the proposed regulation is to have the Bureau’s regulations conform to existing statutory language. By removing the three references to Ability–to–Benefit tests that were in the Education Code, the legislature is signaling its intent to no longer require students without a high school diploma or the equivalent to have to do anything to be eligible for enrolling at postsecondary institutions. The Bureau’s regulations need to accurately reflect the current statutory language that they are interpreting. This regulation does not directly affect the health of California residents. This regulation may improve the welfare of California residents by conforming regulations to existing statutes that broaden access to postsecondary education.

BENEFITS OF THE REGULATION TO THE STATE’S ENVIRONMENT:

This regulation does not affect the state’s environment.

BENEFITS OF THE REGULATION TO WORKER SAFETY:

The Bureau has determined the proposed regulatory action will not affect worker safety.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandated by federal law or regulations:

No.

Local Mandate:

None.

FISCAL IMPACT ESTIMATES

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

Cost: None.

Revenue: None.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which section 17561 –17630 Require Reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete: None.

Impact on Jobs/New Business: None.

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations will not affect small businesses. The regulation will not impose any costs to small businesses and will affect all regulated institutions equally regardless of size.

Business Reporting: The proposed regulations do not require a report to be made.

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the state of California.

Benefits of Regulation:

The proposed regulation will benefit the health and welfare of California residents by bringing the Bureau into compliance with the CEC by no longer stating that students without a high school diploma need to pass an Ability-to-Benefit exam to be eligible to enroll at a postsecondary institution. This proposal is not anticipated to benefit worker safety or the state's environment.

Economic Impact Declaration:

The Bureau for Private Postsecondary Education declares that this regulation proposal 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.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF
REASONS AND INFORMATION**

The Bureau has prepared an initial statement of reasons for the proposed action and has available all information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference,

and the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After holding any requested hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the contact person listed in this Notice at the address indicated in the below 'contact person' section. The Bureau will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

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

You can obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: David Dumble
Address: P.O. Box 980818
West Sacramento, CA 95798-0818
Telephone Number: (279) 895-6091
Fax: (916) 263-1897
E-Mail Address: David.Dumble@dca.ca.gov

The backup contact person is:

Name: Yvette Johnson
Address: P.O. Box 980818
West Sacramento, CA 95798-0818
Telephone Number: (279) 895-6099
Fax: (916) 263-1897
E-Mail Address: Yvette.Johnson@dca.ca.gov

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

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

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

Website Access:

The Bureau's website is: <http://bppe.ca.gov>. Materials regarding this proposal can be found at <http://bppe.ca.gov/lawsregs/current.shtml>. An archive of the Bureau's prior regulatory actions can be found at <http://bppe.ca.gov/lawsregs/archive.shtml>.

**TITLE 16. BOARD OF
REGISTERED NURSING**

DIVISION 14, ARTICLE 8
DEFINITIONS, § 1480
CATEGORIES AND SCOPE OF PRACTICE
OF NURSE PRACTITIONERS, § 1481
REQUIREMENTS FOR A NURSE
PRACTITIONER CERTIFICATION
PURSUANT TO BUSINESS AND
PROFESSIONS CODE
SECTION 2837.103, § 1482.3
REQUIREMENTS FOR A NURSE
PRACTITIONER CERTIFICATION
PURSUANT TO BUSINESS AND
PROFESSIONS CODE
SECTION 2837.104, § 1482.4
NOTICE TO CONSUMERS, § 1487

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office on **Tuesday, November 1, 2022, by 5:00 p.m.**

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her au-

thorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 2715, 2786, and 2788, the Board proposes to implement, interpret, and make specific BPC sections 2715, 2725, 2836, 2837.100, 2837.101, 2837.103, and 2837.104, in amending sections 1480 and 1481, and adding sections 1482.3, 1482.4, and 1487 of Article 8, Division 14 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Nurse practitioners (NP) are highly regulated professionals who are bound by an ethical code of conduct, a complex network of overlapping regulations tied to their specific practice facility, and licensure and professional certification standards requiring these professionals to achieve and maintain a minimum level of competency promoting quality of care and patient safety. As outlined in 16 CCR 1481, there are several categories that NPs can specialize in. These specialty categories include:

- (1) Family/individual across the lifespan.
- (2) Adult-gerontology, primary care, or acute care.
- (3) Neonatal.
- (4) Pediatrics, primary care, or acute care.
- (5) Women's health/gender related.
- (6) Psychiatric-Mental Health across the lifespan.

In California, NPs are RNs for purposes of licensure, their statutory scope is essentially the same, except for clinical competency that is gained through additional preparation and skill through advanced education. Both RNs and NPs may perform additional medical procedures beyond their nursing scopes through standardized procedures.

According to BPC section 2725(c), standardized procedures are policies and protocols formulated by organized health care systems for the performance of

standardized procedure functions. They are developed collectively by nurses, physicians, and the administration of an organized health care system. Standardized procedures are the codification of the functions nurses may provide beyond the ordinary nursing scope. They are based on the competence of the nurses providing the procedures and include record, referral, and requirements of the healthcare setting, among other patient protections.

In September 2020, Governor Gavin Newsom signed Assembly Bill (AB) 890 (Wood, Chapter 265, Statutes of 2020) into law which created two new categories of NPs that could function independently within a defined scope of practice without standardized procedures. The bill also defined education, training, national certification, regulatory, and medical staff governance requirements for these two NP categories.

In this document, the Board refers to these new categories as 103 NPs (as outlined in BPC section 2837.103) and 104 NPs (as outlined in BPC section 2837.104). For NPs to be eligible to practice under these two categories, the Board's existing regulatory categories and standards need to be amended to reflect the changes imposed by the passage of AB 890.

This proposal will:

- Amend the title of Article 8 of Division 14, Title 16 from "Standards for Nurse Practitioners" to "Nurse Practitioners"
- Amend section 1480 to establish a definition for the term group setting
- Amend section 1481 to change the title from "Categories of Nurse Practitioners" to "Categories and Scope of Practice of Nurse Practitioners"
- Amend section 1481 to establish the two new categories that NPs can apply for and the corresponding scope of practice
- Add section 1482.3 to establish the requirements for an NP to be certified pursuant to BPC section 2837.103
- Add section 1482.4 to establish the requirements for an NP to be certified pursuant to BPC section 2837.104
- Add section 1487 to establish the requirements for an NP to provide a notice to consumers

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

This regulatory action will implement AB 890 and benefit the health and safety of all Californians by expanding access to healthcare for more Californians.

From a public health standpoint, the shortage of primary care physicians in rural and underserved areas means that NPs are a critical component to closing the provider gap in California's highest-need regions. Al-

lowing NPs to utilize the full extent of their education and training by granting full practice authority is anticipated to result in high-quality care, more primary care providers, and cost savings to the patient. This includes being eligible to serve on medical staff and hospital committees, order durable medical equipment, home health care, hospice, and physical and occupational therapy, as well as certify disability.

From an administrative standpoint, the Board is providing an orderly means of applying for the new certification categories that will streamline the application process.

DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING REGULATIONS

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

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: None. The proposed regulations do not result in a fiscal impact to the state. The amendments are intended to provide clarity and to better align the Board's regulations with current law.

Any costs related to the issuance of NP certifications are a result of implementing the provisions of Chapter 265, Statutes of 2020 (AB 890).

The Board notes, current law does not authorize a fee to be charged for certification and no fees are included in this proposal. As a result, no revenues will be collected.

Costs/Savings in Federal Funding to the State: None.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly af-

fecting businesses, including the ability of California businesses to compete with businesses in other states. The Board has determined that this regulatory proposal will likely not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in state of California.

Business Reporting Requirements:

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

Cost Impact on Representative Private Person or Business:

The proposed regulation will not result in additional costs to individuals who will apply for the two new categories of NPs established by BPC 2837.103 and 2837.104 since no supplementary education or training is required. The Board estimates approximately 32,000 current NPs will apply for the category established by BPC 2837.103 certifications as it becomes available and subsequently the category established by BPC 2837.104 after they have practiced in good standing for three additional years.

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

Individuals seeking certification will be able to apply either through the Board's online platform and/or during initial licensure. The Board notes, it does not have statutory fee authority for the issuing of a certification for the category established by BPC 2837.103 and no fees are included in this proposal.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board estimates that there will be no increased costs for small businesses with the proposed regulations. This change may encourage the two new categories of NPs created by this regulatory process to incorporate as a small business as sole proprietors in future, but the numbers are at this time are difficult to estimate.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has determined this regulatory proposal (1) will not create or eliminate jobs; (2) will not create new business nor eliminate existing businesses; (3) will not expand existing businesses in the state of California.

These regulations benefit the health and welfare of California residents because NPs who practice under the new categories created by BPC 2837.103 and 2837.104 with their additional training and experience

will be able to support healthcare in an expanded role in California, especially in impacted areas, which benefits the general health and safety of all Californians.

The proposed amendments will not affect worker safety and the environment because this regulation does not relate to worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board 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 than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations at any scheduled hearing or during the written comment period to the Contact Person, below.

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

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based.

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of ISOR, and all of the material contained in the rulemaking file is available for public inspection and may be viewed or obtained upon request from the person designated in the Notice under *Contact Person* or by accessing the Board's website, www.rn.ca.gov.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at <https://www.rn.ca.gov/regulations/proposed.shtml>.

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

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

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

CONTACT PERSON

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

Name: Marissa Clark
Address: 1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7438
Fax Number: 916-574-7700
E-Mail Address: Marissa.Clark@DCA.CA.Gov

The backup contact person is:

Name: Ras Siddiqui
Address: 1747 N. Market Blvd., Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7922
Fax Number: 916-574-7700
E-Mail Address: ras.siddiqui@dca.ca.gov

Website Access: Materials regarding this proposal can be found at <https://www.rn.ca.gov/regulations/proposed.shtml>

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

EXAMINATION WAITING PERIODS; CORPORATIONS; ACCREDITATION

SECTIONS AFFECTED

Amend sections 1805.05, 1850.6, 1850.7 and 1854, and repeal section 1832, of Division 18 of Title 16 of the California Code of Regulations.

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (board) is proposing to take the action described in the Informative Digest/Policy Statement Overview, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The board has not scheduled a public hearing on this proposed action. However, the board will hold a hearing if it receives a written request for a public hearing from any interested person, or the person's authorized representative, no later than 15 days prior to the close

of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under Contact Persons in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Persons" in this Notice, must be **received by the Board at its office no later than Tuesday, November 1, 2022, by 5:00 p.m.**, or must be received by the Board at the hearing, should one be scheduled. The Board will only consider comments received by the deadline.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 4980.60, 4988.2 and 4990.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 4980.50, 4984.72, 4987.7, 4987.8, 4988, 4989.20, 4989.22, 4992.1, 4996.4, 4998.2, 4988.3, 4988.4, 4999.52, 4999.64, 4999.125, 4999.126 and 4999.127 of the BPC, and sections 13401, 13401.5, 13403 and 13407 of the Corporations Code, the board is considering amending sections 1805.05, 1850.6, 1850.7 and 1854, and repealing section 1832, of Division 18 of Title 16 of the California Code of Regulations (CCR) as described in this Notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The board licenses and regulates Licensed Marriage and Family Therapists (LMFTs), Licensed Educational Psychologists (LEPs), Licensed Clinical Social Workers (LCSWs), and Licensed Professional Clinical Counselors (LPCCs) pursuant to BPC sections 4990.12 and 4990.20.

The board also registers and regulates individuals gaining supervised experience toward meeting the requirements for licensure pursuant to BPC sections 4990.12 and 4990.20. This includes registered Associate Marriage and Family Therapists (AMFTs), Associate Professional Clinical Counselors (APCCs), Associate Clinical Social Workers (ASWs), and applicants pending registration.

- Existing law:
 - Permits applicants who fail a clinical examination or the LEP written examination to retake the examination within one year from the notification date of the failure (BPC sections 4984.72, 4989.22, 4996.4 and 4999.64).

- o Specifies the waiting period required between examination retakes (16 CCR section 1805.05).
- o Specifies the wording permitted to be used when naming a professional corporation (BPC sections 4987.7, 4998.2 and 4999.125 and 16 CCR section 1850.6).
- o Specifies how shares of a professional corporation may be sold, issued or transferred (16 CCR section 1850.7).
- o Requires a degree that qualifies for LMFT licensure to be obtained from a college or university accredited by a regional or national institutional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education (BPC sections 4980.36 and 4980.37).
- o Specifies the accrediting agencies that are equivalent to a regional accrediting agency for a degree that qualifies for LMFT licensure (16 CCR section 1832).
- o Specifies the educational institutions approved by the board for a degree that qualifies for LEP licensure (BPC section 4989.20 and 16 CCR section 1854).

This proposal will:

- Reduce the waiting period to retake a board-developed clinical examination from 180 days to 120 days (16 CCR section 1805.05(b)).
- Clarify that a 180-day waiting period is required to retake the LEP written examination (16 CCR section 1805.05(c)).
- Add LPCCs to the section on naming a professional corporation, as well as sections pertaining to ownership and transfer of shares (16 CCR sections 1850.6 and 1850.7).
- Repeal the section pertaining to equivalent accrediting agencies for degrees that qualify for LMFT licensure (16 CCR section 1832).
- Update the accrediting agencies that are deemed acceptable for degrees that qualify for LEP licensure, and update the name of the foreign credentials evaluation service (16 CCR section 1854).
- Update references throughout the above-named sections.
- Make grammatical and other nonsubstantive changes throughout.

ANTICIPATED BENEFITS OF PROPOSAL

This proposal is expected to result in the following benefits:

- Update, clarify, and provide consistency in the board's regulations.
- Reduce barriers to licensure by reducing waiting times, expanding foreign credential evaluation service options for LEP applicants, and allowing applicants with an out-of-state degree earned from an institution that holds a national accreditation to qualify for LEP licensure.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

The board will be required to ensure compliance with the proposed regulations. Any increased workload and costs are anticipated to be minor and absorbable within existing resources.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The board estimates it will receive 10 additional applications for LEP licensure in the first year, and two additional applications per year ongoing. The board anticipates a higher number of applications in the first year of implementation because some individuals previously denied may reapply because their degree would now qualify.

The board estimates workload costs (per application) of approximately \$253 to complete the application process, \$204 to complete and issue an initial license, and \$205 for each (biennial) license renewal. Total workload costs are estimated to range from approximately \$941 to \$5,313 per year and up to \$31,711 over a ten-year period.

Note: 3 percent workload cost growth factor included

The board estimates revenues ranging from approximately \$900 to \$4,100 per year and up to \$27,000 over a ten-year period.

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS:
BUSINESS IMPACT ESTIMATE**

The board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

IMPACT ON JOBS/BUSINESSES

The board has determined that this regulatory proposal will not eliminate any jobs or businesses in California because it does not directly affect those hiring the Board's licensees. It may expand or create some businesses that provide educational psychology services due to an increased pool of LEP applicants as a result of the changes to section 1854, and it may create jobs, as businesses may choose to hire more LEPs.

Some of the individuals who newly qualify for LEP licensure may open a private practice. The board receives an average of 133 applications for LEP licensure per year (as averaged for 2019, 2020 and 2021). An average of 18 of those applicants possess an out-of-state degree. The board estimates that ten additional applicants the first year, and two additional applicants per year ongoing will qualify for LEP licensure as a result of the proposed change.

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

BUSINESS REPORTING REQUIREMENTS

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

EFFECT ON SMALL BUSINESS

Some of the individuals who newly qualify for LEP licensure, may open a private practice, which is considered a small business. There are no other impacts anticipated on small business.

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

The board receives approximately 133 applications for LEP licensure per year with 18 of those applicants possessing an out-of-state degree. The board estimates it will receive 10 additional applications for LEP licensure in the first year, and two applications per year ongoing as a result of the proposed regulations.

Applicants will be required to pay a \$250 application fee plus a \$200 initial license fee to become licensed. These individuals will also be required to pay biennial renewal fees of \$200 and continuing education fees of approximately \$360 each renewal cycle.

Total costs are estimated to range from \$900 to \$9,860 per year and up to \$52,920 over a ten-year period

**SIGNIFICANT EFFECT ON
HOUSING COSTS**

None

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the board in writing relevant to the above determinations to the address provided under "Contact Persons."

**AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND RULEMAKING FILE**

The board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection on the board's website or upon request from the Contact Persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the ISOR, and all of the information upon which the proposal is based, may be obtained from the board's website or upon request from the Contact Persons named in this notice.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After considering all timely and relevant comments, the board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals

substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical, grammatical or other nonsubstantive changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the persons designated in this Notice as the “Contact Persons” and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

CONTACT PERSONS

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

Name: Christy Berger
 Address: 1625 N. Market Blvd., Suite S-200
 Sacramento, CA 95834
 Telephone Number: (916) 574-7995
 Fax Number: (916) 574-8625
 E-Mail Address: BBS.Rulemaking@dca.ca.gov

The backup contact person is:

Name: Rosanne Helms
 Address: 1625 N. Market Blvd., Suite S-200
 Sacramento, CA 95834
 Telephone Number: (916) 574-7939
 Fax Number: (916) 574-8625
 E-Mail Address: Rosanne.Helms@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Materials regarding this proposal can be accessed on the board’s website at https://www.bbs.ca.gov/about/law_reg.html.

TITLE 16. DENTAL HYGIENE BOARD

DIVISION 11, NEW ARTICLE 4,
 SECTION 1104.3

SITE VISITS, INVESTIGATIONS, CITATION AND FINES, AND PROBATIONARY STATUS FOR DENTAL HYGIENE EDUCATIONAL PROGRAMS

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office on **Tuesday, November 1, 2022, by 5:00 p.m.**

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

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1905, 1906, and 1941.5, and to implement, interpret or make specific BPC sections 125.9, and 1941.5, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Dental Hygiene Board of California (Board) is charged with oversight of registered dental hygienists, registered dental hygienists in alternative practice,

and registered dental hygienists in extended functions (collectively RDHs). The Board carries out its regulatory authority through enforcement of statutory provisions of the Dental Practice Act, Business and Professions Code (BPC) sections 1900 through 1967.4, and Title 16 of the CCR. The Board's core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH educational programs, and monitoring licensees placed on disciplinary probation by the Board.

Existing law provides the Board shall renew approval of an educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions (collectively DHEPs) provided the program continues to meet the Board's requirements.

Senate Bill 1482 (Hill, Chapter 858, Statutes of 2018) (SB 1482) added BPC section 1941.5 to the Code. BPC section 1941.5 authorizes the Board to conduct periodic surveys, evaluations, and announced and unannounced site visits on existing and new DHEPs. Section 1941.5 authorizes the Board to place an existing or new DHEP on probation with terms, issue a citation and fine, or withdraw approval of a DHEP if a DHEP does not comply with DHEP requirements and the Commission on Dental Accreditation of the American Dental Association (CODA) standards.

This proposal will implement section 1941.5 by: (1) requiring DHEPs to provide the Board access to program records and facilities to determine compliance with Board educational program requirements; (2) authorizing the Board to issue citations, fines and orders of abatement to DHEPs if the Board determines a DHEP is in violation of any law, regulation, or standard applicable to a DHEP; (3) requiring DHEPs to comply with citations, fines, and orders of abatement; (4) providing for DHEPs to contest citations, fines, and orders of abatement; (5) providing the Board may place a DHEP on probation based on any violation of law, regulation, or standard applicable to a DHEP if the Board determines the violation, after review of evidence presented to the Board, warrants a probationary status; and (6) providing for DHEPs to appeal their probationary status.

The Board approved substantive amendments to the proposed language after review at the November 23, 2019, May 29, 2020, August 29, 2020, and November 20, 2021, Board meetings. The Board approved the amended language at its July 28, 2022, Board meeting and delegated authority to the Board's Executive Officer to make any technical, non-substantive changes, if necessary.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The anticipated benefits of the proposed regulation are:

- First, requiring DHEPs to provide the Board access to program records and facilities will promote DHEPs' compliance and cooperation with Board reviews of educational program requirements. This promotes safety of the public because it incentivizes DHEPs to follow all laws, regulations, and standards applicable to a DHEP.
- Second, issuing citations, fines, and orders of abatement to DHEPs ensures they follow Board requirements. This promotes safety of the public as the Board will closely monitor DHEPs who are issued citations, fines, and orders of abatement to ensure DHEPs adhere to all laws, regulations, and standards applicable to a DHEP while caring for patients.
- Third, establishing a process by which DHEPs shall comply with citations, fines, and orders of abatement ensures DHEPs timely comply with Board requirements. This promotes safety of the public as the Board will closely monitor DHEPs issued citations, fines, and orders of abatement to ensure DHEPs adhere to all laws, regulations, and standards applicable to a DHEP while caring for patients.
- Fourth, establishing a process for DHEPs to contest and appeal citations, fines, and orders of abatement, affords a DHEP procedural due process. This promotes a fair, equal, and clear process for DHEPs to present appeals to the Board.
- Fifth, establishing a process for the Board to place DHEPs on probation, or withdrawing the Board's approval if compliance is not made within reasonable specified timelines, ensures DHEPs follow Board requirements. This promotes safety of the public as the Board will closely monitor DHEPs placed on probation to ensure DHEPs adhere to all laws, regulations, and standards applicable to a DHEP while caring for patients.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulation, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING
PROPOSED ACTION

The DHBC 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:

The Board currently has 29 approved DHEPs operating in the state. Under the proposed regulatory authority, the Board anticipates conducting (on average) four site visit inspections per year.

A typical DHEP site visit inspection takes approximately 12 hours (8 hours of on-site inspection time plus 4 hours to write the report) to complete. The work is conducted by an Associate Governmental Program Analyst (AGPA) and a Subject Matter Expert (SME) at a cost of up to approximately \$3,073 per inspection. The total costs to perform four annual inspections is estimated to be \$12,292 and up to \$122,920 over a ten-year period.

In the event a DHEP is placed on probation, the Board's AGPA and SME will conduct a follow-up inspection to ensure the institution has taken action(s) to ensure compliance. The follow-up inspection typically takes 8 hours to complete (AGPA — 8 hours, SME — 4 hours) at a cost of approximately \$1,929 per year and up to \$19,290 over a ten-year period.

The Board will also incur one-time information technology costs of approximately \$1,000 to update its accounting codes to include fine revenues, which results in total year-one costs of approximately \$15,221.

In the event an institution opts to appeal the citation, the Board will incur additional workload and costs, including Attorney General and Office of Administrative Hearing fees, of approximately \$12,412 per case.

The Board conducts, on average, three to five site visits per year. If cited and fined, a DHEP will most likely be fined the maximum amount of \$5,000 by the Board as cost recovery to partially offset enforcement-related costs. Therefore, the Board anticipates citation and fine revenues of \$5,000 per year and up to \$50,000 over a ten-year period.

Please see Initial Statement of Reasons for a chart summarizing this information. The regulations do not result in costs or savings in federal funds to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

BUSINESS IMPACT

This regulation may have an economic impact on businesses of up to five thousand dollars (\$5,000) if in violation of any laws, regulations, or standards applicable to a DHEP, depending on the severity of the violation. This initial determination is based on the following facts:

The proposed regulatory language defines parameters for the Board to conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new DHEPs to ensure continued compliance with all laws, regulations, and standards applicable to a DHEP and define consequences, including probation with terms, issuance of a citation and fine, or have its approval withdrawn, if the DHEP is found noncompliant. Any DHEP placed on probation will likely be cited and fined the maximum \$5,000 by the Board as cost recovery to offset enforcement-related costs. This amount, while a deterrent to non-compliance, is not considered a statewide adverse economic impact, because a fine can be avoided completely by compliance with law.

An institution may opt to appeal any citation and fine issued, but these costs are unknown at this time. Fines would only be assessed on non-compliant DHEPs, that is, DHEPs found in violation of law. DHEPs in compliance with law would not be fined any money.

COST IMPACTS ON A REPRESENTATIVE
PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person would incur in reasonable compliance with the proposed action because the Board will not or fine an individual, private person.

This regulation may have an economic impact on private businesses (e.g., private, for-profit DHEPs) of up to five thousand dollars (\$5,000) if in violation of any laws, regulations, or standards applicable to a DHEP, depending on the severity of the violation. This initial determination is based on the following facts:

The proposed regulatory language defines parameters for the Board to conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new DHEPs to ensure continued compliance with all laws, regulations, and standards applicable to a DHEP and define consequences, including probation with terms, issuance of a citation and fine, or have its approval withdrawn, if the DHEP is found noncompliant. Any DHEP placed on probation will likely be cited and fined the maximum \$5,000 by the Board as cost recovery to offset enforcement-related costs.

As noted above, fines would only be assessed on non-compliant DHEPs, that is, DHEPs found in vi-

olation of law. DHEPs in compliance with law would have zero cost impacts from this regulatory action.

SIGNIFICANT EFFECT ON
HOUSING COSTS

None

BUSINESS REPORTING REQUIREMENT

The proposed language states if the DHEP is in violation of any laws, regulations, or standards applicable to a DHEP, the DHEP shall furnish the Board written proof of compliance with the order and shall permit a site visit by the Board's authorized representative to confirm compliance.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

Impact on Jobs/Businesses: The Board has determined that this regulatory action will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California. The proposed language in the regulation defines parameters for the Board to conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new DHEPs to ensure continued compliance with all laws, regulations, and standards applicable to a DHEP. It will also define consequences, including probation with terms, issuance of a citation and fine, or withdrawn approval, if the DHEP is found noncompliant.

The Board has determined that this regulatory action would not impact new businesses within the State of California. The proposed language in the regulation defines parameters for the Board to conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new DHEPs to ensure continued compliance with all laws, regulations, and standards applicable to a DHEP. It will also define consequences, including probation with terms, issuance of a citation and fine, or withdrawn approval, if the DHEP is found noncompliant.

Benefits of the Proposed Action: This regulatory proposal will positively impact worker safety as the proposed language in the regulation would ensure that DHEPs adhere to all laws, regulations, and standards applicable to a DHEP, including worker safety (OSHA).

This regulatory proposal will positively impact the health and welfare of California residents as the proposed language in the regulation would ensure that DHEPs adhere to all laws, regulations, and standards applicable to a DHEP, including patient safety (e.g.,

Health and Safety Code, Centers for Disease Control and Prevention, and the Health Insurance Portability and Accountability Act).

This regulatory proposal will not affect the state's environment because this proposed regulation does not involve environmental issues.

Effect on Small Business: The Board has determined that this regulatory action would have no impact on small businesses, including the ability of small business to compete in this state. The proposed language in the regulation defines parameters for the Board to conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new DHEPs to ensure continued compliance with all laws, regulations, and standards applicable to a DHEP. It will also define consequences, including probation with terms, issuance of a citation and fine, or withdrawn approval, if the DHEP is found noncompliant.

CONSIDERATION OF ALTERNATIVES

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

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

CONTACT PERSONS

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California
Attention: Adina A. Pineschi-Petty DDS
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: 916-576-5002
Email: adina.petty@dca.ca.gov

Backup Contact Person:

Attention: Anthony Lum
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: 916-576-5004
Email: anthony.lum@dca.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Dr. Pineschi–Petty at the above address. In her absence, please contact the designated back–up contact person.

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

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

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non–substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Dr. Pineschi–Petty at the address above.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting Dr. Pineschi–Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi–Petty at the address above or by accessing the website listed below.

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the ISOR, and all of the information on which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1350,

Sacramento, California 95815, or by accessing the Board’s website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the ISOR, and the text of the regulations can be accessed through the Board’s website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
BEAVER CREEK BARRIER
REMOVAL PROJECT
(TRACKING NUMBER;
1653–2022–100–001–R1)
SISKIYOU COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/31/2022, that the U.S. Fish and Wildlife Service proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves removing two cement pillars and a cement wall which create an adult fish passage barrier and installing a large wood structure in the stream. The proposed project will be carried out on Beaver Creek, approximately one mile upstream from its confluence with the Klamath River, Siskiyou County, California.

On 7/20/2022, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Beaver Creek Barrier Removal Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 1A22102WNSI; ECM PIN Number CW–882409) for coverage under the General 401 Order on 8/30/2022.

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

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

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR
HAL BROWN PARK TIDAL
RESTORATION PROJECT
(TRACKING NUMBER:
1653-2022-101-001-R3)
MARIN COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/31/2022, that Marin County Parks proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the removal of an existing wood frame bridge and asphalt pathway and replacing it with a longer, higher elevation steel bridge and boardwalk to elevate the pathway above tidal flows and habitat. The proposed project will be carried out on Creekside Marsh by Corte Madera Creek, located at 255 Bon Air Road, Marin County, California.

On 9/1/2021, the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Hal Brown Park Tidal Restoration Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 2CW444847,

File Number SB12006GN) for coverage under the General 401 Order on 6/17/2022.

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

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

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND
ENHANCEMENT ACT
CONSISTENCY DETERMINATION
NUMBER 1653-2022-098-001-R1

Project: Upper Sugar Creek Accelerated
Wood Recruitment Project —
Phase II

Location: Siskiyou

Applicant: Scott River Watershed Council (SRWC)

Notifier: Betsy Stapleton

Background

Project Location: The Upper Sugar Creek Accelerated Wood Recruitment Project (Project) is located on Sugar Creek, near Sugar Creek Road in the town of Callahan, California. The Project will occur on the Assessor Parcel Numbers (APNs) of 031-020-390-000, 031-020-400-000, 031-070-150-000, and 031-070-160-000, and owned by Ecotrust Forest Management (EFM). Sugar Creek is a tributary of Scott River and supports populations of Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), and steelhead (*O. mykiss*).

Project Description: SRWC (Applicant) proposes to enhance or restore habitat within Sugar Creek to provide a net conservation benefit for Chinook salmon, coho salmon, and steelhead. The conservation benefits from the proposed project will improve salmonid spawning and rearing habitat by placement of unanchored large wood to create scour pools and improve floodplain and off-channel access through creating complex refugia. The Project is a multi-phased approach with Phase 1 having already been implement-

ed. Seven log jams were created in Phase 1 using conifers harvested from the immediate areas. The Phase 2 reach is approximately 800 feet in length and will involve the creation of 7 additional wood structures using the previously approved conifer thinning techniques. It is anticipated that 70 feet of streambank will be temporarily impacted in Phase 2 by the placement of the log jams, with approximately 28 trees being utilized to create the structures. The total project area for Phase 2 is 1.2 acres. Approximately 1 acre of overly dense vegetation is planned to be thinned in Phase 2 that was permitted in Phase 1 but not accomplished and is a component of the 1.2 overall acres impacted.

Future phases of the Project will further increase wood loading utilizing low impact methodologies at multiple sites throughout the project reach. Future wood placement methodologies may include streamside falling, helicopter placement, utilization of rubber or street treaded heavy equipment, and/or cable yarding. Placement of wood, either sourced for on site or obtained from off-site sources, may be considered in future phases if the cumulative size of the Project does not exceed 500 linear feet of streambank impact and five acres. Each phase of the Project shall be allowed to proceed after approval of a written workplan, which will include specific project size calculations (both for future phases and for the cumulative project calculations) and may be implemented only after written approval by the Regional Water Board, California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service (USFWS), and National Oceanic and Atmospheric Administration/National Marine Fisheries Service (NOAA/NMFS). Additional riparian vegetation improvement with removal of encroaching conifers and invasive species may be included in future phases if the total impacts do not exceed five acres.

The provision requiring CDFW staff to select and approve specific trees for implementation shall no longer be applicable if the annual workplans identify a qualified professional. Qualified professionals may be USFWS Partners staff, Registered Professional Foresters, or other individuals as identified in workplans and approved by CDFW and Regional Water Board staff. Each phase of the Project shall not commence without a site visit by CDFW staff, who will review the proposed trees to be placed in-stream and potential alternatives. If any trees are identified as having habitat value by CDFW, they will not be used in the Project and alternative trees will be selected. Hand tools will be used including chainsaws, block and tackle, and hoists, to reduce impacts to the existing vegetation. Heavy equipment and anchoring will not be necessary for this phase.

Project Size: The total area of ground disturbance associated with Phase 2 of the Project is approximately 1.2 acres and 70 linear feet. The Applicant will not

exceed 5 acres and 500 linear feet over the multi-year project, including the impacts that have already occurred in Phase 1 under HREA 1653-2021-083-001-R1. 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) up to 200 trees and (2) 5,000 pieces of native vegetation.

Project Discharge and Impacts Table:

Impacts Authorized By HREA 1653-2021-083-001-R1: Linear Feet Streambank impacted — 500; Tree Discharge — 200 trees; Vegetation Discharge — 5,000 pieces; Disturbance area/Project Size — 5 Acres

2021 Impacts: Linear Feet Streambank impacted — 34; Tree Discharge — 20 trees; Vegetation Discharge — 0 pieces; Disturbance area/Project Size — 0.30 Acres

2022 Impacts (Covered under this HREA): Linear Feet Streambank impacted — 70; Tree Discharge — 28 trees; Vegetation Discharge — 500 pieces; Disturbance area/Project Size — 1.2 Acres

Project Timeframes: Start date: Once all agencies' approvals are granted.

Completion date: September 22, 2026

Work window: September 1–October 31 for in-stream and streambank activities, and September 1–April 15 for upslope riparian vegetation management and forest thinning activities.

Number of Workdays: Approximately 65 days over five years

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve spawning and rearing conditions to Sugar Creek, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1A21191WNSI, Electronic Content Management Identification (ECM PIN) Number CW-876225 for the Project. The Regional Water Board has also issued an amended NOA approving Phase 2 of the Project and requires the Applicant to comply with terms of the Order and the amendment. The Applicant provided a supplemental document that sets forth measures to avoid and minimize impacts to fish (Chinook salmon,

coho salmon, and steelhead), plants, mammals, and birds. All provisional outlined in the NOA are still in effect under the NOA amendment with the exceptions of the two changes outlined in the Project Description above — approval of future phase work plans and CDFW tree selection

Receiving Water: Sugar Creek, Scott River

Filled or Excavated Area Phase 2: Temporary area impacted: Approximately 1.2 acres

Length temporarily impacted: 70 linear feet

Dredge Volume: None.

Discharge Volume: For Phase 2: 28 trees and 500 pieces of native vegetation.

For the total project: up to 200 trees and (2) 5,000 pieces of native vegetation.

Project Location: The Project covers the APNs 031-020-390-000, 031-020-400-000, 031-070-150-000, and 031-070-160-000-010-000, and is approximately 1.6 miles upstream of the confluence with Scott River. The coordinates for the Project are Latitude 41.32857115° North, Longitude 122.843372° West.

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 August 5, 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, NOA amendment, 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 August 8, 2022, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2022-0808-01 on August 19, 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, NOA amendment, 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) include, but are not limited to, the following: (1) Erosion Control; (2) Minimize Disturbance from Instream Construction, including work period and pollutants; (3) Minimize Degradation of Water Quality; (4) Environmental Resources, including pre-construction surveys and invasive species measures; (5) Protected Species, including Salmonids, Avian, and Special Status Species; and (6) Archaeological and Cultural Resources. The specific avoidance and minimization requirements are found in the Project Description attachment to the NOI and under the section "Avoidance and Minimization Methods."

Monitoring and Reporting

Photo points and large wood material monitoring is planned for all implemented structures. Photo points will be established to help track change over time within the project reach. Additionally, opportunistic photos of specific structures will be collected where appropriate. All large wood material pieces installed will be distinctively notched, cutting the bark away from the wood, and an aluminum tag with a unique number secured and marked with GPS at a standardized location.

Monitoring and Reporting schedule:

- Pre-Project Assessment: June-September 2021
- Post-Project Assessment: Winter season immediately following installation, spring of 2022 and during spring/summer every subsequent year until 2025
- Final report will be provided following completion of the project and completion of the post project monitoring. Following the completion of these project monitoring components, a final report will be submitted to the grant manager and all the appropriate regulatory agencies. This

report will include the findings that result from pre—and post—project monitoring. These findings should indicate the achievement of performance standards that are relative to the project goals — March 2025

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: Philip Cramer, philip.cramer@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, NOA amendment, 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 & Game Code, § 1654, subdivision (c).)

DECISION NOT TO PROCEED

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 11347

RE: RELEASE FUNDS AND ASSISTANCE FOR EXONERATED PERSONS

Pursuant to California Government Code section 11347, the California Department of Corrections and Rehabilitation (CDCR) hereby gives notice of decision not to proceed with the rulemaking action concerning Release Funds and Assistance for Exonerated Persons (OAL Notice File Number Z2021–1026–04) published in the California Regulatory Notice Register on November 5, 2021, Register 2021, Number 45–Z.

Any interested person with questions concerning this rulemaking should contact Dmitriy Kostyuk at (916) 445–2276 or by email at RPMB@cdcr.ca.gov.

This Notice of Decision Not to Proceed will also be posted on CDCR’s Pending Changes to Department Regulations webpage.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE TO INTERESTED PARTIES ANNOUNCEMENT AND PRELIMINARY AGENDA OF THE DEVELOPMENTAL AND REPRODUCTIVE TOXICANT IDENTIFICATION COMMITTEE MEETING SCHEDULED FOR OCTOBER 18, 2022

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment

(OEHHA) will convene a virtual meeting of the Developmental and Reproductive Toxicant Identification Committee (DARTIC) on October 18, 2022 at 10:00 a.m. The meeting will include a session on the use of zebrafish data in developmental and reproductive toxicity (DART) health hazard assessment. **No listing decisions will be made at the DARTIC’s upcoming meeting.**

The preliminary agenda for this meeting is given below. The order of items on the agenda is provided for general reference only and is subject to change at the discretion of the Committee Chair.

- I. Welcome and Opening Remarks
- II. Session on use of zebrafish data in DART health hazard assessment
 - Part I. Zebrafish biology and suitability for toxicity screening
 - Presentation: Dr. Bruce Draper, University of California Davis
 - Presentation: Dr. Stephanie Padilla, US Environmental Protection Agency
 - Part II. Beyond Screening: zebrafish as a model for developmental mechanisms at the cellular and molecular level
 - Presentation: Dr. Jennifer Panlilio, National Institute of Child Health and Human Development, National Institutes of Health
 - Presentation: Dr. Dan Wagner, University of California San Francisco
 - Part III. Use of zebrafish data in DART health hazard assessment
 - Public comment
 - Committee discussion
- III. Consent Item — Update of the California Code of Regulations Title 27 Section 27000 List of Chemicals Which Have Not Been Adequately Tested as Required
- IV. Staff Updates
 - Chemical listings via the administrative listing mechanisms
 - Safe harbor levels
 - Other regulations and litigation
- V. Summary of Committee Actions

Background

OEHHA is the lead agency for implementation of Proposition 65. The DARTIC advises and assists OEHHA in compiling the list of chemicals known to the state to cause reproductive toxicity, as required by Proposition 65¹. The DARTIC serves as the state’s qualified experts for determining whether a chemi-

cal has been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity.

Public Meeting

The DARTIC meeting is a public meeting scheduled for **Tuesday, October 18, 2022**. The meeting, which will be held virtually, will begin at 10:00 a.m. and last until all business is conducted or until 5:00 p.m. Background materials for the meeting and instructions on how to participate will be provided in a future public notice published in advance of the meeting.

The public may provide oral comments at the meeting on October 18, 2022. These comments will be limited to five minutes per commenter, except for those commenters who make a request by October 1, 2022, and receive approval from the Chair of the DARTIC for longer comments. Please submit a request for additional time, with an estimate of the time you will need and the reason you are requesting additional time, to P65Public.Comments@oehha.ca.gov or (916) 445–6900 by October 1, 2022.

If you have any questions, please contact Esther Barajas–Ochoa at esther.barajas-ochoa@oehha.ca.gov or (916) 445–6900.

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 Gambling Control Commission
 File # 2022–0721–10
 Commission Fees Modernization Project

In this certificate of compliance, the Commission makes permanent amendments to its emergency regulations, which have updated various fees for permit and license applications. In addition to making these emergency regulations permanent, the Commission adopts and amends regulations to establish an annual fee calculation methodology to determine the annual fee collected from the Third–Party Providers of Proposition Player Services (TPPPS) business licensees.

¹ Health and Safety Code section 25249.8

Title 04
 Adopt: 12090
 Amend: 12108, 12112, 12114, 12120, 12122, 12260,
 12261, 12264, 12272, 12274, 12276, 12278, 12309,
 12364, 12470, 12472, 12474, 12492, 12500, 12503
 Filed 09/01/2022
 Effective 09/01/2022
 Agency Contact:
 Alexander Hunter (916) 263-1301

Department of Corrections and Rehabilitation
 File # 2022-0720-01
 Program and Credit Earning Revisions

This certificate of compliance action by the Department of Corrections and Rehabilitation makes permanent the changes approved in OAL File Nos. 2021-0407-03EON, 2022-0112-01EON, and 2022-0422-01EE. Those actions updated terminology, expanded rehabilitative programs and reentry services, and eliminated the Long-Term Offender Program by incorporating participants into the new Integrated Substance Use Disorder Treatment Program. Those actions also amended the Milestone Completion Credit Schedule to add new programs, discontinue programs that are no longer available to inmates, amend the amount of credit earned for some programs, and reorganize the schedule. This action makes additional revisions to the Milestone Completion Credit Schedule and the procedures regarding evaluation of an inmate's educational history.

Title 15
 Adopt: 3040.1
 Amend: 3000, 3040, 3041, 3041.3, 3043.3, 3043.5,
 3044, 3044.1 [Previously section 3043.7], 3044.2
 [Previously section 3043.8], 3075.1, 3077.1, 3315,
 3375, 3375.2, 3375.4, 3375.5, 3375.6, 3379
 Repeal: 3040.1, 3040.2
 Filed 08/31/2022
 Effective 08/31/2022
 Agency Contact: Sarah Pollock (916) 445-2308

Office of Energy Infrastructure Safety
 File # 2022-0726-01
 Notifications, Investigation and Notices

This certificate of compliance by the Office of Energy Infrastructure Safety (Office) makes permanent a portion of the regulations adopted in OAL File Nos. 2021-0903-01E, 2022-0228-02EE, and 2022-0526-01EE. This action updates procedures related to investigations and requirements for notifying the Office of various fire-related incidents.

Title 14
 Adopt: 29302
 Filed 09/07/2022
 Effective 09/12/2022
 Agency Contact: Jeff Brooks (916) 926-1672

CalSavers Retirement Savings Board
 File # 2022-0830-04
 CalSavers Retirement Savings Program Amendments

This emergency rulemaking action by the CalSavers Retirement Savings Board readopts amendments originally made in OAL Matter Number 2022-0308-03E, relating to determining employer eligibility and deadlines for registration and enrollment in the CalSavers Retirement Savings Program.

Title 10
 Amend: 10000, 10001, 10002, 10004
 Filed 09/07/2022
 Effective 09/15/2022
 Agency Contact: Eric Lawyer (916) 653-1744

Secretary of State
 File # 2022-0823-02
 Notices Regarding Prohibition of Electioneering and Corruption of the Voting Process

This action by the Secretary of State readopts, with amendments, emergency regulations that establish notice requirements concerning the prohibition of electioneering and activity related to the corruption of the voting process.

Title 02
 Adopt: 20180, 20181, 20182
 Filed 08/31/2022
 Effective 08/31/2022
 Agency Contact:
 Robbie Anderson (916) 216-6488

Commission on State Mandates
 File # 2022-0819-01
 Conflict-of-Interest Code

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

Title 02
 Amend: 1189.10
 Filed 08/31/2022
 Effective 09/30/2022
 Agency Contact: Jill Magee (916) 323-3562

Contractors State License Board
File # 2022-0801-01
Blanket Performance and Payment Bond Application

As changes without regulatory effect, the Contractors State License Board (the “Board”) is (1) updating the Application for Approval of Blanket Performance and Payment Bond (the “Application”) version date referenced in Section 858.2, (2) replacing instances of “which” with “that”, (3) replacing instances of “he or she” with “they” and its accompanying verb (“is” to “are”), (4) replacing instances of “my” and “I” with third-person descriptors, and (5) changing several semi-colons to commas.

Title 16
Amend: 858.2
Filed 09/06/2022
Agency Contact: Mike Jamnetski (916) 255-2798

Department of Resources Recycling and Recovery
File # 2022-0725-02
Recycled Content Trash Bag Program

In this change without regulatory effect, the Department amends its regulation to provide that for each pound of Recycled Plastic Postconsumer Material (RPPCM) purchased from a California source to manufacture the plastic trash bags, or other products manufactured with RPPCM, those manufacturers will be credited with having used 1.2 pounds of RPPCM, pursuant to Public Resources Code section 42291.5. The Department also amends its Trash Bag Manufacturer Certification Form #57 and Trash Bag Wholesaler Certification Form #58 to update its agency name and contact information.

Title 14
Amend: 17979, Appendix A Forms #57 and #58
Filed 09/06/2022
Agency Contact: Ty Moore (916) 341-6756

Occupational Safety and Health Standards Board
File # 2022-0729-03
5207. Cadmium, Appendix F — Nonmandatory Protocol for Biological Monitoring

This action makes a change without regulatory effect correcting a typographical error.

Title 08
Amend: 5207
Filed 09/07/2022
Agency Contact: Lara Paskins (916) 274-5721

Dental Board of California
File # 2022-0728-01
Consolidated Continuing Education

In this regular rulemaking action the Dental Board of California adopts and amends continuing education requirements related to mandatory courses and approved course providers.

Title 16
Adopt: 1016.2
Amend: 1016, 1017
Filed 09/07/2022
Effective 01/01/2023
Agency Contact:
David Bruggeman (916) 263-2027

Department of Food and Agriculture
File # 2022-0421-03
Animal Confinement

This rulemaking action by the California Department of Food and Agriculture and the California Department of Public Health jointly adopt regulations to implement the 2018 Farm Animal Confinement Initiative, passed in 2018 Proposition 12. These regulations establish a program of registration, certification, conveyance inspection, and labeling and marking requirements for the sale of shell eggs, liquid eggs, whole veal meat, and whole pork meat in California.

Title
Adopt: 1320, 1320.1, 1320.2, 1320.3, 1320.4, 1320.5, 1320.6, 1320.7, 1320.8, 1320.9, 1321, 1321.1, 1321.2, 1321.3, 1321.4, 1321.5, 1321.6, 1321.7, 1321.8, 1321.9, 1322, 1322.1, 1322.2, 1322.3, 1322.4, 1322.5, 1322.6, 1322.7, 1322.8, 1322.9, 1324, 1324.1, 1326, 1326.1, 1326.2, 1326.3, 1326.4, 1326.5, 1326.6, 1326.7, 1326.8, 1326.9, 1326.10, 1326.11, 1326.12, 1326.13, 1326.14, 1326.15, 1326.16, 1326.17, 1326.18, 1326.19, 1326.20, 1326.21, 1326.22, 1327.1, 1327.2, 1327.3
Filed 09/01/2022
Effective 09/01/2022
Agency Contact: Elizabeth Cox (916) 900-9115

Department of Managed Health Care
File # 2022-0721-02
Summary of Dental Benefits Disclosure Matrix

In this action, the Department of Managed Health Care (DMHC) adopts 28 CCR §1300.63.4. This is a nearly verbatim adoption of the emergency regulations which expired on 3-15-2022. This action implements Health and Safety Code Section 1363.04 which requires that dental insurance plans disclose the cov-

erage details for each of their offerings in a uniform and easily understandable format.

Title 28
Adopt: 1300.63.4
Filed 09/01/2022
Effective 01/01/2023
Agency Contact: Jennifer Willis (916) 324-9014

Office of Environmental Health Hazard Assessment
File # 2022-0721-03
Proposition 65 Clear and Reasonable Warnings,
Glyphosate

The Office of Environmental Health Hazard Assessment (“OEHHA”) is the lead agency that implements the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and Safety Code section 25249.5 et seq.) (the “Act”). The Act requires that businesses provide a clear and reasonable warning before they cause an exposure to a chemical listed as known to the state to cause cancer or reproductive toxicity. (Health & Safety Code § 25249.6.) In this regular rulemaking, OEHHA is adopting specific safe harbor methods and content for consumer product warnings for exposure to glyphosate.

Title 27
Adopt: 25607.48, 25607.49
Filed 09/01/2022
Effective 01/01/2023
Agency Contact: Monet Vela (916) 323-2517

**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.

