



TITLE 16. BUREAU OF AUTOMATIVE REPAIR	
<i>Automotive Repair Dealers Registration Application Requirements — Notice File Number Z2022–1028–03</i> . . . . .	1328
TITLE 16. ARCHITECTS BOARD	
<i>Examination Transition Plan — Notice File Number Z2022–1101–06</i> . . . . .	1331
TITLE 16. BOARD OF BARBERING AND COSMETOLOGY	
<i>Transfer to Credit — Notice File Number Z2022–1101–07</i> . . . . .	1334
TITLE 16. RESPIRATORY CARE BOARD	
<i>Basic Respiratory Tasks and Services — Notice File Number Z2022–1101–04</i> . . . . .	1338
TITLE 16. SPEECH–LANGUAGE PATHOLOGY AUDIOLOGY AND HEARING AID DISPENSERS BOARD	
<i>Speech–Language Pathology Assistant Supervision Requirements — Notice File Number Z2022–1101–09</i> . . . . .	1340
TITLE 16. SPEECH–LANGUAGE PATHOLOGY AUDIOLOGY AND HEARING AID DISPENSERS BOARD	
<i>Speech–Language Pathology Assistant Program and Academic Requirements — Notice File Number Z2022–1101–11</i> . . . . .	1348
TITLE 20. ENERGY COMMISSION	
<i>Repeal of Portable Luminaires Regulations — Notice File Number Z2022–1028–01</i> . . . . .	1347
TITLE 22/ MPP. DEPARTMENT OF SOCIAL SERVICES	
<i>CalWORKs Exemptions of Awards/Scholarships, Decennial Census Income and Cleanup Regulatory Amendments — Notice File number Z2022–1027–01</i> . . . . .	1352
TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL	
<i>Amendments to the Nonadmitted Carrier Requirements for Excess and Surplus Line Insurance — Notice File Number Z2022–1101–10</i> . . . . .	1354
<b>SUMMARY OF REGULATORY ACTIONS</b>	
<i>Regulations filed with the Secretary of State</i> . . . . .	1358

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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. CITIZENS REDISTRICTING COMMISSION**

NOTICE IS HEREBY GIVEN that the **California Citizens Redistricting Commission**, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on *November 11, 2022* and closing on *December 17, 2022*. All inquiries should be directed to the contact listed below.

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

Changes to the conflict-of-interest code include;

- Removing one (1) position
- Adding eight (8) new positions
- Modifying two (2) existing disclosure categories
- Adding two (2) additional disclosure categories
- Other technical changes

The proposed amendment and explanation of the reasons can be obtained from the agency’s contact.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than *December 26, 2022*, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than *December 11, 2022*.

The **California Citizens Redistricting Commission** has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Tim Treichelt, Senior Attorney, (916) 323-0323, [Tim.Treichelt@crc.ca.gov](mailto:Tim.Treichelt@crc.ca.gov)

**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:**

East Bay Schools Insurance Group  
San Geronio Pass Water Agency

A written comment period has been established commencing on November 11, 2022 and closing on December 16, 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 December 16, 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 5. BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**

**CHAPTER 3. INSTITUTIONAL OPERATING STANDARDS SECTIONS 71710 AND 71810**

**EDUCATIONAL PROGRAMS UNDER 32 HOURS IN LENGTH**

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. 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 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 Bureau at its office no later than **Tuesday, December 27, 2022**, or must be received by the Bureau at the hearing, if one is held. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact 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 CITATION**

Authority cited: Sections 94803, 94877, and 94885, Education Code. Reference: Sections 94837, 94885, and 94909, Education Code.

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 802 (Chapter 552, Statutes of 2021) which, among other things, amended section 94837 Education Code to revise the statutory definition of “Educational program.” One key definitional change was to create an exception from the definition of “educational program” for “a single course, workshop, seminar, continuing education course, or other instruction that consists of 32 hours of instruction or less that is not designed to lead to employment.”

Because of the need to specify what is meant by a course that is “not designed to lead to employment,” the Bureau is proposing to amend its regulation on educational programs in 5 CCR section 71710 to include a list of programs that will be presumed to be “designed to lead to employment.” In addition, the Bureau proposes amending 5 CCR section 71810 to require institutions offering both educational programs under the Bureau’s oversight as well as programs exempted from oversight because they are less than 32 hours in length and not designed to lead to employment to make a specified disclosure in their catalog informing students and prospective students of the distinction between the two and providing a list of all educational programs being offered that are under the Bureau’s authority.

**Anticipated Benefits of Proposal**

The specific benefit anticipated from the proposed regulation is to avoid any confusion over which programs of less than 32 hours will not be considered educational programs and which will be considered educational programs because they are designed to lead to employment. Institutions need to know which of their programs are regulated by the Bureau and which are exempt because of their short duration, and without regulatory guidance institutions will be uncertain whether a program under 32 hours is or is not considered an educational program and therefore subject to oversight.

**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 con-

cluded that these regulations are neither inconsistent nor incompatible with existing state 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:*

**Costs:** The Bureau estimates 4,057 programs would be exempt under this proposal. These programs would no longer be required to report information, as specified, which is included in the educational institution’s Annual Reports submitted to the Bureau each year.

The Bureau indicates each submission of information requires approximately 90 seconds per report for staff to process, which would result in cost savings of approximately \$2.25 per report or \$9,128 in year—one of implementation and up to \$104,645 over a ten-year period.

**Revenues:** The regulations are projected to result in a decrease of approximately \$17,100 per year in annual institution fee revenues and up to \$171,000 over a ten-year period.

The Bureau indicates four educational institutions will be completely exempt from the Bureau’s oversight. These four schools currently pay \$2,500 each per year in annual institutions fees or \$10,000 total.

The Bureau further indicates 19 programs operating in other educational institutions would be exempt, which would result in approximately \$7,100 lower annual institution fees collected from these institutions.

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 17561–17630 Require Reimbursement:* None.

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

A representative business may have a cost impact in reasonable compliance with the proposed action, as the proposed regulation eliminates the requirement for approximately 4,057 educational programs at 250 educational institutions to submit information on certain programs under 32 hours in length in their Annual Reports.

According to these institutions, each report requires approximately 7 hours of workload with total cost of \$350 per report, which results in total costs savings of approximately \$1.42 million per year and up to \$14.2 million over a ten-year period.

Additionally, these institutions will no longer pay annual institution fees of approximately \$17,100 per year and up to \$171,000 over a ten-year period.

*Effect on Housing Costs:* None

#### EFFECT ON SMALL BUSINESS

This proposal will reduce oversight and fees for affected small businesses.

*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 an 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 to Health and Welfare of California Residents, Worker Safety, and the State's Environment:*

None.

*Benefits of Regulation:*

The proposed regulation will allow the Bureau to implement section 94837 of the Education Code as amended by the legislature in 2021, by defining what programs under 32 hours in length are considered "educational programs" because they are "designed to lead to employment." Without regulatory guidance the statutory provisions are unclear and susceptible to misinterpretation.

*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 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](mailto: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](mailto:Yvette.Johnson@dca.ca.gov)

*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 5. BUREAU FOR PRIVATE  
POSTSECONDARY EDUCATION**

**CHAPTER 2. APPLICATIONS  
SECTIONS 71396 AND 71397**

**REGISTRATION AND RE-REGISTRATION  
OF OUT-OF-STATE INSTITUTIONS**

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under Contact Person in this Notice.

Written 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 Bureau at its office no later than **Tuesday, December 27, 2022**, or must be received by the Bureau at the hearing, if one is held. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact 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 CITATION**

Authority cited: Sections 94801.5 and 94877 of the Education Code.

Reference: Section 94801.5, 94850.5, 94909(a), 94911(b), 94923, 94924, and 94930.5 of the Education Code.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The California Private Postsecondary Education Act of 2009 (Act) at Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code requires all private postsecondary educa-

tional institutions to be approved or otherwise exempt in order to legally operate in California. The Act also specifies that out-of-state private postsecondary institutions register with Bureau at set intervals and provide the Bureau with specified information. AB 1344, which went into effect on July 1, 2022, amends the registration requirement for out-of-state institutions to require the institution to provide the Bureau with information on adverse legal actions taken against the institution, its legal predecessor, or a controlling agent, in another jurisdiction. AB 1344 directs the Bureau to develop a registration form through emergency regulations effective on and after July 1, 2021, to collect this new information, and that the emergency regulations should become law through the regular rulemaking process by January 1, 2022. However, due to a drafting irregularity, the Office of Administrative Law issued an opinion that emergency regulations are not possible. Therefore, the Bureau is seeking to implement the regulatory requirements of AB 1344 through the regular rulemaking process.

AB 1344 also provided the Bureau with reasonable discretion in considering out-of-state applications: “When considering whether to approve, deny, or condition initial registration based upon the information provided by an institution pursuant to paragraph (1), the bureau shall ... Not consider any individual submission made under paragraph (1) to be solely determinative of the institution’s eligibility for registration but, exercising its reasonable discretion, approve, reject, or condition registration based upon a review of all of the information provided to it under paragraph (1).” (Ed. Code, § 94801.5, subd. (a)(2), (a)(2)(A).)

Before the passage of AB 1344, the Bureau had no discretion in deciding whether to approve or deny an out-of-state application; institutions could only be denied if they failed to provide the required documentation. CEC 94801.5 as amended now grants the Bureau the ability to evaluate the information submitted by an out-of-state institution and exercise discretion when deciding whether to approve or deny the application. In order to exercise this ability in a fair and transparent manner, the Bureau is amending 5 CCR 71397 to set forth principles it will exercise when considering an application.

In order for the regulations to conform to the revised statutory language, the Bureau for Private Postsecondary Education is proposing to amend 5 CCR section 71397 to add provisions to clarify the basis for a decision to approve, conditionally approve, or deny an Out-of-State application, and specify the reason for the decision so the applicant can decide whether to avail itself of the appeal process.

The Bureau is proposing the following changes:

*Amend section 71396 of Division 7.5 of Title 5 of the California Code of Regulations to change the form incorporated by reference from “rev. 1/17” to “rev. 8/22.” This will incorporate by reference the newly revised form with the changes below.*

*Revise the Application for Registration or Re-Registration of Out-of-State Institutions.*

The proposal makes substantive and cosmetic changes to the Application for Registration or Re-registration of Out-of-State Institutions. The substantive changes include:

- Providing a more detailed explanation for what is meant by an “affiliated institution” in Section 4;
- Asking the institution to submit its Financial Responsibility Composite Scores for the past five years, if applicable, and to document any dates that they were placed on Heightened Cash Monitoring by the U.S. Department of Education;
- Asking the institution to submit documents showing the mandated Student Tuition Recovery Fund (STRF) disclosures to California students if they do not use enrollment agreements, and asking for copies of their required STRF records for the past five years or to submit a copy of a spreadsheet formatted to collect the information if the application is new;
- Asking if the institution had its authorization revoked or suspended, or has been the subject of an enforcement action by a state or the federal government entity that resulted in the imposition of limits on enrollment or student aid, or is subject to such an action that is not final and that was ongoing at the time of submission of the registration or re-registration application; if yes, asking the institution to provide the bureau a statement describing the relevant actions and any remediation efforts undertaken by the institution.
- Asking if the institution, or a controlling officer of, or a controlling interest or controlling investor in, the institution or in the parent entity of the institution, been subject to any education, consumer protection, unfair business practice, fraud, or related enforcement action by a state or federal agency within five years prior to submitting the registration or re-registration application; if yes, asking the institution to submit a copy of the operative complaint.
- Asking if the institution is currently on probation, show cause, or subject to other adverse action, or the equivalent thereof, by its institutional accreditor or by a programmatic accreditor, or has the institution had its accreditation revoked or suspended within the five years prior to submitting the registration or re-registration application; if yes, asking the institution to provide a statement

describing the relevant action and providing an explanation of the facts and circumstances surrounding the action and any remediation efforts undertaken by the institution.

- Asking if the institution, within five years prior to submitting the registration or re-registration application, settled, or been adjudged to have liability for, a civil complaint alleging the institution’s failure to provide educational services, including a complaint alleging a violation of Title IX of the federal Education Amendments of 1972 (Public Law 92–318) or a similar state law, or a complaint alleging a violation of a law concerning consumer protection, unfair business practice, or fraud, filed by a student or former student, an employee or former employee, or a public official, for more than two hundred fifty thousand dollars (\$250,000); if yes, asking the institution to provide a copy of the complaint and a copy of the judgment or settlement agreement, if applicable.
- Asking if the institution currently contracts with any third parties for advertising, recruiting, instruction, or student services activities which, to their knowledge, within the past five years, have settled, or been adjudged to have liability for, a civil complaint concerning consumer protection, unfair practices, or fraud, for more than two hundred fifty thousand dollars (\$250,000); if yes, asking for a copy of the contract and a statement listing the case name, case number, and court or jurisdiction where the civil complaint was filed.
- Asking the institution to document the number of known borrower defense claims by the institution’s students filled with the Department of Education for each of the most recent five years available;
- Asking the institution to indicate whether the applicant or any person in control of the institution has ever been convicted of a crime substantially related to the operation of an institution of higher education. If yes, asking the institution, subject to enumerated exceptions, to provide the Bureau with a statement listing the name and title of the individual, and the details regarding any criminal conviction.
- Asking the institution to attach copies of the policies and procedures under which a student may withdraw from or cancel enrollment, and the institution’s policy for refunds.

Amend section 71397 of Division 7.5 of Title 5 of the California Code of Regulations to state the Bureau may approve, deny, or conditionally approve an application for registration, to specify criteria for the Bureau to use in making its decision to approve, grant conditional approval, or deny an application, and to



specify the process to be followed by institutions wishing to appeal the Bureau's decision.

The broad objective of the proposed rulemaking is to make the current regulations consistent with AB 1344's changes to the California Private Postsecondary Education Act of 2009 regarding out-of-state institution registration (Section 94801.5 of the Code), including changing the registration form and processing the new information to be reported on the out-of-state institution's history.

**Anticipated Benefits of Proposal**

The specific benefit anticipated from the regulation is to make it easier for out-of-state institutions to comply with the disclosure requirements adopted by AB 1344, which would give the Bureau greater knowledge of an out-of-state institution's regulatory history in other states, making the Bureau's compliance procedures more efficient and effective.

**Consistency and Compatibility with Existing State Regulations**

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

This regulatory proposal extends the renewal-cycle period for out-of-state institutions from two years to five years, which is anticipated to result in a decrease in the state's renewal registration workload costs and revenues. However, the provisions related to conditional approval, including increased reporting requirements, limitations on student enrollment, and enforcement-related activities are anticipated to increase the Bureau's workload and costs.

The Bureau currently regulates 88 out-of-state institutions, which are scheduled to renew over the next two years and averages 5 new out-of-state institutions per year.

**Expenditures (Current vs. Proposed):** The Bureau's current out-of-state initial and biennial renewal registration workload and costs range from \$39,788 to \$73,104 per year and up to \$554,706 over a ten-year period.

The regulations extend the current biennial renewal cycle to a five-year cycle, which will result in fewer applications received and processed per year. The regulations are anticipated to result in workload and costs ranging from approximately \$4,307 to \$47,509 per year and up to \$218,585 over a ten-year period.

**Projected Expenditure (Savings):** The projected reduction in workload and costs ranges from approxi-

mately \$9,413 to \$62,509 per year and up to \$336,122 over a ten-year period.

The Bureau notes, workload and costs of approximately \$1,875 per year or \$9,400 over the five-year renewal cycle (see underlying data) related to issuing and processing Student Tuition Recovery Fund (STRF) forms and revenue collection are not included in the expenditure analysis (above) because any STRF workload and costs would be incurred by the Bureau regardless of the proposed regulations.

However, STRF costs are included in the initial and renewal registration fee costs analysis. The Bureau further notes, the total costs of approximately \$10,200 to register out-of-state institutions and to administer the STRF significantly greater than the \$1,500 fee amount authorized by current law.

The Bureau may also incur costs related to issuing a conditional approval related to increased monitoring, oversight, and increased Attorney General (AG) activities. The Bureau does not have an estimate of the number of out-of-state institutions possibly issued a conditional approval in the future and therefore does not have total workload or cost estimate at this time.

However, the Bureau estimates monitoring workload costs of approximately \$1,900 per year for each institution registered on a conditional approval status.

In the event the AG is required to issue a writ (or other restrictions) to an out-of-state educational institution, the Bureau estimates costs of \$5,000 per case.

**Revenues (Current vs. Proposed):** The Bureau's current out-of-state registration fee revenues range from approximately \$73,500 to \$103,500 per year and up to \$885,000 over a ten-year period.

The proposed out-of-state registration fee revenues range from approximately \$7,500 to \$81,000 per year and up to \$376,500 over a ten-year period.

**Projected Revenue (Loss):** The projected reduction in revenues ranges from approximately \$7,500 to \$88,500 per year and up to \$508,500 over a ten-year period.

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

*Nondiscretionary Costs/Savings to Local Agencies:* None.

*Local Mandate:* None.

*Cost to Any Local Agency or School District for Which Government Code Sections 17561-17630 Require Reimbursement:* None.

**Business Impact:** The regulations impact out-of-state educational institutions providing distance learning to California students and do not result in an economic impact on businesses in the state.

**Cost Impact on Private Person or Business:** The regulatory proposal may impact individual students in California who want to enroll in an out-of-state institution if that institution is conditionally approved with

a limitation on the number of California students it can enroll, and the student is unable to enroll and pay tuition fees at the institution as a result.

The regulatory proposal may also impact a representative business attempting reasonable compliance with this regulatory proposal because the institution would be subject to an enrollment limitation, reducing the institution's revenue. However, it is not possible to estimate the size of this economic cost as it is unknown how many students would be affected by an enrollment cap at an institution that is conditionally approved, and it is not possible to estimate the size of the impact on a particular student.

The regulations do not result in an economic impact to businesses in the state.

*Effect on Housing Costs:* None.

*Business Reporting:*

This regulation requires businesses to fill out an application that requires disclosure of information to the Bureau for assessment. The Bureau finds it is necessary that this disclosure of information apply to businesses for the welfare of the people of California because it will give the Bureau greater knowledge of an out-of-state institution's regulatory history in other states, helping the Bureau protect California students by preventing fraud or unfair practices.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

*Impact on Jobs/Businesses:*

The Bureau has determined that this regulatory proposal will not have an 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. The regulation only applies to private postsecondary institutions located outside of California.

*Effect on Small Business:*

The Bureau has determined this proposal will affect small businesses because small businesses must comply with this proposal. The extent of the impact on any individual small business is unknown at this time.

*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.

*Benefits to Health and Welfare of California Residents, Worker Safety, and the State's Environment*

The regulatory proposal benefits the health and welfare of California residents by providing the Bureau for Private Postsecondary Education additional

background information on out-of-state educational institutions that enroll California residents, which will enable the Bureau to do more thorough background investigations of these institutions in order to protect California residents from fraud and unfair practices. This proposal does not benefit worker safety or the State's environment, because it is not related to worker safety or the State's environment.

#### 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 at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

#### 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](mailto: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](mailto:Yvette.Johnson@dca.ca.gov)

*Website Access:* <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 5. BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**

CHAPTER 2. APPLICATIONS  
 SECTIONS 71650, 71652, AND 71653

SUBSTANTIVE CHANGE APPROVAL

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary Education (hereinafter “Bureau”), Department of Consumer Affairs, is proposing to take the action described in the Informative Digest. 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 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 Bureau at its office no later than **Tuesday, December 27, 2022**, or must be received by the Bureau at the hearing, if one is held. The Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below

or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal 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 written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE CITATION

Authority cited: Sections 94803, 94877, and 94885 of the Education Code. References cited: Sections 94893, 94894, 94895, 94896, and 94930.5 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2021 the legislature passed, and the Governor signed, SB 802 (Roth, Chapter 552, Statutes of 2021). Education Code section 94894, which defines what a “substantive change” that requires Bureau pre–approval is, was amended to add four new provisions requiring institutions to apply for approval. The four changes that an institution must now seek Bureau approval for are:

- An increase or decrease of 25 percent or more in the number of clock hours or credit hours required for successful completion of the program;
- Participation in federal student financial aid programs authorized by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.);
- A change in the academic measurement of an educational program from clock hours to credit hours;
- A change in the distance education learning management system.

The proposed regulations will amend and add three regulatory provisions that will implement the first three of the four additions above to implement the new substantive changes created by SB 802; the fourth will be addressed by subsequent regulation. Each regulation directs institutions seeking to apply for a substantive change under these conditions to fill out the appropriate form, identified and incorporated by reference, provides for definitions to clarify the terms of the substantive change, and when and how the form should be submitted to the Bureau. The proposal also includes the new forms being created and incorporated by reference, which are entitled:

- Application for Change in Educational Objectives or Clock or Credit Hours Required to Complete

a Program (An Increase or Decrease by 25% or More), Form OBJ rev. 8/22

- Application for Authorization for Institution to Begin Participation in Student Financial Aid Programs (Title IV of the Higher Education Act of 1965), Form AID New. 8/22
- Application for Authorization to Change from Clock Hours to Credit Hours, Form CREDIT New. 8/22

**Anticipated Benefits of Proposal**

The specific benefit anticipated from the proposed regulation is to have the Bureau’s regulations conform to existing statutory language. The terms of SB 802 became effective on January 1, 2022, and in order to implement the law the Bureau must provide institutions with guidance on the proper way to apply for pre-approval for the newly defined substantive changes and provide institutions with forms that give the Bureau the information it needs to properly decide whether to approve the changes or not.

**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.

**Fiscal Impact Estimates**

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

**Costs:** The Bureau estimates up to 37 institutions will submit applications for approval of substantive changes per year.

The Bureau will incur workload and costs of approximately \$300 for an accredited institution application and \$750 for a non-accredited institution application with costs of approximately \$18,300 per year and up to \$183,000.

The Bureau notes, non-accredited schools will incur greater workload costs and pay higher fees than accredited institutions because these applications require more documents to be submitted and reviewed by the Bureau. Since accredited schools have already been reviewed and approved by an accrediting agency, the Bureau’s requirements and review process are less than for non-accredited institutions.

**Revenues:** Accredited institutions will be required to pay a \$250 application fee and non-accredited institutions will pay \$500 per application with total estimated revenues of \$13,250 per year and up to \$132,500 over a ten-year period.

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 17561–17630 Require Reimbursement:* None.

*Business Impact:* The Bureau has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The Bureau estimates up to 37 institutions will submit applications for approval of substantive changes per year. These schools will incur workload costs and be required to pay application fees.

Accredited schools are estimated to incur total costs of \$325 per application and non-accredited schools \$800 per application. The Bureau estimates total costs for accredited and non-accredited institutions of \$19,625 per year and up to \$196,250 over a ten-year period.

The Bureau notes, non-accredited schools will incur greater workload costs and pay higher fees than accredited institutions because these applications require more documents to be compiled and submitted to the Bureau. Since accredited schools have already been reviewed and approved by an accrediting agency, the Bureau’s requirements and review process are less than for non-accredited institutions.

*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 may affect some small businesses. However, the effect of the proposed regulations will apply to very few small businesses and the cost will be small.

*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 instructing institutions on how to comply with recently adopted additions to the list of Substantive Changes that must be reported. This proposal is not anticipated to benefit worker safety or the state’s environment.

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, if one is held.

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 at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798-0818.

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](mailto: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](mailto:Yvette.Johnson@dca.ca.gov)

*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 10. CALSAVERS RETIREMENT SAVINGS BOARD**

The CalSavers Retirement Savings Board (“Board”) proposes to adopt the regulations amendments described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may be submitted by email to [CalSavers@sto.ca.gov](mailto:CalSavers@sto.ca.gov), or by mail:

*Regular Mail*

CalSavers Retirement Savings Board  
 Re: Rulemaking for the CalSavers Retirement Savings Program  
 P.O. Box 942809  
 Sacramento, CA 95815

*Courier Delivery*

CalSavers Retirement Savings Board  
 Re: Rulemaking for the CalSavers Retirement Savings Program  
 915 Capitol Mall, Suite 105  
 Sacramento, CA 95814

The written comment period will close December 27, 2022. The Board will only consider comments received by that time. All written comments received by the Board are subject to disclosure under the Public Records Act.

#### PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or their duly authorized representative, submits a written request for a public hearing to the contact person listed below no later than 15 days prior to the close of the written comment period.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public at <https://www.treasurer.ca.gov/calsavers/regulations/index.asp> for at least 15 days before the Board adopts the regulations as revised. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AUTHORITY AND REFERENCE

Authority: Section 100048 of Government Code provides the CalSavers Retirement Savings Board the authority to adopt regulations to implement Title 21 of the Government Code.

Reference: Sections 100000, 100012, 100014, 100032, 100043, and 100046, Government Code.

#### INFORMATIVE DIGEST

Existing law establishes the CalSavers Retirement Savings Program (“Program”) and Board in Title 21 (commencing with Section 100000) of the Government Code. The Program requires eligible employers, as defined in statute and regulation, to make available a payroll deposit retirement savings arrangement so that eligible employees may contribute a portion of their salary or wages to a retirement savings program account in the Program, as specified. Existing law authorizes employees to opt out of participating in the Program, as specified. Existing law grants the Board the power to administer the enforcement of employer compliance, including the power to impose specified penalties on employers who fail to allow eligible employees to participate in the program, subject to an

appeals and collections process administered by the Franchise Tax Board, as specified.

On October 31, 2019, the Office of Administrative Law (“OAL”) approved permanent regulations for the Program that implement, interpret, and make specific the rules, policies, and procedures for the Program. Specifically, these regulations accomplish the following:

- a. Define terms used in the regulations and further clarify the meaning of definitions in statute;
- b. Define employer eligibility for the Program and establish the means by which the Program shall determine that eligibility;
- c. Establish the deadlines and processes by which eligible employers are required to register for the Program;
- d. Define the duties for participating employers and the processes by which participating employers are required to comply with the requirements of the Program;
- e. Establish processes for the enrollment of eligible employees into the Program;
- f. Define the default account settings for participants whom do not make an alternative election;
- g. Define the alternative elections available to participants;
- h. Establish the policies for the participation of individuals in the Program outside of an employment relationship with an eligible employer; and
- i. Define the processes and policies for contributions, distributions, and the transfer of savings.

Throughout 2020, the Program filed multiple sets of emergency regulations to achieve several programmatic amendments. The changes made were as follows:

- Due to the COVID-19 pandemic, the Board extended the first employer registration deadline in April 2020 through the emergency rulemaking process. The deadline for employers with more than 100 employees was changed from June 30, 2020, to September 30, 2020.
- On June 29, 2020, Governor Newsom signed AB 102 (Chapter 21, Statutes of 2020), which made a variety of amendments to the Program’s governing statutes. The amendments, among other things, changed the name of the Program’s governing board and the Program trust account. Non-substantive changes to existing regulations were filed with the OAL on July 7, 2020, to change the Board and trust account name pursuant to Section 100 of Title 1 of the California Code of Regulations (CCR).
- On July 27, 2020, the Board approved a variety of regulations amendments, some in response to



the passage of AB 102. The amendments added a new default investment fund for participants born January 1, 2003, to January 1, 2007, a change that was necessary to make before December 31, 2020; removed a feature in which eligible employees who previously opted out are subjected again to automatic enrollment; clarified the tax-qualified retirement plans that, if offered by an employer, would render them exempt; and made a variety of technical amendments that improve the clarity of the regulations.

- At the December 7, 2020, Board meeting, the Board voted to approve regulations amendments to change the default investment option, clarify processes for enforcing employer compliance, reduce the minimum contribution amounts for non-payroll contributions, clarify the frequency for recurring non-payroll contributions, clarify that rollovers and transfers into a Program account are permissible, and amend the definition of a tax-qualified plan.

The Board completed a regular rulemaking effort in January 2022 to make permanent the emergency rulemakings described above.

The regulations amendments referred to in this notice were approved by the Board at the December 13, 2021, Board meeting and adopted through an emergency rulemaking completed in March 2022. The regulations amendments were readopted on September 9, 2022. The Board did not receive any public comments during the initial emergency rulemaking or the readoption.

The Board is authorized under Government Code Section 100048 to adopt regulations it deems necessary to implement the Program consistent with the Internal Revenue Code and regulations issued pursuant to that code to ensure that the program meets all criteria for federal tax-exempt benefits. Government Code Section 100048 deems the adoption, amendment, repeal, or readoption of those regulations to address an emergency for the purposes of the Administrative Procedure Act and, more specifically, Government Code Sections 11346.1 and 11349.6 and, thereby, exempts the Board from the requirements of Government Code Section 11346.1(b).

#### *Pre-Rulemaking Activity*

These regulations amendments were approved by the Board at the December 13, 2021, Board meeting. Staff posted a notification of proposed emergency rulemaking March 4, 2022, and approved by the Office of Administrative Law (OAL) on March 18, 2022.

At the August 22, 2022, Board meeting, the Board approved a readoption of the emergency regulations amendments. Staff posted the notification of proposed

emergency rulemaking August 22, 2022. The readoption was approved by OAL September 7, 2022.

Through our client services team, our internal outreach team, local chambers of commerce and other business associations, interactive webinars with the public that occur multiple times a week, and our social media platforms, the Board receives regular feedback about facets of the Program, thoughts on how the Program could be improved, as well as general praise and criticism.

In addition to the public comment periods involved in the rulemaking process and the public comment periods at each Board meeting, the Board also received and considered input from Program employers and participants that have already begun participating in the Program.

Through our client services team, our internal outreach team, local chambers of commerce and other business associations, interactive webinars with the public that occur multiple times a week, and our social media platforms, the Board receives regular feedback about facets of the Program, thoughts on how the Program could be improved, as well as general praise and criticism.

#### *Anticipated Benefits of the Proposed Regulations:*

About half of working Californians are on track to live at or near poverty upon reaching retirement age. Without the ease and simplicity of regular payroll contributions through a workplace retirement savings arrangement, many simply do not save for retirement. While the problem of retirement insecurity has many causes, including low wages and rising costs of living, research shows access to a retirement savings vehicle makes individuals 15 times more likely to save for retirement. The Program will ensure a majority of California workers have access to a workplace retirement savings vehicle by mandating that employers either sponsor their own plan or register for the Program. The Program and its associated laws were established in an effort to improve retirement security for working Californians. The operation of the program in general is expected to benefit participating employees and individuals by providing a simple pathway to improve their retirement security.

These regulations amendments will benefit employers and employees by providing them earlier access to the program. The amendments will also benefit employers by clarifying the registration deadlines for newly mandated employers. Most benefits from these amendments are due to allowing some employees more immediate access to the Program and, therefore, improve their ability to save for retirement. Any new savings resulting from these amendments will have a portion of savings invested in California-based companies. Benefits due to that new investment are ex-



pected to reach \$15,703,748 in 2023 and increase each year thereafter.

The regulations amendments to Section 10002(b) will have benefits for some employers, however staff expect those benefits to be de minimis. The amendments will allow employers to register sooner than what is currently allowed in the current text of the regulations if they do not yet have a full calendar year of employee data. Because of the change, staff expect some employers will have access to the Program sooner than would be allowed under the prior regulations.

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

The Board evaluated whether or not there are any other regulations that may be adversely impacted by the adoption of these proposed regulations. Because these regulations are solely for the purpose of operating the Program, and no other regulations exist in the California Code of Regulations pertaining to the operation of the Program, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**DISCLOSURES REGARDING  
THE PROPOSED ACTION**

*The Board has made the following determinations regarding fiscal impact:*

- Mandate on local agencies and school districts: none.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.
- Cost or savings to any state agency: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.
- Costs or savings in federal funding to the state: none.
- Cost impacts on a representative person or business: For participating employers, the Program requires no direct costs or fees to participate. Although participating employers' role in facilitating the Program requires minimal activities, employers will be required to perform some duties upon the initial registration and ongoing maintenance to facilitate payroll deductions and assist with the enrollment of new employees. For those duties, the Board estimates approximately \$157 in opportunity costs for the staff time necessary to register and annual ongoing opportunity costs of \$135.

Participation in the Program is completely voluntary for eligible employees. Participating employees will pay an administrative fee taken from their contri-

butions and investment interest. Those fees currently range between 0.82 and 0.95 percent depending on the investment option selected by the participant.

The regulations amendments included in this rulemaking do not materially change the duties of participating employers nor do they impact the administrative fees for participants, and, therefore, cause no changes to the cost impacts on a representative person or business.

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

- Small Business Determination: The proposed regulation may affect small business.
- Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: none.
- Significant effects on housing costs: none.
- The proposed regulations do not require a report to be made.

**MAJOR REGULATION: STATEMENT OF THE  
RESULTS OF THE STANDARDIZED  
REGULATORY IMPACT ANALYSIS (SRIA)  
(Gov. Code. § 11346.3, subd. (c))**

Program staff determined the regulations amendments to be major regulations and completed a standardized regulatory impact analysis on September 2, 2022, detailing the expected economic and fiscal impacts of the regulations amendments. The Department of Finance (DOF) provided comments in response to the SRIA on September 30, 2022. Staff responded to those comments on October 24, 2022, to provide specific data and narrative requested by DOF. The full SRIA, the comments provided by DOF, and the response to those comments are attached to the Initial Statement of Reasons (ISOR).

The following list identifies the estimated impacts by each category of potential impacts.

The creation or elimination of jobs within the state: the amendments will have no direct impacts on the creation or elimination of jobs within the state. The amendments could have indirect impacts, as they will lead to increased new savings by Californians, which will lead to reduced consumption. The reduced consumption is expected to result in reduced demand, which could lead to reduction of 303 jobs in 2023. The amendments will also lead to new investment in California companies and are expected to create 90 jobs in 2023 due to the new investment.

The creation of new businesses or the elimination of existing businesses within the state: no impact.

Competitive advantages or disadvantages for businesses currently doing business within the State: no impact.

The expansion of businesses currently doing business within the state: no impact.

Increase or decrease of investment in the State: Due to shortening the registration deadline for some employers, there will be more savings by participants, which will naturally lead to an increase in investment in California-based companies. Staff estimate the regulations amendments will result in approximately \$61 million in new retirement savings contributions by participants in 2023, with 12.5% of those new investments made in California-based companies. The SRIA details expected macroeconomic impacts resulting from those new investments.

Incentives for innovation in products, materials, or processes: no impact.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: see previous section on anticipated benefits.

*Department of Finance Comments and Responses by the CalSavers Retirement Savings Board*

The Department of Finance submitted comments in response to the SRIA on September 30, 2022. A copy of DOF's comments and the full response submitted by the Board are included as attachments to the ISOR and summarized below.

In their comments in response to the SRIA, DOF generally concurred with the methodology and results of the SRIA. DOF requested technical clarifying edits to the section defining the economic baseline, clearly report on the specific economic cost impacts of each alternative, and requested staff to complete some sensitivity analyses to estimate the range of potential economic and fiscal impacts under a variety of assumptions, specifically those regarding employer and employee participation. DOF also requested staff to include specific impacts for some fiscal impacts that were described to be "*de minimis*" in the SRIA.

*Economic Baseline*

In the SRIA, the authors stated the economic baseline was the environment prior to the emergency regulations that were analyzed in the SRIA. In the SRIA, the authors calculated the estimated number of businesses, individuals, and industries impacted by the regulations. The SRIA reports on the expected economic impacts due to reduced consumption resulting from the amendments and details the macroeconomic impacts on those industries. The SRIA also includes estimates of expected economic benefits to California companies due to increased investments and details the macroeconomic impacts.

DOF noted the economic baseline was, in fact, the economic state that includes the impacts from the reg-

ulations amendments. While those impacts had been reported throughout the SRIA, the 'economic baseline' had been mislabeled.

*Quantification of Alternatives*

DOF's comments pertain to another instance of mislabeling, whereby staff had not identified the specific benefits and costs of each alternative as clearly as possible. In the Board's response to DOF's comments, staff included a table that identified the specific dollar amounts of benefits and cost of the baseline and each alternative.

*Sensitivity Analysis*

The economic and fiscal impacts evaluated in the SRIA could be significantly impacted by a range of outcomes that can be difficult to predict, including employer activity, employee participation, and external factors including the performance of the stock market. For those reasons, DOF requested staff to conduct a sensitivity analysis to estimate economic and fiscal impacts under a range of assumptions for increased saver participation and increased employer facilitation, which directly impacts the expected number of participating employees, and, therefore, expected economic and fiscal impact.

In the SRIA, staff used actual program data to predict employer and employee participation. To estimate the range of potential outcomes, staff estimated impacts under four additional scenarios, including one with moderately higher employer facilitation, high employer facilitation, high employee participation, and a combination of the high employer and employee participation.

*Fiscal Impact*

In the SRIA, the authors described how the amendments would result in fiscal impacts, quantifying the impacts related to reduced sales and use tax. The authors also described how, if at all, the amendments could impact income tax revenue, claims of the California Earned Income Tax Credit (CalEITC), expenses for the Franchise Tax Board, Medi-Cal, and the Federal Saver's Credit, describing the fiscal impacts of each to be "*de minimis*."

In the response to DOF, the authors described why the amendments will not have fiscal impacts due to claims of the California Earned Income Tax Credit, the Franchise Tax Board, Medi-Cal, or the federal Saver's Credit. In their response, staff also quantified expected impacts to sales and use tax revenue, estimating impacts of approximately \$119,000 in 2023.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5 (a)(13), the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the atten-

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

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

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Eric Lawyer  
Director of Policy & Communications  
CalSavers Retirement Savings Board  
915 Capitol Mall, Suite 105  
Sacramento, CA 95814  
Telephone: (916) 653-1748  
Email: [Eric.Lawyer@sto.ca.gov](mailto:Eric.Lawyer@sto.ca.gov)

Please direct any inquiries regarding the regulatory process to Mr. Lawyer at the above address. The designated backup contact person is Jacob Schafer, who can be reached at [Jacob.Schafer@sto.ca.gov](mailto:Jacob.Schafer@sto.ca.gov) or by phone at (916) 653-1744.

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

The Board will have the rulemaking file available for inspection online at <https://www.treasurer.ca.gov/calsavers/regulations/index.asp>. To request a physical inspection of the rulemaking file, please contact the contact persons identified above and they will schedule a time and location for the inspection.

As of the date of this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the economic and fiscal impact analysis, and the initial statement of reasons. Copies may be obtained by contacting Eric Lawyer at the email address or by calling the phone number listed above.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

After it is completed, a copy of the Final Statement of Reasons may be obtained by submitting a written request to the contact person identified above.

## TITLE 16. BOARD OF PHARMACY

### SELF-ASSESSMENT OF AN ADDS

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (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 by December 27, 2022.

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:* Sections 4119.11 and 4427.7 of the Business and Professions Code (BPC) authorize the board to adopt these regulations. The proposed regulations implement, interpret, and make specific sections 4001.1, 4008, 4017.3, 4021, 4022, 4036, 4037, 4038, 4040, 4050, 4051, 4052, 4059, 4070, 4076, 4081, 4101, 4105, 4107, 4113, 4117.3, 4119.1, 4119.11, 4125, 4126, 4180, 4186, 4305, 4330, 4332, 4333, 4400, 4427, 4427.1, 4427.2, 4427.3, 4427.4, 4427.5, 4427.6, and 4427.7 of the Business and Professions Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, pharmacists, and pharmacy technicians (BPC section 4000, et seq.). The board's mandate and mission are to protect the public (BPC section 4001.1).

Existing law at BPC section 4119.11 establishes the licensure requirement for an automated drug delivery system (ADDS). Additionally, the statute establishes two separate classifications of ADDS, specifically,

Automated Patient Dispensing System (ADPS) and Automated Unit Dose System (AUDS).

Further, BPC Sections 4427.2, 4427.3, 4427.4, 4427.6, and 4427.7 establish the ownership, placement, and operation requirements; the requirement for an exempt AUDS to comply with all other requirements of an ADDS; recordkeeping and quality assurance requirements; and the requirement for the completion of a self-assessment by the pharmacy.

This proposal will amend 16 CCR section 1715.1 to update the self-assessment form that pharmacists-in-charge must complete (Automated Drug Delivery System Self-Assessment [17M-112]) to reflect current laws and regulations since the last revision in 2018.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

Protection of the public is the board's highest priority in exercising its licensing, regulatory and disciplinary functions. This regulatory proposal benefits the health and welfare of California residents. This proposal will update the form incorporated by reference to reflect current laws and regulations. Therefore, the pharmacists-in-charge (PIC) of pharmacies throughout California will be conducting self-assessments based on current and up-to-date laws, rather than inaccurate references to laws that have been repealed, superseded, or are no longer applicable. The form aids licensees in assessing their compliance with federal requirements, state laws, and state regulations, as well as identifying any areas in which they are noncompliant. This awareness can increase self-correction and make the facility site inspection process more meaningful. Periodic review and accountability will result in increased consumer safety and improve facility operations with respect to employee safety and the state's environment.

As the PIC is the person responsible for completing the self-assessment form, this requirement helps to educate the PIC and ensure that the PIC has knowledge of all applicable laws and regulations. In turn, this helps to ensure that pharmacies operating ADDS are following standard practices, thus protecting the safety and quality of pharmaceutical medications. The self-assessment form is being updated to reference current law and regulations and does not impose the new laws. PICs are already obligated to comply with pharmacy laws and regulations; the self-assessment form is simply a tool provided by the board to aid them in doing so.

#### CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

#### INCORPORATION BY REFERENCE

Automated Drug Delivery System Self-Assessment [17M-112 (Rev. 1/22)].

#### FISCAL IMPACT AND RELATED ESTIMATES

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

*Nondiscretionary Costs/Savings to Local Agencies:* None.

*Local Mandate:* None.

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

*Business Impact:*

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because, as discussed below under Small Business Effect, the requirement to complete the self-assessment already exists and this regulation is updating the statutes and regulations listed within the self-assessment form incorporated by reference. As completion of the self-assessment form is already required by statute and regulation, the proposed regulation does not increase the workload or costs for these licensees to comply.

*Cost Impact on Representative Private Person or Business:*

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Pharmacies licensed by the board that operate an ADDS are already required to complete the self-assessment form, when applicable, under existing law.

*Effect on Housing Costs:* None

#### **Effect on Small Business**

The board has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact directly affecting small businesses, as discussed below. While the board does

not have specific data to determine if its pharmacy licensees are a “small business” as defined in Government Code section 11342.610, a smaller community retail pharmacy may fall into that definition.

Completion of a self–assessment form is required by existing regulation and based on certain events; the completed forms are also required to be maintained. The updates will change some of the questions on the forms, but do not ask significantly more questions. It is therefore not anticipated that the pharmacy will use more time completing, or more space storing, the revised self–assessment form. As the requirement to complete and maintain these forms already exists in regulations, this proposal will not have an impact on small businesses.

***Business Reporting Requirements***

This regulatory proposal does require pharmacists or pharmacies to fulfill reporting requirements because the ADDS self–assessment form is to be completed by the PIC and maintained at the pharmacy. The board reviews the self–assessment form during site inspections to ensure completion and identify that any areas of non–compliance have been remedied. It is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

***Results of Economic Impact Assessment/Analysis:***

*Impact on Jobs/New Businesses:*

The board concludes that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;
- (3) this proposal will not create new businesses within California;
- (4) this proposal will not eliminate existing businesses within California;
- (5) this proposal will not expand businesses currently doing business in the State of California.

*Benefits of Regulation:*

The regulatory proposal will benefit the health and welfare of California residents because pharmacies who provide drugs to California consumers will be conducting the self–assessment based on current and up–to–date laws, rather than outdated laws, which will make it more likely that pharmacies will follow current laws and regulations. When PICs are actively engaged in reviewing the current laws and regulations, they are more likely to identify and remedy any violations of pharmacy law and regulations, which exist primarily for consumer safety. This regulatory proposal benefits worker safety because it will help educate PICs, which helps ensure that the pharmacy is operating the ADDS in compliance with state and

federal laws and regulations. The proposal does not impact the state’s environment.

**CONSIDERATION OF ALTERNATIVES**

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

Any interested person may present statements or arguments in writing relevant to the above determinations at the address listed for the *Contact Person* during the written comment period.

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The board has prepared an initial statement of the reasons for the proposed action and has available all the 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 of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Ste. 100, Sacramento, California 95833, or from the Board of Pharmacy’s website at <http://www.pharmacy.ca.gov>.

**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: Lori Martinez  
 Address: 2720 Gateway Oaks Drive, Suite 100  
 Sacramento, CA 95833  
 Phone Number: (916) 518-3078  
 Fax Number: (916) 574-8618  
 E-Mail Address: [PharmacyRulemaking@dca.ca.gov](mailto:PharmacyRulemaking@dca.ca.gov)

The backup contact person is:

Name: Usha Mutschler  
 Address: 2720 Gateway Oaks Drive, Suite 100  
 Sacramento, CA 95833  
 Phone Number: (916) 518-3077  
 Fax Number: (916) 574-8618  
 E-Mail Address: [PharmacyRulemaking@dca.ca.gov](mailto:PharmacyRulemaking@dca.ca.gov)

#### WEBSITE ACCESS

Materials regarding this proposal can be found at the board's website: [https://www.pharmacy.ca.gov/laws\\_regs/pending\\_regs.shtml](https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml).

### TITLE 16. BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

#### ASBOG EXAMINATION FEES, ABANDONED APPLICATIONS, POSTPONEMENTS, AND EXAMINATIONS

**NOTICE IS HEREBY GIVEN** that the Board for Professional Engineers, Land Surveyors, and Geologists ("Board") is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

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

#### WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this

Notice, must be **received by the Board at its office no later than Tuesday, December 27, 2022**, or must be received by the Board at the hearing, should one be scheduled. The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as 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 section(s) 7818 and 7887 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section(s) 158, 7822, 7841, 7841.1, 7841.2, 7842, 7844, 7851, 7880, 7881, and 7887, the Board is considering amending Section(s) 3005, 3024, and 3031 of Title 16 of the California Code of Regulations (CCR). The Board is also considering repealing Section 3026 and adding Section 3024.5 of Title 16 of the California Code of Regulations (CCR).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board regulates Professional Engineers, Land Surveyors, Geologists, and Geophysicists. BPC sections 7818 and 7887 authorize the Board to adopt, amend, or repeal rules and regulations which are reasonably necessary to carry out the provisions relating to the Geologist and Geophysicist Act (BPC section 7800, et seq.).

The Board proposes to amend Title 16, California Code of Regulations (CCR) sections 3005, 3024, 3031; add Title 16, California Code of Regulations (CCR) section 3024.5; and repeal Title 16, California Code of Regulations (CCR) section 3026 related to examination fees, abandoned applications, postponements, and examinations.

16 CCR 3005 needs to be amended to remove the references to the examination fees for the Fundamentals of Geology (FG) and Practice of Geology (PG) national examinations. Additionally, 16 CCR 3024 needs to be amended so that it only addresses when an application will be considered abandoned, rather than combining conditions for abandonment with conditions for postponements. A new section, 16 CCR 3024.5, is proposed to be adopted to address postponements.

Furthermore, 16 CCR 3026 needs to be repealed because the Board will no longer be collecting the examination fees for ASBOG examinations, and the candidates will not pay the examination fees for the state-specific examinations until after it has been determined that they meet the qualifications required for licensure other than passing the examinations. As such, this regulation needs to be repealed to avoid confusion to applicants and licensees.

Additionally, 16 CCR 3031 is being amended to clarify which examinations must be passed for certification or licensure as required by the Business and Professions Code, what entity will administer the national examinations, and to whom the fees for the national examinations are to be paid.

The primary purpose of this proposal is to implement, interpret, and make specific the provisions of BCP sections 158, 7822, 7841, 7841.1, 7841.2, 7842, 7844, 7851, 7880, 7881, and 7887 to clarify and ensure that applicants understand the current language and to provide consistency and clarity between the regulations.

#### **Anticipated Benefits of Proposal**

Amending 16 CCR 3005 3024, and 3031, adding 16 CCR 3024.5, and repealing 16 CCR 3026 will remove any confusion caused by the existence of regulations that address processes that are no longer relevant. Amending 16 CCR 3005 to remove references to the examination fees for the FG and PG examinations will clarify that those fees will no longer be under the Board's authority to establish or receive, since they will be paid directly to ASBOG. Additionally, the amendments made to 16 CCR 3031 will clarify which examinations must be passed, what entity will administer the national examinations, and to whom the national examinations fees are to be paid.

Additionally, examination fees paid to the Board are not charged until the applicant is deemed to be qualified. Therefore, 16 CCR 3026 needs to be repealed to remove any confusion that might be caused by referencing of refund of fees that have not yet been paid. The current language in 16 CCR 3024 regarding abandoned applications may be confusing because it is written together with the provisions regarding postponements of examinations. Postponements of examinations and abandoned applications should be separated into two different regulations to maintain the clarity from the two issues.

As such, it is proposed to amend 16 CCR 3024 so that it addresses only abandoned applications and to add 16 CCR 3024.5 to address postponements of examinations. Indicating the circumstances in which an application will be considered abandoned, and a new application submitted, will provide guidance to applicants so that they fully understand the consequences of not completing the licensure process in a timely

manner. Furthermore, providing situations in which a postponement of the examination will be granted will help applicants know when they can postpone taking the examination without further consequences. Therefore, the proposed changes to these sections will benefit examinees by clarifying these regulations.

Also, by updating these sections, the public will be better protected as applicants for licensure will be examined via the most up-to-date method, without outdated references remaining in the Board's regulations which benefits the public health. Moreover, it furthers the goal of the Board's mission statement which is to protect the public's safety and property by promoting standards for competence and integrity through licensing and regulating the Boards' professions.

#### **Evaluation of Consistency and Compatibility with Existing State Regulations**

This Board has evaluated this regulatory proposal, and it is neither inconsistent nor incompatible with existing state regulations. The primary purpose of this proposal is to implement, interpret, and make specific the provisions of BPC sections 158, 7822, 7841, 7841.1, 7841.2, 7842, 7844, 7851, 7880, 7881, and 7887.

#### **DISCLOSURES REGARDING THIS PROPOSED ACTION**

#### **FISCAL IMPACT ESTIMATES**

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

The regulations are anticipated to result in workload costs savings and reduced revenues to the Board.

The Board currently administers two examinations per year with staffing costs of approximately \$17,400, plus site rental costs of \$16,000. As a result, the regulations are estimated to result in total costs of approximately \$35,800 per year.

Additionally, applicants will no longer pay exam fees to the Board. Currently, the Board collects \$200 and \$250 for each FG and PG examination, which is passed onto the ASBOG. The Board estimates reduced revenues of \$55,400 (FG) and \$45,000 (PG) per year. Because the full amount of FG and PG examination fee revenues is currently passed onto ASBOG, the regulations do not result in a reduced fund balance reserve to the Board.

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 ESTIMATES**

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.

**Cost Impact on Representative Private Person or Business**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The regulations transfer the administration of the FG and PG examinations from the Board to ASBOG and are not anticipated to result in additional costs to individuals or businesses.

**Effect on Housing Costs:** None.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

**Impact on Jobs/Businesses**

The Board has determined that this regulatory proposal will not have any 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**

This regulatory proposal aligns the Board’s regulations with the transition of the administration of the national exams to the ASBOG and computer–based testing, which will allow greater access to applicants. This regulatory proposal benefits the health and welfare of California residents by eliminating and repealing the regulations that can no longer be followed. This regulatory proposal does not benefit worker safety, as the regulatory proposal is not related to worker safety issues. This regulatory proposal does not affect the State’s environment because the proposal is not making any changes to 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**

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted, the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage

of small businesses that may be impacted cannot be predicted.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, 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; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833 during the written comment period, or at the hearing if one is scheduled or requested.

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

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

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833. Materials regarding this proposal can also be found at: [http://www.bpelsg.ca.gov/about\\_us/rulemaking.shtml](http://www.bpelsg.ca.gov/about_us/rulemaking.shtml).

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designat-

ed in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

CONTACT PERSONS

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

Name: Angela Yu  
Address: 2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833  
Telephone Number: (916) 999-3610  
E-Mail Address: [Angela.Yu@dca.ca.gov](mailto:Angela.Yu@dca.ca.gov)

The backup contact person is:

Name: Nancy Eissler  
Address: 2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833  
Telephone Number: (916) 999-3580  
E-Mail Address: [Nancy.Eissler@dca.ca.gov](mailto:Nancy.Eissler@dca.ca.gov)

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at: <http://www.bpelsg.ca.gov>. Materials regarding this proposal can be found at: [http://www.bpelsg.ca.gov/about\\_us/rulemaking.shtml](http://www.bpelsg.ca.gov/about_us/rulemaking.shtml).

**TITLE 16. BUREAU OF  
AUTOMOTIVE REPAIR**

DEFINITIONS, § 3303  
REGISTRATION OF AUTOMOTIVE  
REPAIR DEALERS, § 3351  
BUREAU-APPROVED EDUCATIONAL  
CERTIFICATIONS, § 3395.6

**NOTICE IS HEREBY GIVEN** that the Bureau of Automotive Repair (Bureau) 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 Bureau at its office on **Tuesday, December 27, 2022**.

The Bureau has not scheduled a public hearing on this proposed action. The Bureau 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 Bureau 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 9882, 9984, 9984.4, 9984.9, 9984.19, and 9987.1, and to implement, interpret and make specific BPC sections 27, 30, 31, 114.5, 115.4, 115.5, 135.4, 141, 142, 480, 490, 9880.1(a), 9880.1(f), 9880.1(k), 9882, 9884, 9984.1, 9984.2, 9984.7, 9884.7(a)(2), 9884.9, 9889.50, 9889.51 and 9889.52, the Bureau is proposing to adopt the following changes to California Code of Regulations Title 16, Division 33, Chapter 1, Articles 1, 6, and 12.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

The Department of Consumer Affairs (DCA), Bureau of Automotive Repair (BAR or Bureau), is the state agency charged with licensing automotive repair dealers (ARDs), Smog Check stations, STAR stations, brake and lamp stations, and their respective inspectors, repair technicians, and adjusters.

Before January 1, 2022, Business and Professions Code section 9884 (BPC) required ARDs to register with the Director (of DCA) upon forms prescribed by the Director that contained sufficient information to identify the automotive repair dealer, including, among other things, the address of each location and the dealer’s retail seller’s permit number if a permit is required by law. Assembly Bill (AB) 471 (Low, Chapter 372, Statutes of 2021) amended BPC section 9884 to additionally require the forms to include, among other things, the automotive repair dealer’s telephone number, email address, and motor vehicle license plate number if engaged in mobile automotive repairs. Currently, applicants submit an application to the Bureau electronically or as a hard copy. Applications are available electronically on the Bureau’s website or hard copies are available at Bureau headquarters or field offices. Currently, the application components are not set forth in regulation, nor is the application incorporated by reference. The regulation simply states: “An application for registration as an automotive repair dealer shall be filed on an application form prescribed and provided by the Bureau....”

AB 471 also requires the Bureau to accept “nationally recognized and industry–accepted educational certifications,” and “any Bureau–approved educational certifications” as part of the ARD application. (Bus. & Prof. Code, § 9884 subd. (b)(4).) This requirement necessitates the Bureau develop a definition for “nationally recognized and industry–accepted educational certifications,” and a process for an automotive repair training provider to have their educational certifications deemed “Bureau–approved educational certifications.”

The Bureau proposes to: (1) amend existing section 3303 of Article 1 of Chapter 1 of Division 33 of Title 16 of the CCR and section 3351 of Article 6 of Chapter 1 of Division 33 of Title 16 of the CCR; and (2) adopt a new section 3395.6 in Article 12 of Title 16 of the CCR, as follows:

- Existing law provides definitions for automotive repair dealers and official stations and adjusters. The amendments to section 3303 will add a definition for “nationally recognized and industry–accepted educational certifications” to identify the certifications an ARD must submit to the Bureau as part of the ARD application process.

- Existing law does not set forth the ARD application components and does not incorporate the application by reference. The amendments to section 3351 will establish the required information those wishing to obtain an ARD registration must provide to the Bureau during the application process.
- Existing law does not provide the requirements for educational certifications for ARDs or the process for obtaining them. New section 3395.6 will establish the requirements for an educational certification to be deemed a “Bureau–Approved Educational Certification.”

ANTICIPATED BENEFITS OF  
THE PROPOSED REGULATION

By establishing the required information in regulation for those wishing to obtain an ARD registration, the Bureau is providing a more straightforward and transparent application process. The applicant’s provision of a telephone number and email address will facilitate communication with ARD applicants and enhance Bureau efficiency in processing applications.

Establishing definitions for “nationally recognized and industry–accepted educational certifications” and “Bureau–approved educational certifications” will clarify the certifications ARDs must provide in the application process. Providing this information to the Bureau will incentivize ARD owners to invest in their staff’s training and hire individuals who possess such certifications. Trained and certified automotive repair staff should result in more repairs being performed in a good and workmanlike manner, and greater adherence to the Bureau’s accepted trade standards, both of which will benefit the motoring public.

CONSISTENCY AND COMPATIBILITY WITH  
EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, BAR 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.

DISCLOSURES REGARDING  
THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Bureau has made the following determinations:

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

The Bureau anticipates that the proposed regulatory action will have no fiscal impact for the implementation, administration, and enforcement of the proposed regulatory changes.

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.

*Effect on Housing Costs:* None.

***Business Impact:***

The Bureau has made an initial determination the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including small businesses and the ability of California businesses to compete with businesses in other states.

*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.

***Business Reporting Requirements:***

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

*Effect on Housing Costs:* None.

**RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS**

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

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it simply adds a definition of “nationally recognized and industry–accepted educational certifications,” adds application components in regulation, and deems specified educational certifications “Bureau–approved.”
- It will not create new business or eliminate existing businesses within the State of California because it simply adds a definition of “nationally recognized and industry–accepted educational certifications,” adds application components in regulation, and deems specified educational certifications “Bureau–approved.”

- It will not affect the expansion of businesses currently doing business within the State of California because it simply adds a definition of “nationally recognized and industry–accepted educational certifications,” adds application components in regulation, and deems educational certifications “Bureau–approved.”
- This regulatory proposal benefits the health and welfare of California citizens because applicants will know what will be requested on the application. In addition, establishing definitions for “nationally recognized and industry–accepted educational certifications” and “Bureau–approved educational certifications” will clarify the certifications ARDs must provide in the application process. Providing this information to the Bureau will incentivize ARD owners to invest in their staff’s training and hire individuals who possess such certifications. Trained and certified automotive repair staff should result in more repairs being performed in a good and workmanlike manner, and greater adherence to the Bureau’s accepted trade standards, both of which will benefit the motoring public and enhance public safety.
- This regulatory proposal does not affect worker safety because it is not relevant to worker safety.
- This regulatory proposal does not affect the State’s environment because it is not relevant to the State’s environment.

**EFFECT ON SMALL BUSINESS**

This regulatory proposal does not affect small businesses because it is not relevant to small businesses; it only informs applicants of what will be requested on the application.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), BAR must determine that no reasonable alternative to this proposed regulatory action it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the 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 present statements orally or in writing relevant to the above determinations at the above–mentioned hearing.

AVAILABILITY OF STATEMENT OF  
REASONS AND RULEMAKING FILE

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair, 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED  
OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to: The backup contact person is:

Holly O'Connor  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8627  
E-mail: [Holly.OConnor@dca.ca.gov](mailto:Holly.OConnor@dca.ca.gov)

Mathew Gibson  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8060  
E-mail: [Mathew.Gibson@dca.ca.gov](mailto:Mathew.Gibson@dca.ca.gov)

WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR's Web site at [https://www.bar.ca.gov/About\\_BAR/Regulatory\\_Actions.aspx](https://www.bar.ca.gov/About_BAR/Regulatory_Actions.aspx).

**TITLE 16.  
ARCHITECTS BOARD**

LANDSCAPE ARCHITECTS  
TECHNICAL COMMITTEE

EXAMINATION TRANSITION PLAN, § 2614

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

PUBLIC HEARING

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

## COMMENT PERIOD

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 not later than **Tuesday, December 27, 2022**, or must be received by the Board at the hearing, should one be scheduled.

## AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as 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 section 5630 of the Business and Professions Code (BPC), the Board is considering amending article 1 of division 26 of title 16 of the California Code of Regulations (CCR).<sup>1</sup> This regulatory proposal will interpret and make specific the language in BPC sections 5650 and 5651, concerning the Examination Transaction Plan.

## INFORMATIVE DIGEST

As a result of a legislative reorganization, the Landscape Architects Technical Committee (LATC), established on January 1, 1998, replaced the former Board of Landscape Architects and was placed under the purview of the California Architects Board (Board). BPC section 5630 authorizes the Board to adopt, amend, or repeal rules and regulations that are reasonably necessary to carry out the provisions under the Landscape Architects Practice Act (Chapter 3.5 of Division 3 of the BPC). BPC section 5650 describes the qualifications for eligibility for the licensing examination. BPC section 5651 requires that the Board administer a written examination that ascertains the professional qualifications of all applicants for licenses to practice landscape architecture. BPC section 5652 authorizes the LATC to issue a landscape architecture license upon successful completion of the licensing examination.

The Council of Landscape Architectural Registration Boards (CLARB) is the national test vendor that supplies the Landscape Architect Registration Ex-

amination (LARE), the licensing examination, to the LATC. In December 2023, CLARB will implement modest structural changes to the LARE to better align the content of the LARE with current practice.

Currently, there is no transition plan in place to give examination credit to candidates who passed sections of the previously administered LARE.

This proposal would amend CCR section 2614 to correct minor errors on previous subdivisions (c), (d), and (e) and add subdivision (g)(1)–(3) to address the problem of a lack of a transition plan. By adding subdivision (g), the proposed regulation would set forth the requirements to grant examination credit to those candidates who passed sections of the previously administered LARE after the new LARE is administered starting in December of 2023. Specifically, candidates in the exam process who have previously passed sections 1 and 4 will receive transitional credit for the LARE section titled “Construction Documentation and Administration.” If the candidate passes only section 1 or section 4, but not both, the candidate must take the new LARE section titled “Construction Documentation and Administration.”

The Board is proposing the following changes:

### ***Amend CCR Section 2614—Examination Transition Plan***

CCR section 2614 is being amended to correct minor errors in the transition charts in subdivisions (c)(1), (d)(1) and (e)(1) and establish a transition plan to give examination credit for those candidates who passed sections of previously administered landscape architect licensing examinations for the LARE that will be administered starting in December of 2023.

## POLICY STATEMENT OVERVIEW/ ANTICIPATED BENEFITS OF PROPOSAL

The Board seeks to correct minor errors in existing subdivisions of CCR 2614 and add language to establish a transition plan to give examination credit to candidates who passed sections of the previously administered LARE after the LARE is restructured in 2023 provided certain requirements are met. Specifically, the proposed amendments of CCR section 2614 permit current candidates to continue to take the current version of the LARE through August 2023 and sets forth the requirements that a candidate must meet to receive examination credit once the new LARE version is administered starting in December of 2023.

For additional benefits, see benefits of the regulation under the “Results of Economic Impact Assessment/Analysis.”

<sup>1</sup> All CCR references are to title 16 unless otherwise noted.



CONSISTENCY AND COMPATIBILITY  
WITH EXISTING STATE REGULATIONS

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

FISCAL IMPACT ESTIMATES

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

*Nondiscretionary Costs/Savings to Local Agencies:* None.

*Local Mandate:* None.

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

*Business Impact:* The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because it only affects candidates for examination and licensure.

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

*Effect on Housing Costs:* None.

***Effect on Small Business***

The Board has determined that the proposed regulation would not have a significant adverse impact on small businesses because it only affects candidates for examination and licensure.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

*Impact on Jobs/Businesses:*

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because it only affects candidates for examination and licensure.

*Benefits of Regulation:*

The Board has determined that this regulatory proposal may benefit the public health, safety, and welfare by facilitating the process by which candidates for licensure determine they have taken and successfully passed the required sections of the updated examinations for licensure.

This regulatory proposal establishes a plan for the transfer of previously earned LARE credit to the new LARE that will be administered starting in December of 2023. The new LARE will add uniformity to test practices, increase the reliability of test results, increase relevance to modern practice, and increase accessibility for candidates to take the exam.

Existing regulations specify the transition plans which gave examination credit for passing previous sections of the licensing examination and eliminating the requirement to pass equivalent sections of the LARE being administered at that time. The proposed amendments to section 2614 permit current candidates to continue to take the current version of the LARE until December of 2023. The proposed language outlines the transition plan to give examination credit effective with the first administration of the LARE in December 2023.

This regulatory proposal does not affect worker safety and the state’s environment because it only affects candidates for examination and licensure.

CONSIDERATION OF ALTERNATIVES

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

To date, the following options were considered by the Board and rejected:

The Board considered keeping the status quo; however, this alternative was rejected because this would not address how and if candidates who take the previous LARE would be able to receive credit for sections passed under the previously administered LARE after the new LARE format is administered.

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



**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, the initial statement of reasons, and the information upon which the proposal is based, may be obtained upon request from the California Architects Board, Landscape Architects Technical Committee at 2420 Del Paso Road, Suite 105, Sacramento, California 95834 or by telephoning the Contact Person listed below.

**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: Kourtney Nation  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone Number: (916) 575-7233  
Fax Number: (916) 575-7283  
E-Mail Address: [kourtney.nation@dca.ca.gov](mailto:kourtney.nation@dca.ca.gov)

The backup contact person is:

Name: Trish Rodriguez  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone Number: (916) 575-7231  
Fax Number: (916) 575-7283  
E-Mail Address: [latc@dca.ca.gov](mailto:latc@dca.ca.gov)

*Website Access:* Materials regarding this proposal can be found on LATC's website under Proposed Regulation ([www.latc.ca.gov/general\\_information/publications/](http://www.latc.ca.gov/general_information/publications/)).

**TITLE 16. BOARD OF BARBERING AND COSMETOLOGY**

**ARTICLE 6 § 950.10. TRANSFER OF CREDIT**

**NOTICE IS HEREBY GIVEN** that the Board of Barbering and Cosmetology (Board) is proposing to

amend California Code of Regulations (CCR), Title 16, Division 9, Section 950.10, as described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action. 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 December 27, 2022**, or must be received by the Board at the hearing, should one be scheduled.

**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 their 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 COMMENTS**

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 Section 7312 of the Business and Professions Code (BPC), and to implement, interpret or make specific BPC sections 7316, 7362.5, 7363, 7364, 7365, 7366, and 7367, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Board of Barbering and Cosmetology (Board) licenses and regulates barbers, cosmetologists, manicurists, estheticians, hairstylists and electrologists, and the establishments where they work in California, totaling over 50,000 establishments and over 560,000 individuals. In addition to licensing individuals and

establishments, the Board approves schools. Barbering, cosmetology and electrologist schools must first be approved by the Board and meet certain requirements, including maintaining courses of practical training and technical instruction in compliance with the Board's laws and regulations (Bus. & Prof. Code, §§ 7362–7362.3). Applicants are also required to complete coursework from schools approved by the Board, including coursework in barbering, cosmetology, electrolysis, nail care, skin care and hairstyling (Bus. & Prof. Code, §§ 7321, 7321.5, 7330, 7322, 7324 and 7326).

It is the Board's duty to enforce and administer the Barbering and Cosmetology Act (Chapter 10 (commencing with section 7300) of Division 3 of the Business and Professions Code (BPC)) (Act). The Board is authorized to make rules and regulations in aid or in furtherance of the Act in accordance with the Administrative Procedure Act. (BPC § 7312.)

Prior to 2022, the Act required the Board to determine, by regulation, the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum numbers of practical operations for each subject, and determine how much training is required before a student begins performing services on paying patrons. (BPC § 7362). BPC section 7367 states, "For students who change from one program of instruction to another, the board shall grant credit for training obtained in one course that is identical to training required in another course."

In accordance with the above requirements, the Board adopted Title 16, California Code of Regulations (16 CCR) section 950.10, which sets standards for how credit for total clock hours will be granted for a student transferring from one course of study to another or a holder of a special license (e.g. manicurist or esthetician) who enrolls in a general course of study (e.g. cosmetologist). These standards include how those individuals would receive credit for total clock hours completed and credit for minimum hours of technical instruction according to specified percentages, and the minimum practical operations required in each type of course listed in this section (cosmetologist course to esthetician course, cosmetologist course to manicurist course, esthetician course to cosmetologist course and manicurist course to cosmetologist course).

In 2021, Senate Bill (SB) 803 (Chapter 648, Statutes of 2021) was enacted, which among other things, reduced the number of hours required for courses in barbering and cosmetology to 1,000 hours and codified in statute the minimum amount of instruction that must be included for various subjects in a course for barbering, cosmetology, hairstyling, skin care, and nail care. With the enactment of Assembly Bill (AB) 2196 (Chapter 527, Statutes of 2022), effective January

1, 2023, electrolysis course curriculum requirements will be similarly codified (see amendments to BPC section 7366 approved by the Governor September 25, 2022.) However, neither SB 803 nor AB 2196 specifies how hours for these newly enacted curriculum requirements will be deemed "identical" or how the Board will "grant credit for training obtained" for instruction in each of the various subject matter areas specified in BPC sections 7362.5, 7363, 7364, 7365 and 7366 or for instruction hours required for licensure.

In addition, SB 803 removed requirements for practical operations that previously were required to be specified by the Board in regulation at BPC 7362. As a result of the foregoing statutory changes, the Board's current regulation is inconsistent with the Act and has been superseded by a new statutory scheme, existing regulation needs to be repealed, and new regulations need to be adopted. Those regulations would specify how the Board would grant credit for prior hours of "identical" technical and practical instruction earned in another program to a student changing from one program of instruction to another for courses in barbering, cosmetology, hairstyling, skin care, nail care and electrolysis. This proposal would address these issues by:

- (1) specifying that a student changing from one program instruction to another would receive credit on an hour-for-hour basis if specified criteria were met, including: (1) prior instruction hours earned by the student are identical as defined, and (2) credit for the instruction hours of the prior program are granted in accordance with the requirements of this proposed section.
- (2) specifying by subject matter of program or license type (cosmetologist licensee/cosmetology program, barber licensee/barbering program, esthetician licensee/skin care program, manicurist licensee/nail care program, hairstyling licensee/hairstyling program, and electrologist licensee/electrolysis program) how credit may be granted to a student in accordance with BPC sections 7362.5, 7363, 7364, 7365 and 7366;
- (3) specifying that for any other hours of practical and technical instruction in courses that are earned by a student in excess of the minimum technical curriculum content hours prescribed by statute, a student shall receive credit for identical prior hours earned, as defined, that are required for licensure; and,
- (4) providing definitions for the use of the words "changing from one program of instruction to another" and "earned" as referenced in this section.

In addition, the Board proposes to repeal other outdated or unnecessary references in this existing section that provide: (1) total clock hours credit calculations

by course type (cosmetologist course to esthetician course, cosmetologist course to manicurist course, esthetician course to cosmetologist course and manicurist course to cosmetologist course), (2) credit and balance formulas for calculating the minimum hours of technical instruction and minimum practical operations for these types of courses, (3) requirements for credit not being granted until a student in a cosmetologist course completes the number of hours instruction and training, (4) effective until January 1, 2009, that training received as an apprentice could be credited toward a course of training in a school and the setting the maximum number of hours for transfer at 800, and (5) training received in a school shall not be credited toward training in an apprenticeship program.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents. This regulatory proposal will benefit the health and welfare of California residents by clarifying how training credit transfers between programs of instruction and make the transfer of credit process easier to understand for schools, students, and licensees in courses for barbering, cosmetology, skin care, nail care, hairstyling, and electrolysis. This would help ensure that students do not inadvertently incur unnecessary costs and expenses in repeating identical instruction hours that have already been earned at another Board-approved school.

This regulatory proposal does not affect worker safety or the state's environment. The regulation only concerns the transfer of credit for students and clarifies the Board's regulations that take into consideration recent changes to state statutes regarding curriculum content and the applicability of credits to those transfers.

#### CONSISTENCY AND COMPATIBILITY 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 THIS PROPOSED ACTION

##### FISCAL IMPACT ESTIMATES

***Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:*** None. The Board does not anticipate additional workload or costs resulting from the proposed regulations. Any workload and costs of implementation are a result of current law.

As a result, the regulations do not result in business impacts to the state. Any economic impacts, including costs, savings, or decreased revenues are a result of current law.

***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 Estimates:***

The board has made an 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/evidence/documents/testimony or other evidence:

This regulation will not have a significant adverse economic impact on businesses because it does not require any significant new expense or reporting, recordkeeping, or compliance measures on the part of businesses.

In addition, BPC section 7367 mandates that the Board shall grant credit to students who obtain identical training when they change from one program of instruction to another. This proposal merely provides a simple, straightforward method for schools, students, and applicants to determine if prior education earned would be acceptable by the Board as transferrable to a new educational program in accordance with the minimum educational standards set by SB 803 and AB 2196.

As a result, the regulations do not result in business impacts to the state. Any economic impacts, including costs, savings, or decreased revenues are a result of current law.

##### ***Cost Impact on Representative Private Person or Business:***

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

Any economic impacts, including costs, savings, or decreased revenues are a result of current law.

*Significant Effect on Housing Costs:* None.

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation will not affect small businesses because it only concerns what the Board will grant in transfer of credit for students and clarifies the Board's regulations that take into consideration recent changes to state statutes regarding curriculum content and the applicability of credits to those transfers. It does not require any significant new expense or reporting, recordkeeping, or compliance measures on the part of businesses.

In addition, BPC section 7367 mandates that the Board shall grant credit to students who obtain identical training when they change from one program of instruction to another. This proposal merely provides a simple, straightforward method for schools, students, and applicants to determine if prior education earned would be acceptable by the Board as transferrable to a new educational program in accordance with the minimum educational standards set by SB 803 and AB 2196.

As a result, the regulations do not result in business impacts to the state. Any economic impacts, including costs, savings, or decreased revenues are a result of current law.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

##### ***Impact on Jobs/Businesses:***

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because this proposal merely provides a simple, straightforward method for schools, students and applicants to determine if prior education earned would be acceptable by the Board as transferrable to a new educational program in accordance with the minimum educational standards set by SB 803 and AB 2196. It does not require any significant new expense or reporting, recordkeeping, or compliance measures on the part of businesses.

##### ***Benefits of Regulation:***

This regulatory proposal will benefit the health and welfare of California residents by clarifying how training credit transfers between programs of instruction and make the transfer of credit process easier to understand for schools, students, and licensees in courses for barbering, cosmetology, skin care, nail care, hairstyling, and electrolysis. This would help ensure that students do not inadvertently incur unnecessary

costs and expenses in repeating identical instruction hours that have already been earned at another Board-approved school.

This regulatory proposal does not affect worker safety or the state's environment because it does not involve worker safety or the environment. The regulation only concerns the transfer of credit for students and clarifies the Board's regulations that take into consideration recent changes to state statutes regarding curriculum content and the applicability of credits to those transfers.

**Business Reporting Requirements:** This regulatory action does not require businesses to file a report with the Board.

#### CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments orally or in writing relevant to the above determinations during the written comment period, or at the hearing if one is scheduled, to the addresses listed under Contact Person in this Notice.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the 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 of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person named below.

#### 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 Web site listed below.

#### CONTACT PERSON

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

Name: Samuel Swafford  
Address: 2420 Del Paso Road, Suite 100  
Sacramento, CA 95834  
Telephone Number: (279) 278-5121  
Fax Number: (916) 928-6810  
E-Mail Address: [Samuel.Swafford@dca.ca.gov](mailto:Samuel.Swafford@dca.ca.gov)

The backup contact person is:

Name: Allison Lee  
Address: 2420 Del Paso Road, Suite 100  
Sacramento, CA 95834  
Telephone Number: (279) 278-5107  
Fax Number: (916) 928-6810  
E-Mail Address: [Allison.Lee@dca.ca.gov](mailto:Allison.Lee@dca.ca.gov)

*Website Access:* Materials regarding this proposal can be found at [http://www.barbercosmo.ca.gov/laws\\_regs/prop\\_regs.shtml](http://www.barbercosmo.ca.gov/laws_regs/prop_regs.shtml).

### **TITLE 16. RESPIRATORY CARE BOARD OF CALIFORNIA**

#### **BASIC RESPIRATORY TASKS AND SERVICES**

**NOTICE IS HEREBY GIVEN** that the Department of Consumer Affairs, Respiratory Care Board of California (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

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

#### WRITTEN COMMENT PERIOD

Written comments, 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 not later than **Tuesday, December 27, 2022**, or must be received by the Board at the hearing, if a hearing is held.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any requested hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications 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 Board 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 Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 3702.5 and 3722 of the Business and Professions Code<sup>1</sup> (B&P), and to implement, interpret or make specific sections 2860, 3702, 3702.5, and 3702.7, the Respiratory Care Board of California is considering addition of section 1399.365 of Division 13.6, Title 16 of the California Code of Regulations (CCR) as described herein.

#### INFORMATIVE DIGEST

##### *A. Informative Digest*

The Board enforces the Respiratory Care Practice Act at Business and Professions Code (B&P) sections 3700-3779 and oversees approximately 24,000 licensed respiratory care practitioners.

SB 1436 (Chapter 624, Statutes of 2022) becomes effective January 1, 2023. B&P section 2860 of the Vocational Nursing Practice Act was amended to provide that licensed vocational nurses (LVNs) may not provide respiratory care services and treatment but may, after receiving training and demonstrating competency, and when directed by a physician and surgeon, perform basic respiratory tasks and services expressly identified by the Board pursuant to B&P section 3702.5.

<sup>1</sup> Unless otherwise specified, all sections refer to the Business and Professions Code.

B&P section 3702.5 grants the Board authority to adopt regulations to further define, interpret, or identify basic respiratory tasks and services that do not require a respiratory assessment and only require manual, technical skills, or data collection.

Article 6, Division 13.6, Title 16 of the CCR is titled “Scope of Practice” providing the appropriate placement of section 1399.365, the subject of this proposal.

**Problem being addressed:**

The need to further define, interpret or identify basic respiratory tasks and services as provided in subdivision (a) of section 3702.5.

**Specifically, the Board proposes to:**

Adopt 16 CCR 1399.365 to list basic respiratory tasks and services. This new section identifies the following seven basic respiratory tasks and services that do not require a respiratory assessment and only require manual, technical skills or data collection:

- 1) Data collection.
- 2) Application and monitoring of the pulse oximeter.
- 3) Medication administration by aerosol that does not require manipulation of an invasive or non-invasive mechanical ventilator.
- 4) Heat moisture exchanger (HME) and oxygen tank replacement for patients who are using non-invasive mechanical ventilation.
- 5) Hygiene care including replacement of tracheostomy tie and gauze and cleaning of the stoma site.
- 6) Use of a manual resuscitation device and other cardio-pulmonary resuscitation technical skills (basic life support level) in the event of an emergency.
- 7) Appropriate documentation of care provided.

**B. Policy Statement Overview/Anticipated Benefits of Proposal**

The Board’s highest priority is protection of the public in exercising its licensing, regulatory, and disciplinary functions. The Board is mandated to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. To continue performing these functions in support of its mandate, the Board must identify respiratory tasks and services that may be safely performed by LVNs or other properly trained health care personnel to reflect the underlying statutory requirements and to meet the most up-to-date standards and practices.

To that end, this proposal adds 16 CCR 1399.365 to define, interpret or identify basic respiratory tasks and services as provided in subdivision (a) of section 3702.5 of the B&P. Identifying these tasks will increase consumer protection by ensuring only qualified personnel are providing respiratory care beyond services that only require manual, technical skills or data

collection. In addition, all stakeholders (i.e., health-care practitioners, facilities, employers, and patients) will have a clear understanding of which respiratory tasks and services may be performed by LVNs.

This regulation will promote better health care planning and delivery, as well as protection for patients in need of respiratory care.

*C. Consistency and Compatibility with Existing State Regulations*

During the process of developing these regulations, the Board 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.

**BUSINESS REPORTING REQUIREMENTS**

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

**FISCAL IMPACT ESTIMATES**

*Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:* The regulations do not result in a fiscal impact to the state. The proposed amendments identify basic respiratory tasks and services. As a result, the Board does not anticipate an increase in workload or costs.

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

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

*Effect on Housing Costs:* None.

**EFFECT ON SMALL BUSINESS**

The Board has determined the proposed regulations are not anticipated to affect small businesses operating in the state because existing law provides that only respiratory care practitioners or other health care personnel may practice respiratory care within the scope of practice of each profession.



**RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS**

*Impact on Jobs/Businesses:*

The Board has determined that this regulatory proposal will not have any 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 Board has determined that this regulatory proposal will have the following benefits to worker safety and the state's environment: None. This proposal will benefit California residents' health, safety, and welfare because it will ensure LVNs are only performing those basic respiratory tasks and services for which they are trained and competency tested to perform. Patients requiring more advanced levels of respiratory care beyond basic tasks and services will receive such care from qualified health care personnel

**CONSIDERATION OF ALTERNATIVES**

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at 3750 Rosin Court, Suite 100, Sacramento CA 95834 and/or present such statements or arguments orally or in writing at any scheduled hearing.

**INITIAL STATEMENT OF  
REASONS AND INFORMATION**

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

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at any scheduled hearing or prior to any hearing upon request from the Board at 3750 Rosin Court, Suite 100, Sacramento, CA 95834.

**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: Stephanie Nunez  
Address: Respiratory Care Board  
3750 Rosin Court, Suite 100  
Sacramento, CA 95834  
Telephone No: (916) 999-2190  
E-mail: [rcbinfo@dca.ca.gov](mailto:rcbinfo@dca.ca.gov)

The backup contact person is:

Name: Christine Molina  
Address: Respiratory Care Board  
3750 Rosin Court, Suite 100  
Sacramento, CA 95834  
Telephone No: (916) 999-2190  
E-mail: [rcbinfo@dca.ca.gov](mailto:rcbinfo@dca.ca.gov)

Website Access: Materials regarding this proposal can be found at: <https://rcb.ca.gov/enforcement/lawsregs.shtml>

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

**SPEECH-LANGUAGE PATHOLOGY  
ASSISTANT SUPERVISION  
REQUIREMENTS**

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

**PUBLIC HEARING**

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hear-



ing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

#### WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than Tuesday, December 27, 2022**, or must be received by the Board at the hearing, should one be scheduled.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2531.95 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 2538.1, the Board is considering amending sections 1399.170, 1399.170.2, 1399.170.15, 1399.170.16, 1399.170.17, and 1399.170.18 of title 16 of the California Code of Regulations (CCR).<sup>1</sup>

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Speech–Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is a state agency vested with the authority to license, regulate, and discipline within the practices of speech–language pathology, audiology, and hearing aid dispensing in accordance with BPC sections 2530.1 and 2531.02. The Board’s mandate and mission is to protect the public by regulating approximately 35,000 licensed speech–language pathologists, speech–language pathology assistants, speech–language pathology aides, audiologists, dispensing audiologists, audiology aides, hearing aid dispensers, hearing aid dispenser trainees, and temporary hearing aid dispenser licensees. To protect the public, the Board has set standards and requirements for support personnel used by speech–language pathologists (BPC sections 2530.6 and 2538.1.)

Existing law, under BPC section 2531.95, authorizes the Board to adopt or repeal regulations that may be necessary to execute any provisions of the Speech–Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act. The Board intends to use this authority to amend regulations on standards and requirements for supervision of Speech–Language Pathology Assistants (SLPAs) in CCR sec-

tions 1399.170, 1399.170.2, 1399.170.15, 1399.170.16, 1399.170.17, and 1399.170.18.

There is no existing federal regulation or statute comparable to these proposed regulations.

The SLPA license was first established in 1999 under Assembly Bill 205 (Machado, Chapter 1058, Statutes of 1998) which required the Board to adopt regulations to set SLPA standards and requirements. The Board promulgated regulations in 2001 and has made no major revisions to those regulations since that time.

This proposed regulation is necessary to allow for additional support personnel and greater flexibility in supervising them while ensuring support personnel who are SLPAs are adequately trained and supervised. The current supervision requirements are inadequate to meet the needs of the public receiving services through electronic means or in settings such as schools, medical or community–based facilities, and private practices. Support personnel are crucial because they help relieve speech–language pathologist (SLP) from routine services allowing them to focus on advanced services in the areas of speech, language, swallowing, and voice disorders.

The following is a summary of the proposed changes the Board seeks to make:

#### ***Amend section 1399.170 of Article 12 of Division 13.4 of the CCR***

This section is amended to permit supervision through electronic means, or tele supervision. These changes will enhance public access to care through a convenient option while increasing the opportunity for SLPs to focus on providing advanced services in the areas of speech, language, swallowing, and voice disorders, and not on routine services, which can otherwise be performed by a SLPA.

#### ***Amend section 1399.170.2 of Article 12 of Division 13.4 of the CCR***

This section is amended to permit a higher level of supervision during the first ninety (90) days of work following initial licensure. These changes will enhance the Board’s mission to protect the public by ensuring adequate supervision for newly licensed SLPAs.

#### ***Amend section 1399.170.15 of Article 12 of Division 13.4 of the CCR***

This section is amended to align with other changes being proposed, replace an existing form with a new form, require supervisors to maintain a current, active and unrestricted California license, have experience in their profession before supervising a SLPA, and reduce the required supervision continuing professional development hours after beginning supervision. Amendments to this section require a supervisor to provide immediate supervision at least twenty percent per week of a SLPAs work schedule for the first ninety

<sup>1</sup> All CCR references are to Title 16 unless otherwise noted.

days following initial licensure, and to document that supervision in the SLPA's personnel file. Additional amendments require the supervisor to review the SLPA laws and regulations with their SLPA supervisee(s), to notify the Board by submitting a form within 30 days of the commencement of supervision, and to provide a completed copy of that form to their SLPA supervisee within forty-five days of the commencement of supervision. These changes will enhance the Board's mission to protect the public by ensuring SLPAs are adequately trained and supervised by experienced supervisors.

***Amend section 1399.170.16 of Article 12 of Division 13.4 of the CCR***

This section is amended to increase the number of allowable support personnel and to provide supervisors with the flexibility to configure their support personnel as they wish and need. These changes will enhance public access to care by increasing the opportunity for SLPs to focus on providing advanced services in the areas of speech, language, swallowing, and voice disorders, and not on routine services, which can otherwise be performed by their support personnel.

***Amend section 1399.170.17 of Article 12 of Division 13.4 of the CCR***

This section is amended to eliminate gendered pronouns and incorporate a gender-neutral term. This is a change without regulatory effect because the amendments are grammatical in nature. Changing gendered terms to gender-neutral terms aligns with similar efforts to updated regulations throughout the state

***Amend section 1399.170.18 of Article 12 of Division 13.4 of the CCR***

This section is amended to require SLPA supervisors to provide a copy of the supervision termination form to their SLPA within forty-five days of the termination of supervision. This change will enhance transparency and accountability between the supervisor and SLPA.

***Form Incorporated by Reference  
"Responsibility Statement for Supervision  
of a Speech-Language Pathology Assistant"  
(77S-60, Rev. 5/22) in section 1399.170.15(c)***

The incorporated form is out of date and will be replaced with a new form, which will be incorporated by reference in section 1399.170.15(c). Supervisors use this form to attest that they know and understand their duties and responsibilities. These changes will enhance the Board's mission to protect the public by providing the Board with a reasonable method to increase the likelihood that all SLPAs are adequately supervised.

**Anticipated Benefits of Proposal**

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents:

The proposed regulatory action, by broadening SLPA supervision requirements, may increase access to advanced services as SLPs are relieved from routine services that can be performed by a SLPA. The public will also benefit from the higher level of supervision during the SLPA's initial licensure and more convenient access to care through electronic means.

**Evaluation of Consistency and Compatibility with Existing State Regulations**

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

**INCORPORATION BY REFERENCE:**

Responsibility Statement for Supervisors of a Speech-Language Pathology Assistant (77S-60, Rev. 5/22)

**DISCLOSURES REGARDING  
THIS PROPOSED ACTION**

**Local Mandate or Cost to any Local Agency or School District for which Government Code Sections 17500-17630 Require Reimbursement:** 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:**

The Board anticipates approximately 6,700 SLPA supervision forms will be submitted in year one of implementation with modest growth annually thereafter. Each SLPA supervision form will take approximately 5 minutes to process at an estimated cost of \$4.50 each.

The Board estimates increased workload and costs ranging from approximately \$30,000 to \$82,000 per year and up to \$522,000 over a ten-year period.

The Board indicates any additional workload and costs will be absorbed within existing resources, but the Board may need to request additional resources through the annual budget process in the future.

The Board notes, the SLPA supervisor form was updated within normal business operations and did not result in increased workload or costs.

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

**Nondiscretionary Costs/Savings to Local Agencies:** None.

**Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard):** None.

#### BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses or jobs, including ability to compete. Rather, this proposed regulatory action broadening the SLPA supervision requirements will allow for additional support personnel and the greater flexibility in supervising them while ensuring support personnel who are SLPAs are adequately trained and supervised. Finally, this broadening of supervisory standards will provide greater access to care for consumers.

The Board anticipates over 23,000 SLPs and 5,000 SLPAs in various settings such as schools, medical or community-based facilities, and private practices will be impacted by this proposed regulatory action.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

##### **Impact on Jobs/Businesses**

The Board has determined that:

It may create new businesses or jobs within the State of California because the proposed regulatory action broadens SLPA supervision requirements and may increase the provision of care by electronic means and may enhance industry growth within the industries the Board regulates.

It will not eliminate existing businesses or jobs because the proposed regulatory action broadens SLPA supervision requirements and may increase the provision of care by electronic means and does not inhibit industry growth within the industries the Board regulates.

It may expand existing businesses within the state of because the proposed regulatory action broadens SLPA supervision requirements and may increase the provision of care by electronic means and may enhance industry growth within the industries the Board regulates.

##### **Benefits of Regulation:**

The Board anticipates potential benefits to the health and welfare of California residents because the public will experience increased access to advanced services as SLPs are relieved from performing routine services that can be performed by support personnel. The public will also benefit from the higher level of supervision during a SLPA's initial licensure and greater access to care through electronic means.

It will not affect worker safety because the proposed regulatory action broadens SLPA supervision requirements and does not concern or impact worker safety.

It will not affect the state's environment because the proposed regulatory action broadens SLPA supervision requirements and does not concern or impact the state's environment.

##### **Cost Impact on Representative Private Person or Business**

The Board notes that licensees are currently required to notify and register as SLPA supervisors, as specified. The proposed regulatory requirements, including submitting the SLPA supervision form is nominal and as such, the regulations are not anticipated to result in any substantial workload or costs to licensees.

##### **Business Reporting Requirements**

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

##### **Effect on Small Business**

The Board has made the initial determination that the proposed regulatory action will not have a significant adverse economic impact on small businesses. This initial determination is based on the Board broadening SLPA supervision requirements to allow for additional support personnel and greater flexibility to supervise support personnel while ensuring support personnel who are SLPAs are adequately trained and supervised, thereby allowing a potential increase in the provision of care to consumers by electronic means. The Board does not anticipate any costs to small businesses to comply with these regulations other than the specific nominal cost to a licensee who may also be a small business.

#### 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; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1601 Response Road, Suite 260 Sacramento, CA 95815 during the written comment period, or at the hearing if one is scheduled or requested.

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

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

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board, at 1601 Response Road, Suite 260 Sacramento, CA 95815.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments 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 Person named below or by accessing the website listed below.

**CONTACT PERSONS**

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

Name: Maria Liranzo; Legislation, Regulations, and Budget Analyst

Address: Speech–Language Pathology and Audiology and Hearing Aid Dispensers Board  
1601 Response Road, Suite 260 Sacramento, CA 95815

Telephone Number: (916) 905–5441

E–Mail Address:

[SpeechandHearingRegulations@dca.ca.gov](mailto:SpeechandHearingRegulations@dca.ca.gov)

The backup contact person is:

Name: Cherise Burns, Assistant Executive Officer  
Address: Speech–Language Pathology and

Audiology and Hearing Aid Dispensers Board  
1601 Response Road, Suite 260 Sacramento, CA 95815

Telephone Number: (916) 905–5454

E–Mail Address:

[SpeechandHearingRegulations@dca.ca.gov](mailto:SpeechandHearingRegulations@dca.ca.gov)

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board’s website at: [https://www.speechandhearing.ca.gov/board\\_activity/lawsregs/proposed\\_regulations.shtml](https://www.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml).

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

**SPEECH–LANGUAGE PATHOLOGY ASSISTANT PROGRAM AND ACADEMIC REQUIREMENTS**

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

**PUBLIC HEARING**

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

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

#### WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than Tuesday, December 27, 2022**, or must be received by the Board at the hearing, should one be scheduled.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2531.95 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 2538.1, the Board is considering amending sections 1399.170.4, 1399.170.10, and 1399.170.11 of title 16 of the California Code of Regulations (CCR).<sup>1</sup>

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is a state agency vested with the authority to license, regulate, and discipline within the practices of speech–language pathology, audiology, and hearing aid dispensing in accordance with BPC sections 2530.1 and 2531.02. The Board’s mandate and mission is to protect the public by regulating approximately 35,000 licensed speech–language pathologists, speech–language pathology assistants, speech–language pathology aides, audiologists, dispensing audiologists, audiology aides, hearing aid dispensers, hearing aid dispenser trainees, and temporary hearing aid dispenser licensees. In order to protect the public, Board adopts regulations to set speech–language pathology assistant (SLPA) standards and requirements (BPC section 2538.1).

Existing law, under BPC section 2531.95, authorizes the Board to adopt or repeal regulations that may be necessary to execute any provisions of the Speech–Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act. The Board intends to use this authority to amend regulations on standards and requirements for SLPAs in CCR sections 1399.170.4, 1399.170.10, and 1399.170.11.

There is no existing federal regulation or statute comparable to this proposed regulation.

The SLPA license was first established in 1999 under Assembly Bill 205 (Machado, Chapter 1058, Statutes of 1998) which required the Board to adopt regu-

lations to set standards and requirements. The Board promulgated regulations in 2001 and since has made no major revision to the SLPA regulations.

The following is a summary of the proposed changes the Board seeks to make:

#### ***Amend section 1399.170.4 of Article 12 of Division 13.4 of the CCR***

This section is amended to add requirements for program directors when SLPA programs apply to be a Board–approved program. Terms are defined to increase clarity in the newly added requirements. These changes will enhance the Board’s mission to protect the public by ensuring program directors are in good standing with the Board, experienced, and not a risk to the public when instructing or directing students entering the profession.

#### ***Amend section 1399.170.10 of Article 12 of Division 13.4 of the CCR***

This section is amended to increase the minimum number of field work hours, and to correct a missing comma and a misspelling. These changes will align with current educational and practice standards and enhance the Board’s mission to protect the public by ensuring individuals who wish to be a licensed SLPA are better trained prior to licensure.

#### ***Amend section 1399.170.11 of Article 12 of Division 13.4 of the CCR***

This section is amended to increase the minimum number of field work hours consistent with the changes above and reduce slightly the measure of equivalent work experience needed, consistent with the work experience requirements necessary to obtain other licenses. These changes will align with changes made to other regulation sections in this rulemaking and define terms similarly to how those terms are used in other parts of the regulations or the BPC.

#### **Anticipated Benefits of Proposal**

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents:

The proposed regulatory action may increase public safety as individuals who wish to be a licensed SLPA will be better trained prior to licensure, and Board–approved SLPA programs will be directed by program directors who are in good standing with the Board, experienced, and not a risk to the public when instructing or directing students entering the profession.

#### **Evaluation of Consistency and Compatibility with Existing State Regulations**

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

<sup>1</sup> All CCR references are to Title 16 unless otherwise noted.

INCORPORATION BY REFERENCE

None.

DISCLOSURES REGARDING THIS  
PROPOSED ACTION

**Cost to any Local Agency or School District for which Government Code Sections 17500–17630 Require Reimbursement:** 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:**

The regulations do not result in a fiscal impact to the state. The regulations are not anticipated to result in increased workload or costs to review and approve SLPA training programs.

The Board notes that every SLPA program currently approved by the Board is in compliance with the proposed regulations and will not need to be re-evaluated due to the regulations.

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

**Nondiscretionary Costs/Savings to Local Agencies:** None.

**Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard):** None.

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the Board has merely eight (8) Board-approved SLPA programs, which are already in compliance with the proposed regulatory experience standard.

RESULTS OF ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS

**Impact on Jobs/Businesses**

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

It will not create new businesses or jobs within the State of California because the proposed regulatory action is related to licensing requirements, and does not enhance or inhibit industry growth within the industries the Board regulates.

It will not eliminate existing businesses or jobs because the proposed regulatory action is related to licensing requirements, and does not enhance or inhibit industry growth within the industries the Board regulates.

It will not affect the expansion of businesses within the State of California because the proposed regulatory action is related to licensing requirements, and does not enhance or inhibit industry growth within the industries the Board regulates.

**Benefits of Regulation:**

The Board anticipates an increase in public safety as individuals who wish to be a licensed SLPA will be adequately trained prior to licensure, and Board-approved SLPA programs will be directed by program directors who are in good standing with the Board, experienced, and not a risk to the public when instructing or directing students entering the profession.

It will not affect worker safety or the state's environment because the proposed regulatory action is related to licensing requirements and does not concern or impact worker safety or the State's environment.

**Cost Impact on Representative Private Person or Business**

Businesses may have to change their curriculum and/or program director to meet the new requirements. However, these changes can be implemented within normal business operations and 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.

**Business Reporting Requirements**

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

**Effect on Small Business**

The Board has made the initial determination that the proposed regulatory action will not have a significant adverse economic impact on small businesses. This initial determination is based on the fact that the Board has merely eight (8) Board-approved SLPA programs, which are already in compliance with the proposed regulatory experience standard.

Additionally because all Board-approved SPLA programs are at public community colleges, the Board does not anticipate any small businesses being impacted by the need to comply with this regulation over its lifetime.

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 car-



rying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1601 Response Road, Suite 260 Sacramento, CA 95815 during the written comment period, or at the hearing if one is scheduled or requested.

#### AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, 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 made to the contact persons named in this notice.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board, at 1601 Response Road, Suite 260 Sacramento, CA 95815.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

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

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

#### CONTACT PERSONS

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

Name: Maria Liranzo; Legislation, Regulations, and Budget Analyst  
Address: Speech–Language Pathology and Audiology and Hearing Aid Dispensers Board  
1601 Response Road, Suite 260  
Sacramento, CA 95815  
Telephone Number: (916) 905–5441  
E–Mail Address:  
[SpeechandHearingRegulations@dca.ca.gov](mailto:SpeechandHearingRegulations@dca.ca.gov)

The backup contact person is:

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

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with amendments noted, as well as modified text, if any, and the Final Statement of Reasons when completed, can be accessed through the Board's website at [https://www.speechandhearing.ca.gov/board\\_activity/lawsregs/proposed\\_regulations.shtml](https://www.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml)

**TITLE 20. ENERGY COMMISSION**

2022 APPLIANCE EFFICIENCY  
RULEMAKING FOR REPEAL OF  
PORTABLE LUMINAIRES REGULATIONS

DOCKET NUMBER 22-AAER-02

INTRODUCTION

Notice is hereby given that the California Energy Commission (CEC) proposes to repeal the existing regulations for portable luminaires in the California Code of Regulations (CCR) Title 20 (“the Proposed Action”), after considering all comments, objections, and recommendations, regarding the Proposed Action.

PUBLIC HEARING

The CEC staff will hold a public hearing for the proposed regulatory changes at the date and time listed below. Interested persons, or their authorized representative, may present statements, arguments, or contentions relevant to the proposed regulatory changes at the public hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

**Tuesday January 10, 2023**  
10:00 a.m. (Pacific Time)

The public hearing will be held remotely to improve and enhance public access to meetings allowing broader access through teleconferencing options. Instructions for remote participation for the public hearing are below.

BUSINESS MEETING

**PLEASE TAKE NOTICE** that the CEC will consider and possibly adopt the proposed regulatory changes at a CEC Business Meeting at the date and time listed below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulatory changes at the business meeting. If the date, time, place, or nature of the proposed adoption changes, the CEC will provide updated information in the rulemaking docket.

California Energy Commission  
Business Meeting  
**Wednesday, February 15, 2023**  
10:00 a.m. (Pacific Time)

Pursuant to CCR Title 20, section 1104(e), any person may make oral comment on any agenda item at

the Business Meeting. Please consult the public agenda, which will be posted ten days before the Business Meeting, for important details.

REMOTE ATTENDANCE

The public hearing may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Office of the Public Advisor, Energy Equity and Tribal Affairs at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov) or by phone at (916) 654-4489 or toll free at (800) 822-6228.

Link: <https://energy.zoom.us/j/97494919182?pwd=NFpnbUJoczRXZlY3FGTWNXNGtEcFRoZz09>  
Webinar ID: 974 9491 9182  
Passcode: 416075

To participate by telephone dial (213) 338-8477 or (888) 475-4499 (toll free). When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the telephone, dial \*9 to “raise your hand” and \*6 to mute/unmute your phone line.

PUBLIC ADVISOR

The CEC’s Office of the Public Advisor, Energy Equity and Tribal Affairs provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Office of the Public Advisor, Energy Equity and Tribal Affairs via email or phone.

NEWS MEDIA INQUIRIES

Direct media inquiries to the Media and Public Communications Office to (916) 654-4989 or by email at [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

PUBLIC COMMENT PERIOD

The written public comment period for the proposed repeal of portable luminaires regulations will be held from **November 11, 2022, through December 27, 2022**. Any interested person, or their authorized representative, may submit written comments to the CEC for consideration on or prior to **December 27, 2022**. The CEC appreciates receiving written comments at

the earliest possible date. Comments submitted outside this comment period are considered untimely. The CEC may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-13> which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with Title 20, CCR, section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 22-AAER-02 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit  
Docket Number 22-AAER-02  
715 P Street, MS-4  
Sacramento, CA 95814

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

To ensure you receive notice of any changes to the proposed regulatory changes in this proceeding, please follow the instructions provided at the end of this notice to join the proceeding email subscriber list or provide a valid email or mailing address with your comments.

#### STATUTORY AUTHORITY AND REFERENCE

Public Resources Code sections 25213, 25218(e), and 25402(a)–(c) authorize the CEC to adopt rules or regulations, as necessary, to implement Public Resources Code section 25402(c).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Warren–Alquist Act establishes the CEC as California’s primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(c) of the

Public Resources Code mandate and/or authorize that the CEC adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances whose use requires a significant amount of energy or water statewide.

One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations, Title 20, sections 1601–1609, which contain definitions, test procedures, efficiency standards, and marking and certification requirements for state and federally regulated appliances. Further, the regulations require that appliance manufacturers certify to the CEC that their products meet all applicable state and Federal appliance efficiency regulations before their products can be included in the CEC’s Modernized Appliance Efficiency Database System (MAEDbS) of appliances approved to be sold or offered for sale within California.

On December 3, 2008, the CEC adopted changes to Appliance Efficiency Regulations (CCR, Title 20, sections 1601 through 1609) to include new efficiency regulations for portable luminaires. These regulations included definitions, testing requirements, certification requirements, and energy performance standards for portable luminaires. In addition, portable luminaires were required to comply with the general marking requirements that are applicable to all regulated appliances.

On December 9, 2020, the CEC adopted a rulemaking which included several amendments to the Appliance Efficiency Regulations. One of the adopted changes was the removal of the minimum lumen output performance requirement for portable luminaires. No other requirements or information related to portable luminaires were changed as part of this rulemaking.

The CEC is now proposing to completely remove the portable luminaires appliance type from the Appliance Efficiency Regulations. The existing performance standards have become redundant. The original energy saving goals of the performance standards are now accomplished through more recent regulations regarding other lighting products. The lighting market has transformed in such a way that portable luminaires being sold in California will be energy efficient even without the portable luminaires regulations in place.

#### **Difference from existing comparable Federal regulation or statute**

The CEC has determined that there are no existing comparable Federal regulations or statutes.

#### **Broad objectives of the regulatory changes and the specific benefits anticipated by the proposed amendments**

The broad objective of the regulatory changes is to repeal portable luminaires as a regulated appliance type in the Title 20 Appliance Efficiency Regulations.

The intended goals of the portable luminaires performance standards are now accomplished through the more recent lighting regulations in the Title 20 Appliance Efficiency Regulations. Removal of the portable luminaires requirements would have no impact to the energy performance of these products. These products are now energy efficient due to the existing lighting market in California.

The specific benefits of repealing the portable luminaires regulations will be to eliminate redundant and outdated requirements thereby enhancing the clarity and regulatory certainty of the regulations.

**Determination of inconsistency or incompatibility with existing state regulations**

The CEC has conducted an evaluation and determined that the proposed repeal of the portable luminaires regulations would not prevent compliance with existing state regulations and are neither inconsistent nor incompatible with any other existing state regulations.

**DOCUMENTS INCORPORATED BY REFERENCE**

None.

**MANDATED BY FEDERAL LAW OR REGULATIONS**

None.

**OTHER STATUTORY REQUIREMENTS**

None.

**FISCAL IMPACTS**

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq.: None.
- Cost or savings to any state agency: None.
- Non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in Federal funding to the state: None.

**SIGNIFICANT EFFECT ON HOUSING COSTS**

None.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES**

The CEC has made an initial determination that the proposed regulatory changes will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The CEC is proposing to completely remove the portable luminaires appliance type from the Appliance Efficiency Regulations as the existing performance standards have become redundant. Because there will be no changes to portable luminaires on the market as a result of repealing the regulations, no impacts to businesses are expected.

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

The CEC concludes that: (1) the proposal will not create jobs within California, (2) the proposal will not eliminate jobs within California, (3) the proposal will not create new businesses in California, (4) the proposal will not eliminate existing businesses within California, and (5) the proposal will not result in the expansion of businesses currently doing business within the state.

The benefits of repealing the portable luminaires regulations will be to eliminate redundant and outdated requirements thereby enhancing the clarity and regulatory certainty of the regulations.

The proposed regulatory changes will not adversely impact the health and welfare of California residents, worker safety, or the state’s environment.

**COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

The CEC is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the Proposed Action.

Because there will be no changes to portable luminaires on the market as a result of repealing the regulations, no impacts to businesses or representative persons are expected.

**BUSINESS REPORT**

The proposed regulatory changes do not impose a new reporting requirement for businesses.

EFFECT ON SMALL BUSINESS

The proposed regulatory changes will not affect small business as there will be no changes to portable luminaries on the market as a result of repealing the regulations.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Questions should be addressed to:

Corrine Fishman, Regulations Manager  
Efficiency Division  
715 P Street  
Sacramento, CA 95814  
(916) 805-7452

Carlos Baez  
Efficiency Division  
715 P Street  
Sacramento, CA 95814  
(916) 805-7465

COPIES OF THE INITIAL STATEMENT OF REASONS (ISOR), THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, and the ISOR. Copies may be obtained by contacting Corrine Fishman above or accessed through the CEC's website at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-13>.

AVAILABILITY OF CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulatory changes could be changed as a result of public comment, staff recommendation, or recommendations from CEC Commissioners. Moreover, changes to the Proposed Action not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the Proposed Action pursuant to Government Code section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by contacting the person above or by visiting the CEC's website at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-13>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking have been posted at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-13>.

INSTRUCTIONS FOR RECEIVING NOTICES AND DOCUMENTS IN THIS PROCEEDING

To stay informed about this project and receive documents and notices of upcoming workshops and hearings as they are filed please subscribe to the proceeding subscription service at the following link: <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-13>.

The subscription service sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable or do not wish to sign up for the subscription service but still would like to receive documents and notices, please con-



tact the contact Corrine Fishman at [corrine.fishman@energy.ca.gov](mailto:corrine.fishman@energy.ca.gov).

**TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES**

ORD #0921-02

**ITEM # CALWORKS EXEMPTIONS OF AWARDS/SCHOLARSHIPS, DECENNIAL CENSUS INCOME AND CLEANUP REGULATORY AMENDMENTS**

The California Department of Social Services (hereafter known as the Department) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services  
Office of Regulations Development  
744 P. Street, MS 8-4-192  
Sacramento, CA 95814  
Tel: (916) 657-2856, Fax: (916) 653-7395  
Email: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

Statements or arguments relating to the proposals may be submitted in writing, e-mail, or by facsimile to the address/number listed above. All comments must be received by 12/26/2022.

Following the public comment period, the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed above. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at *CDSS Public Comment Period for Proposed Regulations* (<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/regulations-home-page/>

[regulations-in-process](#)). Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed above. Following the public comment period, copies of the Final Statement of Reasons will be available at the above address

CHAPTERS

California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards Manual, Sections 44-101 (Income Definitions); 44-103 (Exploration of Income Potentials and Income Verification); 44-111 (Payments Excluded or Exempt from Consideration as Income); 44-113 (Net Income); 44-115 (Evaluation of Income In-Kind); 44-133 (Treatment of Income — CalWORKs); and 82-610 (Potentially Available Income).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed regulations amend provisions and adopt new language in the Department's Manual of Policies and Procedures (MPP) that regulate the California Work Opportunity and Responsibility to Kids (CalWORKs) Program. These changes are the result of Assembly Bill (AB) 807 (Chapter 440, Statutes of 2019) and AB 1004 (Chapter 99, Statutes of 2021), which became effective October 2, 2019 and January 1, 2021 respectively. The proposed regulations implement the following by referring to the statutes and noting that updates are published by the Department through All County Letter (ACL) 19-106 and ACL 21-99:

- Exemption for awards and scholarships provided by a public or private entity to, or on behalf of, a dependent child.
- Exemption for census-related income or stipend earned during the year preceding a decennial census and during the year of the decennial census; and
- Effective January 1, 2021, exemption for census related income or stipend regards of when it is earned.

AB 807 makes the following changes to the CalWORKs program: (1) any awards and scholarships provided by a private or public entity to, or on behalf of, a dependent child shall be exempt and (2) any income or stipend paid by the United States Census Bureau, a governmental entity, or a nonprofit organization for temporary work related to improving participation in the decennial census that is earned during the year preceding a decennial census and during the year of



the decennial census is exempt as income for both eligibility and grant determinations. AB 1004 amends any income or stipend paid by the United States Census Bureau, a governmental entity, or a nonprofit organization for temporary work related to improving participation in the decennial census regardless of the year of the decennial census is exempt as income for both eligibility and grant determinations. In addition, the regulations will include substantial cleanup edits.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state’s environment are as follows: The adopted regulations are expected to increase CalWORKs recipients’ financial independence and provide a positive impact to the state economy. There are no additional benefits for a worker safety or the state’s environment since the regulations only impact CalWORKs applicants and recipients.

The Department conducted a review of existing regulations and evaluated the proposed regulations for any inconsistency or incompatibility. The Department found that these are the only regulations concerning the income exemptions in CalWORKs. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations but do fulfill the intent of the Legislature in enacting AB 807 and AB 1004.

**COST ESTIMATE**

(Provided by Fiscal Forecasting  
and Policy Branch)

1. Costs or Savings to State Agencies: No Fiscal Impact.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630: No Fiscal Impact.
3. Nondiscretionary Costs or Savings to Local Agencies: No Fiscal Impact.
4. Federal Funding to State Agencies: No Fiscal Impact.

**LOCAL MANDATE STATEMENT**

These regulations do impose a mandate upon local agencies, but not on school districts. There are no “state–mandated local costs” in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

**STATEMENT OF SIGNIFICANT ADVERSE  
ECONOMIC IMPACT ON BUSINESS**

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the proposed regulatory action which was designed to impact only the CalWORKs population to aid and strengthen needy families towards achieving economic self–sufficiency.

**STATEMENT OF POTENTIAL COST IMPACT  
ON PRIVATE PERSONS OR BUSINESSES**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This determination was made based on the proposed regulatory action, which is designed to impact only the CalWORKs population in order to aid and strengthen needy families and there are no known expected costs associated to the individuals.

**SMALL BUSINESS IMPACT STATEMENT**

The CDSS has made an initial determination that there is no impact on small business by being in compliance with the proposed action because these regulations are only applicable to state and county agencies and CalWORKs program recipients. Therefore, they do not have a cost impact on small businesses.

**STATEMENT OF RESULTS OF ECONOMIC  
IMPACT ASSESSMENT**

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The implementation of this regulatory action will benefit CalWORKs applicants and recipients. There are no additional benefits for worker safety or the state’s environment, as the regulations only affect individuals receiving or applying for CalWORKs benefits.

**STATEMENT OF EFFECT  
ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF  
ALTERNATIVES CONSIDERED

In developing the regulatory action, the Department did not consider alternatives because there were no other alternatives proposed.

The department must determine that no reasonable alternative have been considered or has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as 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.

AUTHORITY AND REFERENCE CITATIONS

The Department adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Section 11157 of the Welfare and Institutions Code, as amended by AB 807 and AB 1004.

DEPARTMENT REPRESENTATIVE  
REGARDING THE RULEMAKING PROCESS  
OF THE PROPOSED REGULATION

Contact Person: Tyler Penn (916) 657-2586  
Backup: Oliver Chu (916) 657-2586

**TITLE 22. DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL**

AMENDMENTS TO THE  
NONADMITTED CARRIER  
REQUIREMENTS FOR EXCESS  
AND SURPLUS LINE  
INSURANCE DEPARTMENT OF  
TOXIC SUBSTANCES CONTROL  
REFERENCE NUMBER: R-2020-04

**NOTICE IS HEREBY GIVEN** that the Department of Toxic Substances Control (DTSC) proposes to amend California Code of Regulations, Title 22, sections 66264.143(e)(1)(B), 66264.145(e)(1)(B), 66264.147(a)(1)(A)2, 66264.147(b)(1)(A) 2, 66265.143(d)(1)(B), 66265.145(d)(1)(B), 66265.147(a)(1)(A)2, and 66265.147(b)(1)2, and the wording of instruments in sections 66264.151(e), 66264.151(i), and 66264.151(j).

WRITTEN COMMENT PERIOD

Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard-copy formats. Written comments may be submitted electronically to the DTSC regulations email address at [regs@dtsc.ca.gov](mailto:regs@dtsc.ca.gov). Please direct hard-copy written comments to the Office of Legislation and Regulatory Review, as specified below.

The written comment period will close on December 26, 2022. Only comments received at the DTSC office on or before that date will be considered. Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard copy formats. DTSC will only consider comments received on or before this date.

**Notice Pertaining to Accessibility and Reasonable Accommodation**

All documents related to these regulations can be made available in an alternate format (i.e., Braille, large print, etc.) or in another language, as requested, in accordance with State and Federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability-related reasonable accommodations and/or translator/interpreter needs, upon request. For assistance, please contact the Office of Legislation and Regulatory Review below as soon as possible, no later than 10 business days prior to the end of the comment period.

Office of Legislation and Regulatory Review  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806  
Fax Number: (916) 324-1808  
Phone Number: (916) 322-4563  
TTY/TDD/Speech-to-Speech users may dial  
7-1-1 for the California Relay Service.

PUBLIC HEARING

DTSC has not scheduled a public hearing for this proposed rulemaking. However, any interested person or his or her duly authorized representative may request a public hearing no later than 15 days prior to the close of the written comment period. Submit a written request for a public hearing to the Office of Legislation and Regulatory Review as specified above.

AUTHORITY & REFERENCE

**Authority**

These regulations are being adopted under Health and Safety Code section 25245.

**Reference**

These regulations implement, interpret, or make specific Health and Safety Code sections 25200.21, 25245, and 25245.4

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

**Background and Effect of the Proposed Regulatory Action**

According to existing regulations, owners or operators of hazardous waste facilities can obtain excess or surplus line insurance coverage from an admitted carrier as a form of financial assurance. Insurance coverage can be obtained through a licensed insurance carrier in California or through a nonadmitted carrier. A nonadmitted insurance carrier is eligible to provide insurance as an excess or surplus line insurer to hazardous waste facilities if the carrier is listed on the List of Approved Surplus Line Insurers (LASLI) prepared by the California Department of Insurance (CDI). Additionally, the excess or surplus line insurance is required to be placed by and through an excess or surplus line insurance broker currently licensed by CDI.

The current regulations, however, are inconsistent with federal law. The federal Nonadmitted and Reinsurance Reform Act (NRRRA) of 2010 modified the eligibility of nonadmitted insurers to provide insurance. States are required to allow nonadmitted insurers that are domiciled outside of the United States to provide insurance if the carrier is listed on the National Association of Insurance Commissioners' (NAIC) International Insurers Department Quarterly Listing of Alien Insurers (IID List) and is a licensed insurer in their domiciliary jurisdiction.

The proposed amendments change the requirement to allow any nonadmitted carrier licensed as an insurer in its domiciliary jurisdiction to issue excess or surplus line insurance to hazardous waste facilities in California if the carrier is listed on either the LASLI or the National Association of Insurance Commissioners' (NAIC) International Insurers Department Quarterly Listing of Alien Insurers (IID List) and is a licensed insurer in their domiciliary jurisdiction. In addition, the proposed amendments would no longer require the excess or surplus line insurance placed with a nonadmitted carrier to be placed by and through an excess or surplus line broker licensed by CDI.

Not only would the proposed amendments resolve the inconsistency between DTSC's regulations and federal law, the standards of LASLI and those of IID are fundamentally the same and DTSC has concluded that either standard would continue to ensure that both the environment and taxpayer liability are sufficiently protected.

**Benefits of the Proposed Regulatory Action**

In addition to making DTSC's regulations consistent with federal law and thus reducing the potential for litigation and federal preemption, the amendments to the regulations would continue to ensure adequate protection for California's taxpayers and environment.

Requirements for inclusion on the LASLI and the IID List are fundamentally the same. Inclusion on either the LASLI or IID lists requires an insurer to retain minimum financial reserves, place funds in a United States Trust or qualified United States financial institution, and meet standards for financial stability, reputation, integrity, and ethics established by the CDI or NAIC.

Since the requirements for inclusion on the LASLI and the IID List are the same, DTSC has determined that providers of excess or surplus line insurers on either list would provide sufficient protections for those being insured in California.

**Existing Laws and Regulations**

The federal Dodd–Frank Wall Street Reform and Consumer Protection Act was signed into law by President Obama on July 21, 2010. Incorporated into the law is language addressing excess and surplus lines insurance, the Nonadmitted and Reinsurance Reform Act (NRRRA). To comply with the NRRRA, AB 315 (Chapter 83, Statutes of 2011) amended the California Insurance Code ("CIC") to conform to the nonadmitted insurer eligibility requirements. The California law includes changes to the duties, responsibilities, and licensure of surplus line brokers, taxation of surplus line insurance, and the eligibility of nonadmitted insurers to do business in this state. Specific to this proposed regulation, the law requires alien nonadmitted insurers to be listed on the NAIC's Quarterly List of Alien Insurers.

There are no other comparable California State laws and regulations.

**Comparable Federal Regulation or Statute**

The proposed amendment would not conflict with, or modify, any existing federal regulations. The corresponding section of federal regulations under 40 CFR, subchapter I, part 264, subpart H allow that, at a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus line insurer, in one or more States. California's regulations are stricter, in that the current regulations require an insurer to be an admitted carrier licensed to transact the business of insurance in California or an excess or surplus line insurer listed on the LASLI. California's regulations also require excess or surplus line insurance for closure, post–closure, corrective action or third–party liability obligations be placed by and through an excess or surplus line broker currently licensed by the CDI.

The proposed amendments would not conflict with, or modify, any federal law. Rather, it would align with, and make the proposed amendments consistent with, federal standards for surplus line eligibility under the federal Nonadmitted and Reinsurance Reform Act at 15 United States Code section 8204 by making non-admitted carriers listed on the IID list eligible to issue excess or surplus line insurance to hazardous waste facilities in California.

**DOCUMENTS RELIED ON**

This proposal relied on the following documents:

1. "LASLI Filing Requirements Guide for Surplus Line Insurers," May 5, 2021, available from the Corporate Affairs Bureau—Legal Division of the California Department of Insurance, 1901 Harrison Street, Oakland CA 94612.
2. "National Association of Insurance Commissioners International Insurers Department Plan of Operation," August 5, 2019, available from the International Insurers Department of the National Association of Insurance Commissioners, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106–2197
3. "DTSC Enforcement Advisory, Advisory Number 2019–01," November 18, 2019, available from the Department of Toxic Substances Control, 1001 I Street, Sacramento, CA 95814–2828
4. "National Association of Insurance Commissioners Quarterly Listing of Alien Insurers," October 1, 2021, available from the International Insurers Department of the National Association of Insurance Commissioners, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106–2197
5. "California Department of Insurance List of Approved Surplus Line Insurers," December 3, 2020, available from the Corporate Affairs Bureau—Legal Division of the California Department of Insurance, 1901 Harrison Street, Oakland, CA 94612

**OTHER APPLICABLE REQUIREMENTS  
PRESCRIBED BY STATUTE**

**California Environmental Quality Act (CEQA)  
Compliance**

DTSC has determined that this rulemaking project is exempt under CEQA (Public Resources Code section 21000, et seq.). This rulemaking meets the General Rule Exemption available under California Code of Regulations, Title 14, section 15061(b)(3). A draft Notice of Exemption is available for review with this

rulemaking file and will be filed with the State Clearinghouse when the regulations are adopted.

**Peer Review Compliance**

Under the provisions of Health and Safety Code section 57004, peer review is not required because the proposed regulations do not establish a regulatory level, standard, or other requirement subject to scientific peer review.

**LOCAL MANDATE**

DTSC has determined that adoption of these regulations will not impose a local mandate or result in costs subject to state reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

**FISCAL IMPACT ASSESSMENT**

**Costs or Savings to Any State Agency**

Revised certificates will be reviewed by DTSC staff which should on average take no longer than one hour per certificate to complete. This regulation change will affect all facilities that currently submit insurance as a financial mechanism covering closure, post-closure, corrective action, and third-party liability. It is a requirement that the wording of these insurance certificates be identical to the wording specified in California Code of Regulations, Title 22, sections 66264.151(e), 66264.151(i), and 66264.151(j).

It is estimated that an average cost of \$68 per facility for 136 facilities impacted will result in a total annual cost of \$9,248. Assumptions included in this calculation include:

- The state hourly rates are the fully loaded wage rate with the benefit loading multipliers.
- The wage rate is based on salaries, benefits, operating expenses, and equipment costs.
- The estimated time to complete is one hour. The hourly rate used will be the typical cost of \$68.
- The total number of businesses impacted is 136.

The per-year cost after the initial cost of \$9,248 in Year One is \$0 for the two subsequent fiscal years. There is no expected annual recurring cost to state government.

**Local Agencies Non-Discretionary Cost or Savings**

The regulation does not affect any local entity or program.

**School Districts**

DTSC has determined that the proposed regulations will not impose a cost to a local agency or school district that is required to be reimbursed pursuant to part 7 of division 4, commencing with section 17500, of the Government Code, or other nondiscretionary cost

or savings imposed on local agencies, and the cost or savings in federal funding to the state.

**Federal Funding to the State**

DTSC has determined that the proposed regulation does not affect any federally-funded State agency or program.

**ECONOMIC IMPACT ASSESSMENT**

DTSC has determined that the proposed regulatory action has no significant statewide adverse economic impact directly affecting business. In accordance with Government Code section 11346.3, subdivision (b), DTSC completed an economic impact assessment. The proposed action does not impose new or revised duties or burdens on businesses that handle hazardous waste or on insurers that provide insurance policies for hazardous waste facilities in California.

DTSC has determined that the proposed regulation amendments would not create jobs and new businesses, nor would they eliminate jobs and existing businesses. The proposed amendments to the regulations also would not create an expansion of jobs and businesses currently doing business within the state.

**Cost Impacts on Representative Private Persons or Businesses**

To achieve compliance with the proposed amendments to the regulations, DTSC anticipates updated and or revised insurance certificates, as referenced in California Code of Regulations, Title 22 sections 66264.151(e), 66264.151(i), and 66264.151(j), would need to be reviewed by DTSC. Private persons or businesses utilizing insurance as a financial assurance mechanism to cover their closure, post closure, corrective action, and third-party liability obligations would need to resubmit these documents to DTSC with the revised language.

DTSC expects private persons or businesses would incur only the cost related to payment of staff who will be coordinating the submission of these documents to DTSC. Revised and/or updated insurance certificates are commonly reprinted by the insurer for the insured at no cost up to a maximum of three separate times per year of coverage. DTSC anticipates no other cost impacts that representative private persons or businesses would necessarily incur in reasonable compliance with the proposed action. Per the economic impact assessment required by Government Code section 11346.3, DTSC has made a determination that no businesses or jobs will be created, expanded, or eliminated in California as a result of the proposed amendments to the regulations.

**Effect on Housing Costs**

DTSC has determined that the proposed regulation will have no significant effect on housing costs.

**CONSIDERATION OF ALTERNATIVES**

DTSC must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of DTSC, 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.

**CONTACT PERSONS**

Inquiries regarding technical aspects of the proposed regulation or CEQA documents may be directed to Kevin Montevideo of DTSC at (916) 926-9063 or, if unavailable, the Office of Legislation and Regulatory Review, as specified above. However, such oral inquiries are not part of the rulemaking record.

A public comment period for the rulemaking has been established commencing on November 11, 2022 and closing on December 26, 2022. Statements, arguments, or contentions regarding the rulemaking and/or supporting documents must be submitted in writing for them to be considered by DTSC before it adopts these regulations.

**AVAILABILITY OF TEXT OF PROPOSED REGULATIONS AND INITIAL STATEMENT OF REASONS**

Copies of the Notice of Proposed Action, Initial Statement of Reasons, all the information upon which the proposed regulations are based, and the express terms of the proposed regulations (also known as the proposed regulatory text) are posted to DTSC’s Internet website at <https://dtsc.ca.gov/regs/dtsc-proposed-regulations/>.

After the close of the comment period, DTSC may adopt the proposed regulations. If substantial, sufficiently related changes are made to the regulatory text, the modified full text (with the changes clearly indicated) will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulation(s), attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text if substantial, sufficiently related changes are made.

Once DTSC finalizes the regulatory text, DTSC will prepare a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments, and includes other materials. A copy of the Final Statement of Reasons will be posted on DTSC’s Internet site at <https://dtsc.ca.gov/regs/dtsc-proposed-regulations/>, along with the date the

rulemaking is filed with the Secretary of State and the effective date of the regulation.

**ALL OTHER QUESTIONS/COMMENTS/  
INQUIRIES/UPDATES**

Please direct all written comments, procedural inquiries, and requests for documents by mail, e-mail, or fax to the Office of Legislation and Regulatory Review, as specified above. To be included in this regulation package’s mailing list and to receive updates of this rulemaking, please visit <https://dtsc.ca.gov/dtsc-e-lists/> and subscribe to the applicable e-list or e-mail: [regs@dtsc.ca.gov](mailto:regs@dtsc.ca.gov).

**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.

Department of Social Services  
File # 2022-0921-04  
Annual Redeterminations AB79 2020

This certificate of compliance action by the Department of Social Services (Department) makes permanent the emergency changes made in OAL File Nos. 2021-1223-01EFP and 2022-0620-04EFP. In those actions, the Department amended Division 40 and Division 44 of the Manual of Policies and Procedures to update the annual CalWorks eligibility redetermination procedure to require the use of the SAWS 2 Plus/Statement of Facts, require recipients to provide information on income received during the 30 days prior to submission of the annual redetermination, and add additional personal contact options for county welfare departments to utilize when attempting to contact recipients regarding the annual redetermination.

Title MPP  
Amend: 40-103, 40-181, 44-113  
Filed 11/02/2022  
Effective 01/01/2023  
Agency Contact:  
Kenneth Jennings (916) 651-8862

State Allocation Board  
File # 2022-0916-02  
CA Preschool, TK and Full-Day Kindergarten  
Facilities Grant Program

This action makes permanent the emergency regulations promulgated in response to Assembly Bill 130 (Stats. 2021, ch. 44) that allow school districts that lack the facilities to provide full-day preschool, full-day transitional kindergarten (TK), and/or full-day kindergarten programs to apply for one-time grants to construct new school facilities and retrofit existing school facilities for full-day preschool, transitional kindergarten, and kindergarten programs.

Title 02  
Adopt: 1860.5.1, 1860.5.2  
Amend: 1860, 1860.2, 1860.3, 1860.4, 1860.5,  
1860.6, 1860.7, 1860.8, 1860.9, 1860.10,  
1860.10.1, 1860.10.2, 1860.10.3, 1860.11, 1860.12,  
1860.13, 1860.15, 1860.16, 1860.18, 1860.19,  
1860.20, 1860.21  
Filed 10/27/2022  
Effective 10/27/2022  
Agency Contact: Lisa Jones (279) 946-8459

Department of Resources Recycling and Recovery  
File # 2022-1021-01  
Processing Payments

This emergency action is a deemed emergency pursuant to Public Resources Code section 14536.1. The Department amends its regulation to change the reasonable financial return for recycling centers to ten percent of the statewide average allowable costs.

Title 14  
Amend: 2975  
Filed 10/31/2022  
Effective 10/31/2022  
Agency Contact: Kris Chisholm (916) 322-2404

Fish and Game Commission  
File # 2022-1021-02  
Use of Hoop Nets for the Recreational Take of Crab  
and Lobster

This emergency action amends hoop net regulations to (1) alter standards for hoop net use and design; (2) specify the existing two-hour hoop net service interval is applicable statewide; (3) state it is unlawful to abandon or leave out any hoop net beyond the service interval period and consequences; (4) clarify the geographic limits of hoop net limits; and (5) expand statewide surface buoy marking requirements.



Title 14  
 Amend: 29.80  
 Filed 10/31/2022  
 Effective 10/31/2022  
 Agency Contact:  
 Sherrie Fonbuena (916) 902-9284

Board of Education  
 File # 2022-0920-07  
 CAASPP and ELPAC

This action amends regulations governing the California Assessment of Student Performance and Progress (CAASPP) and the English Language Proficiency Assessments for California (ELPAC) to remove the regulatory listing of approved accessibility resources pursuant to Assembly Bill 130 (Chapter 44, Statutes of 2021) which exempts these accessibility resource assessment processes from the Administrative Procedure Act. This action also amends regulatory language pertaining to remote testing and other operational practices.

Title 05  
 Adopt: 11518.16  
 Amend: 850, 851.5, 853, 854.5, 854.9, 855, 857, 859, 863, 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.37, 11518.40, 11518.50, 11518.65  
 Repeal: 854.1, 854.2, 854.3, 854.4, 11518.35  
 Filed 10/31/2022  
 Effective 01/01/2023  
 Agency Contact: Lori Adame (916) 319-0860

Board of Forestry and Fire Protection  
 File # 2022-0915-02  
 Amendments to Notice Intent

This action by the Board of Forestry and Fire Protection requires disclosure of all proposed silvicultural methods within a notice of intent to harvest timber.

Title 14  
 Amend: 1032.7, 1092.04  
 Filed 10/27/2022  
 Effective 01/01/2023  
 Agency Contact:  
 Andrew Lawhorn (916) 628-8090

Commission on Peace Officer Standards and Training  
 File # 2022-0914-01  
 Update to Vehicle Pursuit Guidelines — Commission Regulation 1081

This regular rulemaking action by the Commission on Peace Officer Standards and Training updates the document incorporated by reference, California Law Enforcement Vehicle Pursuit Guidelines.

Title 11  
 Amend: 1081  
 Filed 10/26/2022  
 Effective 01/01/2023  
 Agency Contact: Larry Ellsworth (916) 202-3820

Department of Food and Agriculture  
 File # 2022-0921-02  
 Caribbean Fruit Fly Eradication Authority

The Department of Food and Agriculture submits this rulemaking to expand the Caribbean Fruit Fly Eradication Zone to Santa Clara County.

Title 03  
 Amend: 3591.11  
 Filed 10/31/2022  
 Effective 01/01/2023  
 Agency Contact: Rachel Avila (916) 403-6813

Department of Food and Agriculture  
 File # 2022-0921-03  
 Mexican Fruit Fly Interior Quarantine

This rulemaking action by the Department of Food and Agriculture revises regulations pertaining to the Mexican Fruit Fly Interior Quarantine and Eradication Area.

Title 03  
 Amend: 3417, 3588  
 Filed 10/26/2022  
 Effective 01/01/2023  
 Agency Contact: Rachel Avila (916) 403-6813

Department of Social Services  
 File # 2022-0920-08  
 Adoptions Regulations Package AB 1757, SB 1726, AB 848, etc.

This action expands the information adoption petitioners receive regarding fee structures set by law, expands and clarifies who may have a legal claim to a child, clarifies procedures and options for birth parents when relinquishing a child to an adoption agency, and clarifies circumstances in which an abbreviated assessment may be completed for prospective adoptive applicants.

Title 22, MPP  
 Amend: 35001, 35085, 35128, 35129, 35129.1, 35129.2, 35149, 35151, 35152.1, 35152.2, 35159, 35165, 35167, 35170, 35183, 35207, 35401  
 Filed 10/31/2022  
 Effective 01/01/2023  
 Agency Contact: Everardo Vaca (916) 657-2363

Office of Administrative Law  
File # 2022-0525-01  
Underground Regulations

In this action, the Office of Administrative Law (“OAL”) amends 1 CCR §§ 250, 260, 270, and 280 regarding underground regulations. The amendments clarify language, add definitions, specify service and delivery requirements for underground regulation paperwork, and detail the processes for propounding and responding to underground regulation petitions.

Title 01  
Amend: 250, 260, 270, 280  
Filed 10/31/2022  
Effective 01/01/2023  
Agency Contact: Amy Gowan (916) 323-6225

Office of Environmental Health Hazard Assessment  
File # 2022-0916-01  
Proposition 65 Clear and Reasonable Warnings  
Acrylamide

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 safe harbor warnings to address the content of warnings for exposure to acrylamide.

Title 27  
Amend: 25607.2  
Filed 10/26/2022  
Effective 01/01/2023  
Agency Contact: Monet Vela (916) 323-2517

State Water Resources Control Board  
File # 2022-0922-02  
Improvement and Clarification and Waste Discharge  
Prohibition Language

On February 18, 2022, the Central Coast Regional Water Quality Control Board adopted Resolution Number R3-2022-0001 amending the Water Quality Control Plan for the Central Coastal Basin by establishing additional prohibitions on specific unauthorized discharges in all waters of the State within the geographic boundaries of the Central Coast Region, revising the existing land disturbance prohibition, re-

moving existing exemptions for specific agricultural soil disturbance activities, and making non-substantive editorial changes. On June 7, 2022, the State Water Resources Control Board approved the Basin Plan amendment under Resolution Number 2022-0022.

Title 23  
Adopt: 3929.20  
Filed 11/02/2022  
Effective 11/02/2022  
Agency Contact: Mary Hamilton (805) 542-4768

Emergency Medical Services Authority  
File # 2022-1014-03  
Community Paramedicine/Alternate Destination

This regular resubmittal action adopts new regulations for Community Paramedicine and Triage to Alternate Destination programs, including requirements for minimum medical protocols, plan submission and review for either program or both, minimum standards for training and accreditation, as well as other necessary processes and procedures as authorized by Assembly Bill 1544 (Stats. 2020, ch. 138).

Title 22  
Adopt: 100181, 100182, 100183, 100184, 100185,  
100186, 100187, 100188, 100189, 100190,  
100191, 100192, 100193  
Filed 10/31/2022  
Effective 11/01/2022  
Agency Contact: Kent Gray (916) 384-1476

Fish and Game Commission  
File # 2022-1014-07  
Pink (Ocean) Shrimp Fishery Management Plan

In this regular rulemaking, the Fish and Game Commission is adopting and amending prawn and shrimp commercial trawling regulations to implement the Pink (Ocean) Shrimp, *Pandalus jordani*, Fishery Management Plan.

Title 14  
Adopt: 56.00, 56.01  
Amend: 120, 120.1, 705  
Filed 10/26/2022  
Effective 11/01/2022  
Agency Contact: Maurene Trotter (916) 653-4899

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

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

