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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Central California Alliance for Health

ADOPTION

MULTI-COUNTY: Springs Charter Schools

A written comment period has been established commencing on November 25, 2022 and closing on January 9, 2023. 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 January 9, 2023. 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 9. DEPARTMENT OF
REHABILITATION**

VOCATIONAL REHABILITATION
SERVICES APPLICATION

The California Department of Rehabilitation (hereinafter "Department") proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department will hold a virtual public hearing on this proposed action starting at 9:00 a.m. on January 13, 2023, via Zoom meeting. At the meeting, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board respectfully requests that any person who makes an oral comment also submit a written copy of their comment, as well.

WRITTEN COMMENT PERIOD

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

Department of Rehabilitation
Office of Legal Affairs and Regulations
Attention: Michele Welz, Regulations Analyst
721 Capitol Mall
Sacramento, California 95814

Comments may also be submitted by email to Legal@dor.ca.gov.

The written comment period closes at 5:00 p.m. on January 17, 2023. The Department will consider only comments received at the Department by that time. The Department respectfully requests that persons submitting comments include reference to the regulation section commented on. For example, "My comment is in relation to Section 7041."

AUTHORITY

Welfare and Institutions Code sections 19006 and 19016 authorize the Department to adopt these proposed regulations.

REFERENCE

The proposed regulations implement, interpret, and make specific the following federal and state laws and regulations: 29 United States Code sections 701, 705, 721, 722, 723, and 3151; 5 United States Code section 552a; 42 United States Code section 290dd-2; 34 Code of Federal Regulations sections 361.5, 361.36, 361.37, 361.38, 361.41, 361.42, 361.43, 361.44, 361.45, 361.46, 361.47, 361.48, 361.52, 361.53, 361.55, and 361.57; 42 Code of Federal Regulations sections 2.33, 2.51, 2.52, 2.61, and 2.63; Civil Code sections 1798 and 1798.14-1798.23; Welfare and Institutions Code sections 19011 and 19102.

INFORMATIVE DIGEST AND POLICY
STATEMENT OVERVIEW

This rulemaking action modifies how individuals apply for vocational rehabilitation services from the Department. The Department's current regulations allow individuals interested in vocational rehabilitation services to apply in one of three ways: (1) completing and signing a DR 222 Vocational Rehabilitation Services Application, (2) completing and signing a common intake application from the one-stop center requesting vocational rehabilitation services, or (3) otherwise requesting vocational rehabilitation services from the Department. With an increasingly technological population, many individuals are choosing to apply for vocational rehabilitation services via a newly developed online portal. However, regardless of how individuals apply for vocational rehabilitation services, the Department's current regulations require every individual to complete and sign a DR 222 Vocational Rehabilitation Services Application even if they did not utilize that method of application. This rulemaking action deletes this unnecessary, paper-based requirement.

This rulemaking action modifies the information an individual must provide to apply for vocational rehabilitation services. The Department's current application, the DR 222 Vocational Rehabilitation Services Application, requires individuals to provide information that is not required for the Department to determine the individual's eligibility. The proposed amendments will also delete the reference to the DR 222 Vocational Rehabilitation Services Application and instead identify the minimum information an individ-

ual must provide to apply for vocational rehabilitation services.

This rulemaking action will also make conforming changes to align with changes in federal law and regulation made by the Workforce Innovation and Opportunity Act (hereinafter “WIOA”) (Pub. L. No. 113–128 (July 22, 2014)) and implementing regulations.

Lastly, this rulemaking action will add gender-neutral language.

Anticipated Benefits of the Proposed Regulation

The broad objective of the regulations is to increase openness and promote transparency for individuals who wish to apply for vocational rehabilitation services. The proposed regulations will also remove unnecessary, duplicative processes for individuals who choose to apply using the online portal or using another method. The proposed regulations will align the Department’s regulatory text with federal law and regulations and will utilize gender-neutral language.

Determination of Inconsistency and Incompatibility with Existing State Regulations

The Department has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulation that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the DR 222 Vocational Rehabilitation Services Application.

DISCLOSURES REGARDING
THE PROPOSED ACTION

The Department has made the following initial determinations:

- Mandate imposed on local agencies or school districts: None.
- Costs 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.
- Other nondiscretionary cost or savings imposed on 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 businesses, including ability to compete: None.

Results of the Economic Impact Analysis or Assessment

The Department concludes that it is: (1) unlikely that the proposed regulations will create or eliminate jobs within California, (2) unlikely that the proposed regulations will create new businesses or eliminate existing businesses within California, and (3) unlikely that

the proposed regulations will result in the expansion of businesses currently doing business with the State.

Benefits of the Proposed Action: The proposed regulations will increase openness and promote transparency for individuals who wish to apply for vocational rehabilitation services, therefore positively impacting the health and welfare of California residents. The state’s environment will benefit from reduced paperwork but there is no anticipated effect to workers’ safety.

Costs Impacts on Representative Person or Business

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.

Small Business Determination

The Department has determined that these proposed regulations will not affect small businesses, as the regulations relate only to the application form and information an individual must provide to apply for vocational rehabilitation services at the Department. Small businesses are not involved in the Department’s application process.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, 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 the law.

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

DISABILITY
ACCOMMODATION STATEMENT

The Department shall provide, upon request, a narrative description of the proposed changes included in the proposed action, in the manner provided by Government Code section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. Providing the description of proposed changes may require extending the period of public comment on the proposed action for the requesting party.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Rehabilitation
Office of Legal Affairs and Regulations
Attention: Michele Welz, Regulations Analyst
721 Capitol Mall
Sacramento, California 95814
Telephone: (916) 558-5825
Email: Legal@dor.ca.gov

The backup contact person for these inquiries is:

Department of Rehabilitation
Office of Legal Affairs and Regulations
Attention: Elizabeth Colegrove, Attorney III
721 Capitol Mall
Sacramento, California 95814
Telephone: (916) 558-5825
Email: Legal@dor.ca.gov

Please direct requests for copies of the Proposed Text of the Regulations, Proposed Text of the Regulations with Word Cues, Initial Statement of Reasons, Modified Proposed Text of Regulations, if any, or other information upon which the rulemaking is based to Michele Welz at the address above. These documents are also available on the Department's website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>. The Department will also provide copies of the regulation proposal in large print, braille, audio-tape, or compact disk, or transmit copies of the regulation proposal electronically, upon request.

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address by appointment and on its website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, Proposed Text of the Regulations, and Initial Statement of Reasons. The Proposed Text of Regulations with Word Cues, indicating strikeout and underline, is also available in the rulemaking file and on the Department's website. To request copies or make an appointment to inspect the rulemaking file at the Department's office, please contact Michele Welz at the address, email, or phone number listed above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After the public hearing, if requested, and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michele Welz at the address or email indicated above. The Department will accept written comments on the modified regulations for 15 calendar days after the date on which they were made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Michele Welz at the address or email above. The Final Statement of Reasons will also be available on the Department's website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, Proposed Text of the Regulations with underline and strikeout, Proposed Text of Regulations with Word Cues indicating strikeout and underline, and Initial Statement of Reasons are available on the Department's website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>.

**TITLE 9. DEPARTMENT OF
REHABILITATION**

**PREFERRED METHOD OF DELIVERY
FOR APPEAL DOCUMENTS**

The California Department of Rehabilitation (hereinafter "Department") proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department will hold a virtual public hearing on this proposed action starting at 9:00 a.m. on Janu-

ary 13, 2023, via Zoom meeting. At the meeting, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board respectfully requests that any person who makes an oral comment also submit a written copy of their comment, as well.

WRITTEN COMMENT PERIOD

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

Department of Rehabilitation
Office of Legal Affairs and Regulations
Attention: Michele Welz, Regulations Analyst
721 Capitol Mall
Sacramento, California 95814

Comments may also be submitted by facsimile to (916) 558-5806 or email to Legal@dor.ca.gov.

The written comment period closes at 5:00 p.m. on January 17, 2023. The Department will consider only comments received at the Department by that time. The Department respectfully requests that any person submitting comments include reference to the regulation section commented on. For example, "My comment is in relation to Section 7352."

AUTHORITY

Welfare and Institutions Code sections 19006 and 19016 authorize the Department to adopt these proposed regulations.

REFERENCE

The proposed regulations implement, interpret, and make specific the following federal and state laws and regulations: 29 United States Code section 722(c); 34 Code of Federal Regulations section 361.57; Welfare and Institutions Code sections 19013.5, 19704, and 19705.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

This rulemaking action modifies how the Department transmits documents to individuals involved in the administrative review, mediation, and fair hearing processes.

The Department's current regulations allow individuals involved in the administrative review, mediation, and fair hearing process to identify a preferred method of communication to receive documents related to their appeal. However, if an individual does not identify a preferred method of communication, the Department's regulations identify mail as the default

delivery standard for all documents related to the administrative review, mediation, and fair hearing process. Further, the Department's current regulations require three documents in the administrative review, mediation, and fair hearing process to be sent by certified mail. The Department and its contractor for the mediation and fair hearing process currently transmit documents by both mail or certified mail, depending on the document, and electronically if an email address is provided. As most individuals provide an email address, this regulation unnecessarily creates duplicative transmission of documents and does not increase access to the documents.

The regulations proposed in this rulemaking action would change the default delivery standard to electronic for all documents related to the administrative review, mediation, and fair hearing process if the individual does not identify a preferred method of communication. The proposed amendments will also remove the requirement to send any documents by certified mail; instead, the documents will be sent in the individual's preferred method of communication or electronically if the individual does not identify a preferred method of delivery. If preferred, an individual may select certified mail as their preferred method of delivery.

Anticipated Benefits of the Proposed Regulation

The broad objective of the regulations is to provide individuals timely and more individualized access and reduce unnecessary and duplicative transmission of documents in the administrative review, mediation, and fair hearing process. The specific benefits include increased openness, transparency, and active participation of individuals participating in the administrative review, mediation, and fair hearing processes. By transmitting documents to individuals in their preferred mode of communication, individuals will be more likely to anticipate the arrival of these documents and will reduce the unnecessary duplicative transmission of documents. Identifying electronic communication as the standard mode of communication will allow individuals to receive important case-related documents in a timely manner and wherever they establish access to the Internet.

Determination of Inconsistency and Incompatibility with Existing State Regulations

The Department has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulation that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the method of delivery for documents in the Department's administrative review, mediation, and fair hearing process.

DISCLOSURES REGARDING
THE PROPOSED ACTION

The Department has made the following initial determinations:

- Mandate imposed on local agencies or school districts: None.
- Costs 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: \$301.57 estimated savings per State Fiscal Year.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: \$185.93 estimated savings per State Fiscal Year.
- Significant effect on housing costs: None.
- Significant statewide adverse economic impact directly affecting businesses, including ability to compete: None.

Results of the Economic Impact Analysis or Assessment

The Department concludes that it is: (1) unlikely that the proposed regulations will create or eliminate jobs within California, (2) unlikely that the proposed regulations will create new businesses or eliminate existing businesses within California, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business with the State.

Benefits of the Proposed Action: The proposed regulation will benefit California residents who file an administrative review, mediation, or fair hearing request with the Department by increasing timely and more tailored access for individuals to documents involved in the administrative review, mediation, and fair hearing process. The proposed regulation will also benefit the environment as fewer documents will be printed and sent by mail or certified mail, reducing the use of paper and resources to deliver the documents. There are no anticipated effects on worker safety.

Costs Impacts on Representative Person or Business

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.

Small Business Determination

The Department has determined that these proposed regulations will not affect small businesses, as the regulations relate only to documents provided from the Department to an individual citizen related to the administrative review, mediation, and fair hearing process. Small businesses are not involved in the Department's administrative review, mediation, and fair hearing process.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, 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 the law.

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

DISABILITY
ACCOMMODATION STATEMENT

The Department shall provide, upon request, a narrative description of the proposed changes included in the proposed action, in the manner provided by Government Code section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. Providing the description of proposed changes may require extending the period of public comment on the proposed action for the requesting party.

CONTACT PERSONS

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Sacramento, California 95814
Telephone: (916) 558-5825
Facsimile: (916) 558-5806
Email: Legal@dor.ca.gov

The backup contact person for these inquiries is:

Department of Rehabilitation
Office of Legal Affairs and Regulations
Attention: Elizabeth Colegrove, Attorney III
721 Capitol Mall
Sacramento, California 95814
Telephone: (916) 558-5825
Facsimile: (916) 558-5806
Email: Legal@dor.ca.gov

Please direct requests for copies of the Proposed Text of the Regulations, Proposed Text of the Regu-

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AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATIONS

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AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After the public hearing, if requested, and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michele Welz at the address or email indicated above. The Department will accept written comments on the modified regulations for 15 calendar days after the date on which they were made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

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partment's website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, Proposed Text of the Regulations with underline and strikeout, Proposed Text of Regulations with Word Cues indicating strikeout and underline, and Initial Statement of Reasons are available on the Department's website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>.

**TITLE 16. CANNABIS CONTROL
APPEALS PANEL**

AMENDMENT TO IMPROVE DUE PROCESS
BY INSTITUTING AUTOMATIC STAY

The Cannabis Control Appeals Panel (the "Panel") proposes to amend the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

SECTIONS AFFECTED

Title 16, Division 43, California Code of Regulations, section 6014.

PUBLIC HEARING

The Panel will hold a public hearing starting at 1:30 p.m. on Thursday, February 9, at 400 R Street, Suite 330, Sacramento, CA 95811. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing also submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action to the Panel at the addresses below. Written comments, including those sent by postal mail or email to the addresses listed below, must be received by the Panel at its office no later than 1:30 p.m. on Thursday, February 9. The Panel will consider only comments received by that time.

Submit comments to:

Christopher Phillips, Chief Counsel
Cannabis Control Appeals Panel
400 R Street Suite 320
Sacramento, CA 95811
Email: Christopher.Phillips@ccap.ca.gov

AUTHORITY AND REFERENCE

Business and Professions Code section 26042 authorizes the Panel to adopt procedures for administrative appeals from cannabis licensing decisions from the Department of Cannabis Control (the “Department”). The proposed amendment implements, interprets, and makes specific sections 26042 and 26043 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action amends the regulatory language to automatically stay the effect of an underlying adverse administrative action pending resolution of an appeal before the Panel. The stay will go into effect as soon as the licensee files an appeal before the Panel. The amendment will also provide a means by which the Department may move to deny the stay in individual cases when necessary to protect the health, safety, and welfare of the public.

The Panel is a quasi-judicial administrative body authorized to hear appeals from cannabis licensing decisions. The scope of the Panel’s jurisdiction is provided by Business and Professions Code (Bus. & Prof. Code) section 26043. Additionally, Business and Professions Code section 26042 requires that the Panel shall adopt procedures for appeals similar to the procedures used by its sister agency, the Alcoholic Beverage Control Appeals Board (the “ABC Appeals Board”).

By statute, alcoholic beverage licensees filing an appeal before the ABC Appeals Board are automatically granted a stay of the effect of any adverse decision pending resolution of their appeal: “No decision of the department [of Alcoholic Beverage Control] shall become effective during the period in which an appeal may be filed and the filing of an appeal shall stay the effect of the decision until such time as a final order is made by the [ABC Appeals] board.” (Business & Professions Code, § 23082.)

The proposed regulatory amendments aim to bring the Panel’s regulations in line with these provisions of law.

At present, the Panel’s rule 6014 does not grant an automatic stay. Instead, the rule places the burden on the appellant, requiring that they file a motion to grant a stay concurrent with the appeal. Moreover, it limits the Panel’s ability to grant a stay by imposing a strict framework that requires the appellant to demonstrate

(1) a substantial likelihood of success in the appeal, (2) immediate and irreparable harm if the stay is not granted, and (3) the stay is not detrimental to the health and welfare of the public.

The proposed amendment therefore revises the regulatory language to automatically stay the effect of an underlying adverse administrative action pending resolution of an appeal before the Panel as well as provide a means by which the Department may move to deny the stay in individual cases when necessary to protect the health, safety, and welfare of the public.

The broad objective of these amendments is to improve administrative due process for cannabis licensees, without risk of harm to the public.

FORMS INCORPORATED BY REFERENCE

None.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENTS

The proposed amendments will benefit cannabis licensees by ensuring due process and meaningful appeal rights following an adverse decision of the Department. A stay of disciplinary action pending appeal before the Panel will ensure that appellants do not lose income, goodwill, or other benefits of a cannabis license to the denial of a license renewal, or to a disciplinary penalty such as suspension or revocation, until they have had the opportunity to appeal the underlying decision. Additionally, the proposed amendments will protect the public from especially egregious violators by allowing the Department to demonstrate via motion that the stay would present an immediate danger to the health, safety, and welfare of the public. Finally, the proposed amendments will bring the Panel’s procedures in line with those of the ABC Appeals Board, as required by statute.

CONSISTENCY EVALUATION

The Panel has determined that these proposed amendments are not inconsistent or incompatible with existing regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Panel has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

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

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

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

Statewide adverse economic impact directly affecting businesses and individuals: None.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Panel concludes that the proposed amendments will not: (1) create or eliminate jobs in California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Benefits of Proposed Action to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The amendment will have no effect on the health and welfare of California residents, worker safety or the State's environment as the Department of Cannabis Control will have the ability to overcome the automatic stay and preserve the status quo.

Effect on small businesses: The Panel has determined that the proposed amendments affect small businesses only to the extent that they are annual licensees seeking an appeal after an adverse final determination has been made by the Department of Cannabis Control. To that extent, those small businesses will benefit by enhanced due process.

CONSIDERATION OF ALTERNATIVES

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

The Panel invites interested persons to present statements with respect to alternatives to the proposed amendments during the written comment period or, as needed, at the scheduled hearing.

CONTACT PERSON

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

The Panel will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Christopher Phillips, or the alternative contact person, at the address, phone number, or email address listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Panel may adopt the proposed regulation as described in this notice. If the Panel 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 Panel adopts the regulation as revised. Please send requests for copies of any modified regulations to Christopher Phillips at the address or email address listed above. The Panel will accept written comments on the modified regulation for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Christopher Phillips at the address or email address listed above.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Panel's website at <https://www.ccap.ca.gov>.

GENERAL PUBLIC INTEREST

**DEPARTMENT
OF FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION
REQUEST FOR
CARDOZA RANCH SAFE HARBOR
2089-2022-003-01
SISKIYOU COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on November 14, 2022, that Cardoza Ranch (Landowner) proposes to rely on a federal safe harbor agreement to carry out a project that may provide a net conservation benefit for the Southern Oregon Northern California Coast (SONCC) coho salmon evolutionarily significant unit (ESU) (*Oncorhynchus kisutch*), a species protected by the California Endangered Species Act. The proposed project involves routine agricultural activities implemented according to avoidance and minimization measures, as well as beneficial management actions such as increased water delivery and habitat improvements intended to provide conservation benefits to the SONCC coho salmon ESU in the Shasta River. The proposed project will occur on two parcels totaling 497 acres in central Siskiyou County, California.

The notice requested a CDFW determination pursuant to California Fish and Game Code Section 2089.22, that the template safe harbor agreement dated February 24, 2021, the Site Plan Agreement dated February 24, 2021 and the enhancement of survival permit number 23278 issued by the National Marine Fisheries Service to the Landowner on February 24, 2021, are consistent with the California State Safe Harbor Agreement Program Act (CSSHAPA) for purposes of the proposed Project. If CDFW determines the federal safe harbor agreement is consistent with CSSHAPA for the proposed Project, the Landowner will not be required to obtain a California state safe harbor agreement under Fish and Game Code section 2089 for the Project.

**OAL REGULATORY
DETERMINATION**

**DEPARTMENT OF RESOURCES
RECYCLING AND RECOVERY**

OFFICE OF ADMINISTRATIVE LAW
DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS

(Pursuant to Government Code Section 11340.5
and Title 1, section 270, of the
California Code of Regulations)

2022 OAL DETERMINATION NUMBER 2
(OAL MATTER NUMBER
CTU2022-0502-01)

REQUESTED BY: Leonard Lang
CONCERNING: Petition Challenging as
Underground Regulations
Various Provisions within
the "Precertification Training
Manual for Recycling
Center and Processor
Applicants (2017)" issued
by the Department of
Resources Recycling and
Recovery, Division of
Recycling

DETERMINATION ISSUED PURSUANT TO
GOVERNMENT CODE SECTION 11340.5

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action. OAL's review is limited to the sole issue of whether the challenged rule meets the definition of "regulation" as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of "regulation," but was not adopted pursuant to the APA and should have been, it is

an “underground regulation” as defined in California Code of Regulations (CCR), title 1, section 250.¹

CHALLENGED RULES

The document issued by the Department of Resources Recycling and Recovery, Division of Recycling, Recycler Education and Examination Unit (Cal Recycle) entitled, “Precertification Training Manual for Recycling Center and Processor Applicants” (PTM), dated July 1, 2017, contains the following seven Challenged Rules:

1. Under “Inspection Process” on page 20: “An eligible beverage container has all of the following characteristics: [...] Contamination, if any, has been removed[.]”
2. Under “Ineligible Material — Out-of-State Vehicles” on page 21: “If a customer in a vehicle with out-of-state license plates presents a load of beverage containers for redemption, you should determine if the beverages were purchased in California.”
3. Under “Ineligible Material — Out-of-State Materials” on page 22: “Recycling centers may not accept empty beverage containers that they know, or should have known, were brought in California; regardless of whether or not they carry the CRV message and regardless of whether or not the vehicle in which they are delivered has a California license plate.”
4. Under “Ineligible Material — Previously Baled” on page 22: “Previously baled containers have been baled by a baling machine, and then broken apart. If a consumer presents a load for redemption with pieces of baled material mixed in, you may not pay CRV. It is likely the previously baled material was already presented for CRV payment in the program.”
5. Under “Record Types — Logs” on page 26: “When you use a log, write down what kind of material you have purchased, the basis, the weight (or count), as well as the amount you paid. Your customers will need to print and sign their names. The names must be legible for recordkeeping to be in compliance.”
6. Under “Calculating Shrinkage” on page 27: “If a load is contaminated, the recycling center or

consumer should attempt to remove any visible debris.”

7. Under “Fraud Prevention” on page 30, various provisions that include the word “consumer.”

DETERMINATION

OAL determines that Challenged Rule No. 1 meets the definition of a “regulation” that should have been adopted pursuant to the APA but was not, and is therefore an underground regulation. OAL further determines that Challenged Rule Nos. 2 through 7 do not further implement or interpret existing law and, therefore, are not underground regulations.

FACTUAL BACKGROUND

On May 2, 2022, OAL received a petition from Leonard Lang (Petitioner) requesting a determination as to whether the document issued by the Department of Resources Recycling and Recovery, Division of Recycling, Recycler Education and Examination Unit (CalRecycle) entitled, “Precertification Training Manual for Recycling Center and Processor Applicants” (PTM), dated July 1, 2017, constitutes an underground regulation.

On June 30, 2022, OAL accepted for consideration seven of the eight allegations contained in the petition (Allegation Nos. 4a through 4g). A summary of the petition was published in the California Regulatory Notice Register on July 15, 2022, and solicited comments from the public until August 15, 2022. Petitioner notified OAL of an error in the summary on July 20, 2022, and OAL published a corrected summary in the California Regulatory Notice Register on July 29, 2022. OAL did not receive any comments from the public.

OAL received a response from CalRecycle (Response) on the response due date of August 29, 2022. Petitioner’s rebuttal to the Response, if desired, was due no later than September 13, 2022. OAL did not receive a rebuttal from Petitioner.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

¹ As defined by title 1, section 250(a), an

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5, and the rule is not exempt from the APA, it creates an underground regulation as defined in title 1, CCR, section 250.

OAL may issue a determination as to whether or not an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of “regulation” as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA (Gov. Code sec. 11340(b)). An OAL determination is not enforceable against the agency through any formal administrative means, but it is entitled to “due deference” in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422 [268 Cal.Rptr. 244].

OAL’s authority to issue a determination extends only to the limited question of whether the challenged rules are “regulations” subject to the APA. This analysis will determine (1) whether the challenged rules are “regulations” within the meaning of Government Code section 11342.600, and (2) whether the challenged rules fall within any recognized exemption from APA requirements.

A regulation is defined in Government Code section 11342.600 as:

. . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186], the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency’s procedure (Gov. Code, § 11342, subd. (g)).²

As stated in *Tidewater*, the first element used to identify a “regulation” is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons

or situations.³ The second element used to identify a “regulation” as stated in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency’s procedure. The final issue to examine is whether the challenged rule falls within an express statutory exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. Pursuant to Government Code section 11346, the procedural requirements established in the APA “shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly.*” (Emphasis added.)

ANALYSIS

The PTM applies to all new and renewal applicants for certification to operate a recycling center or processing facility (Cal. Code Regs., title 14, § 2010(a).) Thus, OAL finds the seven Challenged Rules within the PTM to apply generally and satisfy the first element of *Tidewater*. The following discussion analyzes each of the Challenged Rules to determine whether the second *Tidewater* element is met and, if so, whether an APA exemption applies.

1. Challenged Rule No. 1

Challenged Rule No. 1 provides:

An eligible beverage container has all of the following characteristics: [...] Contamination, if any, **has been removed**[.] (PTM, page 20.) [Emphasis added.]

OAL was unable to locate, and the Response did not cite to, any existing statute or regulation expressly requiring empty beverage containers to be contamination-free as a prerequisite to acceptance for redemption by a recycling center operator. Instead, the Response cited to existing law providing that refund payments will not be made for contamination such as dirt and moisture (Cal. Code Regs., title 14, § 2500(e)(2)(B), Figure 9) and that operators have the options of rejecting contaminated beverage containers outright or accepting contaminated empty beverage containers and reducing the per-pound refund value based on the level of contamination (i.e., the estimated added weight of the contaminants) (Cal Code Regs., title 14, § 2525(e)). Challenged Rule No. 1 is inconsistent with and restricts existing law allowing operators to accept contaminated containers, and therefore satisfies the second element of *Tidewater*. Because there is no express statutory exemption from the APA, OAL finds Challenged Rule No. 1 to be a regulation

² Section 11342(g) was re-numbered in 2000 to section 11342.600 without substantive change.

³ See also *Roth v. Department of Veterans Affairs*, (1980) 110 Cal.App.3d 14, 19; 167 Cal.Rptr. 552, 557.

that should have been adopted pursuant to the APA. Therefore, Challenged Rule No. 1 is an underground regulation.

2. *Challenged Rule No. 2*

Challenged Rule No. 2 provides:

If a customer in a vehicle with out-of-state license plates presents a load of beverage containers for redemption, you should determine if the beverages were purchased in California. (PTM, page 21.)

The PTM provision simply advises that recycling center operators “should” determine whether containers delivered in a vehicle with out-of-state license plates are eligible for redemption. In fact, operators must make that determination for every load, regardless of the delivery vehicle’s origin, under existing law. The Public Resources Code provides that a certified recycling center shall not pay any refund value for any empty beverage containers or other containers that they knew, or should have known, were coming from outside California. (Public Resources Code, § 14538(d)(5).) CalRecycle’s duly adopted regulations in CCR, title 14 further provide that no person certified by CalRecycle to operate any recycling program shall take delivery of any empty beverage container material that they know, or should know, was imported into California. (Cal. Code Regs., title 14, § 2831.3.) OAL finds this PTM provision to be merely informational in nature and consistent with, rather than a further implementation or expansion of, existing law. Therefore, Challenged Rule No. 2 fails to satisfy the second element of *Tidewater* and is not an underground regulation.

3. *Challenged Rule No. 3*

Challenged Rule No. 3 provides:

Recycling centers may not accept empty beverage containers that they know, or should have known, were brought into California; regardless of whether or not they carry the CRV message and regardless of whether or not the vehicle in which they are delivered has a California license plate. (PTM, page 22.)

The Public Resources Code provides that a certified recycling center shall not pay any refund value for any empty beverage containers or other containers that they knew, or should have known, were coming from outside California. (Public Resources Code, § 14538(d)(5).) Additionally, existing CalRecycle regulations state that recyclable material imported into California is ineligible for refund value and other recycling program payments regardless of whether the material is labeled with the CRV message required by Public Resources Code section 14561(a). (Cal. Code Regs., title 14, § 2831.2.) This PTM provision does not further implement, interpret, or make specific exist-

ing law; thus, Challenged Rule No. 3 fails to satisfy the second element of *Tidewater* and is not an underground regulation.

4. *Challenged Rule No. 4*

Challenged Rule No. 4 provides:

Previously baled containers have been baled by a baling machine, and then broken apart. If a consumer presents a load for redemption with pieces of baled material mixed in, you may not pay CRV. It is likely the previously baled material was already presented for CRV payment in the program. (PTM, page 22.)

CCR, title 14, section 2501 was duly adopted⁴ by CalRecycle and provides, in relevant part:

(a) Certified recycling centers shall inspect each load of containers, subject to the Act, delivered to the recycling center, for which refund value is claimed, to determine whether the load is eligible for any refund value [...]

(b) In addition to the requirements of section 2110 of these regulations, a load of material shall be deemed not eligible for any refund value if any one of the following conditions exist:

(1) There are pieces of broken, densified bales or biscuits of aluminum beverage containers within the load. This does not include cans which have merely been flattened.

(2) Pieces of bales of plastic are found in the load.

OAL finds that the PTM provision above is the only legally tenable interpretation of CCR, title 14, section 2501(b)(1)–(2)⁵. Consumers redeem recyclable material at recycling centers in exchange for CRV, then recycling center operators sell that redeemed material to “processors” (Cal. Code Regs., title 14, § 2000(a)(35)). Processors are responsible for “cancellation” (i.e., removing the refund value by, *inter alia*, “densification”) of that material. (Cal. Code Regs., title 14, § 2000(a)(4), (16).) No person may subsequently redeem cancelled material at a recycling center for CRV (Cal. Code Regs., title 14, § 2110(a)); further, a person who intentionally redeems containers that have already been redeemed or returns redeemed containers to the marketplace for further redemption is guilty of a crime. (Public Resources Code § 14591(b)(1)(D), (E).) CCR, title 14, section 2501, subsection (a) requires recycling center operators to inspect each delivered

⁴ “A regulation adopted by an administrative agency pursuant to its delegated rulemaking authority has the force and effect of law.” *California Teachers Assn. v. California Com. On Teacher Credentialing*, (2013) 111 Cal.App.4th 1001, 1008; 4 Cal.Rptr.3d 369, 375.

⁵ Government Code section 11340.9(f) exempts from the rulemaking provisions of the APA “[a] regulation that embodies the only legally tenable interpretation of a provision of law.”

load for eligibility, and subsection (b) specifies that loads containing “pieces of broken, densified bales” or “pieces of bales of plastic” are ineligible for redemption. Though the term “previously baled” is not found in CalRecycle’s governing statutes in the Public Resources Code or implementing regulations in CCR, title 14, OAL does not find this PTM provision to be an expansion of existing law. “Pieces of broken, densified bales” and “pieces of bales of plastic” were once part of a bale and therefore were “previously baled,” and recyclable material that was previously baled by a processor is ineligible for redemption. Because this PTM provision does not expand upon existing law, Challenged Rule No. 4 is not an underground regulation.

5. *Challenged Rule No. 5*

Challenged Rule No. 5 provides:

When you use a log, write down what kind of material you have purchased, the basis, the weight (or count), as well as the amount you paid. Your customers will need to print and sign their names. ***The names must be legible for recordkeeping to be in compliance.*** (PTM, page 26.) [Emphasis added.]

The Public Resources Code requires recycling center operators to maintain, *inter alia*, consumer transaction receipts and logs. (Public Resources Code, § 14538 (d)(7).) Duly adopted regulations in CCR, title 14 mandate that operators prepare, maintain, and provide a copy to the consumer of, either a transaction receipt or log that includes the “printed name and signature of the person selling or donating the material” (Cal. Code Regs., title 14, § 2525(a)(6), (b)) and state that the transaction records “must be legible” (Cal. Code Regs., title 14, § 2085(c)(1)). Because this PTM provision does not expand upon these existing legal requirements, the second element of *Tidewater* is not satisfied. Therefore, Challenged Rule No. 5 is not an underground regulation.

6. *Challenged Rule No. 6*

Challenged Rule No. 6 provides:

If a load is contaminated, the recycling center or consumer ***should attempt to remove*** any visible debris. (PTM, page 27.) [Emphasis added.]

CalRecycle’s use of the phrase “should attempt” renders this PTM provision optional rather than mandatory. In other words, either the recycling center operator or the consumer is encouraged, but not required, to remove visible debris from loads of recyclable material. OAL therefore finds that Challenged Rule No. 6 does not further implement or interpret existing law and is not an underground regulation.

7. *Challenged Rule No. 7*

The Petition challenges provisions on page 30 of the PTM as follows:

[Allegation 4g.] Recyclers are not [...] limited to purchasing from consumers. (Petition, page 2.)

Petitioner is correct that recycling centers are required to accept empty beverage containers from not only “consumers,” as defined in Public Resources Code section 14508, but also “dropoff” and “collection” programs. (Public Resources Code, § 14572(a)(1).) OAL finds that usage of the word “consumer” on page 30 of the PTM does not further implement, interpret, or make specific existing law. Therefore, the second element of *Tidewater* is not satisfied and Challenged Rule No. 7 is not an underground regulation.

CONCLUSION

In accordance with the above analysis, OAL determines that Challenged Rule No. 1 meets the definition of a “regulation” that should have been adopted pursuant to the APA, and is therefore an underground regulation, and that Challenged Rule Nos. 2 through 7 are not underground regulations.

Date: November 14, 2022

/s/
Eric Partington
Attorney IV

Copy:

Rachel Wagoner, Director, CalRecycle
Kris Chisholm, Senior Staff Counsel, CalRecycle

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.

State Allocation Board
File # 2022-1108-01
California Preschool, TK and FDK Facilities Grant Program; Community Colleges

This emergency rulemaking by the State Allocation Board amends regulations and associated forms to address changes to the California Preschool, Transitional Kindergarten (TK) and Full-Day Kindergarten (FDK)

Facilities Grant Program pursuant to Education Code, section 17375.

Title 02
 Amend: 1860.2, 1860.3, 1860.4, 1860.5, 1860.5.1, 1860.6, 1860.14, 1860.15, 1850.19
 Filed 11/16/2022
 Effective 11/16/2022
 Agency Contact: Lisa Jones (279) 946-8459

Fish and Game Commission
 File # 2022-1103-01
 Incidental Take of Southern California Steelhead

This is a re-adoption of Fish and Game Commission's (FGC) May 06, 2022, emergency action regarding incidental take of Southern California Steelhead during the fish's candidacy period as a listed species under California's Endangered Species Act.

Title 14
 Amend: 749.13
 Filed 11/14/2022
 Effective 11/15/2022
 Agency Contact: Jennifer Bacon (916) 902-9285

Department of Corrections and Rehabilitation
 File # 2022-0930-01
 Inmate Housing and Program (SNY/NDPF)

In this rulemaking action the California Department of Corrections and Rehabilitation (CDCR) amends existing regulations and adopts new regulations to create a new designated yard for inmates in CDCR custody. CDCR also amends regulations regarding housing assignment procedures and makes grammatical, syntactical, and linguistic changes to the regulations.

Title 15
 Adopt: 3269.2, 3269.3, 3269.4
 Amend: 3000, 3269, 3269.1, 3375.2
 Filed 11/14/2022
 Effective 11/14/2022
 Agency Contact: Renee Rodriguez (916) 445-2220

Department of Food and Agriculture
 File # 2022-1003-01
 Guava Fruit Fly Eradication Authority

In this rulemaking action, the Department amends its regulation to expand the eradication area of the guava fruit fly in California to include El Dorado and Placer counties.

Title 03
 Amend: 3591.13
 Filed 11/14/2022
 Effective 01/01/2023
 Agency Contact: Rachel Avila (916) 403-6813

Department of Toxic Substances Control
 File # 2022-0930-02
 Safer Consumer Product: Priority Products Listing

Existing regulations in Chapter 55 of Division 4.5 of Title 22 of the California Code of Regulations establish a process for identifying and prioritizing Priority Products and their Chemicals of Concern. These existing regulations also establish a process for identifying and analyzing alternatives to determine how best to eliminate or reduce potential exposures to, or the level of potential adverse impacts posed by, the Chemical(s) of Concern in Priority Products. In this regular rulemaking, the Department of Toxic Substances Control is adding nail products containing toluene as a Priority Product on the Priority Products list.

Title 22
 Adopt: 69511.6(a) through (g)
 Amend: 69511
 Filed 11/14/2022
 Effective 01/01/2023
 Agency Contact: Jackie Buttle (916) 255-3730

Dental Hygiene Board of California
 File # 2022-1010-01
 Retired Licensure

Business and Professions Code section 464 (added by Stats. 2016, chapter 473, section 1) authorizes any of the boards within the Department of Consumer Affairs to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. In this regular rulemaking, the Dental Hygiene Board of California is establishing a system for a retired category for registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions.

Title 16
 Adopt: 1119
 Amend: 1117
 Filed 11/16/2022
 Effective 01/01/2023
 Agency Contact: Adina Pineschi-Petty (916) 516-5537

Department of Corrections and Rehabilitation
 File # 2022-0621-01
 Use of Force

In this resubmitted rulemaking action, the Department amends its regulations related to use of force to change definitions, procedures on reporting and investigating use of force incidents, and forms incorporated by reference.

Title 15

Amend: 3000, 3268, 3268.1, 3268.2, 3268.3

Filed 11/16/2022

Effective 11/16/2022

Agency Contact:

Renee Rodriguez (916) 445-2220

Department of Justice

File # 2022-1007-01

Tobacco Grant Program

In this rulemaking action, the Department of Justice (“DOJ”) adopts California Code of Regulations, Title 11, Sections 500, 501, 510, 520, 521, 522, 523, 530, 531, 532, 533, 540, 541, 542, 543, 544, 545, and 546. These sections regulate the DOJ tobacco grant program, which provides grant money to local law enforcement agencies for special projects related to reducing California youth tobacco use.

Title 11

Adopt: 500, 501, 510, 520, 521, 522, 523, 530, 531, 532, 533, 540, 541, 542, 543, 544, 545, 546

Filed 11/15/2022

Effective 01/01/2023

Agency Contact:

Marlon Martinez (213) 269-6437

**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.