



California Regulatory Notice Register

REGISTER 2022, NUMBER 50-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

DECEMBER 16, 2022

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Codes — Notice File Number Z2022-1206-08 1487
AMENDMENT

MULTI-COUNTY: Atwell Island Water District
California Online Public Schools
Sites Project Authority
Sonoma Clean Power Authority
Truckee Fire Protection

STATE AGENCY: Department of Industrial Relations
Ocean Science Trust

TITLE 4. DEBT LIMIT ALLOCATION COMMITTEE

*Application and Criteria for Bond Allocations for the Qualified Residential Rental
Project Program — Notice File Number Z2022-1206-09* 1488

TITLE 14, 19. OFFICE OF THE STATE FIRE MARSHAL

*Fire Hazard Severity Zones in the State Responsibility Area —
Notice File Number Z2022-1122-02* 1490

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

*Mental Health and Substance Use Disorder Coverage Requirements —
Notice File Number Z2022-1206-01* 1498

GENERAL PUBLIC INTEREST

GAMBLING CONTROL COMMISSION

*Notice of Correction to Previously Published Notice of Proposed Action on
December 2, 2022, concerning Commission Fees Modernization Project III.* 1505

(Continued on next page)

***Time-
Dated
Material***

GAMBLING CONTROL COMMISSION	
<i>Notice of Correction to Previously Published Notice of Proposed Action on November 18, 2022, concerning Subpoenas</i>	1506
DEPARTMENT OF FISH AND WILDLIFE	
<i>Proposed Research on Fully Protected Species concerning White-tailed Kites in Southern California</i>	1507
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	
<i>Announcement of Publication of Public Health Goals and Technical Support Document for Haloacetic Acids in Drinking Water</i>	1507
OFFICE OF THE STATE FIRE MARSHAL	
<i>Notice of Extension of Written Comment Period</i>	1508
PETITION DECISION	
DEPARTMENT OF CORRECTIONS AND REHABILITATION	
<i>Concerning Petition from Debbie Anderson</i>	1508
OAL REGULATORY DETERMINATION	
DEPARTMENT OF CORRECTIONS AND REHABILITATION	
<i>Office of Administrative Law Summary Disposition — 2022 OAL Determination Number 3(S) concerning Department of Corrections and Rehabilitation, High Desert State Prison</i>	1509
SUMMARY OF REGULATORY ACTIONS	
<i>Regulations filed with the Secretary of State</i>	1511

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.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328-4880. The Register can also be accessed at <https://oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

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:

- Atwell Island Water District
- California Online Public Schools Sites Project Authority
- Sonoma Clean Power Authority
- Truckee Fire Protection District

STATE AGENCY:

- Department of Industrial Relations
- Ocean Science Trust

A written comment period has been established commencing on December 16, 2022 and closing on January 30, 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 codes 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 codes will be submitted to the Commission for review.

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest codes. Any written comments must be received no later than January 30, 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 codes should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

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

**TITLE 4. DEBT LIMIT ALLOCATION
COMMITTEE**

OFFICE OF THE TREASURER

The California Debt Limit Allocation Committee (CDLAC) proposes to adopt the amended regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to CDLAC@treasurer.ca.gov. Comments may also be submitted via mail to:

California Debt Limit Allocation Committee
Attention: Emily Burgos
915 Capitol Mall, Room 311
Sacramento, CA 95814

The written comment period closes on January 30, 2023. To ensure CDLAC will consider your comment it must be received by January 30, 2023.

PUBLIC HEARING

CDLAC does not intend to conduct a Public Hearing on the matter of these regulations, unless requested. Any interested person may submit a written request for a public hearing no later than 15 days prior to the close of the written comment period.

AUTHORITY

Section 8869.94, California Government Code authorizes the Committee to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.”

REFERENCE

California Government Code Sections 8869.80–8869.94, 8869.82, 8869.84, 8869.84(c) and (e), 8869.85(a), 8869.85(b), 8869.86(c), 8869.87, 8669.89, and 8869.94.

INFORMATIVE DIGEST

Summary of Existing Laws and Effect of the Proposed Action

The purpose of CDLAC (“the Committee”) is to implement Section 1301 of the Federal Tax Reform Act of 1986 and Section 146 of the Internal Revenue Code which impose a limit on the amount of tax-exempt private activity bonds which a state may issue in a calendar year (i.e. the annual state ceiling). Federal tax law defines the term “private activity bond”; limits the volume of private activity bonds which a state may issue in a calendar year; defines the types of programs and projects which qualify for tax-exempt bond financing under the volume cap; and specifies record-keeping requirements.

The Committee was statutorily created by Chapter 943, Statutes of 1987, in response to the 1986 Federal Tax Reform Act. California Government Code Section 8869.80 et seq. defines the Committee’s responsibilities as follows:

Set the Annual State Ceiling:

The Committee is required to establish the state ceiling as soon as is practicable after the start of each calendar year.

Allocate the State Ceiling:

The Committee is granted the sole authority for allocating the annual ceiling.

Other Administrative Functions:

The Committee is authorized to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations (California Government Code 8869.94) which includes authorization to prepare forms, establish procedures, set priorities, require a performance deposit, assess fees, and perform other administrative functions as necessary. Additionally, in establishing CDLAC the Legislature emphasized the substantial public benefit of promoting housing for lower income families and individuals and of preserving and rehabilitating existing governmental assisted housing for lower income families and individuals.

The proposed competitive system for Qualified Residential Rental Projects will ensure that limited tax-exempt bond allocation is available to affordable housing projects through a fair, equitable, and transparent system. In competitive rounds, scores are used to rank order applications to award allocation until the round limit is met.

Anticipated Benefits of the Proposed Regulations

The benefits derived by these proposed regulations include the fair, efficient and equitable administration of the Qualified Residential Rental Project (QRRP) Program in compliance with state and federal law.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Committee has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. Application for bond allocations is a nonmandatory activity and these regulations ensure a fair and efficient process for allocations as to both applicants and the Committee.

DISCLOSURES REGARDING THE PROPOSED ACTION

CDLAC has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The Executive Director of the Committee has determined that the Regulations do not impose any additional cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the California Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted.

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.

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

Significant effect on housing costs: The proposed changes will ensure the award of allocation to quality affordable housing projects.

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

Results of the Economic Impact Analysis/Assessment

CDLAC concludes that it is unlikely that the proposal will (1) eliminate any jobs, (2) create any jobs, (3) create any new businesses, or (4) eliminate any existing businesses or result in the expansion of businesses currently doing business within the state. CDLAC concludes the proposal will not impact the health and

welfare of California residents, worker safety, and the State's environment.

Small Business Determination

The proposed regulations will not affect small businesses. These regulations establish procedures that only bond issuers and affordable housing developers must follow.

CONSIDERATION OF ALTERNATIVES

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

CDLAC 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 rulemaking action may be directed to:

Emily Burgos
California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814
916.653.3255
CDLAC@treasurer.ca.gov
eburgos@treasurer.ca.gov

Christina Vue
California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814
916.653.3255
CDLAC@treasurer.ca.gov
cvue@treasurer.ca.gov

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

CDLAC will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address and online at <https://www.treasurer.ca.gov/cdlac/regulations.asp>. As of the date this notice is published in the Notice Register, the rulemaking file consists of

the Notice of Proposed Action, the proposed text of the regulations, the Initial Statement of Reasons, and the STD. 399. Please direct requests to inspect or copy the rulemaking file to the contact person(s) listed above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After considering all timely and relevant comments received, CDLAC may adopt the proposed regulations substantially as described in this notice. If CDLAC 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 adopting the regulations as revised. Please direct requests for copies of any modified regulations to the contact person(s) listed above. If substantive modifications are made, CDLAC will accept written comments on the modified regulations for the duration of the period of public availability.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, CDLAC will make copies of the Final Statement of Reasons available. Please direct requests for copies to the contact person(s) 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 with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, may be accessed via CDLAC's website at <https://www.treasurer.ca.gov/cdlac/regulations.asp>

**TITLES 14, 19. OFFICE OF THE
STATE FIRE MARSHAL**

TITLE 19, DIVISION 1, CHAPTER 17

FIRE HAZARD SEVERITY ZONES, 2022

The State Fire Marshal is providing notice to adopt proposed regulations pursuant to Public Resources Code (PRC) Sections 4202–4204, relating to the classifying of lands in the State Responsibility Area (SRA) into Fire Hazard Severity Zones (FHSZs).

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Office of the State Fire Marshal (OSFM). Written comments will be accepted beginning **December 16, 2022, through February 3, 2023**. OSFM will consider only written comments received by the end of the written comment period (in addition to those written comments received at the public hearing). OSFM requests, but does not require, that persons who submit written comments to CAL FIRE reference the title of the rulemaking proposal in their comments to facilitate accuracy and efficiency of review.

Written comments may be submitted by U.S. mail to the following address:

Office of the State Fire Marshal
California Department of Forestry and Fire
Protection
P.O. Box 944246
Sacramento, CA 94244–2460
Attention: Scott Witt, Deputy Chief

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

California Department of Forestry and Fire
Protection
Office of the State Fire Marshal
C/O: Scott Witt
California Natural Resources Building
715 P Street, 9th floor
Sacramento, CA 95818

Written comments may also be delivered via e-mail at the following address:

fhszcomments@fire.ca.gov

PUBLIC HEARINGS

CAL FIRE will hold a series of public hearings in every county with SRA described below pursuant to PRC 4203. At the hearings, any person may present comments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. Such information shall be retained by OSFM and shall be made available upon request.

The hearing locations, dates, starting time, and local contact person for all hearings are shown below:

County: Alameda
Hearing Date & Time: 1/17/23 at 1:00 p.m.
Hearing Location: Hayward Fire Department
 Training Center
 1401 West Winton Avenue, Hayward, CA 94545
Local Contact Person:
 Marcus Hernandez (408) 472-1603
marcus.hernandez@fire.ca.gov

County: Alpine
Hearing Date & Time: 1/11/23 at 5:00 p.m.
Hearing Location:
 Turtle Rock Park Community Center
 17300 State Route 89/4, Markleeville, CA 96120
Local Contact Person:
 Megan Scheeline (530) 708-2705
megan.scheeline@fire.ca.gov

County: Amador
Hearing Date & Time: 1/18/23 at 4:30 p.m.
Hearing Location:
 Volcano Communications Tech Center
 19888 Church Street, Pine Grove, CA 95665
Local Contact Person:
 Megan Scheeline (530) 708-2705
megan.scheeline@fire.ca.gov

County: Butte
Hearing Date & Time: 1/12/23 at 4:00 p.m.
Hearing Location:
 Butte County Association of Governments
 326 Huss Drive, Suite 100 Chico, CA 95928
Local Contact Person:
 Bryon Vance (530) 520-8651
Byron.vance@fire.ca.gov

County: Calaveras
Hearing Date & Time: 12/16/22 at 9:00 a.m.
Hearing Location:
 San Andreas Community Hall
 24 Church Hill Road, San Andreas, CA 95249
Local Contact Person:
 Jon Andahl (209) 419-4425
jon.andahl@fire.ca.gov

County: Colusa
Hearing Date & Time: 1/03/23 at 5:30 p.m.
Hearing Location:
 Stonyford Community Center,
 229 Market Street Stonyford, CA 95979
Local Contact Person:
 Marshall Turbeville (707) 877-1770
marshall.turbeville@fire.ca.gov

County: Contra Costa
Hearing Date & Time: 1/24/23 at 1:00 p.m.
Hearing Location:
 Orinda Library Auditorium & Garden Room
 26 Orinda Way, Orinda, CA 94563
Local Contact Person:
 Marcus Hernandez (408) 472-1603
marcus.hernandez@fire.ca.gov

County: Del Norte
Hearing Date & Time: 1/11/23 at 9:00 a.m.
Hearing Location:
 Crescent Fire Protection District Headquarters
 225 West Washington Boulevard,
 Crescent City, CA
Local Contact Person:
 Chris Ramey (707) 599-6442
chris.ramey@fire.ca.gov

County: El Dorado
Hearing Date & Time: 12/16/22 at 9:00 a.m.
Hearing Location:
 El Dorado Hills at Station 85
 1050 Wilson Boulevard, El Dorado Hills, 95762
Local Contact Person:
 Megan Scheeline (530) 708-2705
megan.scheeline@fire.ca.gov

County: Fresno
Hearing Date & Time: 12/20/22 at 5:00 p.m.
Hearing Location:
 Clovis Veterans Memorial District Building
 808 Fourth Street, Clovis, CA 93612
Local Contact Person:
 Thorin Day (559) 291-4337
thorin.day@fire.ca.gov

County: Glenn
Hearing Date & Time: 1/17/23 at 2:00 p.m.
Hearing Location:
 CAL FIRE Elk Creek Fire Station
 3288 Ivory Mill Road, Elk Creek, CA 95939
Local Contact Person:
 Matt Reich (530) 200-2523
matt.reich@fire.ca.gov

County: Humboldt
Hearing Date & Time: 1/10/23 at 2:00 p.m.
Hearing Location:
 Fortuna River Lodge
 1800 Riverwalk Drive, Fortuna, CA
Local Contact Person:
 Chris Ramey (707) 599-6442
chris.ramey@fire.ca.gov

County: Imperial
Hearing Date & Time: 1/11/23 at 1:00 p.m.
Hearing Location:
Imperial Valley Desert Museum
11 Frontage Road, Ocotillo, CA 92259
Local Contact Person:
Eric Just (619) 590-3103
eric.just@fire.ca.gov

County: Inyo
Hearing Date & Time: 1/24/23 at 11:00 a.m.
Hearing Location:
County Administration Office
224 North Edwards Street, Independence,
CA 93526
Local Contact Person:
Stephen Volmer (661) 618-4908
stephen.volmar@fire.ca.gov

County: Kern
Hearing Date & Time: 1/19/23 at 10:00 a.m.
Hearing Location:
Golden Hills Community Service District
21415 Reeves Street, Tehachapi, CA 93561
Local Contact Person:
Andrew Kennison (661) 330-0194
akennison@kerncountyfire.org

County: Kings
Hearing Date & Time: 12/21/22 at 5:00 p.m.
Hearing Location:
Avenal Movie Theater
233 East Kings Street, Avenal, CA 93204
Local Contact Person:
Thorin Day (559) 291-4337
thorin.day@fire.ca.gov

County: Lake
Hearing Date & Time: 1/24/23 at 9:15 a.m.
Hearing Location:
Board of Supervisors Board Chambers
255 North Forbes Street, Lakeport, CA 95453
Local Contact Person:
Marshall Turbeville (707) 877-1770
marshall.turbeville@fire.ca.gov

County: Lassen
Hearing Date & Time: 1/10/23 at 6:00 p.m.
Hearing Location:
Lassen County Fairgrounds, Jensen Hall
195 Russell Avenue, Susanville, CA 96130
Local Contact Person:
Adam Mattos (530) 310-2201
adam.mattos@fire.ca.gov

County: Los Angeles
Hearing Date & Time: 1/14/23 at 10:00 a.m.
Hearing Location:
College of the Canyons
26455 Rockwell Canyon Road, Room 258
Santa Clarita, 91355
Local Contact Person:
Trevor Moore (213) 259-4587
trevor.moore@fire.lacounty.gov

County: Madera
Hearing Date & Time: 1/12/23 at 5:30 p.m.
Hearing Location:
Oakhurst Community Center
39800 Fresno Flats Road, Oakhurst CA 93644
Local Contact Person:
Mike Keyser (559) 706-8824
michael.keyser@fire.ca.gov

County: Marin
Hearing Date & Time: 1/26/23 at 6:00 p.m.
Hearing Location:
San Geronimo Golf Club
5800 Sir Francis Drake Boulevard.
San Geronimo, CA 94963
Local Contact Person:
Scott Alber (415) 717-7424
salber@marincounty.org

County: Mariposa
Hearing Date & Time: 1/10/23 at 5:30 p.m.
Hearing Location:
Mariposa County Fire Department
4802 CA-140, Mariposa, CA 95338
Local Contact Person:
Mike Keyser (559) 706-8824
michael.keyser@fire.ca.gov

County: Mendocino
Hearing Date & Time: 1/04/23 at 10:00 a.m.
Hearing Location:
Willits City Hall
111 East Commercial Street Willits, CA, 95490
Local Contact Person:
Michael Sachelli (707) 459-7424
michael.sachelli@fire.ca.gov

County: Merced
Hearing Date & Time: 1/11/23 at 6:00 p.m.
Hearing Location:
Castle Training Center
3405 Hardstand Avenue, Atwater, CA 95301
Local Contact Person:
Mike Keyser (559) 706-8824
michael.keyser@fire.ca.gov

County: Modoc
Hearing Date & Time: 1/24/23 at 6:00 p.m.
Hearing Location:
 Devil's Garden Fire Center
 2300 County Road 74, Alturas, CA 96101
Local Contact Person:
 Adam Mattos (530) 310-2201
adam.mattos@fire.ca.gov

County: Mono
Hearing Date & Time: 12/20/22 at 10:00 a.m.
Hearing Location:
 County Administration Office
 437 Old Mammoth Road
 Mammoth Lakes, CA 93546
Local Contact Person:
 Stephen Volmer (661) 618-4908
stephen.volmar@fire.ca.gov

County: Monterey
Hearing Date & Time: 1/18/23 at 3:00 p.m.
Hearing Location:
 The Mott Training Room
 2221 Garden Road., Monterey, CA 93940
Local Contact Person:
 Chad Cooper (831) 375-4204
chad.cooper@fire.ca.gov

County: Napa
Hearing Date & Time: 1/09/23 at 2:00 p.m.
Hearing Location:
 Napa Library
 580 Coombs Street, Napa, CA 94559
Local Contact Person:
 Marshall Turbeville (707) 877-1770
marshall.turbeville@fire.ca.gov

County: Nevada
Hearing Date & Time: 1/5/23 at 10:00 a.m.
Hearing Location:
 Nevada County Rood Center
 950 Maidu Avenue, Nevada City, CA 95959
Local Contact Person:
 Steve Garcia (530) 277-2306
steven.garcia@fire.ca.gov

County: Orange
Hearing Date & Time: 1/10/23 at 6:00 p.m.
Hearing Location:
 Orange County Fire Authority – RFOTC
 1 Fire Authority, Irvine, CA 92602
 Building A, Board Room
Local Contact Person:
 Jennifer Bower (714) 573-6251
jenniferbower@ocfa.org

County: Placer
Hearing Date & Time: 1/17/23 at 10:00 a.m.
Hearing Location:
 Community Development Resource Agency
 3091 County Center Drive, Auburn, CA 95603
Local Contact Person:
 Steve Garcia (530) 277-2306
steven.garcia@fire.ca.gov

County: Plumas
Hearing Date & Time: 1/17/23 at 6:00 p.m.
Hearing Location:
 Plumas Sierra County Fairgrounds,
 Mineral Building
 204 Fairgrounds Road, Quincy, CA 95971
Local Contact Person:
 Adam Mattos (530) 310-2201
adam.mattos@fire.ca.gov

County: Riverside
Hearing Date & Time: 1/17/23 at 10:00 a.m.
Hearing Location:
 County Admin. Building
 4080 Lemon Street, Riverside, CA 92501
Local Contact Person:
 Scott Bethurum (951) 940-6980
scott.bethurum@fire.ca.gov

County: Sacramento
Hearing Date & Time: 1/24/23 at 9:00 a.m.
Hearing Location:
 California Natural Resources Building
 715 P Street, Sacramento, CA 95814
Local Contact Person:
 Scott Witt (408) 465-6172
scott.witt@fire.ca.gov

County: Sacramento
Hearing Date & Time: 2/03/23 at 9:00 a.m.
Hearing Location:
 California Natural Resources Building
 715 P Street, Sacramento, CA 95814
Local Contact Person:
 Scott Witt (408) 465-6172
scott.witt@fire.ca.gov

County: San Benito
Hearing Date & Time: 1/19/23 at 3:00 p.m.
Hearing Location:
 Hollister Fire Station
 1979 Fairview Road, Hollister, CA 95023
Local Contact Person:
 Chad Cooper (831) 375-4204
chad.cooper@fire.ca.gov

County: San Bernardino
Hearing Date & Time: 1/10/23 at 11:00 a.m.
Hearing Location:
County Administrative Office
385 North Arrowhead Dr
San Bernardino, CA 92415
Local Contact Person:
Stephen Volmer (661) 618-4908
stephen.volmar@fire.ca.gov

County: San Diego
Hearing Date & Time: 1/09/23 at 1:00 p.m.
Hearing Location:
San Diego County Operations Center –
Chambers
5520 Overland Avenue, San Diego, CA 92123
Local Contact Person:
Josh Black (619) 609-3413
josh.black@fire.ca.gov

County: San Joaquin
Hearing Date & Time: 1/5/23 at 1:00 p.m.
Hearing Location:
Clements Community Hall
19051 North Highway 88, Lockeford, CA 95237
Local Contact Person:
David Riley (408) 779-2121
david.riley@fire.ca.gov

County: San Luis Obispo
Hearing Date & Time: 12/20/22 at 3:00 p.m.
Hearing Location:
South Bay Training Center
880 Manzanita Avenue, Los Osos, CA 93402
Local Contact Person:
Jason Potts (805) 903-3426
jason.potts@fire.ca.gov

County: San Mateo
Hearing Date & Time: 1/11/23 at 2:00 p.m.
Hearing Location:
San Mateo County Regional Operations Center
501 Winslow Street, Redwood City, CA 94063
Local Contact Person:
Frank Rodgers (831) 254-1728
franks.rodgers@fire.ca.gov

County: Santa Barbara
Hearing Date & Time: 1/18/23 at 1:00 p.m.
Hearing Location:
Veterans Memorial Building
1745 Mission Drive, Solvang, CA 93463
Local Contact Person:
Anthony Stornetta (805) 423-6406
astornet@countyofsb.org

County: Santa Clara
Hearing Date & Time: 1/10/23 at 1:00 p.m.
Hearing Location:
Morgan Hill City Council Chamber Building
17555 Peak Avenue, Morgan Hill, CA 95037
Local Contact Person:
Marcus Hernandez (408) 472-1603
marcus.hernandez@fire.ca.gov

County: Santa Cruz
Hearing Date & Time: 1/10/23 at 1:30 p.m.
Hearing Location:
Ben Lomond Training Center
13575 Empire Grade, Santa Cruz, CA 95060
Local Contact Person:
Frank Rodgers (831) 254-1728
frank.rodgers@fire.ca.gov

County: Shasta
Hearing Date & Time: 1/09/23 at 7:00 p.m.
Hearing Location:
Cornerstone Marketing Center
4300 Caterpillar Road, Redding, CA 96003
Local Contact Person:
Aaron Hathaway (530) 448-2422
aaron.hathaway@fire.ca.gov

County: Sierra
Hearing Date & Time: 1/27/23 at 10:00 a.m.
Hearing Location:
County Courthouse
100 Courthouse Square, Downieville, CA 95936
Local Contact Person:
Steve Garcia (530) 277-2306
steven.garcia@fire.ca.gov

County: Siskiyou
Hearing Date & Time: 1/10/23 at 6:00 p.m.
Hearing Location:
CAL FIRE Yreka Station – Trygar Room
1809 Fairlane Road., Yreka, CA 96097
Local Contact Person:
Jake Burgess (530) 842-3516
jake.burgess@fire.ca.gov

County: Solano
Hearing Date & Time: 1/17/23 at 5:30 p.m.
Hearing Location:
Solano County Event Center
601 Texas Street, Fairfield, CA 94533
Local Contact Person:
Marshall Turbeville (707) 877-1770
marshall.turbeville@fire.ca.gov

County: Sonoma
Hearing Date & Time: 1/12/23 at 2:00 p.m.
Hearing Location:
 Board Chambers
 575 Administration Drive, Suite 102A
 Santa Rosa, CA 95403
Local Contact Person:
 Marshall Turbeville (707) 877-1770
marshall.turbeville@fire.ca.gov

County: Stanislaus
Hearing Date & Time: 1/3/23 at 10:00 a.m.
Hearing Location:
 Oakdale Community Center
 110 South 2nd Avenue, Oakdale, CA 95361
Local Contact Person:
 Jon Andahl (209) 419-4425
jon.andahl@fire.ca.gov

County: Tehama
Hearing Date & Time: 1/10/23 at 2:00 p.m.
Hearing Location:
 Red Bluff Community Center
 1500 South Jackson Street, Red Bluff, CA 96080
Local Contact Person:
 Matt Reich (530) 200-2523
matt.reich@fire.ca.gov

County: Trinity
Hearing Date & Time: 1/16/23 at 7:00 p.m.
Hearing Location:
 Trinity County Board of Supervisors
 11 Court Street Weaverville, CA 96093
Local Contact Person:
 Aaron Hathaway (530) 448-2422
aaron.hathaway@fire.ca.gov

County: Tulare
Hearing Date & Time: 1/26/23 at 6:00 p.m.
Hearing Location:
 Three Rivers Memorial District
 43490 Sierra Drive, Three Rivers, CA 93271
Local Contact Person:
 Dave Shy (559) 280-5077
david.shy@fire.ca.gov

County: Tuolumne
Hearing Date & Time: 12/20/22 at 10:00 a.m.
Hearing Location:
 Tuolumne County Fire Building
 18440 Striker Court, Sonora, CA 95370
Local Contact Person:
 Jon Andahl (209) 419-4425
jon.andahl@fire.ca.gov

County: Ventura
Hearing Date & Time: 1/17/22 at 1:00 p.m.
Hearing Location:
 Freedom Center
 515 Eubanks Street, Camarillo, CA 93010
Local Contact Person:
 Larry Williams (805) 947-8543
larry.williams@ventura.org

County: Yolo
Hearing Date & Time: 1/05/23 at 2:00 p.m.
Hearing Location:
 Winters Fire Station Conference Room
 700 West Main Street, Winters, CA 95694
Local Contact Person:
 Marshall Turbeville (707) 877-1770
marshall.turbeville@fire.ca.gov

County: Yuba
Hearing Date & Time: 1/11/23 at 10:00 a.m.
Hearing Location:
 Yuba County Government Center
 915 8th Street, Suite 109, Marysville, CA 95901
Local Contact Person:
 Steve Garcia (530) 277-2306
steven.garcia@fire.ca.gov

If an additional public hearing is held, the OSFM will provide notice of the hearing in accordance with the requirements of Government Code sec. 11346.8(a), in addition to posting the information on our website.

The public hearing facilities are accessible to persons with mobility impairments. If any special assistance is required (i.e., interpreter), please notify the contact person named in this notice at least 15 days prior to the public hearing for the county you wish to attend.

At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the *Informative Digest*. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

Following the 45-day comment period, the OSFM may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text – with changes indicated – shall be made available to the public for at least 15 days before the OSFM adopts, amends, or repeals the regulations as revised. The OSFM will accept written

comments on the modified regulations for 15 days after the date on which they are made available.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modified regulations. Requests should be sent to the contact person at the address indicated above.

AUTHORITY AND REFERENCE

Under the authority of Public Resources Code (PRC) Sections 4202 – 4204, OSFM is amending, and relocating from Title 14, Chapter 7, Article 1 to Title 19, Division 1, new Chapter 17, new Article 1. References include Sections 4202–4204 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The OSFM is proposing amendments to, and the relocation of, the regulation in 14 CCR, Section 1280, which designates FHSZ in SRA. Within this section are referenced maps titled “Maps of the Fire Hazard Severity Zones (FHSZ) in State Responsibility Areas of California. November 21, 2022”. These maps are being updated as part of the proposal pursuant to California PRC) Sections 4201–4204.

In 2021, Assembly Bill 9 amended PRC Sections 4202–4204 to require the OSFM, and not the Director, to take several actions related to FHSZs. Therefore, for the regulations to accurately reflect the recent amendments to these laws, they are also being relocated to Title 19.

FHSZs are geographical areas (lands) designated pursuant to PRC Sections 4201–4204 and classified as Very High, High or Moderate in SRA. Each zone is assigned one of these ratings to reflect the degree of severity of fire hazard that is expected to prevail in the zone.

The zones are designated so that measures may be identified which will reduce the potential for losses to life, property, and resources from wildfire. Building standards are effectuated by the proposed FHSZ maps, meaning some building code requirements will depend on the hazard zone in which the building is located.

While OSFM maps fire hazard severity for the entire State, the map/zones proposed for adoption in this regulation apply only to the SRA.

Documents Incorporated by Reference

The documents incorporated by reference in Title 19 have also been included in this rulemaking file as follows:

- Map entitled “State Responsibility Area Fire Hazard Severity Zones. November 21, 2022”

Summary of Existing Laws

PRC Sections 4202–4204, the OSFM, shall classify lands in the SRA into FHSZs based on multiple factors and shall adopt regulations reflecting such designation. The statutes also require periodic review of the map and updating by the OSFM when required.

Summary of Existing Regulations

The current regulations are in Title 14, Chapter 7, Article 1. The OSFM proposes to move the regulations to Title 19, Chapter 17 to accurately reflect the recent amendments to the PRC requiring the OSFM, and not the Director of CAL FIRE, to take several actions related to FHSZs.

Summary of Effect

The designation of a FHSZ allows the people of California to take measures that will reduce the potential for losses to life, property, and resources from wildfire.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

After conducting a review of any and all other regulations that would relate to FHSZs in the SRA, the OSFM concluded that this proposed rulemaking is the only rulemaking that concerns the designation of FHSZs in the SRA. The OSFM has determined this proposed regulation is not inconsistent or incompatible with existing regulations.

Objective and Anticipated Benefits

The broad objective of the proposed rulemaking is to ensure that the people of California understand the degree of severity of fire hazard that is expected to prevail in the zone in which they live and can identify and implement the measures that will reduce the potential for losses to life, property, and resources from wildfire. The anticipated benefit will enhance public safety and protect California’s vital natural resources and wildlife.

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

There are no other matters prescribed by statute applicable to the OSFM, or to any specific regulation or class of regulations. There are no other matters to identify.

DISCLOSURES REGARDING
THE PROPOSED ACTION

The OSFM has made the following initial determinations:

1. Mandate on local agencies and school districts: **None.**
2. Cost or savings to any other State agency: **None.**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Sections 17500–17630: **None.**
4. Other non–discretionary cost or savings imposed upon local agencies: **None.**
5. Cost or savings in federal funding to the State: **None.**
6. Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States: **None.**
7. Significant effect on housing costs: **None.**

COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS

OSFM 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 proposed regulation will comply with statutory mandate, enhance public safety, and protect California’s vital natural resources and wildlife.

DECLARATION OF EVIDENCE

The OSFM has determined that this proposed action will not have a significant adverse economic impact. The OSFM has not relied on any other facts, evidence, documents, or testimony to make its initial determination of no statewide adverse economic impact.

SMALL BUSINESS EFFECTS

The proposed regulation may affect small business.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

The OSFM concludes that the proposed regulatory action, within the State of California, would have no significant adverse economic impact and adoption of these regulations will affect the following:

- a) Will not affect the creation or elimination of jobs within California;
- b) Will not affect the creation of new businesses or eliminate existing businesses within California; or

- c) Will not affect the expansion of businesses currently doing business within California.
- d) Will benefit the public health and welfare of California residents, enhance public safety, and benefit the environment by protecting California’s vital natural resources and wildlife.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), OSFM must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of OSFM 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 of other provision of law.

BUSINESS REPORT

This regulatory proposal does not mandate any new annual reporting or recordkeeping requirements beyond the business practice that has already been established by the OSFM.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons (ISOR)*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

California Department of Forestry and Fire
Protection
Office of the State Fire Marshal
C/O Scott Witt
P.O. Box 944246
Sacramento, CA 94244–2460
fhszcomments@fire.ca.gov

California Department of Forestry and Fire
Protection
Office of the State Fire Marshal
C/O Jamie Sammut
P.O. Box 944246
Sacramento, CA 94244–2460
fhszcomments@fire.ca.gov

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

The OSFM will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 715 “P” Street, Sacramento, California 95814. As of the date this notice is published in the Notice Register, the OSFM’s rulemaking file consists of this notice, the proposed text of the regulations, the ISOR for the proposed action, all documents incorporated by reference and an economic impact assessment contained in the ISOR. Copies may be obtained through the contact(s) at the address or telephone numbers listed above.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by making a written request to the contact person at the above address or by accessing the website listed below.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons (ISOR), the text of proposed regulations in underline and strikeout, documents incorporated by reference and all information upon which this rulemaking is based may be accessed through the OSFM web site at:

<https://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>

**TITLE 28. DEPARTMENT OF
MANAGED HEALTH CARE**

**MENTAL HEALTH AND SUBSTANCE USE
DISORDER COVERAGE REQUIREMENTS,
TITLE 28, CALIFORNIA CODE OF
REGULATIONS, ADOPTING RULES
1300.74.72, 1374.72.01 AND 1300.74.721,
REPEALING RULE 1300.74.72, CONTROL
NUMBER 2022–MHSUD.**

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Department) pro-

poses to adopt regulations under the Knox–Keene Health Care Service Plan Act of 1975 (Knox–Keene Act), title 28, California Code of Regulations (CCR), Rules 1300.74.72, 1374.72.01 and 1300.74.721 and repeal Rule 1300.74.72. Changes made to the text are noted by single underline and single strikeout.

Before undertaking this action, the Director of the Department (Director) will conduct written public proceedings, during which time any interested person, or such person’s duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

The text of the Rule is located at the following location: <https://wpso.dmhc.ca.gov/regulations/regs/?key=57>.

The Department has not scheduled a public hearing. However, the Department 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 before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments, or contentions (hereinafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office of Legal Services, **by January 30, 2023**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by standard U.S. mail or email as follows:

Email: regulations@dmhc.ca.gov

Mail: Department of Managed Health Care

Office of Legal Services

Attention: Regulations Coordinator

980 9th Street, Suite 500

Sacramento, CA 95814

Please note: if comments are sent via email, there is no need to send the same comments by standard U.S. mail delivery. All comments should include the author’s name and a standard U.S. mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Please identify the action by using the Department’s rulemaking title and control number, **Mental Health and Substance Use Disorder Coverage Requirements, Control No. 2022–MHSUD** in any of the above inquiries.

CONTACTS

Inquiries concerning the proposed adoption of these regulations may be directed to the following person(s):

Jennifer Willis

Attorney IV
 Department of Managed Health Care
 Office of Legal Services
 980 9th Street, Suite 500
 Sacramento, CA 95814
 (916) 324-9014 (phone)
jennifer.willis@dmhc.ca.gov

Kim Bollenbach

Senior Legal Analyst
 Department of Managed Health Care
 Office of Legal Services
 980 9th Street, Suite 500
 Sacramento, CA 95814
 (916) 414-0790 (phone)
kim.bollenbach@dmhc.ca.gov

AVAILABILITY OF DOCUMENTS

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulation is based (rulemaking file). This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Suite 500, Sacramento, CA 95814, Attention: Regulations Coordinator.

The Notice of Proposed Rulemaking Action, the proposed text of the regulation, and the Initial Statement of Reasons are also available on the Department's website at:

<https://wps0.dmhc.ca.gov/regulations/regs/?key=57>

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Regulation Coordinator named above.

AVAILABILITY OF MODIFIED TEXT

The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days before the date the Department adopts the regulation. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Director will accept comments via standard U.S. mail or email on the modified regulation(s) for 15 days after the date on which the modified text is made available. The Director may thereafter adopt, amend, or repeal the foregoing proposal substantially as set forth without further notice.

AUTHORITY AND REFERENCE

Health and Safety Code section 1344 grants the Director authority to adopt, amend, and rescind regulations as necessary to carry out the provisions of the Knox-Keene Act, including rules governing applications and reports, and defining any terms as are necessary to carry out the provisions of the Knox-Keene Act.

Health and Safety Code section 1345, subdivision (f)(1), defines a "health care service plan" as "any person who undertakes to arrange for the provision of health care subscribers or enrollees, or to pay for or to reimburse any part of the cost of those services, in return for a prepaid or periodic charge paid by or on behalf of subscribers or enrollees."

Health and Safety Code section 1346 vests in the Director additional powers to administer and enforce the Knox-Keene Act, including but not limited to, the power to study, investigate, research and analyze matters affecting the interests of plans, subscribers, enrollees and the public and to promote and establish standards of ethical conduct for the administration of health plans.

Health and Safety Code section 1367 states requirements that each health plan must meet for compliance with the Knox-Keene Act. This section requires a health plan to furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice and to ensure it has the organizational and administrative capacity to fulfill its duties to enrollees. Health and Safety Code section 1367 also requires health plans to make all services readily available at reasonable times to each enrollee consistent with good professional practice and, to the extent feasible, to make all services readily accessible to all enrollees consistent with Health and Safety Code section 1367.03 (regarding timely access to needed health care services). This section also requires the health plan to make all services accessible and appropriate consistent with Health and Safety Code section 1367.04 (requiring access to language assistance).

Health and Safety Code section 1367.01 states that a health plan and any entity with which it contracts for services that include utilization review or utilization management functions, that prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity, requests by providers prior to, retrospectively, or concurrent with the provision of health care services to enrollees, or that delegates these functions to medical groups or independent practice associations or to other contracting providers, shall have written policies and procedures establishing the process by which the plan prospectively, retrospectively, or con-

currently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity, requests by providers of health care services for plan enrollees. These policies and procedures shall ensure that decisions based on the medical necessity of proposed health care services are consistent with criteria or guidelines that are supported by clinical principles and processes.

Health and Safety Code section 1367.005 requires that individual or small group health plan contracts include, at a minimum, coverage for essential health benefits pursuant to the Patient Protection and Affordable Care Act (PPACA) and as stated in 1367.005. This includes coverage of health benefits contained within the categories of Section 1302(b) of PPACA as follows: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care. Health plan contracts must also provide coverage for the health benefits covered by the Kaiser Foundation Health Plan Small Group HMO 30 plan as this plan was offered the first quarter of 2014, as specified in Health and Safety Code section 1367.005 and Rule 1300.67.005 of title 28 of the CCR.

Health and Safety Code section 1367.03 requires, in part, that a health plan that provides or arranges for the provision of hospital or physician services, including a mental health plan that provides hospital or physician services, or that provides mental health services pursuant to a contract with a full-service health plan shall provide or arrange for the provision of covered health care services in a timely manner for the nature of the enrollee's condition and consistent with good professional practice. The health plan is required to maintain adequate provider networks and ensure that all plan and provider processes necessary to obtain covered health care services, including prior authorizations, are completed in a manner that assures an enrollee receives services in a timely manner appropriate for the enrollee's condition.

Health and Safety Code section 1374.72 requires that every health plan contract issued, amended, or renewed on or after January 1, 2021, that provides hospital, medical, or surgical coverage shall provide coverage for medically necessary treatment of mental health and substance use disorders, under the same terms and conditions applied to other medical conditions under the terms of the health plan contract.

Health and Safety Code section 1374.721 requires that a health plan that provides hospital, medical, or surgical coverage shall base any medical necessity de-

termination or the utilization review criteria that the health plan, and any entity acting on the health plan's behalf, applies to determine the medical necessity of health care services and benefits for the diagnosis, prevention, and treatment of mental health and substance use disorders on current generally accepted standards of mental health and substance use disorder care.

Health and Safety Code section 1374.722 requires that a health plan contract issued, amended, renewed or delivered on or after January 1, 2024, that is required to provide coverage for medically necessary treatment of mental health and substance use disorders pursuant to Health and Safety Code sections 1374.72, 1374.721, and 1374.73 shall cover the provision of the services identified in the fee-for-service reimbursement schedule published by the Department of Health Care Services (DHCS), described in subsection (c)(5)(B), when those services are delivered at schoolsites.

Health and Safety Code section 1374.73 requires that every health plan contract that provides coverage for hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism. This coverage shall be provided in the same manner and subject to the same requirements as Health and Safety Code section 1374.72.

Health and Safety Code section 1386 states that the Director of the Department may take enforcement action, including the assessment of administrative penalties, if the Director determines that a health plan licensee has failed to comply with the requirements of the Knox-Keene Act and title 28 of the CCR.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Congress enacted the Mental Health Parity and Addiction Equity Act (MHPAEA) in 2008, prohibiting health plans in the large group market from imposing financial coverage limits on mental health benefits that were less favorable than those for medical and surgical benefits. In 2010, the Affordable Care Act (ACA) extended MHPAEA's requirements to the small group and individual markets. MHPAEA requires health care service plans that provide mental health and substance use disorder benefits to provide those benefits at the same level as the health plan's medical and surgical benefits. MHPAEA does not require a health plan to cover mental health and substance use disorder benefits, but if the plan does so, it must offer the benefits on par with medical and surgical benefits. Current MHPAEA requirements have been in effect since mid-2014.

In 1999, California enacted Health and Safety Code section 1374.72, requiring parity in mental health ben-

efits. Unlike the federal law, Health and Safety Code section 1374.72, as repealed, was a coverage requirement; it required full-service health plans to provide treatment for specified mental health conditions as a covered benefit. And, like the federal law, the repealed statute stated that the benefits were required to be provided under the same terms and conditions as other medical conditions. The coverage requirement in Health and Safety Code section 1374.72, as repealed, applied to health plans in the large group, small group, and individual markets and included (1) “severe mental illnesses” for individuals of any age, including nine specified condition categories, and (2) “serious emotional disturbances” of a child. The coverage requirement under Health and Safety Code section 1374.72, as repealed, did not include treatment for substance use disorders.

The ACA further expanded coverage requirements for mental health and substance use disorders. The ACA required health plans in the small group and individual markets to cover “Essential Health Benefits” (EHBs),¹ which include coverage for “mental health and substance use disorder” services. Thus, between the EHB requirement and Health and Safety Code section 1374.72, as repealed, all full-service health plans were required to cover mental health treatment, and all health plans in the small group and individual markets were also required to cover treatment for substance use disorders. Notably, though, for health plans in the large group market, the express mental health coverage mandate was limited to treatment for “serious emotional disturbances” of children and the nine enumerated categories of “severe mental illnesses” of adults listed in Health and Safety Code section 1374.72.

Senate Bill (SB) 855 (Weiner, 2020) amended California’s mental health parity statute, requiring commercial health plans and insurers in all markets to cover treatment for all medically necessary mental health and substance use disorder conditions. SB 855 established specific standards for what constitutes medically necessary treatment and criteria for the use of clinical guidelines when making medical necessity and level of care placement decisions for mental health or substance use disorder treatment. The purpose of SB 855 was to update mental health coverage standards, expand substance use disorder coverage requirements to health plans in the large group market, and provide enrollees with stronger mechanisms to use against health plans that do not provide timely and appropriate coverage.

Health and Safety Code section 1374.722 was established to require health plans to provide coverage for medically necessary treatment of Mental Health/

Substance Use Disorder (MH/SUD) pursuant to Health and Safety Code sections 1374.72, 1374.721 and 1374.73, when those medically necessary services are delivered at schoolsites, as defined in 1374.722(a)(6).

The Department is adopting regulations that implement and clarify the health plan requirements of SB 855. The Department is also repealing an old version of Rule 1300.74.72, which was adopted prior to the passage of SB 855 and does not contain the updated requirements for health plans concerning mental health and substance use disorders. The regulation package will address concerns that health plans have overly restrictive prior authorization and utilization management requirements for mental health and substance use disorders, as well as inadequate networks of appropriate providers for these medical conditions. The regulation will also ensure that a health plan uses the most recent criteria and guidelines developed by a nonprofit professional association for the relevant clinical specialty when the health plan conducts a utilization review of mental health and substance use disorder medical services requested by an enrollee or provider.

COMPARABLE FEDERAL LAW
(Government Code § 1346.5(a)(3)(B))

Congress enacted the Mental Health Parity and Addiction Equity Act (MHPAEA) in 2008, prohibiting health plans in the large group market from imposing financial coverage limits on mental health benefits that were less favorable than those for medical and surgical benefits. In 2010, the Affordable Care Act (ACA) extended MHPAEA’s requirements to the small group and individual markets. MHPAEA requires health care service plans that provide mental health and substance use disorder benefits to provide those benefits at the same level as the health plan’s medical and surgical benefits. MHPAEA does not require a health plan to cover mental health and substance use disorder benefits, but if the plan does so, it must offer the benefits on par with medical and surgical benefits. Current MHPAEA requirements have been in effect since mid-2014. Additionally, the ACA required health plans in the small group and individual markets to cover EHBs, which include coverage for “mental health and substance use disorder” services.²

¹ Health and Safety Code section 1367.005.

² Health and Safety Code section 1367.005.

**POLICY STATEMENT OVERVIEW –
BROAD OBJECTIVES AND BENEFITS OF
THE PROPOSED REGULATION
(Government Code § 1346.5(a)(3)(c))**

The Department is repealing an old version of Rule 1300.74.72, which was adopted prior to the passage of SB 855 and does not contain the updated requirements for health plans concerning mental health and substance use disorders. The repeal of the old Rule is necessary to achieve the objectives of Health and Safety Code sections 1374.72, 1374.721, and 1374.722, by removing outdated language that could cause confusion and misunderstanding of the requirements of current law by both health plans and consumers.

The broad objective for the Department adopting regulations for mental health and substance use disorder coverage is to implement and clarify the health plan requirements of SB 855, and to inform consumers of their rights to coverage and timely access to mental health and substance use disorder services, as required under Health and Safety Code sections 1374.72, 1374.721, and 1374.722. The regulation package will address concerns that health plans have overly restrictive prior authorization and utilization management requirements for mental health and substance use disorders, as well as inadequate networks of appropriate providers for these medical conditions. This information benefits consumers who need to access mental health and substance use disorder medical services by ensuring enrollees have access to necessary mental health and substance use disorder providers and that health plans conduct appropriate prior authorization requests and utilization management reviews of requested medical services. By clarifying the requirements of Health and Safety Code sections 1374.72, 1374.721, and 1374.722, the plans and consumers will benefit from consistent and efficient implementation by health plans of covered health care services for enrollees with mental health and substance use disorders. The proposed regulations will benefit health plans and health consumers by providing a transparent and consistent approach to implementation of California requirements for the treatment of mental health and substance use disorders.

Rule 1300.74.72, as proposed to be repealed:

The former Rule 1300.74.72 contains an outdated definition of “mental health disorders” and omits “substance use disorders.” This Rule also does not have the most updated definition of medically necessary treatment of mental health conditions that is required by the statute and contained in the Rule being proposed by the Department.

Rule 1300.74.72, as proposed to be adopted:

Proposed Rule 1300.74.72 specifies that plans shall cover medically necessary MH/SUD services pursuant to Section 1374.72, which states that every health plan that provides hospital, medical, or surgical benefits shall also provide coverage for medically necessary MH/SUD under the same terms and conditions as applied to other medical conditions. The proposed Rule sets out the health plans’ obligation to provide information regarding coverage of MH/SUD benefits in their Evidence of Coverage. The proposed Rule also lays out the health plans’ obligation to maintain a sufficient provider network for medically necessary MH/SUD services and provides guidance for health plans regarding their obligation to arrange for out-of-network medically necessary MH/SUD services if medically necessary services are not available in-network. The proposed Rule explains the procedure health plans shall take to arrange for out of network medically necessary MH/SUD services and the limits on an enrollees’ financial obligation for such services. The proposed Rule specifies that an enrollee may arrange for their own out-of-network medically necessary MH/SUD services if the health plan fails to meet its obligation and the specified timelines for providing the services. Lastly, the proposed Rule explains that health plans shall keep records of their efforts to arrange out of network medically necessary MH/SUD services for enrollees, including the information that shall be recorded and how long the records shall be maintained by the health plan.

Rule 1300.74.72.01 as proposed to be adopted:

The proposed Rule specifies the scope of the benefits that shall be offered by a health plan for MH/SUD services. The Rule lays out the requirement that health plans offer the specified basic health care services in accordance with generally accepted standards of mental health and substance use disorder care, including schoolsite coverage. The proposed Rule includes the requirement for coverage of home health care under specified circumstances and the frequency and types of providers that may be used to provide the home health care services. The proposed Rule also specifies that the quantitative or nonquantitative treatments limitations or limitations on eligibility to receive the home health care shall be consistent with Medicare and subject to the Department’s approval. The proposed Rule describes the requirements for preventative health care and the basic services that shall be offered by health plans for screening, intervention, and referral for treatment. Lastly, the proposed Rule includes requirements for the health care benefit for a mental health condition or substance use disorder, including coverage of emergency services.

Rule 1300.74.721, as proposed to be adopted:

LOCAL MANDATE

The proposed Rule defines utilization review for the purposes of medically necessary MH/SUD services and specifies that a health plan shall use the relevant non-profit criteria when making utilization review determinations unless the circumstances in Section 1374.721(c)(1) or (c)(2) apply. The proposed Rule specifies what information the health plan shall file to demonstrate compliance with Section 1374.721. Further, the proposed rule requires that a health plan use specified instruments to make utilization review determinations concerning medically necessary MH/SUD service intensity, level of care placement, continued stay, and transfer or discharge to be compliant with Section 1374.721. Finally, the proposed Rule specifies how health plans shall sponsor formal education and training programs for their staff and other stakeholders regarding handling medically necessary MH/SUD.

The Department has determined the regulations will not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

CONSISTENCY AND COMPATIBILITY
WITH STATE REGULATIONS
(Government Code § 11346.5(a)(3)(D))

ALTERNATIVES CONSIDERED

The Department compared the proposed regulation to existing state regulations including title 28, sections 1300.67 and 1300.67.005, as well as (old) section 1300.74.72 (being repealed). The proposed regulation is neither inconsistent nor incompatible with existing state regulations. The Department evaluated the proposed regulations for any related regulations in this area and found that these are the only regulations that apply specifically to mental health and substance use disorder coverage requirements under title 28 of the CCR.

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

The Department has considered the following alternatives and determined they are not reasonable and would not be more effective in carrying out the purpose for which the action is proposed, be as effective and less burdensome to affected private persons, or be more cost-effective to affective private persons and equality effective in implementing the statutory policy or other provision of law:

Alternative 1: Audit complaints through the Help Center regarding compliance with SB 855

As an alternative to specifying that plans use the NPA criteria and guidelines in Rule 1300.74.721(c) and (d), the Department considered allowing plans to select their own criteria for utilization review as long as those criteria are based on “current generally accepted standards of mental health and substance use disorder care.”³ This would have required the Department to monitor complaints regarding delays, modifications, and denials of MH/SUD treatment requests to determine whether a) plans were using utilization review criteria based on generally accepted standards of MH/SUD care and b) whether plans were applying the criteria in an overly restrictive manner.

PURPOSE OF THE REGULATIONS

The Department is proposing to adopt Rules 1300.74.72, 1300.74.72.01 and 1300.74.721, and repeal old section 1300.74.72, to specify health plans requirements for coverage of mental health and substance use disorders and utilization management of these disorders. This is necessary to interpret, implement and make specific the requirements for health plan coverage and utilization management of enrollees with mental health and substance use disorders under Health and Safety Code sections 1374.72 and 1374.721, as amended by SB 855, and to interpret, implement and make specific the requirements for health plan coverage of enrollees with mental health and substance use disorders who receive medically necessary MH/SUD services provided at a schoolsite pursuant to Health and Safety Code section 1374.722.

The Department decided against this course of action. Given the current mental health and substance use crisis, it is imperative that individuals in crisis can receive medically necessary MH/SUD treatment as expediently as possible. This alternative would have potentially added to unnecessary delays in individuals receiving such services. This alternative also would not necessarily effectively implement the statutory requirement for plans to utilize the most recent versions of treatment criteria developed by the nonprofit pro-

³ See HSC section 1374.721(a).

fessional association for the relevant clinical specialty. Thus, the Department opted for the more prescriptive standard of requiring specific NPA criteria to be used by plans for utilization review of MH/SUD services.

Alternative 2: Allow plans to integrate the relevant NPA criteria into existing utilization review procedures.

Instead of requiring that plans use the tool developed by the relevant NPA to conduct utilization review, the Department considered allowing plans to attest to using the NPA criteria and integrating it into their existing procedures. This option would likely have resulted in incorrect application of the NPA criteria. Thus, the Department opted to require use of any tool developed by the NPA for utilization review or, in the alternative, having internal procedures certified by the relevant NPA for proper use of the criteria.

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

BUSINESS REPORTING REQUIREMENT

Pursuant to Government Code section 11346.3(d), the Department has determined that the reporting requirements contained in this regulation are necessary for the health, safety or welfare of the people of the State of California. The proposed regulations are a benefit to the health plans because it provides a standardized, cohesive reporting methodology that enables health plans to report meaningful MH/SUD information, including provider information, to the Department. The health plans are already required by existing law to provide the Department with timely access to care information under Rules 1300.67.2.1 and 1300.67.2.2 to the Department. Health plans benefit because uniform standards allow for ease of reporting submission. Submission this information allows the Department to ensure health plans are complying with MH/SUD appointment standards and that health plans have adequate provider networks to meet the needs of the enrollee population they serve.

SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.

- Cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The Department estimates that the average health plan will spend between \$0.09 and \$0.54 per enrollee to implement the proposed Rule, and between \$0.05 and \$0.08 per enrollee for ongoing costs associated with the proposed Rule. Health plans can use existing staff and resources to comply with the proposed Rule.
- Effect on Housing Costs: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.

DETERMINATIONS

The Department has made the following initial determinations:

The Department has determined the regulation will not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with section 17500) of Division 4 of the Government Code. As specified in Section 6 of AB 2179, no reimbursement is required.

The Department has determined the regulation will have no significant effect on housing costs.

The Department has determined the regulation does not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342.610(b) and (c).

The Department has determined the regulation will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined the regulation will not significantly affect the creation of new businesses or the elimination of existing businesses within the State of California.

The Department has determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that this regulation will have no cost or savings in federal funding to the state.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS
(Government Code § 11346.3(b))

Creation or Elimination of Jobs Within the State of California

The Department does not believe that a health plan will create additional positions to comply with the requirements of the proposed Rule. A health plan will likely use existing staff to conduct utilization review pursuant to the new requirements of the Proposed Rule. Therefore, the Department does not anticipate the creation or elimination of jobs within the State of California resulting from the proposed Rules.

Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

The proposed Rule will neither create new businesses nor eliminate existing businesses. The proposed Rule affects only existing businesses and does not require the creation of any new businesses. As discussed, a health plan will have to train existing staff to conduct utilization review using the relevant non-profit association (NPA) criteria and guidelines. The health plan normally trains staff as a normal course of business practice. Therefore, the Department does not anticipate the creation or elimination of jobs within the State of California resulting from the proposed Rules for the health plan staff.

Expansion of Businesses Currently Doing Business Within the State of California

As discussed above, the proposed Rule is unlikely to cause an increase in workload on existing health plan personnel. The Department estimates that the average health plan will spend between \$0.10 and \$0.54 per enrollee to implement the proposed Rule, and between \$0.06 and \$0.08 per enrollee for ongoing costs associated with the proposed Rule. A health plan can use existing staff and resources to comply with the proposed Rule per normal business practice.

The Department does not believe that any of the NPAs doing business in California will experience an expansion in business due to the proposed Rule. Existing staff and resources can absorb the workload from the proposed Rule.

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

SB 855 represents a crucial change to MH/SUD service coverage in the State of California that will benefit the health and welfare of California enrollees. The proposed Rule adds essential clarification to SB 855, which was enacted in 2020. Most notably, a health plan will have to either utilize the specific tool developed by the NPA to conduct utilization review or integrate the NPA criteria into internal utilization

review procedures and have those procedures certified by the relevant NPA. The proposed regulations would ensure that enrollees with mental health or substance use disorders have access to the appropriate treatment; thereby, benefiting their overall health and access to medically necessary services. The proposed rule requires that a health plan use specified instruments to make utilization review determinations concerning medically necessary MH/SUD service intensity, level of care placement, continued stay, and transfer or discharge to be compliant with Health and Safety Code section 1374.721, ensuring that health plan enrollees have the benefit of appropriate access to care as required under the law and ensuring appropriate welfare for enrollees with mental health and substance use disorders. The Department does not anticipate this regulatory action will have any impact on worker safety, or the state's environment.

GENERAL PUBLIC INTEREST

**GAMBLING
CONTROL COMMISSION**

NOTICE OF CORRECTION

COMMISSION FEES MODERNIZATION
PROJECT III
CGCC-GCA-2022-03-C

The California Gambling Control Commission (Commission) published a Notice of Proposed Action (NOPA) concerning the proposed adoption of regulations for Commission Fees Modernization III, to make changes within the California Code of Regulations, Title 4, Division 18, in the *California Regulatory Notice Register (Register)* on December 2, 2022 (Register 2022, No. 48-Z, page 1424, Notice File Number Z2022-1122-05). The second paragraph of the published NOPA, titled Written Comment Period, contained typographical errors, which incorrectly indicated that the written comment period closes in the year 2022. The NOPA should have correctly provided that:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on **January 17, 2023**. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the in-

dividuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on January 18, 2023. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**"

Any inquiries regarding this correction or comments and inquiries concerning the substance of the proposed action, should be directed to the following **primary** contact person:

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

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

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

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

GAMBLING CONTROL COMMISSION

NOTICE OF CORRECTION

NOTICE OF PROPOSED ACTION FOR SUBPOENAS CGCC-GCA-2022-06-R

The California Gambling Control Commission (Commission) published a Notice of Proposed Action (NOPA) concerning the proposed adoption of regula-

tions for Subpoenas, to make changes within the California Code of Regulations, Title 4, Division 18, in the *California Regulatory Notice Register (Register)* on November 18, 2022 (Register 2022, Number 46-Z, pg. 1369, Notice File Number Z2022-1107-01). The second paragraph of the published NOPA, titled Written Comment Period, contained typographical errors, which incorrectly indicated that the written comment period closes in the year 2022. The NOPA should have correctly provided that:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on **January 3, 2023**. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on January 4, 2023. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**"

Any inquiries regarding this correction or comments and inquiries concerning the substance of the proposed action, should be directed to the following **primary** contact person:

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

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

Alex Hunter, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499/

E-mail: ahunter@cgcc.ca.gov

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

**DEPARTMENT OF
FISH AND WILDLIFE**

**PROPOSED RESEARCH ON
FULLY PROTECTED SPECIES**

**WHITE-TAILED KITE POPULATION AND
MOVEMENT ECOLOGY IN CALIFORNIA**

The Department of Fish and Wildlife (Department) received a proposal on November 29, 2022, from Dr. Peter Bloom of Bloom Biological, Inc., requesting authorization to take white-tailed kites (*Elanus leucurus*) (kite), a Fully Protected bird species, for scientific research purposes, consistent with protection and conservation of the species.

Dr. Bloom will be conducting basic population and movement ecological research on kites in the South Coast Ranges of San Diego, Orange, Los Angeles, Ventura, and Santa Barbara counties. The research will help fill knowledge gaps about kites to help facilitate the conservation and management of the species and of open-space lands. The proposed activities include surveying and monitoring nests and banding nestlings, trapping adults, subadults, and juveniles via baited bow nets, noose carpets, bal-chattris, and dho-gazas, attachment of VHF, GSM cellular, or PTT satellite transmitters to track dispersal movements and home range sizes, banding with aluminum and color bands, and collection of blood and feather samples. If any kites are found dead, they will be salvaged and donated to a scientific institution open to the public, as designated by the Department and the U.S. Fish and Wildlife Service. No adverse effects on individuals or populations are expected.

The Department intends to issue, under specified conditions, an amended Memorandum of Understanding (MOU) that would authorize the applicant to carry out the proposed activities. The applicant is also required to have valid federal permits and a scientific collecting permit for this research on kites and to incidentally take other bird species in California.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after a 30-day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is

consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it will issue the authorization on or after January 15, 2023, for an initial and renewable term of four years. Contact: Shannon Skalos, Shannon.Skalos@wildlife.ca.gov.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**ANNOUNCEMENT OF PUBLICATION
OF PUBLIC HEALTH GOALS AND
TECHNICAL SUPPORT DOCUMENT FOR
HALOACETIC ACIDS IN DRINKING WATER**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is announcing its adoption and publication of Public Health Goals (PHGs) for the five regulated haloacetic acids (HAAs) found in drinking water as a result of disinfection methods: monochloroacetic acid (MCA), dichloroacetic acid (DCA), trichloroacetic acid (TCA), monobromoacetic acid (MBA), and dibromoacetic acid (DBA).

A PHG is the level of a drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996¹ requires OEHHA to develop PHGs based exclusively on public health considerations.² PHGs published by OEHHA are considered by the State Water Resources Control Board in setting drinking water standards (Maximum Contaminant Levels, or MCLs) for California.³

The technical support document, posted on the OEHHA website (<https://oehha.ca.gov/water>), presents the scientific information available on the toxicity of the HAAs and the calculation of the PHGs. The PHGs of 0.2 parts per billion (ppb) for DCA, 0.1 ppb for TCA, and 0.03 ppb for DBA are based on carcinogenicity and are set at a level of risk of one additional cancer case per one million persons exposed over a lifetime. The PHGs of 53 ppb for MCA and 25 ppb for MBA are based on noncancer health effects. OEHHA also presents health-protective drinking water concentrations for noncancer health effects for DCA, TCA, and DBA.

A companion document, also available at <https://oehha.ca.gov/water>, contains responses to comments from the two public comment periods and the external scientific peer review conducted pursuant to California Health and Safety Code Section 57004.

¹ Codified at Health and Safety Code, section 116270 *et seq.*

² Health and Safety Code, section 116365(c).

³ Health and Safety Code, section 116365(a) and (b).

If you have questions regarding this announcement, please contact Hermelinda Jimenez at PHG.Program@oehha.ca.gov or at (916) 324-7572.

**OFFICE OF THE STATE
FIRE MARSHAL**

**NOTICE OF EXTENSION OF
WRITTEN COMMENT PERIOD**

On November 4, 2022, the Office of the State Fire Marshal published a Notice of Proposed Rulemaking concerning the Regulations Relating to Fireworks and Flamethrowing Devices. (California Regulatory Notice Register 2022, No. 44-Z, November 4, 2022, page 1299.)

The original written comment period for this action was:

November 4, 2022, through December 20, 2022.

The Department is now extending the written comment deadline. The extended written comment period is:

November 4, 2022, through January 4, 2023

The Notice of Extension of the Written Comment Period, Initial Statement of Reasons, and Express Text of Regulations for this rulemaking can be accessed on the Office of the State Fire Marshal website:

<https://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/> under the tab titled: (FWX) Fireworks and Flamethrowing Devices – Fee Increase

Please submit all written comments or questions to:

Eireann Flannery
CAL FIRE / Office of the State Fire Marshal
715 'P' Street, Suite 900
Sacramento, CA 95814
Title19Regulations@fire.ca.gov
Phone: (916) 531-7650

PETITION DECISION

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

Pursuant to Government Code 11340.7

PETITIONER

Debbie Anderson
916-201-6710
debraja2004@yahoo.com

AUTHORITY

The authority granted by Government Code (GC) section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR or department) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, California Department of Cor-

rections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283–0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the department’s contact person.

SUMMARY OF PETITION

The Petitioner is petitioning to amend the California Code of Regulations (CCR), Title 15, Division 3, Article 1, section 3000, Definitions. Specifically, the Petitioner seeks to amend the definition of immediate family members to include the family unit they identify as “Found Family” or “Chosen Family,” ostensibly to allow the expansion of who may participate in the Family Visiting (Overnight) program. The Petitioner implies this definition should include anyone “who is visiting the particular man or woman that’s incarcerated.”

The Petitioner states many incarcerated individuals come from “toxic, dysfunctional families where they were abused physically, emotionally, and mentally, never feeling loved or having any support from their family members.” The Petitioner further states the incarcerated individuals “have been lucky enough through the years to have formed friendships that have turned into a family unit which are just as important as any biological family unit and are probably more important to someone who grew up with toxic biological family. No one should feel isolated or alone especially while in prison.”

DEPARTMENT DECISION

The department denies the petition to amend CCR, Title 15, Division 3, section 3000, Definitions, specifically to modify the meaning of immediate family. The current definition is clearly defined, and in review, the department finds the CCR, Title 15, Division 3, section 3000 definition for immediate family is congruent with numerous other California statute definitions for immediate family, including but not limited to those found within the Civil Code; the Education Code; the Government Code; the Health and Safety Code; the Penal Code; and the Welfare and Institutions Code. Further, the definition “Immediate Family Member” within section 3000 is more inclusive than the aforementioned statutory sections, as it lists registered domestic partners; adoptive parents, if the adoption occurred and a family relationship existed prior to the incarcerated individual’s incarceration; step–parents or foster parents; step, or foster brothers or sisters; the incarcerated individual’s natural and adoptive children; and legal stepchildren.

As it pertains to the Petitioner’s intent to expand access to the Family Visiting (Overnight) Program, it is important to note family visiting is a privilege afforded to incarcerated individuals, and not a right; and is restricted to the extent necessary to ensure the safety and security of those who live and work within the institutions, institution visitors, and the public. As such, in addition to whom the incarcerated individual may visit in keeping with section 3000, further limitations may be based upon the incarcerated individual’s conviction history, their behavior while incarcerated, their assigned work group/privilege group, and their current custody level.

**OAL REGULATORY
DETERMINATION**

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

**OFFICE OF ADMINISTRATIVE LAW
DETERMINATION OF ALLEGED
UNDERGROUND REGULATION
(SUMMARY DISPOSITION)**

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

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324–6044 or Margaret.Molina@oal.ca.gov.

2022 OAL DETERMINATION NUMBER 3(S)
(CTU2022–1014–01)

Date: December 1, 2022
To: Carnell Leavy
From: Chapter Two Compliance Unit
Subject: 2022 OAL DETERMINATION
NUMBER 3(S) (CTU2022–1014–01)
(Summary Disposition issued pursuant to
Government Code, sec. 11340.5; Cal. Code Regs.,
title 1, sec. 270(f))
Petition challenging as an underground regulation
Authorized Personal Property Schedule
Exemptions issued by the California Department
of Corrections and Rehabilitation — High Desert
State Prison

On October 14, 2022, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether certain Authorized Personal Property Schedule (APPS) exemptions identified in a letter, dated September 21, 2022, sent to you by the High Desert State Prison Warden’s Office, constitute an underground regulation. The letter is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,¹ which should have been, but was not, adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted pursuant to the APA, it may be an “underground regulation” as defined in California Code of Regulations (CCR), title 1, section 250:

- (a) “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. [Emphasis added.]

The challenged rule contained in the letter states:

HDSP currently has Authorized Personal Property Schedule (APPS) approved exemptions on the Level IV 180 design housing Facilities C and D for personal fans, disposable razors, manual typewriters, clip on fans, lights, and Styrofoam.

CCR, title 15, section 3190 provides, in relevant part:

- (b) [...] An Authorized Personal Property Schedule, identifying a list of allowable property, not including religious property, shall be developed and updated no more frequently than twice yearly. Local facility exemptions to the property lists shall also be identified. All changes to the Authorized Personal Property Schedule shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code Sections 11340 through 11350.3) and, if applicable, Penal Code 5058.3.

- (1) [...]

¹ “Regulation” means 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.

- (3) Authorized Personal Property Schedule — Level IV Male Inmates (Rev. 12/20/21). This personal property schedule applies to all facilities which operate Level IV Male Inmate Housing.

Pages one through five of the “Authorized Personal Property Schedule — Level IV Male Inmates (Rev. 12/20/21)” are attached hereto as Exhibit B. Page four provides, under the heading “GRANTED EXEMPTION REQUESTS:”

HIGH DESERT STATE PRISON

Level IV Facilities

- Disposable razors and manual typewriters are not permitted.
- Clip on fans and lights are not permitted.
- Styrofoam is not permitted.
- Fans are not permitted in Facilities C and D.

The “Authorized Personal Property Schedule – Level IV Male Inmates (Rev. 12/20/21),” incorporated by reference in CCR, title 15, section 3190(b)(3), was duly adopted by the California Department of Corrections and Rehabilitation (CDCR) in an emergency rulemaking by operational necessity pursuant to Penal Code section 5058.3 (OAL matter Number 2020–0706–02EON). A document incorporated by reference into a regulation becomes a duly adopted regulation. CCR, title 1, section 20(e) provides:

Where a regulation which incorporates a document by reference is approved by OAL and filed with the Secretary of State, the document so incorporated shall be deemed to be a regulation subject to all provisions of the APA.

The matter was reviewed and approved by OAL. The emergency regulations were filed with the Secretary of State on July 23, 2020, and became effective the same day. An emergency rulemaking by operational necessity expires by operation of law unless CDCR timely submits a Certificate of Compliance in accordance with Government Code section 11346.1(e).

A Certificate of Compliance for the emergency regulations filed July 23, 2020, was timely submitted by CDCR to OAL on November 29, 2021 (OAL matter Number 2021–1129–01C). The Certificate of Compliance certified that CDCR complied with Government Code sections 11346.2 to 11347.3, inclusive. The matter was reviewed and approved by OAL, filed with the Secretary of State, and became operative on December 20, 2021. Therefore, California Code of Regulations, title 15, section 3190(b)(3), including the December 20, 2021, version of the APPS – Level IV Male Inmates, was duly adopted pursuant to the APA. A regulation that is duly adopted pursuant to the APA is not an underground regulation.

For the reasons discussed above, we find that the rule challenged by your petition is not an underground regulation.²

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

December 1, 2022

/s/

Eric Partington
Attorney IV

Cc: Kathleen Allison, Secretary, CDCR
Ying Sun, RPMB, CDCR

**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.

Fish and Game Commission
File # 2022-1020-01
Sport Fishing Regulations Updates

This certificate of compliance makes permanent emergency action Number 2022-0107-01E (readopted in action Number 2022-0712-02EE), which extended

² The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

- (f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.
- 2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:
 - (A) The challenged rule has been superseded.
 - (B) The challenged rule is contained in a California statute.
 - (C) **The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.**
 - (D) The challenged rule has expired by its own terms.
 - (E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

the low-flow closure periods in the current low-flow inland sport fishing restrictions for the north coast and central coast streams to remove angling as an additional stress on steelhead and salmon populations.

Title 14
Amend: 2.00, 2.25, 2.30, 5.00, 5.15, 5.20, 5.41, 5.75, 5.79, 5.85, 5.87, 5.88, 7.00, 7.40, 7.50, 8.00, 29.85
Filed 12/06/2022
Effective 12/06/2022
Agency Contact: David Haug (916) 902-9286

Occupational Safety and Health (Cal-OSHA)
Division
File # 2022-1101-01
Definition of Normal Consumption

This rulemaking action makes permanent an emergency regulation which implements and makes specific the policy set forth in Labor Code section 6403.3 (the so-called "stockpile" requirement on health care facilities for maintaining adequate supplies of personal protective equipment [PPE]), which was enacted to address the shortage of PPE for front-line health care workers resulting from the COVID-19 pandemic and to protect these healthcare workers from further spread of COVID-19 as well as ensure adequate supply of PPE to prepare for the future. Specifically, the regulation clarifies the meaning of "normal consumption" of PPE and provides a formula for calculating "three months of normal consumption" of PPE as those terms are used in Labor Code section 6403.3.

Title 08
Adopt: 340.70
Filed 12/05/2022
Effective 12/05/2022
Agency Contact: Lisa Brokaw (510) 286-6958

Secretary of State
File # 2022-1018-01
Notices Regarding Prohibition of Electioneering and Corruption of the Voting Process

This certificate of compliance by the Secretary of State makes permanent the emergency regulations that establish notice requirements concerning the prohibition of electioneering and activity related to the corruption of the voting process.

Title 02
Adopt: 20180, 20181, 20182
Filed 11/30/2022
Effective 11/30/2022
Agency Contact:
Robbie Anderson (916) 216-6488

CALIFORNIA REGULATORY NOTICE REGISTER 2022, VOLUME NUMBER 50-Z

CalSavers Retirement Savings Board
File # 2022-1122-02
CalSavers Retirement Savings Program Amendments

This emergency rulemaking action by the CalSavers Retirement Savings Board readopts amendments originally made in OAL Matter No. 2022-0308-03E, and readopted in OAL Matter No. 2022-0830-04EE, relating to determining employer eligibility and deadlines for registration and enrollment in the CalSavers Retirement Savings Program.

Title 10
Amend: 10000, 10001, 10002, 10004
Filed 11/30/2022
Effective 12/15/2022
Agency Contact: Eric Lawyer (916) 653-1744

Air Resources Board
File # 2022-1014-06
Advanced Clean Cars II Regulations

In this action, the California Air Resources Board adopts the Advanced Clean Car II (ACCII) regulations for the purpose of guiding the light-duty vehicle segment of the California transportation sector toward 100% electrification by 2035. The action also increases the stringency of existing regulations to ensure emissions are reduced in vehicles sold with internal combustion engines beginning in 2026 and until 2035.

Title 13
Adopt: 1961.4, 1962.4, 1962.5, 1962.6, 1962.7, 1962.8
Amend: 1900, 1961.2, 1961.3, 1962.2, 1962.3, 1965, 1968.2, 1969, 19676, 1978, 2037, 2038, 2112, 2139, 2140, 2147, 2317, 2903
Filed 11/30/2022
Effective 11/30/2022
Agency Contact:
Bradley Bechtold (661) 305-9128

Board of Forestry and Fire Protection
File # 2022-1014-01
Forest Resiliency Amendments, 2022

This action amends forest management and stocking regulations to improve forest resilience.

Title 14
Amend: 912.7, 913.2, 913.11, 932.7, 933.2, 933.11, 952.7, 953.2, 953.11
Filed 11/30/2022
Effective 01/01/2023
Agency Contact:
Jane Van Susteren (916) 619-9795

State Water Resources Control Board
File # 2022-1019-01
Colorado River Basin RWQCB Basin Plan
Amendment

On June 15, 2021, the Regional Water Quality Control Board (RWQCB), Colorado River Basin Region adopted Resolution No. R7-2021-0028 revising the prohibition adopted in Resolution No. R7-2011-0004 and first revised in Resolution R7-2016-0001 to (1) consolidate the phase 2 and 3 deadlines for the Yucca Valley sewage collection system, (2) extend the phase 1 and 2 deadlines, (3) add deferred parcels, (4) provide compliance periods for connecting to the connection system, (5) require Advance Treatment Units for Onsite Wastewater Treatment Systems on exempt parcels, (6) revise the reporting requirements to be less frequent but with more information, and (7) provide an updated map.

Title 23
Amend: 3969.1
Filed 12/05/2022
Effective 12/05/2022
Agency Contact: Maria Davydova (760) 776-8947

California Gambling Control Commission
File # 2022-1021-06
Commission Fees Modernization Project II

In this resubmitted certificate of compliance, the Commission establishes the annual fees for Third-Party Providers of Proposition Player Services (TPPPS) business licensees. Also, the Commission adds a definition for the term "gross revenue,"

Title 04
Adopt: 12252.2
Amend: 12002, 12252
Filed 12/07/2022
Effective 12/07/2022
Agency Contact:
Alexander Hunter (916) 263-1301

Commission on Peace Officer Standards and Training
File # 2022-1017-03
Updates to Definitions

This action by the Commission on Peace Officer Standards and Training implements Senate Bill 2 (Chapter 409, Statutes of 2021) by adopting and amending definitions relating to peace officer hiring eligibility and certification requirements.

Title 11
Adopt: 1201
Amend: 1001
Filed 11/30/2022
Effective 01/01/2023
Agency Contact: Michelle Weiler (916) 227-4870

Department of Parks and Recreation
File # 2022-0902-02
Grants and Cooperative Agreement Program

This action repeals the 2008 Soil Conservation Standard and Guidelines and adopts the 2020 Soil Conservation Standard and Guidelines which are incorporated by reference in 14 CCR Section 4970.06.3. The Soil Conservation Standards and Guidelines are used by the Off-Highway Motor Vehicle Recreation Division in administering their grants and cooperative agreements programs.

Title 14
Amend: 4790.06.3
Filed 11/30/2022
Effective 01/01/2023
Agency Contact: Ethan Mathes (916) 215-8074

Fish and Game Commission
File # 2022-1014-04
Commercial Harvest of Kelp & Other Aquatic Plants

This rulemaking action by the Fish and Game Commission updates requirements for the commercial harvesting of kelp and other aquatic plants. This action also updates requirements related to the leasing of

administrative kelp beds and temporarily closes lease only administrative kelp beds 308, 309, and 312.

Title 14
Adopt: 705.1
Amend: 165, 165.5
Filed 11/30/2022
Effective 01/01/2023
Agency Contact:
Sherrie Fonbuena (916) 902-9284

**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.

