



California Regulatory Notice Register

REGISTER 2023, NUMBER 12-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

MARCH 24, 2023

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Code — Notice File Number Z2023-0314-07 305
Amendment

Multi-County: Feather River Air Quality Management District
Santa Rosa Regional Resources Authority

State Agency: California Conservation Corps

TITLE 5. STUDENT AID COMMISSION

Learning-Aligned Employment Program (LAEP) — Notice File Number Z2023-0310-01 306

TITLE 8. AGRICULTURAL LABOR RELATIONS BOARD

Cannabis: Labor Peace Agreements — Notice File Number Z2023-0313-01 308

TITLE 10. CALSAVERS RETIREMENT SAVINGS BOARD

CalSavers SB 1126 Amendments — Notice File Number Z2023-0313-02 313

TITLE 10. DEPARTMENT OF INSURANCE

Workers' Compensation Insurance Rating Rules — Notice File Number Z2023-0314-02 317

TITLE 14. DEPARTMENT OF CONSERVATION

Selection of Professional Service Firms — Notice File Number Z2023-0314-06 327

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

Temporary Cameras in Inmate Hospital Rooms — Notice File Number Z2023-0314-04 330

TITLE 17. AIR RESOURCES BOARD

Vapor Recovery Certification Amendments — Notice File Number Z2023-0307-12 332

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Generator Improvements Rule — Notice File Number Z2023-0314-03 338

(Continued on next page)

***Time-
Dated
Material***

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Fee Realignment — Notice File Number Z2023–0313–03 342

TITLE 27. ENVIRONMENTAL PROTECTION AGENCY
Unified Program — Notice File Number Z2023–0314–08 346

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE
*Consistency Determination Request for Little Fallon Creek Restoration Project, Marin County
(Tracking Number 1653–2023–108–001–R3)* 351

DEPARTMENT OF FISH AND WILDLIFE
*CESA Consistency Determination Request for Feather River Salmonid Habitat Improvement
Project 2080R–2023–003–02, Butte County* 352

PETITION DECISION

BOARD OF PAROLE HEARINGS
Regarding Petition from S. Walker Concerning Notice of Hearing Rights 352

SUMMARY OF REGULATORY ACTIONS
Regulations filed with the Secretary of State 355

2023 RULEMAKING CALENDAR — INCORPORATED BY REFERENCE

Special Note 356

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:

Feather River Air Quality Management District
Santa Rosa Regional Resources Authority

STATE AGENCY:

California Conservation Corps

A written comment period has been established commencing on March 24, 2023 and closing on May 8, 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 May 8, 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 5. STUDENT AID COMMISSION

ARTICLE 12.8. LEARNING-ALIGNED
EMPLOYMENT PROGRAM (LAEP)

SECTIONS 30600 THROUGH 30604

NOTICE IS HEREBY GIVEN that the California Student Aid Commission (Commission) proposes to adopt the proposed regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding this proposal is currently not scheduled. However, any interested person or duly authorized representative may request, no later than 15 days before the close of the written comment period that a public hearing be scheduled.

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

Notice is also given that any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

California Student Aid Commission
Attention: Synequeen Alasa-as, Legal Services
P.O. Box 419026
Rancho Cordova, CA 95741

Comments may also be submitted by facsimile (FAX) at (916) 464-6411 or by email to Rulemaking@csac.ca.gov. The public comment period for this regulatory action will **begin on Friday, March 24, 2023**. Comments must be **submitted by Monday, May 8, 2023**, to be considered.

AUTHORITY AND REFERENCE

Education Code Section 69967(a) directs the Commission, in consultation with the President and Chancellor Offices of the University of California,

California State Universities, and California Community Colleges, to do all the following:

1. *Develop and post on its internet website any necessary programmatic policies and guidelines to assist participating employers and public post-secondary educational institutions to operate the program.*
2. *Develop processes to facilitate public post-secondary educational institutional compliance with the priorities stated in Section 69959.*
3. *Develop processes to facilitate the monitoring of institutional expenditures to ensure proper allocation and use of program funds.*

Education Code Section 69952(b) further provides that:

Before participating in the program, each institution shall sign an institutional agreement acknowledging its willingness to administer the program pursuant to this article and guidance developed by the commission, in consultation with the office of the President of the University of California, the office of the Chancellor of the California State University, and the office of the Chancellor of the California Community Colleges.

The proposed regulations discussed in this document were developed by staff to satisfy these amended provisions of the Education Code and to implement the LAEP and its administration by the Commission. In addition, the Commission has determined that adopting regulations under the California Administrative Procedures Act is necessary to interpret, implement, and make specific the above Education Code provisions and to establish the LAEP.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

As described above, Education Code Section 69967(a) directs the Commission to develop programmatic policies and guidelines to establish and implement the LAEP on behalf of California public institutions of higher education and students at those institutions. The regulations are necessary for the Commission to promulgate such programmatic policies and guidelines within the California Code of Regulations, so eligible Institutions and Employers consistently implement the LAEP in accordance with the revised statutory requirements.

These proposed regulations were developed after a year-long effort that included consultation by Commission staff with representatives of the University of California, California State University, and California Community College systems. Those efforts included workgroup meetings that occurred weekly for several months, and biweekly for several more. The workgroup now continues to meet monthly to address is-

sues and questions related to the administration of the program. In addition, once the final draft of the regulations were developed, Commission staff shared the draft with a smaller group of system representatives, obtained their feedback and finalized the proposed regulations before seeking Commission consideration and approval.

The proposed regulations were developed to satisfy these provisions of the Education Code as they apply to the newly established Learning–Aligned Employment Program pursuant to Education Code Section 69967.

Objectives and Benefits of the Proposed Regulation

As previously noted, the proposed regulations are necessary to clarify statutory provisions and implement the LAEP. The LAEP, to be jointly administered by the Commission and California’s public colleges and universities, is designed to provide additional and important employment opportunities for college students, particularly those from underrepresented backgrounds and those majoring within STEM disciplines. The Program provides college and university students with opportunities to earn money to help defray educational costs and gain important career–related work experience. The Program furthers the interest of the State to develop and maintain a well–educated workforce, including within the STEM disciplines. The Program also lessens the burden upon government to provide for a well–educated workforce and helps ensure that California’s eligible college and university students can pursue higher education.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

After conducting a review of for any related regulations in this area, the Commission has determined that no other regulations exists concerning the Learning–Aligned Employment Program. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING
THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Fiscal Impact Estimates:

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any cost or savings in federal

funding to the state. With respect to potential cost or savings to State agencies, the California Student Aid Commission may incur minor absorbable costs relative to preparing the proposed regulations.

Housing Cost: None.

Cost Impact on Representative Private Person or Business:

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

Other Business Impacts:

The Commission has determined the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by California Government Code Section 11342.610. This proposal would not affect private sector or small business as defined by California Government Code Section 11342.610.

Cost or Savings in Federal Funding to the State: None.

Results of the Economic Impact Analysis:

The proposed regulations would clarify and implement program provisions and application requirements for the Learning–Aligned Employment Program. Participating in this educational grant funding program is a voluntary option available to eligible students and employers. As such, the proposed regulations place no new or substantial requirements on businesses, individuals, or government agencies within California.

The regulatory amendments are not expected to create or eliminate any jobs within the state. The regulation is not expected to create new businesses or eliminate existing businesses within the state or cause an expansion to businesses currently doing business within the state. Therefore, the proposed regulations have no potential for adverse economic or fiscal impact. Furthermore, there is no significant statewide adverse economic impact directly affecting businesses, including California businesses’ ability to compete with businesses in other states or on representative private persons.

The benefits of this regulation, as discussed above, would be to improve the efficient implementation and administration of this program by the Commission on behalf of student applicants. This should enable more students to take advantage of this source of educational grant funding in support of their educational goals. The regulation is not expected to directly impact California residents’ health and welfare, worker safety, or the state’s environment.

FEDERAL MANDATE

There are no comparable provisions of federal law related to this proposal. The regulation would only apply in California and specifically to implement the Learning–Aligned Employment Program. The regulations would neither affect nor conflict with any federal regulations or federal education programs.

CONSIDERATION OF ALTERNATIVES

The Commission 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 Commission invites interested parties to submit statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period or at the public hearing.

CONTACT PERSONS

Inquiries concerning the proposed adoption of the regulations and written comments may be directed to:

Synequeen Alasa–as
California Student Aid Commission
11120 International Drive, Suite. 100
Rancho Cordova, CA 95670
Telephone: (916) 464–6411
Fax: (916) 464–6411
Email: salasa-as@csac.ca.gov

The back–up contact person for these inquiries is:

Gary Collord
California Student Aid Commission
11120 International Drive, Suite. 100
Rancho Cordova, CA 95670
Telephone: (916) 347–0632
Fax: (916) 464–8033
Email: gcollord@csac.ca.gov

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

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office listed at the address above. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of regulations, the initial statement of reasons,

an economic and fiscal analysis, and other reference information upon which the proposed rulemaking is based. Copies may be obtained by making a written request to Synequeen Alasa–as.

These documents may also be viewed and downloaded from the Commission’s Web site at <https://www.csac.ca.gov/proposed-regulations-rulemaking-documents>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Synequeen Alasa–as at the above address. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by making a written request to Synequeen Alasa–as at the above address.

WEBSITE ACCESS

Materials regarding this proposal can be found at <https://www.csac.ca.gov/proposed-regulations-rulemaking-documents>.

TITLE 8. AGRICULTURAL LABOR RELATIONS BOARD

The Agricultural Labor Relations Board (ALRB or Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to:

- Adopt new sections 20951, 20952, 20953, 20954, and 20955.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or the representative of any interested person, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes on May 8, 2023, which is 45 days after the publication of this notice. The Board will consider only comments actually received by that time. Written comments shall be submitted to:

Santiago Avila–Gomez, Executive Secretary
 Agricultural Labor Relations Board
 1325 J Street, Suite 1900–B
 Sacramento, CA 95814

Comments also may be submitted by email to Santiago.Avila–Gomez@alrb.ca.gov.

AUTHORITY AND REFERENCE

Pursuant to Labor Code section 1144, the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions, and effectuate the purposes and policies, of the Agricultural Labor Relations Act (ALRA or Act), codified at Labor Code section 1140 et seq. Pursuant to Business and Professions Code section 26051.5, subdivision (a)(5)(D), the Board is required to process and investigate complaints that an employer licensed to conduct commercial cannabis activities has entered into a labor peace agreement with an organization that is not a bona fide labor organization, and the Board thus is authorized to adopt, amend, or repeal rules and regulations as may be necessary to implement this statutory process to secure compliance with the labor peace agreement requirements established by the Medicinal and Adult–Use Cannabis Regulation and Safety Act (MAUCRSA), codified at Business and Professions Code section 26000 et seq., and to achieve labor peace and avoid disruptions in California’s cannabis industry.

General reference for **proposed section 20951** of the Board’s regulations: Sections 1153 and 1154, Labor Code; Sections 26001 and 26051.5, Business and Professions Code. General reference for **proposed section 20952** of the Board’s regulations: Section 26001, Business and Professions Code. General reference for **proposed section 20953** of the Board’s regulations:

Section 26001, Business and Professions Code. General reference for **proposed section 20954** of the Board’s regulations: Section 26001, Business and Professions Code. General reference for **proposed section 20955** of the Board’s regulations: Section 26001, Business and Professions Code.

POLICY STATEMENT OVERVIEW

The ALRB is a quasi–judicial administrative agency charged with administering and enforcing the ALRA, a landmark law enacted in 1975 that extended collective bargaining rights to farmworkers who were excluded from the coverage of the National Labor Relations Act. The ALRB enforces and protects the organizational rights of farmworkers and oversees labor relations disputes between growers and the unions representing farmworkers. Charges that an agricultural employer has committed an unfair labor practice in violation of Labor Code section 1153 or that a labor organization has committed an unfair labor practice in violation of Labor Code section 1154, for example, by interfering with or restraining agricultural employees in the exercise of rights protected under the ALRA, may be filed with the ALRB. The general counsel of the ALRB is authorized to investigate such charges. The general counsel also is empowered to issue complaints when it is determined there is reasonable cause to believe an unfair labor practice has been committed and to prosecute such allegations against the charged party. This proposed rulemaking action is intended to provide guidance to employers engaged in the cultivation of cannabis and labor organizations seeking to represent such agricultural employees regarding issues of potential unfair labor practice liability where more than one labor organization seeks to enter into a labor peace agreement with an employer engaged in the cultivation of cannabis.

The ALRB also is charged with responsibility for investigating complaints under the MAUCRSA that an employer licensed to conduct commercial cannabis activities has entered into a labor peace agreement with an organization that is not a bona fide labor organization. The proposed regulations are designed to clarify the rights and obligations of employers engaged in the cultivation of cannabis and labor organizations entering into labor peace agreements under the MAUCRSA. The proposed regulations further are intended to implement and give effect to the provisions of Business and Professions Code section 26051.5, subdivision (a)(5)(D), as adopted pursuant to Assembly Bill Number 195 (2021–2022 Regular Sess.), § 3 (AB 195), which requires the ALRB to investigate complaints an employer licensed to conduct commercial cannabis activities has entered into a labor peace agreement with an organization that is not a bona fide

labor organization. Pursuant to the statute, the ALRB is required to render a decision within 90 days after receiving such a complaint. The proposed regulations establish procedural requirements in conducting such proceedings and provide clear guidance to affected parties and stakeholders regarding their rights and obligations in such proceedings.

INFORMATIVE DIGEST

Adoption of New Sections

Proposed Section 20951 adds provisions clarifying the rights and obligations of employers engaged in the cultivation of cannabis where more than one labor organization seeks to represent a bargaining unit or obtain a labor peace agreement and the circumstances under which an employer’s conduct related to a labor peace agreement may constitute an unfair labor practice.

Proposed Section 20952 adds provisions establishing the process by which a party may file a complaint that an employer licensed to conduct commercial cannabis activities has entered into a labor peace agreement with an organization that is not a bona fide labor organization, and the process by which the accused licensee and organization may respond to a complaint.

Proposed Section 20953 adds provisions establishing the general counsel’s authority to conduct investigations of labor peace agreement complaints and clarifies the rights and obligations of parties in such proceedings, including the duty to respond to interrogatories and subpoenas issued by the general counsel and negative inferences that may be drawn if a party fails to respond. These provisions are substantially similar to existing authority to investigate unfair labor practices.

Proposed Section 20954 adds provisions regarding the general counsel’s authority to issue decisions on labor peace agreement complaints, the timing and contents of such decisions, provisions regarding how to request a hearing, and the general counsel’s authority to decide whether to hold a hearing.

Proposed Section 20955 adds provisions regarding the rights of a party aggrieved by a decision reached by the general counsel on a labor peace agreement complaint to seek review of such decision before the board itself, and the obligation of the board to report to the Department of Cannabis Control any decisions finding an organization with whom a licensee has entered into a labor peace agreement is not a bona fide labor organization.

For more information regarding specific proposed regulations, please refer to the proposed regulatory language.

CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

The Board has determined the proposed regulatory adoptions are not inconsistent or incompatible with existing regulations. The ALRB has exclusive jurisdiction to enforce and administer the provisions of the ALRA. While the Department of Cannabis Control is the administrative agency charged with primary responsibility for administering the MAUCRSA, including its various licensing requirements, the proposed regulations are not inconsistent or incompatible with regulations adopted by the Department of Cannabis Control, which are codified at California Code of Regulations, title 4, section 15000 et seq. The Department of Cannabis Control has not adopted regulations regarding alleged violations of labor peace agreements, and such allegations otherwise are within the jurisdiction of the ALRB to the extent they involve conduct constituting unfair labor practices, as defined under the ALRA, and involve agricultural employers or employees. Moreover, the ALRB is charged with primary responsibility for investigating complaints a cannabis licensee has entered into a labor peace agreement with an organization that is not a bona fide labor organization.

There are no other regulations adopted by any other state agency that affect the procedures or laws affected by the proposed regulatory adoptions. Thus, the Board has concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The proposed rulemaking is intended to implement relevant provisions of the MAUCRSA concerning alleged violations of a cannabis licensee’s labor peace agreement obligations.

Current law requires an applicant for a license to cultivate cannabis under the MAUCRSA to declare in its application it is an agricultural employer within the meaning of the ALRA. If an applicant has 20 or more employees, it is required to confirm it has entered into a labor peace agreement with a labor organization, or, if it has less than 20 employees, that it will enter into such an agreement in the future promptly upon hiring a 20th employee. Recent amendments adopted in AB 195 lower the threshold at which a licensee must enter into a labor peace agreement to those with 10 or more employees effective July 1, 2024. The proposed regulatory action provides guidance to growers and labor organizations in this industry about their respective rights and obligations concerning labor peace agreements, and when violations of such agreements or rights may be unlawful under the ALRA.

The proposed regulatory action also will implement the complaint procedure adopted in AB 195 regarding allegations a licensee has entered into a labor peace agreement with an organization that is not a bona fide labor organization, thereby providing guidance to affected parties regarding their rights and obligations in such proceedings.

NO EXISTING AND COMPARABLE FEDERAL REGULATION OR STATUTE

The Board has determined that there are no existing, comparable federal regulations or statutes addressing the matters encompassed by this regulatory action. Agricultural employees are excluded from coverage under the National Labor Relations Act, and labor relations between agricultural employers and employees are governed by state law under the ALRA. Moreover, as there are no federal regulations governing licensing or labor peace agreement requirements in the cannabis industry, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing federal regulations or statutes.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Board has made the following initial determinations:

Mandate, cost or savings imposed on local agencies and school districts: The proposed action will not impact local agencies or school districts, result in any costs or savings to local agencies or school districts, or impose any new mandate on local agencies or school districts that must be reimbursed pursuant to Government Code section 17500 et seq.

Cost or savings to state agency: The proposed action will result in additional costs to the ALRB in administering the labor peace agreement complaint procedures established by AB 195 in Business and Professions Code section 26051.5, subdivision (a)(5)(D). The proposed action will not result in any new costs or savings to any other state agency.

Non-discretionary cost or savings imposed upon local agencies: The proposed action will not result in any non-discretionary cost or savings to local agencies.

Cost or savings in federal funding to the state: The proposed action will not result in any new costs or savings to the state.

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

Significant adverse economic impact on business, including the ability of California businesses to com-

pete with businesses in other states: The proposed action will have no significant adverse economic impact on California businesses.

Significant effect on housing costs: The proposed action will have no effect on housing costs.

Business Reporting Requirement: The proposed action will not require a report to be made.

The Board has determined the proposed regulations will not affect small business because the proposed regulations will not result in any additional costs or burdens on small businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The proposed regulations clarify procedures to comply with obligations already enacted in statute. The Board concludes that the adoption of the proposed regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California.

BENEFIT ANALYSIS

The ALRB currently lacks regulations offering guidance to parties engaged in the cannabis industry regarding their rights and obligations under the ALRA with respect to labor peace agreement requirements under the MAUCRSA. By providing clear guidance to affected stakeholders regarding the procedures by which the Board will process and investigate labor peace agreement complaints under the MAUCRSA, including the parties' rights and obligations in such proceedings, the Board's proposed regulatory action will improve administration of the MAUCRSA's licensing and labor peace agreement requirements. The proposed regulatory action further will provide clear information to parties affected by such labor peace agreement requirements of their rights and obligations with respect to allegations a party is in violation of a labor peace agreement and establish efficient and effective procedures by which such complaints are processed. The proposed regulations thus will benefit workers, labor organizations, and employers licensed to conduct commercial cannabis activities concerning their rights with respect to labor peace agreements.

The proposed regulatory action will not adversely affect the health and welfare of California residents, worker safety, or the state's environment. The proposed regulatory action will further the policies underlying prompt resolution of labor disputes, and this will benefit administration of the MAUCRSA's labor peace agreement requirements, which themselves are designed to ensure labor peace and avoid workplace disruptions in California's burgeoning cannabis in-

dustry. California residents' general welfare will be benefitted by stable labor relations and dispute resolution, which translates to less risk of disruption in California's cannabis industry.

CONSIDERATION OF ALTERNATIVES

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

The Board announced at its August 10, 2022 public meeting that it would be developing regulations to implement the labor peace agreement complaint provisions of AB 195. The Board's designated regulations subcommittee published proposed regulatory language in on August 26, 2022, and presented its recommendation to the Board at its August 31, 2022 public meeting. No public comments were received at the August 31 meeting, and no reasonable alternatives to the regulatory actions proposed to be taken by the Board here have been identified or brought to its attention by any member of the public or stakeholder. The Board approved the subcommittee's proposal at the August 31 meeting and directed the subcommittee to commence a formal rulemaking.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at any scheduled hearing if one is requested.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action should be directed to:

Santiago Avila-Gomez, Executive Secretary
Agricultural Labor Relations Board
1325 J Street, Suite 1900-B
Sacramento, CA 95814
Email: Santiago.Avila-Gomez@alrb.ca.gov

The backup person for these inquiries is:

Todd M. Ratshin, Chief Board Counsel
Agricultural Labor Relations Board
1325 J Street, Suite 1900-B
Sacramento, CA 95814
Email: Todd.Ratshin@alrb.ca.gov

Please direct requests for copies of the proposed text (i.e., the express terms) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, to Santiago Avila-Gomez at the above address.

PRELIMINARY ACTIVITIES

The ALRB announced at its August 10, 2022 public meeting that it would be developing regulations to implement the labor peace agreement complaint provisions of AB 195. The Board's designated regulations subcommittee published proposed regulatory language in underline and strike-through format on August 26, 2022, and presented its recommendation to the Board at its August 31, 2022 public meeting. The subcommittee's proposal regarding these cannabis regulations includes proposed new regulation 20951, which the subcommittee previously proposed to the Board during earlier pre-rulemaking activities (that preceded the commencement of the Board's formal rulemaking file Number Z2022-1121-01), based on the subcommittee's assessment that it is appropriate to include that proposed regulation in this separate rulemaking relating specifically to the cannabis industry. During those prior pre-rulemaking activities, the subcommittee published its original proposed regulation 20951 on September 22, 2021, and public comment regarding the proposed regulation was received at the Board's October 10, 2021 public meeting. The subcommittee thereafter published an updated proposed regulation on February 11, 2022, which was approved by the Board on February 22, 2022.

On August 31, 2022, the Board approved the subcommittee's recommendation to adopt this new chapter of regulations relating to the cannabis industry and, specifically here, labor peace agreement requirements under the MAUCRSA.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the express terms of the proposed regulations and the initial statement of reasons. Copies of these documents may be obtained by contacting Santiago Avila-Gomez at the above address and are also available on the Board's web site at <<https://www.alrb.ca.gov/statutes-regulations/regulatory-activity/>>.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After holding a hearing, if one is requested, and considering all timely and relevant comments, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, the modified text with changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations as revised. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Santiago Avila-Gomez at the above address. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting Santiago Avila-Gomez at the above address or accessed on the ALRB's website as set forth below.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of this notice of proposed action, the initial statement of reasons, and the text of the proposed regulations in underline and strikeout, can be accessed on the ALRB's web site at <<https://www.alrb.ca.gov/statutes-regulations/regulatory-activity/>> throughout the rulemaking process. Written comments received during the written comment period also will be posted on the ALRB's web site. The final statement of reasons or, if applicable, notice of a decision not to proceed will be posted on the ALRB's web site following the Board's action.

**TITLE 10. CALSAVERS
RETIREMENT SAVINGS BOARD**

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

WRITTEN COMMENT PERIOD

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

may be submitted by email to CalSavers@sto.ca.gov, or by mail:

Regular Mail

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

Courier Delivery

CalSavers Retirement Savings Board
Regarding: Rulemaking for the CalSavers
Retirement Savings Program
901 P Street, Suite 313B
Sacramento, CA 95814

The written comment period will close May 8, 2023. The Board will only consider comments received by that time. All written comments received by the Board are subject to disclosure under the Public Records Act.

PUBLIC HEARING

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

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

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

AUTHORITY AND REFERENCE

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

Reference: Sections 100000, 100002, 100004, 100008, 100010, 100012, 100014, 100032, 100033, 100034, 100043, 100046, and 100048, Government Code.

INFORMATIVE DIGEST

In 2012, the California Legislature enacted and the Governor signed Senate Bills (SB) 1234 and (Chapter 734, Statutes of 2012) and SB 923 (Chapter 737, Statutes of 2012,) which established the California Secure Choice Retirement Savings Investment Board (subsequently changed to the “CalSavers Retirement Savings Board” through Assembly Bill (“AB”) 102 in 2020) and required the Board to conduct a market analysis to determine whether the necessary conditions for implementing the California Secure Choice Retirement Savings Program (subsequently changed to the “CalSavers Retirement Savings Program” through AB 1817 in 2018) could be met. The legislation required the Board to determine, based on the market analysis, if necessary conditions can be met and prohibited the implementation of the Program without subsequent legislation to authorize it.

In 2016, the California Legislature enacted and the Governor signed SB 1234 (Chapter 804, Statutes of 2016,) which, among other things, granted the Board the authority to take the steps necessary to implement the Program, including the adoption of regulations.

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

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

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

- Due to the COVID–19 pandemic, the Board extended the first employer registration deadline in April 2020 through the emergency rulemaking process. The deadline for employers with more than 100 employees was changed from June 30, 2020, to September 30, 2020.
- On June 29, 2020, Governor Newsom signed AB 102 (Chapter 21, Statutes of 2020), which made a variety of amendments to the Program’s governing statutes. The amendments, among other things, changed the name of the Program’s governing board and the Program trust account. Nonsubstantive changes to existing regulations were filed with the OAL on July 7, 2020, to change the Board and trust account name pursuant to Section 100 of Title 1 of the California Code of Regulations (CCR).
- On July 27, 2020, the Board approved a variety of regulations amendments, some in response to the passage of AB 102. The amendments added a new default investment fund for participants born January 1, 2003, to January 1, 2007, a change that was necessary to make before December 31, 2020; removed a feature in which eligible employees who previously opted out are subjected again to automatic enrollment; clarified the tax–qualified retirement plans that, if offered by an employer, would render them exempt; and made a variety of technical amendments that improve the clarity of the regulations.
- At the October 19, 2020, Board meeting, the Board voted to authorize the executive director to develop amendments necessary to change the default investment option to one in which Contributions are directed to the Capital Preservation Fund (referred to as the Money Market Fund) for the first 30 days of employee participation and, on the 31st day, have all funds directed into a Target Retirement Fund selected based on the Participating Employee’s age. At the meeting, the executive director also informed the Board it would consider a package of regulations amendments, including the enforcement of employer compliance and reduction of the minimum contribution amount for non–payroll contributions at the subsequent meeting.
- At the December 7, 2020, Board meeting, the Board voted to approve regulations amendments to change the default investment option, clarify processes for enforcing employer compliance, reduce the minimum contribution amounts for

non-payroll contributions, clarify the frequency for recurring non-payroll contributions, clarify that rollovers and transfers into a Program account are permissible, and amend the definition of a tax-qualified plan.

- At the December 13, 2021, meeting, the Board approved a new set of regulations amendments to allow employers to register earlier than currently allowed in regulations, to specify the date by which newly eligible employers must register for the Program to maintain compliance, to correct a typographical error, to simplify the employer registration process, and to update language to account for longer delivery times by the United States Postal Service. The emergency rulemaking to make the amendments was notified on March 1, 2022. The OAL approved the emergency regulations amendments on March 18, 2022. The certificate of compliance for the rulemaking was posted in the notice register on November 11, 2022 and staff anticipate completing the rulemaking in early 2023.

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

Pre-Rulemaking Activity

On August 26, 2022, Governor Gavin Newsom signed SB 1126 into law, changing the CalSavers Program eligibility to include businesses with as few as one employee. This bill also made other changes to eligibility, including a carve-out for sole proprietors and establishing a new deadline for those newly eligible employers to register for the Program. The Board approved emergency regulations amendments at the Board meeting on November 21, 2022. The OAL approved these emergency regulations amendments on December 21, 2022.

In addition to the public comment periods involved in the rulemaking process and the public comment periods at each Board meeting, the Board also received and considered input from Program employers and participants that have already begun participating in the Program. Through our client services team, our internal outreach team, local chambers of commerce and other business associations, interactive webinars

with the public that occur multiple times a week, and our social media platforms, the Board receives regular feedback about facets of the Program, thoughts on how the Program could be improved, as well as general praise and criticism.

Anticipated Benefits of the Proposed Regulations:

About half of working Californians are on track to live at or near poverty upon reaching retirement age. Without the ease and simplicity of regular payroll contributions through a workplace retirement savings arrangement, many simply do not save for retirement. While the problem of retirement insecurity has many causes, including low wages and rising costs of living, research shows access to a retirement savings vehicle makes individuals 15 times more likely to save for retirement.

The Program ensures a majority of California workers have access to a workplace retirement savings vehicle by mandating that employers either sponsor their own plan or register for the Program. The Program and its associated laws were established in an effort to improve retirement security for working Californians. The operation of the program in general is expected to benefit participating employees and individuals by providing a simple pathway to improve their retirement security.

These regulations amendments will make no material impacts on the overall indirect benefits of the program, but will benefit employers by improving the clarity of the regulations through changes to definitions, removal of obsolete language, and eliminating repetitive language.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following determinations regarding fiscal impact:

- Mandate on local agencies and school districts: none.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

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

Participation in the Program is completely voluntary for eligible employees. Participating employees will pay an administrative fee taken from their contributions and investment interest. Those fees currently range between 0.82 and 0.95 percent depending on the investment option selected by the participant.

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

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

- Small Business Determination: The regulations amendments included in this rulemaking do not materially change the duties of participating employers nor do they impact the administrative fees for participants, and, therefore, cause no changes to the cost impacts on a representative person or business.
- Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: none.
- Significant effects on housing costs: none.
- The proposed regulations do not require a report to be made.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Program staff analysed the economic impacts caused by a direct result of this rulemaking package. These regulations amendments do not materially change the duties or requirements of participating employers so there is no expected change to those business impacts as a result of this rulemaking. The following list identifies the estimated impacts by each category of potential impacts.

The creation or elimination of jobs within the state: no impact.

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

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

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: no impact, please see previous section on anticipated benefits.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Eric Lawyer
Director of Policy & Communications
CalSavers Retirement Savings Board
901 P Street, Suite 313B
Sacramento, CA 95814
Telephone: (916) 653-1748
Email: Eric.Lawyer@sto.ca.gov

Please direct any inquiries regarding the regulatory process to Mr. Lawyer at the above address. The designated backup contact person is Jacob Schafer,

who can be reached at Jacob.Schafer@sto.ca.gov or by phone at (916) 653-1744.

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

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

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

TITLE 10. DEPARTMENT OF INSURANCE

SEPTEMBER 1, 2023 WORKERS' COMPENSATION INSURANCE RATING RULES FILING

Notice is given that a public hearing will be held in response to a filing by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB"), submitted on February 27, 2023. The WCIRB proposes amendments to the Insurance Commissioner's Regulations pertaining to the Classification of Risks, Recording and Reporting of Data, Statistical Reporting and Experience Rating to be effective September 1, 2023, as follows:

- Approval of proposed amendments to the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995* as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.
- Approval of proposed amendments to the *Miscellaneous Regulations for the Recording and Reporting of Data — 1995* as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

- Approval of proposed amendments to the *California Workers' Compensation Experience Rating Plan — 1995* as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

The WCIRB also proposes amendments to the Insurance Commissioner's Regulations pertaining to the Classification of Risks, Recording and Reporting of Data, Statistical Reporting and Experience Rating to be effective September 1, 2024, as follows:

- Approval of proposed amendments to the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995* as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

HEARING

Public Hearing Date and Location

A virtual public hearing will be conducted to permit all interested persons the opportunity to present statements or arguments, verbally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

April 24, 2023 — 10:00 a.m.
California Department of Insurance

TO ATTEND VIRTUAL HEARING VIA ONLINE PLATFORM

Link to Register for the Web-based Virtual Format:

https://us06web.zoom.us/webinar/register/WN_dQW--hNpTbapobgYDZkXYg

Meeting Name:

September 1, 2023 Workers' Compensation Insurance Classification and Rating Rules

TO ATTEND VIRTUAL HEARING BY TELEPHONE

To join by telephone dial:

USA 215 446 3649 US Toll

USA 888 557 8511 US Toll-free

Conference code: 832767

Any interested person(s) may present oral testimony at the virtual web conference hearing during the public comment period. Participants will be given instructions on how to provide testimony once they have accessed the hearing.

Individuals attending the virtual hearing via the online platform must register with the virtual web conference provider using a valid email address in order to attend the hearing.

Individuals attending the virtual hearing by telephone only will not be able to view the hearing, and will be placed on mute. Telephonic attendees who wish

to make oral comments at the public hearing must, either in advance or at the time of the hearing, notify the Department by email to: CDIRegulations@insurance.ca.gov and provide the telephone number that they will use at the hearing so that the hearing officers can identify those callers who would like to comment.

The hearing will continue on the date noted above until all testimony has been submitted or until 5:00 p.m., whichever is earlier.

Access to Virtual Public Hearing

This hearing will be open to the public. To make it possible to view and participate in the public hearing online, you must register with the web-based virtual conferencing application identified above, using a valid email address. We request that you provide your name(s), the name of the organization you represent, and your contact information, including email address. Providing personally identifiable information is not required to attend the hearing and all attendees are invited to participate regardless of whether such information has been provided. Alternatively, you may attend and participate telephonically. We request that if you wish to provide oral comments telephonically, that you email us either in advance of or at the time of the hearing and provide the telephone number you will use at the hearing.

The public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for this hearing (listed below) in order to make specific arrangements, if necessary.

WRITTEN COMMENT PERIOD

Presentation of Written or Oral Comments; Contact Persons

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at **5:00 p.m. on Monday, April 24, 2023**. Please direct all written comments to the following contact person:

Yvonne Hauscarriague, Attorney
California Department of Insurance
1901 Harrison Street, 6th Floor
Oakland, CA 94612
Telephone: (415) 538-4417
Yvonne.Hauscarriague@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Patricia Hein, Assistant Chief Counsel
California Department of Insurance
1901 Harrison Street, 6th Floor
Oakland, CA 94612
Telephone: (415) 538-4430
Patricia.Hein@insurance.ca.gov

Please note that under the California Public Records Act (Government Code Section 6250, et seq.), your written and oral comments, and associated contact information (e.g., your address, phone number, email, etc.) become part of the public record and can be released to the public upon request.

Deadline for Written Comments

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, no later than **5:00 p.m. on Monday, April 24, 2023**. Any written materials received after that time may not be considered.

Comments Transmitted by Email or Facsimile

The Commissioner will accept written comments transmitted by email provided they are sent to the following email address: Yvonne.Hauscarriague@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Yvonne Hauscarriague and sent to the following facsimile number: (415) 904-5490. **Comments sent to email addresses or facsimile numbers other than those designated in this notice will not be accepted. Comments sent by email or facsimile are subject to the deadline set forth above for written comments.**

PROCEEDINGS NOT SUBJECT TO ADMINISTRATIVE PROCEDURE ACT

The regulations contained in the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995*, the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, and the *California Workers' Compensation Experience Rating Plan — 1995* pertain to the establishment of workers' compensation insurance rates. Government Code Section 11340.9(g) states that the Administrative Procedure Act [Chapter 3.5 of the Government Code] shall not apply to regulations that establish or fix rates, prices, or tariffs, and the Office of Administrative Law has determined that these regulations are excluded from the requirements of the Administrative Procedure Act.

This Notice and any accompanying documents are being offered by the Commissioner to obtain written public comment before the Commissioner determines whether to approve the amendments to these regulations. The Commissioner shall issue an Order regarding his determination pursuant to Insurance Code Section 11734.

AUTHORITY AND REFERENCE

Uniform Plans and Regulations

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. These regulations are promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his statistical agent. As the designated statistical agent, the WCIRB collects insurer data and recommends revisions to the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995*; the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*; and the *California Workers' Compensation Experience Rating Plan — 1995* for approval. Adherence to the regulations contained in the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995*, the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, and the *California Workers' Compensation Experience Rating Plan — 1995* is mandatory for insurers. However, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995* or the standard classification system developed by the WCIRB and approved by the Insurance Commissioner.

The amendments to the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995*, the *Miscellaneous Regulations for the Recording and Reporting of Data—1995*, and the *California Workers' Compensation Experience Rating Plan — 1995* are summarized below.

Amendments to the *California Workers' Compensation Uniform Statistical Reporting Plan — 1995*, Title 10, California Code of Regulations, Section 2318.6 Effective September 1, 2023

1. Amend Part 1, *General Provisions*, Section I, *Introduction*, Rule 3, *Effective Date*, to show that the effective date of the amended Uniform

Statistical Reporting Plan is 12:01 AM, September 1, 2023.

2. Amend Part 3, *Standard Classification System*, Section IV, *Special Industry Classification Procedures*, Rule 5, *Stores*, Subrule e to clarify its intended application.
3. Amend Part 3, Section V, *Payroll—Remuneration*, Rule 1, *Payroll — Remuneration*, Subrule j, *Executive Officers*, Subrule k, *Partners*, Subrule l, *Individual Employers*, and Subrule m, *Members of a Limited Liability Company*, to adjust the minimum and maximum payroll limitations for executive officers, partners, individual employers and members of a limited liability company to reflect wage inflation since the minimum and maximum payroll limitations were last amended in 2022.
4. Amend Part 3, Section VII, *Standard Classifications*, Rule 2, *Standard Classifications*, as follows:
 - Amend Classification 7421, *Aircraft Operation — transportation of personnel in the business of an employer not otherwise engaged in aircraft operation*, which is part of the Aircraft Operation Industry Group, to clarify the intended application.
 - Amend Classification 9016(1), *Amusement or Recreational Facilities — N.O.C. — all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, for consistency with other proposed changes.
 - Amend Classification 9181, *Athletic Teams or Athletic Facilities — players, umpires, referees and game officials*, to increase the annual payroll limitation for players from \$149,500 to \$154,700 per player per season to reflect wage inflation since the payroll limitation was last amended in 2022.
 - Amend Classification 7607(2), *Audio Post-Production*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
 - Amend Classification 8803, *Auditing, Accounting or Management Consulting Services*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
 - Amend Classification 8391, *Automobile or Truck Dealers — all employees other than vehicle salespersons*, which is part of the Automotive Industry Group, to clarify the intended application and provide

direction as to how related operations should be classified.

- Amend Classification 8748, *Automobile or Truck Dealers — vehicle salespersons*, which is part of the Automotive Industry Group, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classification 8808, *Banks*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 3647(1), *Battery Mfg.*, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classification 9016(4), *Boat Marina and Boat Rental Operation*, for consistency with other proposed changes.
- Amend Classification 9048(1), *Camps*, to include retreat facilities, provide direction as to how related operations should be classified and for clarity.
- Amend Classification 9015(4), *Churches, Temples, Mosques and Synagogues — all employees other than clergy, professional assistants, organists, members of choir, Clerical Office Employees or Clerical Telecommuter Employees*, to provide direction as to how related operations should be classified and for consistency with other proposed changes.
- Amend Classification 8840, *Churches, Temples, Mosques and Synagogues — clergy, professional assistants, organists or members of choir*, to provide direction as to how related operations should be classified and for consistency with other proposed changes.
- Amend Classification 9067(2), *Clubs — boys and girls*, for consistency with other proposed changes.
- Amend Classification 9067(1), *Clubs — community health and wellness*, for consistency with other proposed changes.
- Amend Classification 9060, *Clubs — country or golf*, to include yacht clubs and provide direction as to how related operations should be classified.
- Amend Classification 9061, *Clubs — N.O.C.*, to (1) clarify the intended application, (2) reassign yacht club operations to Classification 9060, *Clubs — country or golf*, (3) reassign

retreat facility operations to Classification 9048(1), *Camps*, and (4) for consistency with other proposed changes.

- Amend Classification 9053(5), *Clubs — racquet sports*, for consistency with other proposed changes.
- Amend Classification 9101, *Colleges or Schools — private — not automobile schools — all employees other than professors, teachers, or academic professional employees*, to clarify how related operations should be classified.
- Amend Classification 8868, *Colleges or Schools — private — not automobile schools — professors, teachers or academic professional employees*, for consistency with other proposed changes and to clarify the intended application and how related operations should be classified.
- Amend Classification 5193, *Computer or Telephone System or Equipment Installation, Service or Repair*, to clarify the intended application.
- Amend Classification 8859(1), *Computer Programming or Software Development*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 5205(2), *Concrete or Cement Work — pouring or finishing of concrete floor slabs, poured in place and on the ground, and concrete slab-type foundations, for other than concrete buildings or structural steel buildings of multi-story construction*, for consistency with previously approved changes.
- Amend Classification 8801, *Credit Unions*, to increase the annual payroll limitation from \$149,500 to \$154,700 per employee to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 9059, *Day Care Centers*, for consistency with other proposed changes.
- Amend Classification 3569, *Electric Motor Mfg. or Repair*, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classification 8874(4), *Audio/Video Electronic Products Mfg. — hardware or software design or development*, which is part of the Electronics Industry Group, to increase the annual payroll limitation from

\$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.

- Amend Classification 3681 (2), *Computer or Computer Peripheral Equipment Mfg. – all other employees*, which is part of the Electronics Industry Group, to clarify the intended application and for consistency with other proposed changes.
- Amend Classification 8874(2), *Computer or Computer Peripheral Equipment Mfg. – hardware or software design or development*, which is part of the Electronics Industry Group, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 3179, *Electrical Apparatus Mfg. — N. O. C.*, which is part of the Electronics Industry Group, to clarify the intended application.
- Amend Classification 8874(1), *Instrument Mfg. — electronic — professional or scientific — hardware or software design or development*, which is part of the Electronics Industry Group, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 8874(5), *Integrated Circuit and Semiconductor Wafer Mfg. – hardware or software design or development*, which is part of the Electronics Industry Group, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 8874(3), *Telecommunications Equipment Mfg. — hardware or software design or development*, which is part of the Electronics Industry Group, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 8601(1), *Engineers*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classifications 6218(1)/6220(1), *Excavation — N.O.C.*, to decrease the hourly wage threshold from \$39.00 to \$38.00 per hour to reflect updated wage information since the threshold was last amended in 2022.
- Amend Classification 8870, *Fitness Instruction Programs or Studios*, for consistency with other proposed changes.
- Amend Classification 2102, *Fruit or Vegetable Evaporation or Dehydrating*, which is part of the Food Packaging and Processing Industry Group, for consistency with previously approved changes.
- Amend Classification 8601(4), *Forest Engineers*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 3339, *Foundries — investment casting*, for clarity and consistency.
- Amend Classification 3081, *Foundries — iron*, to provide direction as to how related operations should be classified and for clarity and consistency.
- Amend Classification 3085, *Foundries — nonferrous*, to provide direction as to how related operations should be classified and for clarity and consistency.
- Amend Classification 3082, *Foundries — steel castings*, to provide direction as to how related operations should be classified and for clarity and consistency.
- Amend Classifications 6315(2)/6316(2), *Gas Mains or Connections Construction*, to decrease the hourly wage threshold from \$39.00 to \$38.00 per hour to reflect updated wage information since the threshold was last amended in 2022.
- Amend Classifications 6218(2)/6220(2), *Grading Land*, to decrease the hourly wage threshold from \$39.00 to \$38.00 per hour to reflect updated wage information since the threshold was last amended in 2022.
- Amend Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, to provide direction as to how related operations should be classified.
- Amend Classification 8822, *Insurance Companies*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 8859(2), *Internet or Web-Based Application Development or Operation*, to increase the annual payroll limitation from \$149,500 to \$154,700 per

person to reflect wage inflation since the payroll limitation was last amended in 2022.

- Amend Classification 9008, *Janitorial Services*, to clarify the intended application and provide direction as to how related operations are classified.
- Amend Classification 8755, *Labor Unions*, to clarify the intended application.
- Amend Classification 2702(2), *Land Clearing*, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classifications 6218(3)/6220(3), *Land Leveling*, to decrease the hourly wage threshold from \$39.00 to \$38.00 per hour to reflect updated wage information since the threshold was last amended in 2022.
- Amend Classification 0042, *Landscape Gardening*, to clarify the intended application and provide direction as to how related operations are classified.
- Amend Classification 8820, *Law Firms*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 8232(1), *Lumberyards*, for clarity and consistency with other proposed changes.
- Amend Classification 8749, *Mortgage Bankers*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 8743, *Mortgage Brokers*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 9610, *Motion Pictures—production*, to increase the annual payroll limitation for actors, musicians, producers and the motion picture director from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 5191, *Office Machine or Point of Sale Equipment Installation, Service or Repair*, for consistency with other proposed changes.
- Amend Classification 8601 (2), *Oil or Gas Geologists or Scouts*, which is part of the Petroleum Industry Group, to increase the annual payroll limitation from \$149,500 to

\$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.

- Amend Classification 2840(1), *Picture Frame Assembly*, for clarity and consistency with other proposed changes.
- Amend Classification 2840(2), *Picture or Artwork Framing*, for clarity and consistency with other proposed changes.
- Amend Classification 2731, *Planing or Moulding Mills*, to clarify the intended application.
- Amend Classification 8746, *Newspaper Publishing or Printing — reporters or photographers*, which is part of the Printing, Publishing and Duplicating Industry Group, to provide direction as to how related operations should be classified.
- Amend Classification 8741, *Real Estate Agencies*, which is part of the Property Management/Operation Industry Group, to increase an employee’s annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 7610, *Radio, Television or Commercial Broadcasting Stations*, to increase the annual payroll limitation for on-air personalities, entertainers and musicians from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 9096, *Residential Cleaning Services*, for clarity and consistency with other proposed changes.
- Amend Classification 2710(1), *Sawmills or Shingle Mills*, for clarity and consistency with other proposed changes.
- Amend Classifications 6307/6308, *Sewer Construction*, to decrease the hourly wage threshold from \$39.00 to \$38.00 per hour to reflect updated wage information since the threshold was last amended in 2022.
- Amend Classification 8062, *Stores — computer*, which is part of the Stores Industry Group, to clarify the intended application, provide direction as to how related operations should be classified and for consistency with other proposed changes.
- Amend Classification 8039, *Stores — department stores*, which is part of the Stores Industry Group, to increase the payroll limitation from \$1,200,000 to \$1,300,000 per

annum to reflect wage inflation since the payroll limitation was last amended in 2021.

- Amend Classification 2501(4), *Tailoring*, for clarity.
- Amend Classification 7365, *Taxicab Operations*, to increase the minimum annual payroll per taxicab from \$41,000 to \$42,400 to reflect wage inflation since the threshold was last amended in 2022.
- Amend Classification 9156, *Theaters — dance, opera or theater companies*, to increase the annual payroll limitation for performers and directors of performers from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 9151, *Theaters — musical entertainment*, to increase the annual payroll limitation for performers and directors of performers from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classification 7607(1), *Video Post-Production*, to increase the annual payroll limitation from \$149,500 to \$154,700 per person to reflect wage inflation since the payroll limitation was last amended in 2022.
- Amend Classifications 6315(1)/6316(1), *Water Mains or Connections Construction*, to decrease the hourly wage threshold from \$39.00 to \$38.00 per hour to reflect updated wage information since the threshold was last amended in 2022.

5. Amend Part 3, Section VIII, *Abbreviated Classifications — Numeric Listing*, for consistency with other proposed changes.

Amendment to the Miscellaneous Regulations for the Recording and Reporting of Data—1995, Title 10, California Code of Regulations, Section 2354

Effective September 1, 2023

1. Amend Part 1, *General Provisions*, Section I, *Introduction*, Rule 2, *Effective Date*, to show that the effective date of the amended Miscellaneous Regulations is 12:01 AM, September 1, 2023.

Amendments to the California Workers' Compensation Experience Rating Plan — 1995, Title 10, California Code of Regulations, Section 2353.1

Effective September 1, 2023

1. Amend Section I, *General Provisions*, Rule 2, *Effective Date*, to show that the effective date of the amended Experience Rating Plan is 12:01 AM, September 1, 2023.

2. Amend Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the eligibility threshold from \$9,200 to \$10,200 to reflect wage inflation and the proposed September 1, 2023 expected loss rates.
3. Amend Section IV, *Change in Status and Combination of Entities*, Rule 2, *Combination of Entities*, for consistency with naming conventions for rules.
4. Amend Table I, *Expected Loss Rates and D-Ratios*, to reflect the most current data available.
5. Amend Table II, *Primary Thresholds*, to reflect the most current data available.

Amendments to the California Workers' Compensation Uniform Statistical Reporting Plan — 1995, Title 10, California Code of Regulations, Section 2318.6

Effective September 1, 2024

1. Amend Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 2, *Single Enterprise*, for clarity and consistency with other proposed changes.
2. Amend Part 3, Section IV, *Special Industry Classification Procedures*, Rule 5, *Stores*, subrules e and f, for consistency with other proposed changes.
3. Amend Part 3, Section VII, *Standard Classifications*, Rule 1, *Classification Section*, subrule a, *Industry Groups*, to reflect the proposed establishment of Food and Beverage Service as an industry group and to renumber the subsequent listings in the Rule.
4. Amend Part 3, Section VII, Rule 2, *Standard Classifications*, as follows:
 - Amend Classification 9016(1), *Amusement or Recreational Facilities — N.O.C. — all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, for consistency with other proposed changes.
 - Amend Classification 9180(1), *Amusement or Recreational Facilities — N.O.C. — operation or maintenance of amusement devices*, to provide direction as to how related operations should be classified and for consistency with other proposed changes.
 - Amend Classification 9182, *Athletic Teams or Athletic Facilities — all employees other than players, umpires, referees and game officials*, to provide direction as to how related operations should be classified and for consistency with other proposed changes.

- Establish a new cross-reference for Classification 9084, *Bars or Taverns*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Amend Classification 8078(2), *Beverage Preparation Shops*, to be included as part of the proposed Food and Beverage Service Industry Group and to provide direction as to how related operations should be classified.
- Establish a new cross-reference for Classification 8078(2), *Beverage Preparation Shops*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Amend Classification 9092(2), *Billiard Halls*, to include bar employees and provide direction as to how related operations should be classified.
- Amend Classification 4512, *Biomedical Research Laboratories*, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
- Amend Classification 9016(4), *Boat Marina and Boat Rental Operation*, for consistency with other proposed changes.
- Amend Classification 9092(1), *Bowling Centers*, to include bar employees and provide direction as to how related operations should be classified.
- Establish a new cross-reference for Classification 9082, *Caterers*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Amend Classification 9060, *Clubs — country or golf*, to include bar employees and for consistency with other proposed changes.
- Amend Classification 9069, *Clubs — gaming*, to include bar employees for consistency with other proposed changes.
- Amend Classification 9061, *Clubs — N.O.C.*, to include bar employees for consistency with other proposed changes.
- Amend Classification 9053(5), *Clubs — racquet sports*, to include bar or tavern employees for consistency with other proposed changes.
- Amend Classification 7207(2), *Clubs — riding*, to provide direction as to how related operations should be classified.
- Amend Classification 9079(2), *Concessionaires*, to be included as part of the proposed Food and Beverage Service Industry Group, to establish a unique classification for these operations to eliminate confusion and for consistency with other proposed changes.
- Establish a new cross-reference for Classification 9081(2), *Concessionaires*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Amend Classification 9016(2), *Dog Shows*, for consistency with other proposed changes.
- Establish Classification 9084, *Bars or Taverns*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to each separate and distinct bar, tavern, lounge or nightclub that operates under license types 42, 48 or 61, and to beer tasting or taproom locations.
- Establish Classification 9082, *Caterers*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to employers engaged in the preparation, delivery and set-up or service of hot and cold food at customer-specified locations for weddings, conferences, parties, meetings or similar events.
- Establish Classification 9083, *Restaurants — fast food or fast casual*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to each separate and distinct restaurant with limited table service that prepares hot and cold food and may pour and serve alcoholic beverages for consumption by the walk-in trade on or away from the premises.
- Establish Classification 9080, *Restaurants — full service*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to each separate and distinct restaurant that has full table service, prepares and serves hot and cold food and may pour and serve alcoholic beverages for consumption by the walk-in trade on or away from the premises.
- Establish Classification 9081(1), *Restaurants — N.O.C.*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to restaurants that are not more specifically described by another Food and Beverage Service Industry Group classification.

- Amend Classification 2003, *Bakeries or Cracker Mfg.*, which is part of the Food Packaging and Processing Industry Group, for consistency with other proposed changes, to clarify the intended application and provide direction as to how related operations should be classified.
- Amend Classification 2121, *Breweries*, which is part of the Food Packaging and Processing Industry Group, for clarity and consistency with other proposed changes and to provide direction as to how related operations should be classified.
- Amend Classification 2142(2), *Distilling*, which is part of the Food Packaging and Processing Industry Group, for consistency with other proposed changes and to provide direction as to how related operations should be classified.
- Amend Classification 6504, *Food Products Mfg. or Processing*, which is part of the Food Packaging and Processing Industry Group, for clarity and consistency with other proposed changes, to clarify the intended application and to provide direction as to how related operations should be classified.
- Amend Classification 2142(1), *Wineries*, which is part of the Food Packaging and Processing Industry Group, for consistency with other proposed changes and to provide direction as to how related operations should be classified.
- Amend Classification 8839, *Dental or Orthodontia Practices*, which is part of the Health and Human Services Industry Group, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
- Amend Classification 9043, *Hospitals*, which is part of Health and Human Services Industry Group, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
- Amend Classification 8834, *Physician's Practices and Outpatient Clinics*, which is part of Health and Human Services Industry Group, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
- Amend Classification 9053(2), *Health Clubs or Gyms*, to include bar or tavern employees for consistency with other proposed changes.
- Amend Classification 9016(3), *Horse Shows or Rodeos — all employees other than stable employees and employees engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, for consistency with other proposed changes.
- Amend Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, for clarity and consistency with other proposed changes and to reference the corresponding proposed companion Classification 9058, *Hotels, Motels or Short-Term Residential housing — food or beverage employees*.
- Establish Classification 9058, *Hotels, Motels or Short-Term Residential Housing — food or beverage employees*, as a companion classification to apply to employees engaged exclusively in food or beverage operations in connection with hotel, motel or short-term residential housing operations assigned to Classification 9050, *Hotel, Motel or Short-term Residential Housing*.
- Amend Classification 8078(3), *Ice Cream or Frozen Yogurt Shops*, to be included as part of the proposed Food and Beverage Service Industry Group and provide direction as to how related operations should be classified.
- Establish a new cross-reference for Classification 8078(3), *Ice Cream or Frozen Yogurt Shops*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Amend Classification 9033, *Housing Authorities*, which is part of the Municipal, State or Other Public Agencies Industry Group, to remove a footnote that is no longer necessary for consistency with other proposed changes.
- Amend Classification 8838, *Museums*, to include the operation of bars or taverns for consistency with other proposed changes.
- Amend Classification 4297(1), *Electronic Pre-Press*, which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee's annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks

in the policy period when the policy is in force for less than a 12-month period.

- Amend Classification 4297(2), *Graphic Design*, which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee’s annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
- Amend Classification 8807, *Newspaper, Magazine or Book Publishing*, which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee’s annual payroll and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.
- Amend Classification 9011(1), *Apartment or Condominium Complex Operation — N.O.C. — not Homeowners Associations — all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.
- Amend Classification 9007, *Apartment or Condominium Complex Operation for Seniors — age restricted — not Congregate Living Facilities or Homeowners Associations — all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.
- Amend Classification 9015(1), *Building Operation — N.O.C. — all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.
- Amend Classification 9011(2), *Commercial and Residential Mixed-Use Building Operation — not Homeowners Associations — all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.
- Amend Classification 9009, *Commercial Properties — N.O.C. — all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.
- Amend Classification 9010, *Mobile Home Park Operation — all other employees*,

which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.

- Amend Classification 9066, *Homeowners Associations and Housing Cooperatives*, which is part of the Property Management/Operation Industry Group, for clarity and consistency with other proposed changes.
- Establish a new cross-reference for Classification 9083, *Restaurants — fast food or fast casual*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Establish a new cross-reference for Classification 9080, *Restaurants — full service*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Establish a new cross-reference for Classification 9081(1), *Restaurants — N.O.C.*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Eliminate Classification 9079(1), *Restaurants or Taverns*, and reassign the operations described by this classification to Classifications 9081(1), *Restaurants — N.O.C.*, 9058, *Hotels, Motels or Short-Term Residential Housing — food or beverage employees*, 9084, *Bars or Taverns*, 9083, *Restaurants — fast food or fast casual*, 9080, *Restaurants — full service*, or 9082, *Caterers*, based on the operations performed.
- Amend Classification 8078(1), *Sandwich Shops*, to be included as part of the proposed Food and Beverage Service Industry Group, for clarity and consistency with other proposed changes and to provide direction as to how related operations should be classified.
- Establish a new cross-reference for Classification 8078(1), *Sandwich Shops*, to be part of the proposed Food and Beverage Service Industry Group, for consistency with other proposed changes.
- Amend Classification 9180(2), *Shooting Clubs or Shooting Ranges*, to provide direction as to how related operations should be classified.
- Amend Classification 9092(3), *Skating Centers*, to include bar employees and

provide direction as to how related operations should be classified.

- Amend Classification 9184, *Ski Resorts*, for consistency with other proposed changes.
- Amend Classification 9054, *Spas or Baths*, to include bar or tavern employees for consistency with other proposed changes.
- Amend Classification 8017(1), *Stores — retail*, which is part of the Stores Industry Group, to remove the reference that preparation or serving of hot foods shall be separately classified as the direction is already included in the Special Industry Classification Procedures for Stores.
- Amend Classification 9053(3), *Swimming Pools or Swimming Clubs* to include bar or tavern employees for consistency with other proposed changes.
- Amend Classification 9155, *Theaters — motion picture*, to include bar operations and provide direction as to how related operations should be classified.
- Amend Section VIII, *Abbreviated Classifications — Numeric Listing*, for consistency with other proposed changes.

CONTACT PERSON

The name and telephone number of the agency representative and designated contact person are listed above under “WRITTEN COMMENT PERIOD.”

AVAILABILITY STATEMENTS

The Commissioner has prepared an Informative Digest included in this Notice that sets forth a summary and the reasons for the proposed regulations. Upon request to the contact persons above, the text of the proposed regulations shall be made available for inspection and copying.

The file for this action, which includes a copy of the proposed regulations, the WCIRB’s filing, and any supplemental information, is contained in the Rulemaking File: REG–2023–00005 and is available for inspection and copying by prior appointment at 1901 Harrison Street, 6th Floor, Oakland, California 94612, between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday.

The express terms of the proposed regulations as contained in the WCIRB’s filing may also be viewed or downloaded from the Regulatory Filings section of the WCIRB website: www.wcirb.com.

INTERNET ACCESS

Documents concerning these proposed regulations are available on the Department’s website at the following link: www.insurance.ca.gov/0250-insurers/0500-legal-info/0200-regulations/proposed-regulations.cfm.

APPROVAL OF REGULATIONS

Following the time period to receive written comment, the Insurance Commissioner may approve regulations substantially as described in this Notice and Informative Digest, or he may approve modified regulations or refuse to approve the regulations. Notice of the Insurance Commissioner’s action will be sent to all persons who have requested notice of the Commissioner’s action.

TITLE 14. DEPARTMENT OF CONSERVATION

SELECTION OF PROFESSIONAL SERVICE FIRMS

The California Department of Conservation (“Department”) proposes to amend Sections 1690 through 1698 of Title 14 of the California Code of Regulations after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments also may be submitted by email to Christine.Hansen@conservation.ca.gov.

The written comment period closes at **5:00 p.m. on May 9, 2023**. The Department will consider only comments received by the Department by that time. Submit comments to:

Christine Hansen
California Department of Conservation
715 P Street, MS 1900
Sacramento, CA 95814
Christine.Hansen@conservation.ca.gov
Regarding A&E Rulemaking Comment

AUTHORITY AND REFERENCE

Government Code section 4526 authorizes the Department to adopt these proposed amendments to the regulations. The proposed amendments would implement sections 4525 through 4529.5 of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Effect of the Proposed Action:

Government Code sections 4525–4529.5 govern a state agency’s process for selecting the professional services of private architectural, landscape architectural, engineering, environmental, land surveying, and construction management firms. Under Government Code section 4526, state contracting for such services “shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.”

Agencies that contract for the specified professional services “shall adopt” regulations detailing how the agency will ensure their contracts for the specified professional services are awarded based on “demonstrated competence and qualifications” and will be performed at “fair and reasonable prices.” (Government Code, § 4526.) According to the State Contracting Manual (SCM), “an agency must have adopted regulations in order to utilize” the contract section process for professional services firms. (SCM vol. 1, Chapter 11.)¹

In 2000, the Department adopted “emergency” regulations for the selection of professional services firms. The emergency regulations applied to one division within the Department, the California Geologic Energy Management Division (“CalGEM”), rather than the Department.² The Department, however, is the contracting entity, and the Department generally, as well as its several other divisions — the Division of Mine Reclamation, the California Geological Survey, and the Division of Land Resource Protection —

¹ The State Contracting Manual is the equivalent of regulations adopted by DGS, meaning it has the force of law.

² At the time the regulations were adopted, CalGEM was named the Division of Oil, Gas, and Geothermal Resources.

may have a need to hire professional services firms. For this reason, the Department wishes to amend its regulations to change the word “Division” (referring to CalGEM) to “Department”, thus ensuring the regulations cover the entire Department.

Anticipated Benefits of the Proposed Amendments:

The broad objective of the amendments is to make the existing regulations adopted to implement Government Code sections 4525–4529.5 applicable to the Department as a whole. The specific benefits anticipated from the amendments are: (1) ensure the Department and its other divisions can timely utilize statutory selection process for the services of professional services firms, (2) promote consistency and efficiency in the Department’s contracting processes; and (3) reduce the likelihood that the Department’s contracting decisions for professional services firms will be subject to legal challenge for non-compliance with statute.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that the proposed amendments would not render the regulations inconsistent or incompatible with existing regulations. The Department has determined that there is no need to change the substance of its original regulations — but rather simply expand their scope to the Department rather than one of its divisions.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Department concludes that it is unlikely (if not impossible) that (1) the proposal will eliminate any jobs, (2) the proposal will create any jobs, (3) the proposal will create any new business, (4) the proposal will eliminate any existing businesses, or (5) result in the expansion of businesses currently doing business within the state.

The Department believes the proposed amendment will benefit California residents and all stakeholders of California government by improving administrative efficiency and ensuring that the Department's selection of professional services firms complies with the applicable statutes. Because the Department administers various programs vital to California's public safety, environment, and economy, the proposed amendments will have indirect benefits to the health and welfare of California residents and the state's environment. The Department does not anticipate any benefits to worker safety.

Small Business Determination: The Department has determined that the proposed amendments affect small businesses, but only insofar as the amendments would ensure the Department generally is able to carry out a contracting process already mandated in statute (and small businesses are potential contractors for the Department). The Department does not expect any adverse economic effects on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed 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 invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Christine Hansen
California Department of Conservation
715 P Street, MS 1900
Sacramento, CA 95814
Christine.Hansen@conservation.ca.gov

The backup contact person for these inquiries is:

Matthew Kloenhamer
California Department of Conservation
715 P Street, MS 1900
Sacramento, CA 95814
Matthew.Kloenhamer@conservation.ca.gov

Please direct requests for copies of the proposed text of the amendment, the initial statement of reasons, and/or any other information relevant to the rulemaking to the above address.

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the amendment, the initial statement of reasons, and the STD 399. Copies of this information may be obtained by contacting the address, email address, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulation as revised. If substantive modifications are made, the Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the contact person identified above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed

through the Department's website at www.conservation.ca.gov.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to adopt new Section 3270.4 into Title 15, Division 3, Chapter 1, regarding the temporary installation of cameras in outside hospital rooms.

PUBLIC HEARING

Date and Time:

May 10, 2023 — 10:00 a.m. to 11:00 a.m.

Place:

Department of Corrections and Rehabilitation
Sequoia Conference Room 150
1515 S Street — North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period begins **March 24, 2023** and closes on **May 10, 2023**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

CONTACT PERSONS

Primary Contact

Josh Jugum
Telephone: (916) 445-2266
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (916) 445-2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Tabor Ramsey
Telephone: (916) 445-8282
Division of Adult Institutions

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, 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 are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These newly adopted regulations will authorize the use of camera equipment to monitor an inmate while at an outside (non-CDCR) hospital when custody staff should not be in the room with the inmate due to the inmate's clinical condition, as determined by medical staff (e.g., a patient with a contagious condition, or a patient with a compromised immune system), and no viewing window is available to maintain a direct and constant view of the inmate.

This action will:

- Establish that camera equipment shall be utilized in an outside (non-CDCR) hospital setting when an inmate is placed in a room with no viewing window into the room and staff should not be in the room due to the inmate's clinical condition.

This measure will help maintain a direct view of the inmate for safety and security.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The department anticipates the proposed regulations will help to protect the health and welfare of California residents by limiting the exposure of department staff to potentially contagious medical conditions while at a hospital to observe an inmate.

DOCUMENTS INCORPORATED BY REFERENCE

None.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations that concern cameras in hospital rooms.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *Cost of \$84,238 in current Fiscal Year*
- Cost to any local agency or school district that is required to be reimbursed: *None*.
- Other nondiscretionary cost or savings imposed on local agencies: *None*.
- Cost or savings in federal funding to the state: *None*.

EFFECT ON HOUSING COSTS

The department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulations will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on the state’s environment. The proposed regulations may benefit worker safety and the welfare of California residents by helping to ensure the safety of department and hospital staff, as well as the safety of hospital patients and visitors, when CDCR inmates are hospitalized at outside (non–CDCR) hospitals.

CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to

any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

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

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department's website: www.cdcr.ca.gov.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department's contact person.

**AVAILABILITY OF CHANGES
TO PROPOSED TEXT**

After considering all timely and relevant comments received, the department may adopt the proposed regulations substantially as described in this Notice. If the department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

TITLE 17. AIR RESOURCES BOARD

**PROPOSED AMENDMENTS TO VAPOR
RECOVERY CERTIFICATION PROCEDURES**

The Executive Officer of the California Air Resources Board (CARB or Board) is proposing to amend the vapor recovery certification procedures under the authority granted in California Health and Safety Code,

sections 41954 and 41962. The vapor recovery certification procedures are incorporated by reference in California Code of Regulations (CCR), Title 17, Sections 94011, 94014, 94016, and 94017.

Written comments on the proposed regulatory amendments must be received by May 8, 2023, in order to be considered by the Executive Officer. A public hearing is not currently scheduled; however, you may request the Executive Officer to conduct a public hearing. The process for requesting a public hearing is explained in the Written Comment Period and Submittal of Comments section of this notice, below. If a request for a public hearing is received by April 24 2023, the public hearing will be conducted by the Executive Officer or his delegate pursuant to the authority set forth in Health and Safety Code Sections 39515 and 39516. The time, date, and place of the hearing will be provided in a separate notice.

**WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS**

In accordance with the Administrative Procedure Act, interested members of the public may provide comments in writing by postal mail or by electronic submittal. A public hearing is currently not scheduled. The public comment period for this regulatory action will begin on March 24, 2023. To be considered by the Executive Officer, written comments must be submitted by May 8, 2023. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. Comments submitted must be addressed to one of the following:

Postal mail:

Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal:

<https://www.arb.ca.gov/lispub/comm/bclist.php>

Any interested person may request a public hearing pursuant to section 11346.8 of the California Government Code, no later than 15 days before the close of the written comment period. A public hearing will be scheduled if any interested person, or their duly authorized representative, requests such a hearing in writing by April 24, 2023. The request for a hearing may be submitted in the same manner as written comments.

Please note that under the California Public Records Act (Government Code, § 7920.000 et seq.), your written comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, CARB requests but does not require that persons who submit written comments to the Executive Officer reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 41954 and 41962. This action is proposed to implement, interpret, and make specific sections 41954 and 41962.

INFORMATIVE DIGEST OF
PROPOSED ACTION AND POLICY
STATEMENT OVERVIEW
(GOVERNMENT CODE, § 11346.5,
SUBDIVISION (a)(3))

Sections Affected:

Proposed amendments to sections 94011, 94014, 94016, and 94017, of Article 1, Subchapter 8, Chapter 1, Division 3, Title 17, California Code of Regulations.

Documents Incorporated by Reference (Cal. Code Regs., Title 1, § 20, subdivision (c)(3)):

The following documents would be incorporated in the regulation by reference in sections 94011, 94014, 94016, and 94017, respectively, of Article 1, Subchapter 8, Chapter 1, Division 3, Title 17, California Code of Regulations:

- CP-201 — Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Underground Storage Tanks [insert amendment date]
- CP- 204 — Certification Procedure for Vapor Recovery Systems of Cargo Tanks [insert amendment date]
- CP-206 — Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks [insert amendment date]
- CP-207 — Certification Procedure for Enhanced Conventional (ECO) Nozzles and Low Permeation Conventional Hoses for Use at Gasoline Dispensing Facilities [insert amendment date]

The above listed documents are also being amended by this regulation and thus the amendment date would be the date that the regulation is adopted by CARB.

Background and Effect of the Proposed Regulatory Action:

To protect air quality and public health, CARB has adopted regulations to control the transfer and storage of gasoline vapor emissions at each step of gasoline marketing operations, from bulk plants and terminals, cargo tanks, and gasoline dispensing facilities

(GDF). State law requires CARB to develop performance standards and adopt procedures to certify (certification procedures) vapor recovery systems for use with cargo tanks and at GDFs. State law also requires CARB to adopt test procedures to determine compliance with performance standards established in the certification procedures.

Currently there are 7 certification procedures and 38 test procedures within the vapor recovery program. The certification procedures contain the performance standards and specifications that must be met by equipment manufacturers to obtain CARB certification in the form of an Executive Order. CARB adopted the first certification and test procedures for vapor recovery systems installed at GDFs on December 9, 1975. Since then, CARB has periodically updated the certification procedures to reflect improvements in vapor recovery technologies, to modify requirements for existing installations to achieve additional emission reductions, to improve cost-effectiveness, and to improve clarity for better regulatory certainty and enforceability. Because certification procedures are incorporated by reference in the California Code of Regulations, CARB can amend them only through a formal rulemaking process.

CARB staff are now proposing two sets of regulatory amendments to the certification procedures, as described below:

First set of amendments: these changes would remove imprecise language that does not provide clear instruction for CARB’s Executive Officer to approve or reject alternative test procedures from the four certification procedures. These amendments are intended to remove ambiguity caused by imprecise language that describes how test procedures other than those specified in the certification procedures (alternative test procedures) are approved or rejected.

As currently written, the certification procedures provide CARB’s Executive Officer with two options to approve or reject alternative test procedures:

1. Follow criteria in U.S. Environmental Protection Agency (U.S. EPA) Reference Method 301¹ to establish an equivalent test procedure; or
2. For situations where U.S. EPA Method 301 is not directly applicable, to exercise discretion to “establish equivalence based on the concepts of comparison with the established method of statistical analysis of bias and variance.”

¹ U.S. EPA Reference Method 301 — Field Validation of Pollutant Measurement Methods from Various Waste Media provides a set of procedures for determining and documenting the quality (i.e., systemic error (bias) and random error (precision)) of the measured concentrations from an effected source and is applicable to various waste media. The CARB vapor recovery program utilizes U.S. EPA Method 301 in determining the equivalence of alternative test procedures to the test procedures listed in the certification procedures.

CARB staff has determined that the language in option two is outdated and ambiguous, creating the potential for uncertainty when CARB’s Executive Officer approves alternative test procedures. In other words, this imprecise language does not provide clear instruction or guidance for the Executive Officer to approve alternative test procedures outside of the framework provided by U.S. EPA Method 301, which could create regulatory uncertainty and the potential for uneven application of the section. This option also could potentially be interpreted to allow the Executive Officer to approve an alternative test procedure that could undermine the stringency of performance standards. Removing this language would improve regulatory certainty.

Over the last two decades, there have not been any instances where CARB’s Executive Officer has used the discretion allowed by option two to establish an equivalent test procedure based on methods other than those provided by U.S. EPA Method 301. In addition, CARB staff does not anticipate any future need to utilize option two because of the maturity of the vapor recovery regulations and equipment market. Because option two has never been utilized for any of the vapor recovery certification procedures and is not expected to be needed in the future, and given the ambiguity it introduces, CARB staff finds that its continued inclusion is unnecessary for the implementation of the vapor recovery regulations and that there is no need to provide any replacement option.

Second set of amendments: these changes would correct various small errors in text and grammar and make other non-substantive and formatting edits to make the text of the certification procedures easier to understand for the public, and more accessible to everyone, including people with certain visual or reading disabilities, and assistive technology users. The four certification procedures have been amended multiple times since they were first adopted. During these amendments, small grammatical errors were inadvertently introduced, for example: missing hyphens, commas, periods; incorrect page numbering in the Table of Contents; and incorrect agency header graphics. Although these errors are minor, they could lead to confusion for readers. Meaning and intent would not be changed by the proposed corrections.

Additionally, staff is making non-substantive formatting edits throughout the four certification procedures to change the font styles and sizes, implement the use of Microsoft Word “styles” to provide consistent paragraph indentation and spacing, remove excess text emphasis (e.g., do not use upper case, and use only underline, bold, or italics, rather than multiple forms at once), remove extra spaces after periods, and remove extra hard returns between paragraphs. These global edits would promote consistency among the certifica-

tion procedures and improve access for anyone using text reading programs. These global edits would not change regulatory text nor its meaning.

In summary, the proposed amendments are administrative in nature, refining the certification procedures without impacting the regulated community or gasoline vapor emissions. The proposed amendments would not change any of the current performance standards, implementation schedules, or test procedures. Therefore, CARB staff does not expect the proposed amendments to impose any costs or have any direct or indirect economic impact on businesses, individuals, or government agencies located in California.

CARB may also consider other changes to the sections affected, as listed on page 2 of this notice, or other sections within the scope of this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

The proposed amendments are an administrative revision of CARB’s vapor recovery regulations to:

- Remove imprecise and unnecessary existing language that does not provide clear instruction for CARB’s Executive Officer in approving or rejecting alternative test procedures; and
- Correct small grammatical and typological errors and update the format of the certification procedures to make certification procedures easier to understand for everyone, and more accessible for people with certain visual or reading disabilities.

The Vapor Recovery Program has been very successful at reducing emissions over the last 40 years. The proposed regulatory amendments would continue to refine the Vapor Recovery Program to provide better regulatory clarity and certainty with no impact on costs or existing gasoline vapor emission reductions.

The proposed amendments include several administrative changes, both substantive and non-substantive. The substantive change is the proposed amendment to remove ambiguous and imprecise language from all four certification procedures related to the Executive Officer’s authority to approve or reject alternative test procedures will provide regulatory certainty and uniformity. The non-substantive proposed amendments consist of edits to improve the clarity and readability of the certification procedures. Neither text, intent, nor meaning would be changed with these proposed amendments. As the proposed amendments are administrative in nature, they do not change any current performance standards, implementation schedules, or test procedures, and therefore have no impact on GDF vapor recovery, GDF gasoline vapor emissions, air quality, or the environment.

During the development of the proposed amendments, CARB staff reached out to external stake-

holders for their collaborative input. CARB staff sent draft language of the certification procedures to the California Air Pollution Control Officers Association Vapor Recovery Subcommittee, as well as presented information at joint meetings with CARB, and to U.S. EPA to solicit feedback. CARB staff also held a public workshop on October 12, 2022, where staff presented the proposed regulatory amendments. The workshop had 38 participants representing various aspects of the regulated community.

Comparable Federal Regulations:

There are no federal regulations or programs directly comparable to California’s EVR program for GDFs, nor are there federal regulations establishing the requirements for ECO nozzles and low permeation hoses at GDFs that exclusively refuel vehicles with on-board refueling vapor recovery systems. California’s existing EVR regulations already exceed federal requirements. Other states and countries often require the installation of vapor recovery systems certified by CARB. Thus, changes to CARB certification requirements for GDFs may have a national and international impact.

Currently there are federal standards comparable to California’s cargo tank vapor recovery program standards, which can be found in the Code of Federal Regulations, Title 40, Part 63, Subpart R section 63.425(e) — National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations). Because of the severe and unique air pollution issues facing California, CARB’s gasoline vapor control standards are more stringent than comparable federal standards.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Government Code, § 11346.5, subdivision (a)(3)(D)):

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATION

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Government Code, § 11346.5, subdivisions (a)(5) & (6)):

The determinations of the Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the

Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Housing Costs (Government Code, § 11346.5, subdivision (a)(12)):

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Government Code, §§ 11346.3, subdivision (a), 11346.5, subdivision (a)(7), 11346.5, subdivision (a)(8)):

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Results of the Economic Impact Analysis/Assessment (Government Code, § 11346.5, subdivision (a)(10)):

A detailed assessment of the economic impacts of the proposed regulatory action can be found in Chapter VIII of the Initial Statement of Reasons (ISOR or Staff Report). The proposed amendments to not impose a cost on any individual, business, or government entity.

Non-Major Regulation: Statement of the Results of the Economic Impact Assessment (EIA):

- (A) *The creation or elimination of jobs within the State of California.*
The proposed amendments are expected to have no impact on the creation or elimination of jobs within the State of California.
- (B) *The creation of new business or the elimination of existing businesses within the State of California.*
No new businesses are expected to be created, nor existing businesses eliminated in response to the proposed amendments.
- (C) *The expansion of businesses currently doing business within the State of California.*
The proposed amendments are expected to have no impact on the expansion of businesses currently doing business within the State of California.
- (D) *The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.*

As described in the Objectives and Benefits section on page 5, the proposed amendments are expected to have no impact on the health and welfare of California residents, worker safety, and the state's environment. The proposed amendments have no impact on current performance standards, implementation schedules, or test procedures, and therefore have no impact on GDF vapor recovery, current GDF gasoline vapor emissions reductions, air quality, or the environment.

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impacts Analysis in Chapter VIII of the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to refine the Vapor Recovery Program to provide better regulatory clarity and certainty with no impact on costs or existing gasoline vapor emission reductions.

A summary of these benefits is provided, please refer to "Objectives and Benefits", under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code section 11346.5, subdivision (a)(3) discussion on page 5.

Cost Impacts on Representative Private Persons or Businesses (Government Code, § 11346.5, subdivision (a)(9)):

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. CARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Business (Cal. Code Regs., title 1, § 4, subdivisions (a) and (b)):

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses, because the proposed amendments are administrative in nature and would not change any of the current performance standards, implementation schedules, or test procedures. Therefore, CARB staff does not expect the proposed amendments to impose any costs nor have any impacts on small businesses.

Consideration of Alternatives (Government Code, § 11346.5, subdivision (a)(13)):

Before taking final action on the proposed regulatory action, the Executive Officer must determine

that no reasonable alternative considered by the Executive Officer, or that has otherwise been identified and brought to the attention of the Executive Officer, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. As explained in the accompanying ISOR, the proposed regulations are the most effective and least burdensome means of achieving the purposes of the proposal.

**STATE IMPLEMENTATION
PLAN REVISION**

CARB plans to submit the proposed regulatory action, if it is adopted by CARB, to the United States Environmental Agency (U.S. EPA) for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it amends regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by the U.S. EPA pursuant to the CAA.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the proposed amendments, has concluded that this action is exempt from CEQA, as described in CEQA Guidelines § 15061, because the action is both an Action Taken by Regulatory Agencies for Protection of the Environment (as described in CEQA Guidelines § 15308 for "class 8" exemptions); and it is also exempt as described in CEQA Guidelines § 15061, subdivision (b)(3) ("common sense" exemption) because it can be seen with certainty that there is no possibility that the proposed action may result in a significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter VII of the ISOR.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerks' Office at cotb@arb.ca.gov or (916) 322-5594 as soon as possible, but no later than ten business days before the Executive Officer hearing, if one is requested. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al cotb@arb.ca.gov o (916) 322-5594 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo, si lo solicitan. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Donielle Jackson, Air Pollution Specialist, Vapor Recovery Regulatory Development Section, at (916) 720-2544 or (designated back-up contact) Louis Dinkier, Air Resources Supervisor, Vapor Recovery Regulatory Development Section, at (279) 208-7872.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: *Proposed Amendments to the Vapor Recovery Certification Procedures*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, on March 21, 2023. Please contact Chris Hopkins, Regulations Coordinator, at Chris.Hopkins@arb.ca.gov or (279) 208-7347 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public

Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, (279) 208-7347. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

A public hearing will be conducted by the Executive Officer in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340), if a public hearing is requested. For details on how to request a hearing, please refer to the "Written Comment Period and Submittal of Comments" section of this document.

Following the close of the comment period, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for additional written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text, if applicable, from CARB's Public Information Office, Visitor and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990.

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2023/vapor-recovery-2023>.

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

GENERATOR IMPROVEMENTS RULE

REFERENCE NUMBER:

R-2023-08R

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to add California Code of Regulations, title 22, division 4.5, sections 66262.13, 66262.15, 66262.16, 66262.17, 66262.18, 66262.250, 66262.251, 66262.252, 66262.253, 66262.254, 66262.255, 66262.256, 66262.260, 66262.261, 66262.262, 66262.263, 66262.264, 66262.265, amend sections 66260.10, 66260.23, 66262.10, 66262.32, 66262.35, 66262.41, 66263.43, 66263.45, 66263.46, 66264.1, 66264.71, 66264.191, 66264.192, 66264.193, 66264.1030, 66264.1050, 66265.1, 66265.71, 66265.191, 66265.192, 66265.193, 66265.1030, 66265.1050, 66268.1, 66268.7, 66268.50, 66270.60, 66273.8, 66273.9, 66273.72, 66279.10, 67426.1, and repeal sections 66262.12, 66262.34.

WRITTEN COMMENT PERIOD

A public comment period has been established commencing on March 24, 2023, and closing on May 8, 2023. Only comments received by DTSC on or before the closing date will be considered.

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

Notice Pertaining to Accessibility and Reasonable Accommodation

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

Office of Legislation and Regulatory Review
Department of Toxic Substances Control
P.O. Box 806|

Sacramento, California 95812-0806

regs@dtsc.ca.gov

Phone Number: (916) 322-4563

Fax Number: (916) 324-1808

TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

PUBLIC HEARING

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

AUTHORITY & REFERENCE

These regulations are being adopted under the following authorities: Health and Safety Code sections 25141, 25150, 25158.1, 25159, 25159.5, 25161.

These regulations implement, interpret, or make specific the following statutes: Health and Safety Code sections 25110.02, 25141, 25150, 25158.1, 25159, 25159.5, 25159.6, 25168.1, 25179.3, 58004 and 58012, and 40 Code of Federal Regulations sections 260.10, 261.1, 261.4, 262.13, 262.14, 262.15, 262.16, 262.17, 262.18, 262.20(e), 262.21, 262.32, 262.41, 262.250, 262.251, 262.252, 262.253, 262.254, 262.255, 262.256, 262.260, 262.261, 262.262, 262.263, 262.264, 262.265, 263.20(h), 264.1, 264.71, 264.191, 264.192, 264.193, 264.551, 264.1030, 264.1050, 264.1031, 265.1, 265.71, 265.191, 265.192, 265.193, 265.1030, 265.1050, 268.1, 268.2, 268.7, 268.50, 270.2, 273.6, 273.8, 273.9, 273.81, 279.1, 279.10(b)(ii), 279.11, 279.20, 279.21, 279.30, 279.40, 279.44, 279.53, 49 CFR section 172.304; and 49 Code of Federal Regulations Part 172.

INFORMATIVE DIGEST

Policy Statement Overview

On November 28, 2016, the United States Environmental Protection Agency (U.S. EPA) made significant changes to the hazardous waste generator program under the Hazardous Waste Generator Improvements Rule (GIR). DTSC proposes to amend several sections in California Code of Regulations, title 22, division 4.5, pertaining to hazardous waste generator requirements to parallel the federal regulation changes.

California, as an authorized state, and DTSC, as the implementing agency, was authorized by U.S. EPA to administer the federal hazardous waste program on behalf of U.S. EPA in 1992. Because California is an authorized state, California's hazardous waste program cannot be less stringent than the federal hazard-

ous waste program and must be at least equivalent to the federal hazardous waste program to maintain its authorization.

DTSC proposes to adopt requirements from the GIR that are more stringent than California's existing hazardous waste generator requirements to ensure the California hazardous waste program is no less stringent than the federal hazardous waste program. DTSC also proposes to adopt the federal language in some equivalent provisions that are clearer or more concise than current California regulations that do not change existing requirements.

Background and Effect of the Proposed Regulatory Action

U.S. EPA promulgated more than 60 revisions and new provisions to the federal hazardous waste generator program in the GIR. The primary objectives were to:

- reorganize the hazardous waste generator regulations;
- provide a better understanding of how the regulatory program works;
- address gaps in the existing regulations to strengthen environmental protection;
- provide greater flexibility to generators to manage their waste in a safe and cost-effective manner; and
- make technical corrections and conforming changes to address inadvertent errors and remove obsolete references.

The GIR regulations do not take effect in California until DTSC adopts them, or parts thereof, through the rulemaking process or through statutory amendments. DTSC has identified seven provisions in the GIR as more stringent than existing state requirements and is proposing to adopt these provisions in this rulemaking:

- 1) New renotification requirements
- 2) New labeling and marking requirements
- 3) New pre-transportation marking requirements
- 4) New large quantity generator closure requirements
- 5) Additional requirements for incompatible wastes in satellite accumulation areas
- 6) New requirements added to the preparedness, prevention, and emergency procedures for small quantity generators and large quantity generators including:
 - a) Documenting that arrangements with local authorities were made or attempted to be made by the generator; and
 - b) A quick reference guide that summarizes a large quantity generator's contingency plan

- 7) Additional requirements for containers holding ignitable and reactive wastes for large quantity generators.

California's hazardous waste regulations parallel federal hazardous waste regulations in many respects, including organizational structure. Therefore, the proposed regulations align with the federal regulation organizational changes. Specific reorganizations are detailed in the Initial Statement of Reasons (ISOR) document.

California's hazardous waste program is broader in scope than that of U.S. EPA because the requirements apply to generators of non-RCRA hazardous wastes. The proposed regulations apply many, but not all, of the GIR changes to both RCRA and non-RCRA hazardous waste generators in California.

Benefits of the Proposed Regulatory Action

DTSC must adopt the GIR regulations that are more stringent than existing California regulations to maintain its authorization to administer the California hazardous waste program in lieu of the federal hazardous waste program. Adopting these requirements addresses gaps that exist in the current regulations and improves understanding of California's hazardous waste generator program, in turn improving compliance and strengthening environmental protection.

DTSC expects mirroring the reorganization of the GIR will make compliance with requirements easier for hazardous waste generators. U.S. EPA received strong support for the reorganization from the regulated community during the federal rulemaking comment period, and DTSC expects similar results for the regulated community in California.

Existing Laws and Regulations

The proposed regulations amend, retain, restructure, and relocate existing California hazardous waste generator regulations in California Code of Regulations, title 22, division 4.5, to align with 40 Code of Federal Regulations changes that resulted from the GIR. The existing regulations affected include generator definitions, generator conditions for exemption, U.S. EPA identification numbers, renotification, and emergency planning regulations. Additionally, the rulemaking updates obsolete references and dates.

Related State Laws and Regulations

The proposed regulations apply many, but not all, of the GIR requirements to both RCRA and non-RCRA hazardous wastes in California to mitigate potential confusion for a generator of both types of hazardous wastes.

Many of California's hazardous waste laws and regulations parallel those of the federal hazardous waste program. However, some of California's hazardous waste regulations are more stringent than those of the federal hazardous waste program. DTSC proposes to

maintain the existing California regulations that are more stringent than the federal regulations while restructuring them to conform with the organization of the federal hazardous waste regulations. Some GIR revisions to the federal regulations that are less stringent or equivalent to California's hazardous waste program are not included in the proposed regulations. Therefore, DTSC has determined that the changes to existing hazardous waste generator regulations in this rulemaking are not inconsistent or incompatible with existing state regulations.

Comparable Federal Regulation or Statute

The proposed regulations do not differ substantially from the existing comparable federal regulations. Existing state requirements previously authorized by U.S. EPA are included in the proposed regulations to align with the reorganization of the federal regulations that resulted from the GIR. These regulations are not in conflict with any federal regulations.

DOCUMENTS RELIED ON

This proposal relied on Federal Register 85732, Vol. 81, Number 228, November 28, 2016.

**OTHER APPLICABLE REQUIREMENTS
PRESCRIBED BY STATUTE**

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

DTSC has determined that there is no possibility that the proposed regulations will result in a significant environmental effect. Consistent with California Code of Regulations, title 14, section 15061(b)(2), DTSC has determined the proposed regulations are exempt from CEQA under the "categorical exemption." If the proposed regulations are finalized, a Notice of Exemption will be filed with the State Clearinghouse for public inspection.

Peer Review Compliance

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

**DISCLOSURES REGARDING THE PROPOSED
ACTION/FISCAL IMPACT ASSESSMENT**

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

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

DTSC has determined that the proposed regulations will not result in any changes to federal funds that the state of California receives.

Costs or Savings to Any State Agency

DTSC determined that the proposed regulations will incur added costs to DTSC since the Department currently manages Certified Unified Program Agencies (CUPA) in Imperial and Trinity counties in California. DTSC estimates a total of \$22,250 will be incurred after the year of the rulemaking adoption, then \$157,300 in subsequent years due to regulation implementation, training, outreach, and inspection activities.

Local Agencies Non-Discretionary Cost or Savings

Since much of the enforcement of generator standards has been delegated to the 79 CUPAs, CUPAs will primarily be impacted through initial outreach, training of the CUPA staff, and added inspection activities during the first year of implementation. There will be recurring inspections and update costs incurred by the CUPAs following the first year of new regulations implementation.

DTSC assumes that the fiscal impact each CUPA incurs will vary depending on the number of hazardous waste generators in their jurisdiction and the number of staff each CUPA has. DTSC also assumes that DTSC will provide guidance to all CUPAs on the new regulatory requirements through technical webinars and outreach activities when the regulations become effective. DTSC assumes that fifty percent of CUPAs with a large number of hazardous waste generators, and therefore a large number of CUPA inspectors, will provide additional training to their own inspectors in addition to the training they will receive from DTSC.

DTSC estimates that the costs each CUPA will incur as a result of the proposed regulations will be \$11,125 in the year following its adoption, and \$78,650 annually in subsequent years. Therefore, the estimated total cost to each CUPA over the next three years is \$168,425. These costs will be incurred only by fifty percent of the CUPAs with a large number of hazardous waste generators. There are 79 CUPAs in California managed by local agencies. Therefore, the total one-time fiscal impact for half of all CUPA offices (assumed forty CUPA offices) is estimated to be \$445,000 and the total annual recurring cost after the first year of the rulemaking adoption for all CUPA offices is estimated at \$6,292,000.

School Districts

DTSC determined that the proposed regulations will not result in any costs or savings for any school districts.

Federal Funding to the State

DTSC determined that the proposed regulations will not result in any changes to federal funds that the state of California receives.

Local Mandate

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

Types of Businesses Affected

The proposed regulations will affect a wide range of facility types that generate hazardous waste in California.

Projected Reporting, Recordkeeping, or other Compliance Requirements

Under the proposed regulations, small quantity generators will be required to re-notify DTSC every four years using U.S. EPA Form 8700-12. The proposed regulations require both large and small quantity generators to document either their arrangement with local authorities (i.e., fire department, police department) or their attempt to make an emergency planning arrangement with local authorities. Large quantity generators will be required to notify DTSC before and after facility closure using U.S. EPA Form 8700-12. Additionally, large quantity generators will be required submit a quick reference guide of the contingency plan to the local emergency responder.

It is necessary for the health, safety, or welfare of the people of the state that the regulations which requires a report apply to businesses.

Cost Impacts on Representative Private Persons or Businesses

DTSC conducted an economic impact assessment of the proposed regulations for businesses that generate hazardous wastes. DTSC estimates that, under the proposed regulations, the total annual added costs for all large quantity generators are \$10,432,167 and the total annual added costs for all small quantity generators are \$2,418,476. These added costs will result from the new GIR requirements that generators will be required to comply with, such as re-notification, labeling/marketing, closure, renotification, and emergency planning requirements. These new requirements are more stringent federal requirements that DTSC must adopt to maintain its state authorization.

Effect on Housing Costs

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

Effect on Small Businesses

DTSC has determined that the proposed regulation will have a minimal effect on small quantity genera-

tors. The costs impact stems from re-notification and emergency contact with local authorities.

Significant, Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States

None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation of New Businesses or Elimination of Existing Businesses

The proposed regulations will not affect the number of businesses that generate hazardous waste. Additionally, the proposed regulations are intended to make the existing hazardous waste generator regulations clearer, thus improving compliance, but are not expected to have any impact on the quantity of businesses that exist in California beyond the normal rate of businesses opening and closing due to other reasons. DTSC does not anticipate any significant changes in the creation of new businesses or elimination of existing businesses in California under the proposed regulations.

Expansion of Businesses Currently doing Business

DTSC does not anticipate any significant changes in the expansion of businesses currently doing businesses under the proposed regulations.

Creation of New Jobs or Elimination of Existing Jobs

The proposed regulations will not affect the number of jobs related to the generation of hazardous waste.

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

The proposed regulations are expected to improve the safety of California’s residents, workers, and environment. The proposed reorganization of the hazardous waste regulations allows generators to find, understand, and comply with requirements more effectively which will increase public safety. Additionally, the proposed regulations will improve health and safety by addressing safety gaps in the hazardous waste regulations by adding new requirements to ensure that hazardous waste is managed properly and that emergencies are prevented or effectively mitigated.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed

action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

A detailed discussion of the proposed regulations, including the Consideration of Alternatives, is presented in the ISOR for these regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulation may be directed to Kareem Taylor at (916) 445-9553 or Chosu Khin at (916) 324-2428 or, if unavailable, the Office of Legislation and Regulatory Review, as specified above. However, such oral inquiries are not part of the rulemaking record. Statements, arguments, or contentions regarding the rulemaking and/or supporting documents must be submitted in writing for them to be considered by DTSC before it adopts, amends, or repeals these regulations.

AVAILABILITY OF TEXT OF PROPOSED REGULATIONS, INITIAL STATEMENT OF REASONS, AND OTHER RULEMAKING DOCUMENTS

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

The text of the proposed regulations contains the following formatting features:

- The symbol "***" means that intervening text not proposed for amendment is not shown.
- *Single Underline*: Proposed additions are indicated in single underlining to show where the new text is being added.
- *Single Strikeout*: Proposed deletions (repeal) are indicated strikethrough to show where the existing text is being removed.

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

Once DTSC finalizes the regulatory text, DTSC will prepare a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments, and includes other materials. A copy of the Final Statement of Reasons will also be

posted on DTSC's Internet site at <https://dtsc.ca.gov/dtsc-proposed-regulations/>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulation.

ALL OTHER QUESTIONS/COMMENTS/ INQUIRIES/UPDATES

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

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

MOBILEHOME AND SPECIAL OCCUPANCY PARKS, EMPLOYEE HOUSING, AND MANUFACTURED HOUSING PROGRAMS

NOTICE IS HEREBY GIVEN that the California Department of Housing and Community Development (HCD or Department) proposes to adopt regulations governing the Mobilehome Parks (MP(s)), Special Occupancy Parks (SOP(s)), Employee Housing (EH), and Manufactured Housing (MH) Programs (collectively "Programs") which are established by the Mobilehome Parks Act (MPA), Special Occupancy Parks Act (SOPA), Employee Housing Act (EHA), and Manufactured Housing Act (MHA) (collectively "Acts"). If approved, the proposed regulations would set forth HCD's increased fees related to these programs. Such fee increases are necessary in order to improve efficiencies and services provided to the public, and to collect revenue commensurate with the actual costs associated with HCD's obligations, services, and activities.

PUBLIC HEARING

No public hearing is currently scheduled. However, pursuant to Government Code section 11346.8, if a written request to hold a public hearing is received no later than 15 calendar days before the close of the written comment period at the address below from any interested person or their authorized representative, the Department shall, to the extent practicable, provide notice of the time, date, and place of the hear-

ing by mailing the notice to every person who has filed a request for notice with the Department.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or their authorized representative, may submit written comments relevant to this proposed regulatory action. All written comments must be received by HCD no later than 8:00 a.m. on May 9, 2023 in order to be considered. Written comments may be submitted by mail, email, or fax as follows:

By mail to:
 California Department of Housing and Community Development
 Development Division of Codes and Standards
 P.O. Box 277820
 Sacramento, CA 95827-7820
 Attention: Fee Realignment Regulations — Housing Regulations Team

By email to: Title25@hcd.ca.gov
 Subject Line:
 Fee Realignment Regulations—Housing Regulations Team

By fax to: (916) 263-3383
 Attention: Fee Realignment Regulations — Housing Regulations Team

PERMANENT ADOPTION OF REGULATIONS

Following the public comment period, HCD may adopt the proposals, as described below, or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for at least 15 days prior to its adoption from the contact person(s) designated in this notice and will be mailed to those persons who have submitted written or oral testimony related to this proposal or who have requested notification of any changes to the proposal. HCD will accept written comments on the modified regulations during the 15-day period.

AUTHORITY AND REFERENCE

The authority and reference for this action occurs through both implied and express authority as described below:

HCD has express and implied rulemaking authority as provided in:

1. MPA, Health and Safety Code (HSC) sections 18153, 18300, 18502, 18502.5, 18551, 18552, 18613, 18613.4, 18613.5, and 18613.7
2. SOPA, HSC sections 18153, 18300, 18865, 18865.05, 18870.2, 18870.3, and 18871.3
3. EHA, HSC sections 17003.5, 17036, 17040, and 17050
4. MHA of 1980, HSC section 18015

Additionally, HCD has express authority, as provided by HSC section 50406, subdivision (n), to “do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this division [Division 31, commencing with section 50000].”

The Legislature, through the MPA, SOPA, EHA, and MHA, authorizes HCD to administer these laws and adopt regulations that interpret and make specific these Acts. This includes the adoption of a schedule of fees for the construction, alteration, and operation of MP, SOP, EH facilities, and manufactured homes/mobilehomes (MH), respectively, and the authority to adopt proposed regulations thereto.

HCD is implementing, interpreting, and making specific HSC sections noted below.

1. MPA — HSC sections 18153, 18300, 18305, 18400, 18400.3, 18407, 18500, 18501, 18502, 18502.5, 18503, 18551, 18552, 18613, 18613.4, 18613.5, and 18613.7
2. SOPA — HSC sections 18153, 18300, 18862.17, 18865, 18865.6, 18866, 18866.5, 18870, 18870.2, 18870.3, 18870.4, 18870.6, and 18871.3
3. EHA — HSC sections 17036, 17040, 17050, and 17062
4. MHA — HSC section 18031

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW

1. **MPA (Part 2.1 (commencing with section 18200) of Division 13 of the Health and Safety Code).** HCD is responsible for the enforcement and regulation of minimum health and safety standards inside mobilehome parks (MP(s)). These minimum health and safety standards regulate construction, maintenance, occupancy, use, and design of MPs and are required to guarantee park residents maximum protection of their manufactured home/mobilehome (MH-unit(s)) investment and a decent living environment. These mandates safeguard the habitability and affordability of this housing source. HCD is responsible for collection of fees and issuance of the Permit to Operate for MPs.

2. **SOPA Part 2.3 (commencing with section 18860) of Division 13 of the Health and Safety Code).** HCD is responsible for the enforcement and regulation of minimum health and safety standards inside special occupancy parks (SOP(s)). These minimum health and safety standards regulate construction, maintenance, occupancy, use, and design of SOPs and are required to guarantee the safety of park occupants and ensure a decent environment for recreation or temporary occupancy. HCD is responsible for collection of fees and issuance of the Permit to Operate for SOPs.
3. **EHA Part 1 (commencing with section 17000) of Division 13 of the Health and Safety Code).** HCD’s authority under the Employee Housing Act provides that HCD promulgate statewide preemptive regulations relating to the maintenance, use, and occupancy of EH to assure minimum health and safety standards are met when housing employees in rural areas. EH is defined as private housing provided for five or more employees, or in certain circumstances, five or more farm workers in rural areas as defined in HSC Section 17008.
4. **MHA (Part 2 (commencing with section 18000) of Division 13 of the Health and Safety Code).** HCD’s authority under the Manufactured Housing Act of 1980 requires preemptive rules for the statewide permit and inspection of alterations or conversions of new and used manufactured homes and mobilehomes; for oversight of the construction of all commercial modular and special purpose commercial modulars that are manufactured, sold, and used in California; and for the approval certification and oversight of third-party design and inspection agencies that work on HCD’s behalf. Third-party agency activity is required to be continuously monitored by the MH Program staff, by performance of on-site monitoring visits, review of complaints from the public or local jurisdictions, plan review monitoring, and review and approval of third-party monthly activity reports.

SUMMARY OF EXISTING REGULATIONS

1. **Mobilehome Parks and Installations,** Title 25, Division 1, Chapter 2, Articles 1 through 11.
2. **Special Occupancy Parks,** Title 25, Division 1, Chapter 2.2, Articles 1 through 11.
3. **State Housing Law Regulations and Earthquake Protection Law — Regulations: Employee Housing;** Title 25, Division 1, Chapter 1, Subchapter 3, Articles 1 through 8.

4. **Factory–Built Housing and Mobilehomes: Mobilehomes, Recreational Vehicles and Commercial Coaches–Regulations,** Title 25, Division 1, Chapter 3, Subchapter 2, Articles 1 through 5.

SUMMARY OF EFFECT OF PROPOSED REGULATORY ACTION

The purpose of these proposed regulations is to establish consistent fees for services provided, and to realign fees based on our actual duties and activities relating to health and safety inspections, complaint investigations, state mandates, administration, and supervision of the home offices located statewide, and to facilitate efficiency of HCD operations.

Those sections within title 25, California Code of Regulations affected by this rulemaking (see “Sections Affected,” below), and the specific purposes for each adoption in these proposed regulations, are set forth in the Initial Statement of Reasons for this regulatory action.

SECTIONS AFFECTED

Amend: 644, 645, 1004.5, 1008, 1016, 1017, 1020.1, 1020.4, 1020.7, 1020.9, 1025, 2004.5, 2008, 2016, 2017, 2020.4, 2020.7, 2020.9, and 4044

Sections within title 25, California Code of Regulations affected by this rulemaking, and the specific purposes for each adoption in these proposed regulations, are set forth in the Initial Statement of Reasons for this regulatory action.

POLICY STATEMENT OVERVIEW

ANTICIPATED BENEFITS OF THE PROPOSED ACTION

This action will realign HCD’s current regulatory fees for critical programs to reimburse actual program costs, and to improve efficiency of operations.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed regulations are compatible with existing state regulations, as there are no regulations currently in existence that provide fees for services similar to the activities relating to maintenance and construction of MPs and SOPs, the health and safety of EH employees, or alterations of MH–units.

SMALL BUSINESS IMPACT STATEMENT

HCD has made an initial determination that this regulatory action would have a minor impact (totaling approximately \$4,193 annually) on operators of EH facilities, as small business owners, with a valid HCD permit to operate, since the regulatory action will increase relevant fees.

DISCLOSURES REGARDING
THE PROPOSED ACTION

- Mandate on local agencies and school districts: NONE.
- Costs or savings to any state agencies: NONE.
- Costs or savings to local agencies or school districts, which must be reimbursed in accordance with Part 7 (commencing with section 17500) of Division 4 of the Government Code: NONE.
- Other nondiscretionary costs or savings imposed on local agencies: NONE.
- Costs or savings in federal funding to the state: NONE.
- Costs to housing: NONE.

BUSINESS IMPACT

HCD has made an initial determination that this regulatory action would not have a significant adverse economic impact on general California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states or create or expand business in California, and will not affect creation or elimination of jobs in the State of California because the proposed regulatory action seeks to increase fees to cover HCD's staffing shortages and actual costs in delivering services.

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

HCD has made an initial determination that the proposed regulatory action would have a minor impact (totaling approximately \$4,193 annually) on operators of EH facilities, as small business owners, with a valid HCD permit to operate, since the regulatory action will increase relevant fees. Further, the total fee increases to representative private persons acting in reasonable compliance with the proposed action (i.e., requesting permits, plan review, technical service inspection, or other services and paying the associated fees) will amount to approximate \$3,667,056 annually.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS

HCD has determined that the proposed regulatory action will not have a significant adverse effect on private individuals or small businesses because the proposed fees have been realigned with HCD's actual costs for services rendered.

- The proposed regulation will neither create nor eliminate jobs within California.
- The number of businesses that will be created or eliminated is indeterminate.
- There are no businesses currently doing business within the State of California that would be expanded as a result of this regulation.
- The proposed regulations will positively affect the health and welfare of California. The proposed regulations will allow HCD to properly align its field operations unit to be geographically efficient, to provide additional administrative support to resolve many backlogged legal issues, and to implement the recent recommendations of the Office of the State Auditor for efficiency of operations and to accomplish all state mandated functions.
- There are no anticipated benefits to worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternatives are available, or have otherwise been identified and brought to its attention, that 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. HCD has determined that this proposed regulatory action represents the most cost-effective, efficient, and practical action to maintain adequate funding for the effective delivery of critical services.

AVAILABILITY OF DOCUMENTS
AND CONTACT PERSON

HCD has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon

request from HCD at the following location or from the contact people listed below:

California Department of Housing and
Community Development
Division of Codes and Standards
9342 Tech Center Drive, Suite 500
Sacramento, CA 95826
Fax: (916) 263-3383

Main Contact: Jenna Kline, (916) 841-5286
Alternative Contact:
Mitchel Baker, (916) 214-8097

In addition, the Notice of Purposed Action, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the *HCD's Mobilehome Parks website* at the following address: <https://www.hcd.ca.gov/manufactured-and-mobilehomes/mobilehome-parks>.

Questions regarding the regulatory process or clarification on the substance of this regulatory proposal may be directed to:

Housing Regulations Team
Telephone: (916) 841-5286
Fax: (916) 263-3383
Email: Title25@hcd.ca.gov

TITLE 27. ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM REGULATIONS

NOTICE IS HEREBY GIVEN that the California Environmental Protection Agency (CalEPA) proposes to amend California Code of Regulations, (CCR), title 27, Division 1, Subdivision 4, Chapter 1, sections 15110-15330, and Appendices A-D. These proposed regulations include significant changes that impose new reporting and procedural requirements and details, as well as non-significant amendments that are considered administrative in nature and improve the organizational structure of existing requirements and clarify existing elements of reports and forms.

PUBLIC HEARING AND WRITTEN COMMENT PERIOD

A written comment period has been established beginning March 24, 2023, and closing on May 8, 2023. To be considered relevant to this rulemaking proposal, written comments must be received/postmarked by May 8, 2023. Written comments can be submitted by:

Mail to:

CalEPA Unified Program
P.O. Box 1815
Sacramento, California 95812

Email to:

cupa@calepa.ca.gov

Representatives of the CalEPA Unified Program will hold a virtual public hearing regarding the proposed title 27 regulations on May 9, 2023, from 10:00 a.m. to 11:00 a.m., using the following Zoom meeting platform link:

Join Zoom Meeting

<https://us02web.zoom.us/j/84330351494?pwd=UE5rNnorT3NFeHkybUI2NVl4YXJGZz09>

Meeting ID: 843 3035 1494

Passcode: 010611

Any person may present oral comments relevant to this rulemaking proposal at the hearing. Oral inquiries will only become part of the official rulemaking record if presented at the scheduled public hearing. To be considered by CalEPA before the proposed regulations will be adopted, amended, or repealed, all supporting documents, statements, arguments, or contentions regarding this rulemaking must be submitted in writing no later than May 8, 2023.

Anyone who wishes to speak at the virtual public hearing should register prior to the hearing by sending an email to cupa@calepa.ca.gov indicating they wish to speak during the hearing. Registered persons will be heard in the order of registration.

Persons who did not register will be given an opportunity to speak once all registered persons have been heard, so long as time allows.

To request additional special accommodations or language needs, please contact Jennifer Rohde, Executive Assistant, Unified Program, CalEPA, at (916) 322-2155 or by email at Jennifer.Rohde@calepa.ca.gov before hearing date.

AUTHORITY AND REFERENCE

The Secretary of CalEPA makes these amendments under the authority granted by Health and Safety Code Section 25404, subdivisions (b), (c), (d), and (e); Section 25404.6, subdivision (c); and Government Code Section 16.5 subdivision (c). These sections require the Secretary to adopt regulations that would implement, interpret, or make specific Health and Safety Code Chapter 6.11 for the Unified Program.

INFORMATIVE DIGEST

Existing Law

Senate Bill 1082 of 1993 (California Health and Safety Code, Chapter 6.11, Section 25404) required California’s Secretary for Environmental Protection to establish a “unified hazardous waste and hazardous materials management” regulatory program (Unified Program) by January 1, 1996. 27 CCR provides for the implementation of the Unified Program, which consolidates, coordinates, and makes consistent the administration, permits, inspections and enforcement activities of the following six program elements:

- Hazardous Materials Release Response Plan and Inventory (HMRRP or Business Plan)
- California Accidental Release Prevention (CalARP) Program
- Underground Storage Tank (UST) Program
- Aboveground Petroleum Storage Act (APSA) Program
- Hazardous Waste Generator and Onsite Hazardous Waste Treatment) (Tiered Permitting)
- California Fire Code: Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS).

Policy Statement Overview

To interpret existing Unified Program regulations, specify and coordinate certain aspects of Unified Program element requirements, clarify current practices and procedures, and to align with new and revised statutes and regulations relative to the implementation and enforcement of the Unified Program, revision to the text of 27 CCR is necessary. By ensuring statewide and cross-program clarity and consistency in the interpretation of 27 CCR regulations for implementation and enforcement, the Unified Program will be working towards accomplishing the definitive goal of reducing the impact of hazardous materials on public health and the environment.

Proposed Regulations

The proposed revisions to 27 CCR regulation language are briefly summarized as follows:

- I. Non-substantial changes having no effect or impact on regulated businesses, Unified Program Agencies, or state agencies with Unified Program responsibilities, and for the purposes of establishing and maintaining consistency to the existing text are as follows:
 1. Edits to grammar, sentence structure and formatting.
 2. Reorganization of existing requirements.
 3. Updated references to statutes and regulations that have changed.

4. Removal of duplicative text that exists in referenced statutes and regulations.
 5. Revision, replacement, and utilization of acronyms throughout the text.
- II. Substantial changes that have an effect or impact on regulated businesses, Unified Program Agencies (UPAs), or state agencies with Unified Program responsibilities, and for the purpose of establishing consistency with current requirements, practices and procedures are as follows:

1. Section 15100(b)(1)(C)

Removed Governor’s Office of Emergency Services (Cal OES) from the list of Boards, Agencies and Offices that provides guidance in developing the Unified Program. The passage of AB 148 (Chapter 115, statutes of 2021) transferred the responsibility to the California Environmental Protection Agency (CalEPA).

2. Section 15100(b)(2)(A)(i)

Responsibility for the establishment and interpretation of statewide standards for the Hazardous Materials Release Response Plan (HMRRP) and California Accidental Release Prevention (CalARP) programs was transferred from Cal OES to CalEPA with the passage of AB 148.

3. Section 15110(k)

27 CCR, Section 15200(a)(9) requires UPAs to describe the series of enforcement actions the UPA shall initiate based on the severity of the violation. Progressive Enforcement, a term that replaces Graduated Series of Enforcement, is adopted to further identify the procedures for a regulated business that does not return to compliance. This addition defines Progressive Enforcement.

4. Section 15110(m)

HSC Section 25404(a)(4) defines Secretary as the Secretary for Environmental Protection. This new subsection further defines, for the purposes of this Chapter, that the definition of Secretary also includes the Assistant Secretary for Local Programs and Emergency Response, or another designee.

5. Section 15110(q)(1)

Adds Chapter 6 of the Data Dictionary for Regulated Activities (Data Dictionary), found in 27 CCR, Division 3, Subdivision 1, to the information required to be submitted by regulated businesses. Chapter 6 describes the reporting requirements for the Aboveground Petroleum Storage Act (APSA).

6. Section 15160(b)(1)

The Secretary reviews all CUPA applications that have been determined to be complete. To determine whether an applicant agency should be certified, the Secretary considers comments from Director of the Department of Toxic Substances Control, the CalEPA

Assistant Secretary for Local Program Coordination and Emergency Response, State Fire Marshall, and the Executive Director of the State Water Board. The CalEPA Assistant Secretary for Local Program Coordination and Emergency Response replaced Cal OES with the adoption of AB 148.

7. Section 15160(d)(1)(A)

Section 15160(d)(1) currently identifies the Secretary's responsibilities when issuing a Notice of Intent (NOI) to not approve the application. The addition of subparagraph (A) requires the Secretary to issue a NOI to approve an application.

8. Section 15160(d)(2)

27 CCR, Article 4 is titled Certification Process and Responsibilities. This article concerns the process to determine whether an applicant agency meets the requirements to become a CUPA. Reference to any periodic review of established CUPAs have been removed from this section and moved to Article 8 Performance Evaluations Section 15330(d).

9. Section 15180(e)(7)

Currently, there are no procedures required for issuing a Unified Program Facility Permit (UPFP). This section requires procedures to be developed in accordance with Section 15190(b).

10. Section 15185(e)(1)

Participating Agencies (PA) are also prohibited from collecting duplicative information. Changing CUPA to UPA now includes PAs from this prohibition.

11. Section 15186(d)

With changes to statute or other regulations, information currently not required may become required. To collect this information in CERS, the state agency responsible for the information may create a form to collect the information, as the regulation is currently written. Changing the word "may" to "shall" now makes the creation of a form mandatory in order that the new information may be uploaded to CERS until such time the new required information can be added to the Data Dictionary.

12. Section 15187(d)(1)

HSC Section 25507 contains the reporting requirements for hazardous materials stored onsite that meet certain thresholds, such as 55 gallons for a liquid, 500 pounds for a solid, or 200 cubic feet for a compressed gas. Some UPA's have reporting requirements that are lower than the standards in HSC Section 25507. Because of this, UPAs are required to upload the local ordinance that requires the lower threshold reporting requirements into CERS.

13. Section 15190(b)

Currently, there are no procedures required to issue a UPFP. Addition of this subsection establishes the requirements to develop procedures for issuing a UPFP. Some of these procedural requirements include review

of application procedures, tracking of UPFP applications and permits, provisions for review, approval, denial, suspension or revocation of permits, and timelines for the appeal process.

14. Section 15190(f)(6)

Adds the requirement that the new UPFP operating conditions must also be in accordance with 23 CCR Section 2712(c) if the UPFP is for a UST.

15. Section 15190(f)(7)(A)

New section that requires UST permit conditions to meet the requirements of 23 CCR Section 2712.

16. Section 15200(a)(1)

Currently, the regulation requires provisions to administer all program elements. The new language identifies what provisions must be identified for a complete inspection process, including pre-inspection, on-site inspections, post inspections, and re-inspections.

17. Section 15200(a)(3)

Added the requirement to consolidate Unified Program inspections when appropriate. For example, a regulated business that is subject to Hazardous Material Business Plan and Hazardous Waste Generator requirements would not receive two inspections over two days but would have all inspections conducted on the same day.

18. Section 15210(b)

While there is a requirement to implement a Single Fee System, the procedures were not written in a cohesive manner. This subsection requires the CUPA to establish specific procedures to create a viable Single Fee System.

19. Section 15210(b)(5)

Currently, CUPAs are conducting a periodic review of the Single Fee System. This new section will now make it an annual requirement, rather than a periodic one.

20. Section 15220(a)

CUPAs must implement a Fee Accountability Program, and while there are requirements that must be considered in the regulation, how these requirements will be addressed is not specified. Requiring the CUPA to develop procedures to implement a Fee Accountability Program ensures the requirements will be met.

21. Section 15220(a)(2)

In addition to developing and implementing a Fee Accountability Program, UPA's are required to perform an annual Review to determine whether the costs to implement the Unified Program have changed. This new paragraph requires the UPA to develop and implement an annual review procedure for the Fee Accountability Program.

22. Section 15220(a)(3)

The Fee Accountability Program annual review will be used to determine whether the single fee established by the UPA in accordance with Section 15210, is adequate to cover the necessary and reasonable costs to implement the Unified Program.

23. Section 15260

Currently, PAs are only required to meet the same training requirements as CUPAs. With the repeal of Section 15270, PAs were added to this section and will now be required to meet the same education and training requirements as a CUPA.

24. Section 15260(b)

Current staff and supervisors who are implementing the Unified Program who do not meet the new minimum educational requirements, are considered to meet the qualifications if they have been employed by a UPA or state agency implementing the Unified Program prior to the adoption of the new 27 CCR regulations.

25. Section 15260(e)

Currently, staff and supervisors are only required to attend 100 hours of training on the topics identified in the regulation. This subsection now requires all staff and supervisors to attend refresher training on these topics at least once every three years.

26. Section 15260(g)

Currently, contractors who are performing duties of an UPA are not required to meet the education and training requirements UPA staff and supervisors are required to meet. Adding this regulation now requires contractors to meet the education and training requirements as well.

27. Section 15270

Currently, Participating Agencies (PAs) are only required to meet the training requirements of Section 15260. Section 15270 is repealed, and PAs shall meet all the education and training requirements of Section 15260.

28. Section 15290(a)(3)

New section that requires CUPAs to submit the Quarterly Transmittal Report to CalEPA even if no surcharge money was collected.

29. Section 15330(d)

The Secretary has the option to place a CUPA on a Performance Improvement Agreement (PIA) when the CUPA fails to meet minimum requirements. Additionally, it provides the Secretary with the ability to remove a CUPA if they are unable to comply with the PIA.

30. Appendix A

The current Appendix A is repealed because the CUPA Applicant Certification and the CUPA Application Cover Sheets contained old and incor-

rect information. New Appendix A is adopted with up-to-date CUPA Applicant Certification and CUPA Application Cover Sheet.

31. Appendix B

The current Appendix B is repealed because Table 1. Enumeration/Demographics Information, Table 2. Summary of Program Activities, Table 3. Time Allocation of Staff, and Table 4. Training and Expertise contained old and incorrect information. New Appendix B is adopted with up-to-date Table 1. Enumeration/Demographics Information, Table 2. Summary of Program Activities, Table 3. Time Allocation of Staff, and Table 4. Training and Expertise.

32. Appendix C

The current Appendix C is repealed because the Quarterly Transmittal Report and the Annual Single Fee Report were old and outdated. Additionally, the Trade Secret Disclosure Form is not used for reporting moneys collected and should not have been a part of this Appendix. New Appendix C is adopted which contains up-to-date Quarterly Transmittal Report and Annual Single Fee Report.

33. Appendix D

New Appendix D is adopted which has the Trade Secret Disclosure form previously located in Appendix C.

Consistency/Compatibility Evaluation

The propose Unified Program regulations are consistent and compatible with existing state and federal regulations.

Benefits Anticipated by the Proposed Amendments

CalEPA anticipates that the proposed amendments to the regulations will benefit the protection of public health and safety, worker safety and the environment. Identifying the requirements for issuing a Unified Program Facility Permit will make the process consistent statewide. Requiring annal refresher training allows for more qualified and able inspectors and more consistent. Requiring PAs to meet the same education requirements as its parent CUPA ensures a consistent knowledge base.

The proposed amendments improve the overall clarity, consistency and coordination of Unified Program regulations to ensure compliance with implementation and enforcement at the local regulatory level.

California Environmental Quality Act (CEQA) Compliance

CalEPA has found this rulemaking is not subject to CEQA as it is considered ministerial.

Peer Review

Under the provisions of Health and Safety Code section 57004, peer review is not required because the proposed regulations do not establish a regulatory lev-

el, standard or other requirement subject to scientific peer review.

Business Report

CalEPA has determined that this rulemaking will not require businesses to write a new report, as defined by Government Code section 11346.3(c).

FISCAL IMPACT ESTIMATES

Mandates on Local Agencies and School Districts: CalEPA has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: CalEPA has made a preliminary determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to Government Code part 7, division 4, section 17500 et seq., or other non-discretionary costs to local agencies.

Cost or Savings to Any State Agency: CalEPA has made a preliminary determination that the proposed regulations will have no impact on state agencies with Unified Program responsibilities.

Cost or Savings to Any Local Agency: CalEPA has made a preliminary determination that the proposed regulations will have no impact on local agencies.

Cost or Savings in Federal Funding to the State: CalEPA has made a preliminary determination that the proposed regulations will have no impact on federal revenue or costs.

Effect on Housing Costs: CalEPA has made an initial determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses: CalEPA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Statewide Adverse Economic Impact on Businesses: CalEPA has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

Economic Impact Analysis Assessment Statement:

(A) **Creation or elimination of jobs within California** — CalEPA has made a preliminary determination that no jobs will be created or eliminated in California because of the proposed regulations.

(B) **Creation of new businesses or the elimination of existing businesses within California** — CalEPA has made a preliminary determination that no businesses will be created or eliminated in California because of the proposed regulations.

(C) **Expansion of businesses currently doing business in California** — CalEPA has made a preliminary determination that no businesses in California will be expanded because of the proposed regulations.

(D) **Anticipated Benefits** — CalEPA anticipates that the proposed amendments to the regulations will benefit the protection of public health and safety, worker safety and the environment. Identifying the requirements for issuing a Unified Program Facility Permit will make the process consistent statewide. Requiring annual refresher training allows for more qualified and able inspectors. Requiring PAs to meet the same education requirements as its parent CUPA ensures a consistent knowledge base. Developing procedures for the Single Fee System and the Fee Accountability Program ensure costs required to implement the Unified Program are kept at a sufficient level to ensure the CUPA has operating funds, while at the same time, ensuring regulated businesses are not paying more than what is fiscally required.

Effect on Small Businesses: CalEPA has determined that provisions of this rulemaking will have no effect on small businesses. The proposed regulations affect state and local agencies who implement the Unified Program only.

CONSIDERATION OF ALTERNATIVES

CalEPA must determine that no reasonable alternative considered by CalEPA or that has been otherwise identified and brought to the attention of CalEPA:

Would be more effective than 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.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of this Public Notice, the Initial Statement of Reasons, and the text of the proposed regulations are posted to CalEPA’s website: <https://calepa.ca.gov/cupa/>.

INQUIRIES/COMMENTS REGARDING THE PROPOSED REGULATIONS

Written comments, procedural inquiries, and requests for documents regarding the proposed regulations may be directed to the CalEPA Unified Program by:

Mail to:

CalEPA Unified Program
 Attention: Steven Gailey or John Paine
 P.O. Box 1815
 Sacramento, California 95812

Email to:

cupa@calepa.ca.gov
 Use "27 CCR Regulation Comment" as the
 subject line.

Points of Contact:

Steven Gailey
 (916) 318-8157
Steven.Gailey@calepa.ca.gov
 or
 John Paine
 (916) 327-5092
John.Paine@calepa.ca.gov

To be included on a mailing list regarding this regulation package, and to receive updates of this rulemaking, please send an email to: cupa@calepa.ca.gov and be sure to include:

- Name
- Mailing address
- Email address, if preferred

POST-HEARING CHANGES

After the close of the 45-day comment period, CalEPA may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written or oral comments on the specific proposed regulations will be sent a copy of the modified text.

CalEPA will prepare a Final Statement of Reasons, which updates the Initial Statement of Reasons, and summarizes how CalEPA addressed comments received. The Final Statement of Reasons also includes other materials, as required by Government Code section 11346.9. A copy of the Final Statement of Reasons may be obtained from the CalEPA website: <https://calepa.ca.gov/cupa/>, or a copy may be obtained by sending an email request to: cupa@calepa.ca.gov.

The date the rulemaking is filed with the Secretary of State and the effective date of the adopted regulations will be posted on the CalEPA website: <https://calepa.ca.gov/cupa/>.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
 FISH AND WILDLIFE**

**FISH AND GAME CODE SECTION 1653
 CONSISTENCY DETERMINATION
 REQUEST FOR**

**LITTLE FALLON CREEK
 RESTORATION PROJECT
 (TRACKING NUMBER:
 1653-2023-108-001-R3)**

MARIN COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 3/9/2023, that the US Fish and Wildlife Service (Service) proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves hand building 45 beaver dam analogues in Fallon Creek using native materials for the benefit of California red-legged frog and nesting bird habitat. The proposed project will be carried out on Fallon Creek, located at Stemple Creek, Fallon, Marin County, California.

On 2/10/2023, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Little Fallon Creek Restoration Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID Number 1B23013WNMA; ECM PIN Number SB12006GN) for coverage under the General 401 Order on 3/1/2023.

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

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

**DEPARTMENT OF
FISH AND WILDLIFE**

**CESA CONSISTENCY
DETERMINATION REQUEST FOR**

**FEATHER RIVER SALMONID HABITAT
IMPROVEMENT PROJECT
2080R-2023-003-02**

BUTTE COUNTRY

The California Department of Fish and Wildlife (CDFW) received a notice on March 9, 2023 that the California Department of Water Resources (DWR) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves maintenance and enhancement of suitable salmonid spawning habitat on existing riffles immediately downstream of the Feather River Fish Barrier Dam. Proposed activities will include, but are not limited to, depositing spawning gravel within the river and excavating deposited material from the inlets and outlets of specified side channels. The proposed project will occur on the Feather River Low Flow Channel (River Miled 65.7-66.9) in the city of Oroville, Butte County, California.

The National Marine Fisheries Service (NMFS) issued a federal programmatic biological opinion (PBO) (NMFS Ref. Number WCR-2017-8532) in a memorandum to the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and the National Oceanic and Atmospheric Administration's Restoration Center (NOAA RC) on August 31, 2018, which considered the effects of the eligible projects on multiple fish species including the state and federally threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*). NOAA RC issued a concurrence email on March 1, 2023 (Project-specific Approval), that determined that the project fits within the scope of the PBO.

Pursuant to California Fish and Game Code section 2080.1, DWR is requesting a determination that the Incidental Take Statement (ITS) and its associated PBO, along with the Project-specific Approval are consistent with CESA for purposes of the proposed project.

If CDFW determines the ITS, associated PBO, and Project-specific approval are consistent with CESA for the proposed project, DWR will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

PETITION DECISION

BOARD OF PAROLE HEARINGS

**RESPONSE TO PETITION TO ADOPT,
AMEND, OR REPEAL A REGULATION
PURSUANT TO GOVERNMENT CODE
SECTIONS 11340.6 AND 11340.7**

BPH PETITION RESPONSE 2023-01

The Board of Parole Hearings (board) received a Petition to Adopt, Amend, or Repeal a Regulation under Government Code sections 11340.6 and 11340.7 from petitioner "S. Walker" on *February 6, 2023*. In accordance with subdivision (a) of section 11340.7, this document serves as the board's response to the petition.

The following information is provided with the response in compliance with subdivision (d) of Government Code section 11340.7:

1. **NAME OF AGENCY:** Board of Parole Hearings
2. **PARTY SUBMITTING THE PETITION:**
S. Walker
3. **PROVISIONS OF THE CALIFORNIA CODE OF REGULATIONS (CCR) REQUESTED TO BE AFFECTED:** Petitioner requests the Board to add and amend provisions to the California Code of Regulations, title 15, division 2, beginning with section 2000, relating to the Board's notice of hearing rights provided to incarcerated persons in advance of their parole consideration hearing.
4. **REFERENCE TO AUTHORITY TO TAKE THE ACTION:** Petitioner did not properly cite to any authority for the Board to take the requested regulatory action. However, the Board has general rulemaking authority under Government Code section 12838.4 and Penal Code sections 3052 and 5076.2 to promulgate, amend, or repeal regulations in division 2 of title 15 of the California Code of Regulations.
5. **REASONS SUPPORTING THE AGENCY'S DECISION:** Incarcerated persons appearing before the Board for a parole consideration hearing are entitled to due process, in addition to the rights

enumerated in the Board’s regulations. (Cal. Code Regs., title 15, § 2245–2256.) Once an incarcerated person is scheduled for a parole consideration hearing, the incarcerated person is served with a BPH 1002 Notice of Hearing Rights, which provides information about the hearing and the incarcerated person’s hearing rights, such the right to have an attorney and to review the information that will be considered by the hearing panel. This form is also available on the Board’s website at <https://www.cdcr.ca.gov/bph/bph-forms/>. The petitioner makes the following three requests:

A) *Petitioner requests* that the following rights be added to the Notice of Hearing Rights form:

- **Penal Code section 127** (relating to procuring another person to commit perjury);
- **Penal Code section 131** (relating to falsifying/misrepresenting/concealing information during an investigation);
- **Penal Code section 133** (relating to practicing fraud or deceit);
- **Penal Code section 135** (relating to destroying evidence upon a trial, inquiry, or investigation);
- **Penal Code section 136.1** (relating to falsifying evidence and bribing, influencing, intimidating, or threatening witnesses);
- **Penal Code section 141, subdivisions (A), (B), and (C)** (relating to falsifying evidence);
- **Penal Code section 2600** (general statement that an incarcerated person may be deprived of rights “as is reasonably related to legitimate penological interests”);
- **Penal Code section 1054** (relating to discovery rules before trial);
- **Penal Code section 1054.1** (relating to discovery rules before trial); and
- **Penal Code section 1054.9** (relating to discovery rules before trial).

Petitioner’s request is denied. As a general matter, although the petitioner’s request is couched as a request for the Board to amend and adopt regulations, the petitioner is actually requesting that the Board make changes to an informational document provided to incarcerated persons in advance of a parole consideration hearing. This is not an appropriate use of the petition process outlined in Government Code sections 11340.6 and

11340.7, as the petitioner is not requesting changes to regulations, but is rather asking that additional information be included on the Notice of Hearing Rights.

To the extent the petitioner is requesting that the Board adopt new regulations requiring additional hearing rights to be added to the Notice of Hearing Rights, the Board denies this request. The Penal Code sections cited by the petitioner above do not establish a hearing right or are not related to the parole consideration hearing process. Specifically, Penal Code sections 127, 131, 135, 136.1, and 141 all relate to prohibiting perjury or falsifying evidence and do not establish a hearing right. Penal Code section 2600 generally provides that restriction of incarcerated persons’ rights must have a legitimate penological interest, which is a basic principle to be followed, but does not establish a specific hearing right that would necessitate noting it on the Hearing Rights form. Lastly, Penal Code sections 1054, 1054.1, and 1054.9 all relate to discovery rules before trial, which do not apply in the parole consideration hearing context. The Board does not have a duty to comprehensively list all rights, admonishments, and punishments outlined in the Penal Code that could potentially impact or relate to an incarcerated person. For the foregoing reasons, the petitioner’s request is denied.

B) *Petitioner requests* that the Board add to the Notice of Rights the right for the incarcerated person to present testimony. Petitioner cites to Penal Code section 3041.5, subdivision (a)(2), which states that the incarcerated person has the right to be present, to ask and answer questions, and to speak on their own behalf. Petitioner also cites to Penal Code section 5011 and California Code of Regulations, title 15, section 2236, which relate to a prohibition against the Board from requiring the incarcerated person to admit guilt to any crime as a condition of granting parole. Petitioner also cites to case law relating to presenting testimony at a parole consideration hearing.

Petitioner’s request is denied. As stated in the Board’s response in “A” above, this is not an appropriate use of the petition process outlined in Government Code sections 11340.6 and 11340.7, as the petitioner is not requesting changes to regulations but is rather asking that additional information

be included on the Notice of Hearing Rights. Additionally, the right to present testimony is already contained in the Notice. Similarly, section 3 of the Notice already addresses the incarcerated person's right to attend the hearing, ask and answer questions, and speak on their own behalf. It also specifies that the person may waive this right.

To the extent the Notice of Hearing Rights does not specifically address the prohibition against the Board from requiring an admission of guilt by the incarcerated person, as noted above, this requirement is already addressed in section 2236 of the Board's regulations, which are publicly available to all inmates in each institution's law library. The Board again emphasizes that it does not have a duty to comprehensively list all rights, admonishments, and punishments outlined in the Penal Code or regulations that could potentially impact or relate to an incarcerated person. The absence of this information on the Notice of Rights does not negate the Board's statutory and regulatory obligations, and the Board has determined it is not necessary to provide this specific information on the Notice of Rights at this time.

- C) **Petitioner requests** that the Board add to the Notice of Rights the right of the incarcerated person to present testimony by witnesses. The petitioner also contends that the denial of the incarcerated person's right to an attorney of choice is reversible error and cites to *Bland v. California Department of Corrections* 20 F.3d 1469 (9th Cir. 1994). Lastly, the petitioner generally states that due process requires incarcerated persons to be aware of these rights and exercise them.

Petitioner's request is denied. To the extent that the petitioner is requesting this information be added to the Notice of Hearing Rights, this is not an appropriate use of the petition process outlined in Government Code sections 11340.6 and 11340.7, as the petitioner is not requesting changes to regulations but is rather asking that additional information be included on the Notice of Hearing Rights.

Regarding the right of incarcerated persons to present testimony by witnesses, the Notice of Hearing Rights already addresses this issue under section 5. It outlines that incarcerated persons may not call witnesses at a parole consideration hearing, but may call evidentiary witnesses at a rescission

hearing. This advisement is in accordance with Penal Code section 3041.5, subdivision (a)(5), which specifically authorizes the calling of witnesses for rescission hearings but not for parole consideration hearings. Accordingly, to the extent that the petitioner is requesting the Board to adopt regulations allowing witness testimony at parole consideration hearings, the request is denied.

Regarding the incarcerated person's right to an attorney, this information is already provided in section 4 of the Notice of Hearing Rights, which states that the incarcerated person is entitled to be represented by an attorney; that an attorney will be provided at the state's expense or the incarcerated person can hire a private attorney at their own expense; and that the incarcerated person can waive the right to an attorney altogether in qualifying circumstances. This information accurately reflects governing statutes and case law. The petitioner appears to be requesting the Board to adopt regulations that an incarcerated person is entitled to their attorney of choice and failure to provide this results in a reversible error. As noted above, the law provides that (1) the incarcerated person is entitled to counsel, and (2) the incarcerated person may hire private counsel of their choice in lieu of being assigned a state-appointed counsel. To ensure these rights are met, the Board provides state-appointed attorneys at no expense to the incarcerated person, but allows the person to select and retain an attorney of their own choice at their expense. However, neither principle promotes the requirement that the incarcerated person has the right to choose *which state-appointed* counsel represents them, just as a criminal defendant cannot choose *which public defender* represents them at trial. A state-appointed counsel may be replaced in certain situations, such as an attorney-client conflict affecting representation, but this is handled on a case-by-case basis. The general rule still holds that incarcerated persons will be assigned state-appointed counsel, unless they choose to hire private representation at their own expense. The Board's practice of providing state-appointed counsel and allowing incarcerated persons to hire private counsel, or to waive counsel and represent themselves at parole consideration hearings, is consistent with governing statutes and

legal principles. Accordingly, the petitioner's request is denied.

D) BOARD CONTACT PERSON:

Mina Y. Choi
 Senior Staff Attorney
 Board of Parole Hearings
 P.O. Box 4036
 Sacramento, CA 95812-4036
 Office: (916) 445-4072
BPH.Regulations@cdcr.ca.gov

E) NOTICE TO INTERESTED PERSONS:

Under subdivision (d) of Government Code section 11340.7, the board will provide a copy of this decision to the Office of Administrative Law for publication in the California Regulatory Notice Register. Any interested persons have the right to obtain a copy of the petition that is the subject of this decision by sending a request to the board. In submitting such a request, please reference **BPH PETITION RESPONSE 2023-01** in the request.

DATE OF DECISION: March 3, 2023

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.

CalSavers Retirement Savings Board
 File # 2023-0131-01
 CalSavers Retirement Savings Program

This certificate of compliance rulemaking action makes permanent amendments made by the CalSavers Retirement Savings Board in OAL Matter Number 2022-0308-03E, and readopted in OAL Matter Numbers 2022-0830-04EE and 2022-1122-02EE, 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 03/15/2023
 Effective 03/15/2023
 Agency Contact: Eric Lawyer (916) 653-1744

California Horse Racing Board
 File # 2023-0301-02
 Prohibited Veterinary Practices

This emergency resubmittal action expressly allows possession and use of a medication on the premises of a facility under the jurisdiction of the California Horse Racing Board if no other human or animal drugs approved by the FDA are available to satisfy the need for the compounded drug and the drug is compounded by a California licensed veterinarian or California licensed pharmacy.

Title 04
 Amend: 1867
 Filed 03/13/2023
 Effective 03/13/2023
 Agency Contact:
 Amanda Drummond (916) 869-3255

California Tax Credit Allocation Committee
 File # 2023-0127-01
 CTCAC Regulations implementing federal and state LIHTC laws

The California Tax Credit Allocation Committee (CTCAC) requests that the Office of Administrative Law (OAL) file with the Secretary of State and print in the California Code of Regulations amendments to the Low-Income Housing Tax Credit Program (LIHTC). Pursuant to Health and Safety Code section 50199.17(a), these amendments are exempt from the rulemaking requirements of the Administrative Procedure Act so long as the CTCAC has complied with Health and Safety Code section 50199.17(b). CTCAC has certified to OAL that it complied with Health and Safety Code section 50199.17(b) in adopting these amendments.

Title 04
 Amend: 10302, 10315, 10317, 10322, 10325, 10326, 10327, 10328, 10330, 10335, 10337
 Filed 03/13/2023
 Effective 01/18/2023
 Agency Contact: Anthony Zeto (916) 214-6581

California Department of Tax and Fee Administration
 File # 2023-0131-02
 Records

In this non-substantive action, the California Department of Tax and Fee Administration (CDFTA) removes references to repealed and amended statutes,

updates the language used to describe the agency, and updates its authority citations.

Title 18
Amend: 4901
Filed 03/15/2023
Agency Contact: Kim DeArte (916) 309-5227

Department of Food and Agriculture
File # 2023-0127-02
Livestock Drug Products

This action removes restrictive language to the effect that livestock drugs sold only by restricted livestock drug licensees must be registered, instead requiring registration of all such drugs sold within the state, consistent with Food and Agricultural Code section 14281. The action also newly defines terms used in existing regulations.

Title 03
Adopt: 5001.1
Amend: 5000, 5001, 5005
Filed 03/13/2023
Effective 07/01/2023
Agency Contact: Ashley James (916) 661-0553

**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.

**2023 RULEMAKING
CALENDAR —
INCORPORATED BY
REFERENCE**

2023 RULEMAKING CALENDAR

SPECIAL NOTE

In an effort to conserve resources, the 2023 Rulemaking Calendar is being incorporated by reference into this edition of the California Regulatory Notice Register (CRNR).

The 2023 Rulemaking Calendar is accessible through the following means:

1. Electronic copies are available from the Office of Administrative Law upon request by emailing staff@oal.ca.gov.
2. Your nearest depository library. Go to <http://www.library.ca.gov/government-publications/state-document-depository-program/depositories/> for a list of California depository libraries.
3. Subscribers of the Notice Register may request a hard copy of the Rulemaking Calendar with their subscription at no extra charge. Please contact Thomson Reuters at 1-888-728-7677.