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PROPOSED ACTION ON REGULATIONS

GENERAL PUBLIC INTEREST

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Time-Dated Material

PROPOSITION 65

SUMMARY OF REGULATORY ACTIONS

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT–OF–INTEREST CODES

AMENDMENT

MULTI–COUNTY:
Ednovate, Incorporated
Resource Conservation District of the Santa Monica Mountains
Santa Ana Watershed Project Authority
School Project for Utility Rate Reduction

ADOPTION

MULTI–COUNTY:
High Desert Corridor Agency JPA
Sage Oak Charter Schools

A written comment period has been established commencing on March 3, 2023 and closing on April 17, 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 April 17, 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 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

CONSTRUCTION SAFETY ORDERS SECTION 1532.1 AND GENERAL INDUSTRY SAFETY ORDERS SECTIONS 5155 AND 5198

LEAD

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **April 20, 2023,** in the Byron Sher Auditorium of the Cal/EPA Building, 1001 I Street, Sacramento, CA 95814 as well as via the following:

- Video–conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992–4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at https://videobookcase.com/california/oshsb/

At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **March 3, 2023,** and closes at 5:00 p.m. on **April 20, 2023.** Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e–mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code (LC) section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, LC section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards and permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

In June 2019, the state legislature passed and the governor signed Senate Bill (SB) 83, which, among other things, amended the LC by creating new section 6717.5, which took effect on June 27, 2019.

LC section 6717.5 requires the Department of Industrial Relations (DIR), Division of Occupational Safety and Health (Division or Cal/OSHA) to submit to the Board a rulemaking proposal to revise the lead standards of the General Industry Safety Orders (GISO) and the Construction Safety Orders (CSO), consistent with scientific research and findings. This rulemaking proposal provides specific revisions to the lead standards of the GISO and the CSO that comply with the requirements of LC section 6717.5.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Existing law establishes requirements designed to protect the health and safety of employees who are occupationally exposed to lead. These requirements are found in title 8, California Code of Regulations (CCR), section 1532.1 of the CSO and sections 5155 and 5198 of the GISO.

The Board proposes to adopt amendments to title 8, CCR, section 1532.1 of the CSO, and sections 5155 and 5198 of the GISO. The proposed amendments are needed to adequately protect employees who have occupational exposure to lead. Existing requirements in sections 1532.1, 5155 and 5198 are based on lead toxicity information and medical and epidemiological data that is now more than 40 years old. More recent evidence demonstrates that even at exposure levels well

below those currently allowed by the existing regulations, harmful health effects can occur.

Existing title 8 regulations establish a permissible exposure limit (PEL) for lead of 50 micrograms of lead per cubic meter of air (µg/m^3), as an 8–hour time–weighted average (TWA) concentration *(1532.1(c); 5198(c); 5155 Table AC–1)*. TWA is a method used in the field of occupational safety and health to calculate a worker's daily exposure to hazardous substances. Eight–hour TWA values are calculated by taking the total exposure to a hazardous substance during a workday and dividing that total by eight hours. In addition, Cal/OSHA's lead regulations establish an action level for lead of 30 µg/m^3 *(1532.1(b); 5198(b))*; hygiene requirements for employees exposed above the PEL *(1532.1(i); 5198(i))*; medical surveillance requirements based on employee exposure at or above the action level for more than 30 days per year *(1532.1(j); 5198(j))*; and a medical removal level of 50 micrograms of lead per deciliter (µg/dl) of whole blood *(1532.1(k); 5198(k))*. The existing Cal/OSHA regulations for lead are based on federal regulations that were promulgated in 1978 for Lead in General Industry and 1993 for Lead in Construction.

In 2010 and 2013, the California Department of Public Health made health–based recommendations to Cal/OSHA for revising the Lead Standards (for Construction and for General Industry) for the protection of workers who are exposed to lead on the job.

As a result of these recommendations, Cal/OSHA initiated the present rulemaking. Cal/OSHA developed this proposal with the assistance of advisory stakeholders by means of six advisory committee meetings and the release of multiple discussion drafts to ensure the proposal provides sufficient protection for employees while providing employers with sufficient flexibility to address these risks in the least burdensome manner.

This proposal is designed to maintain employee blood lead levels (BLLs) below 10 µg/dl, whereas existing regulations were designed to maintain employee BLLs below 40 µg/dl, a level four times higher. To achieve this goal, the proposed amendments would (1) reduce exposure to airborne lead; (2) reduce exposure to lead through the oral route of exposure; and (3) expand requirements for blood lead testing of employees who work with lead.

The proposed amendments would revise the requirements of section 1532.1. Principal revisions of existing requirements would include:

(1) lowering the action level, which triggers certain required protective measures, from 30 µg/m^3 as an 8–hour TWA to 2 µg/m^3 as an 8–hour TWA *(subsection (b))*;

(2) adding and defining the terms "altering or disturbing," "blood lead level," and "high–efficiency particulate air (HEPA) filter" *(subsection (b))*;

(3) adding and defining the terms "level 1 trigger task," "level 2 trigger task," "level 3 trigger task," and "trigger task — not listed," which, until an employee exposure assessment is completed, assumes a certain level of employee exposure and triggers certain required protective measures *(see subsection (b) for definitions)*, and revising the listing of specified tasks *(subsection (d)(2))*;

(4) lowering the PEL for lead, calculated as an 8–hour TWA, from 50 µg/m^3 to 10 µg/m^3 *(subsection (c)(1))*;

(5) establishing general hygiene requirements when employees have occupational exposure to lead, rather than exposure to lead above the PEL *(subsection (i)(1)(A))*;

(6) removing the requirement to provide zinc protoporphyrin (ZPP) testing on a routine basis when blood lead testing is provided *(subsection (j)(2)(A))*;

(7) requiring medical examinations *(subsection (j)(1)(B)(2))*, regulated areas *(subsection (i)(6)(A))*, eating areas *(subsection (i)(4)(A))* and a lead training program *(subsection (l)(1)(B)(3))*, as interim protection based on performing trigger tasks, and additional protections when employees conduct level 3 trigger tasks *(subsections (i)(3)(A) and (j)(2)(A)(5))*;

(8) reducing the duration of specified work that triggers the requirement to implement medical surveillance for employees *(subsection (j)(1)(B))*;

(9) increasing the frequency of BLL testing to be provided for employees when their BLL is at or above 10 µg/dl, or their airborne exposure is above 500 µg/m^3 *(subsection (j)(2)(A))*, and requiring a response plan when an employee's BLL is at or above 10 µg/dl *(subsection (j)(2)(E)(1))*;

(10) lowering the BLL at which specified employees must be offered medical examinations and consultations at least annually from 40 µg/dl to 20 µg/dl *(subsection (j)(3)(A)(1))*;

(11) requiring the employer to ensure that employees receive specified health information from the ordering or examining physician following a blood lead test *(subsection (j)(2)(D))* or medical examination *(subsection (j)(3)(E))*;

(12) lowering the criteria for temporary removal from work with lead due to elevated BLLs, known as medical removal protection (MRP), from 50 µg/dl to one BLL at or above 30 µg/dl, or effective one year after the effective date, the last two BLLs are at or above 20 µg/dl or the average of all

BLLs in the last 6 months is at or above 20 µg/dl *(subsection (k)(1)(A))*;

(13) expanding the type of work that employees on MRP must be removed from, to include performing trigger tasks, and altering and disturbing lead–containing material *(subsection (k)(1)(A))*, in addition to existing requirements;

(14) lowering the BLL that employees must achieve before returning from MRP to work involving lead from 40 µg/dl to 15 µg/dl *(subsection (k)(1)(C)1.a.)*; and

(15) expanding the contents of required training *(subsection (l)(2))*.

These proposals would also make changes to the section's appendices to reflect the changes proposed for section 1532.1 and to provide current information about lead.

The proposed amendments would revise the requirements of section 5155. The revisions of existing requirements would:

(1) lower the PEL for lead (metallic) and inorganic compounds, dust and fume, as Pb (lead), calculated as an 8–hour TWA, from 0.05 milligrams of lead per cubic meter of air (0.05 mg/m^3) to 0.01 mg/m^3 *(Table AC–1)*; and

(2) lower the PEL for lead chromate, as Pb (lead), from 0.02 mg/m^3 to 0.01 mg/m^3 *(Table AC–1)*.

The proposed amendments would revise the requirements of section 5198. Principal revisions of existing requirements would include:

(1) lowering the action level, which triggers certain requirements, from 30 µg/m^3 as an 8–hour TWA to 2 µg/m^3 as an 8–hour TWA *(subsection (b))*;

(2) adding and defining the terms "altering or disturbing," "blood lead level," and "high–efficiency particulate air (HEPA) filter" *(subsection (b))*;

(3) adding and defining the term "presumed hazardous lead work (PHLW)," which triggers certain required protective measures *(see subsection (b) for definition)*;

(4) lowering the PEL for lead, calculated as an 8–hour TWA, from 50 µg/m^3 to 10 µg/m^3 *(subsection (c)(1))*;

(5) requiring respiratory protection, protective clothing and equipment, medical surveillance, training, and warning signs for lead, when employees perform PHLW *(subsection (d)(2))*;

(6) establishing a separate engineering control air limit (SECAL) for particular processes in the manufacturing of lead acid batteries *(subsection (e)(1)(B))*;

(7) establishing general hygiene requirements when employees have occupational exposure to lead, rather than exposure to lead above the PEL *(subsection (i)(1)(A))*;

(8) reducing the duration of specified work that triggers the requirement to implement medical surveillance for employees *(subsection (j)(1)(A))*;

(9) removing the requirement to provide ZPP testing on a routine basis when blood lead testing is provided *(subsection (j)(2)(A))*;

(10) increasing the frequency of BLL testing for employees when their BLL is at or above 10 µg/dl *(subsection (j)(2)(A))*, and requiring a response plan when an employee's BLL is at or above 10 µg/dl *(subsection (j)(2)(E))*;

(11) lowering the BLL at which specified employees must be offered medical examinations and consultations at least annually from 40 µg/dl to 20 µg/dl *(subsection (j)(3)(A)1.)*;

(12) requiring the employer to ensure that employees receive specified health information from the ordering or examining physician following a blood lead test *(subsection (j)(2)(D))* or medical examination *(subsection (j)(5))*;

(13) lowering the criteria for temporary removal from work with lead due to elevated BLLs, known as MRP, from an average BLL of 50 µg/dl to one BLL at or above 30 µg/dl, or effective one year after the effective date, the last two BLLs are at or above 20 µg/dl or the average of all BLLs in the last 6 months are at or above 20 µg/dl *(subsection (k)(1))*;

(14) expanding the type of work that employees on MRP must be removed from, to include altering or disturbing lead–containing material and torch cutting any scrap metal *(subsection (k)(1))*, in addition to existing requirements;

(15) lowering the BLL that employees must achieve before returning from MRP to work involving lead from 40 µg/dl to 15 µg/dl *(subsection (k)(3)(A)1.)*; and

(16) expanding the contents of required training *(subsection (l)(1)(E))*.

These proposals would also make changes to the section's appendices, to reflect the changes proposed for section 5198, and to provide current information about lead.

Relationship to Federal OSHA Regulations

This proposed rulemaking action differs from existing federal regulations in a number of ways. The existing regulations for lead are based on federal regulations for Lead in Construction [Code of Federal Regulations (CFR) title 29 section (§) 1926.62] and Lead in General Industry [29 CFR § 1910.1025]. Existing federal regulations establish a PEL for lead of 50 µg/m^3, as an 8–hour TWA concentration *[29 CFR*

§ 1926.62(c)(1); 29 CFR § 1910.1025(c)(1)]. In addition, federal lead regulations include an action level for lead of 30 µg/m^3 *[29 CFR § 1926.62(b); 29 CFR § 1910.1025(b)]*; hygiene requirements for employees exposed above the PEL *[29 CFR § 1926.62(i)(2)(i)); 29 CFR § 1910.1025(i)(1)]*; medical surveillance requirements based on employee exposure at or above the action level for more than 30 days per year *[29 CFR § 1926.62(j)(1)(ii); 29 CFR § 1910.1025(j)(1)(i)];* and a medical removal level of 50 µg/dl of whole blood *[29 CFR § 1926.62(k)(1)(i)]*; or 60 µg/dl or an average of 50 µg/dl *[29 CFR § 1910.1025(k)(1)(i)(A)]*. As discussed above, the proposed amendments would increase the use of protective measures such as substitution, engineering controls and administrative controls, with the goal of providing greater protection for employees from the hazards of lead exposure. Thus, the proposed amendments would create requirements that are more protective than existing federal regulations.

The proposed revisions to requirements for the provision of ZPP testing in sections 1532.1 and 5198 also differ from existing federal requirements. Federal regulations require employers to provide ZPP testing on a routine basis when blood lead testing is provided *[29 CFR § 1926.62(j)(2)(i); 29 CFR § 1910.1025(j)(2)(i)]*. Current recommendations for the medical management of adult lead exposure do not recommend the routine measurement of ZPP because it is an insensitive biomarker of lead exposures in individuals with blood lead concentrations below 25 µg/dl. With these proposals, the ZPP test would no longer be a routine part of medical surveillance. Rather, under these proposals, ZPP testing would be required as part of a medical examination when an employee has a BLL at or above 20 µg/dl. In this way, the ZPP test would be required for employees with BLLs at which the ZPP is sensitive as a biomarker of lead exposures.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that this proposed rulemaking action is not inconsistent or incompatible with existing state regulations including but not limited to lead poisoning prevention regulations in title 17 CCR enforced by the California Department of Public Health. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Board).

Anticipated Benefits

The anticipated benefits of the proposals are a reduction in the number of employees exposed to harmful amounts of lead. This would include exposures to employees in both Construction and General Industry, in a wide variety of occupations and work settings. Employee exposures to lead from both inhalation of airborne lead and ingestion of lead through the oral route of exposure would be reduced. The effect of these revisions would be to lower the risk that employees exposed to lead will develop harmful health effects, including high blood pressure, heart disease, decreased kidney function, reproductive and neurological effects, as well as premature death.

These proposals would generate benefits in the form of avoided costs associated with morbidity (induced illness) and mortality (shortened life expectancy) caused by occupational lead exposure. It is estimated that the monetary benefit of the regulation, due to avoided cases of lead–related illness and premature death, and the costs associated with them, would be $27.9 million at the end of year 1 of the proposed regulation. This value would increase each year, with annual benefits reaching $1.3 billion per year at the end of year 45 of the proposed regulation. The monetary value of benefits increases each year because the effects of lead exposure are cumulative. The longer the proposed regulation is in place, the more cases of lead–related illnesses and premature deaths are avoided each year. Benefit categories quantified in the Standardized Regulatory Impact Assessment (SRIA) include all–cause mortality, hypertension, non–fatal heart attack and depression/anxiety. The benefit estimates represent only a fraction of the total potential benefits, as they do not quantify the value of all health benefits that would result from these proposals.

In addition, by lowering workplace exposure to lead, the proposed regulation would also result in reduced "take–home" lead exposure for non–employees, and California society at large. In many cases, unless a lead–exposed employee changes clothes and showers prior to returning home, lead dust is transported into their home. The employee's family and other household members are then exposed to elevated levels of lead. Reducing levels of lead exposure in the workplace, and increasing hygiene measures, will therefore also reduce lead exposure to susceptible individuals, including infants, children and individuals of childbearing age. The negative health effects of lead on infants and children are well known, and include developmental delay, neurobehavioral disorders and lowered IQ. Avoiding these negative health effects would have a positive result on society as a whole.

The proposed regulation will also have a positive effect on California's environment. Because the amount of lead used in workplaces is likely to decrease as a result of compliance with the proposed regulation, the amount of lead emitted into the environment is also likely to decrease. A reduction of lead in the environ-

ment would also have a positive effect on California's residents, as their exposure to lead and its harmful effects would be reduced.

DISCLOSURES REGARDING
THE PROPOSED ACTION

Mandate on Local Agencies or School Districts: None.

Cost or Savings to any State Agency: There are an estimated 41,038 state government employees occupationally exposed to lead. Of these, an estimated 40,928 work in General Industry, and 110 work in Construction. The proposed regulations are expected to cost the California government approximately $2.9 million in the initial year and $2.7 million per year in subsequent years. Eighty–six percent (86%) of this cost is associated with state law enforcement agencies.

The proposal reduces occupational exposure to lead and the associated health effects of this exposure, generating estimated annual benefits ranging from $5.4 million in the first year to $244.3 million by year 45, due to avoided lead–related illnesses and premature deaths in employees of state agencies. In addition, as the number of lead–related health conditions suffered by employees is reduced, state agencies should experience a decrease in fiscal losses due to work absence, staff replacement, workers' compensation costs and other legal costs.

Cal/OSHA will enforce the proposed regulations and has contemplated the associated cost of enforcement. Cal/OSHA estimates that it may need to conduct approximately 120 additional inspections per year. Although this scenario is highly unlikely, to conduct 120 additional inspections, Cal/OSHA would need an additional four industrial hygienists, at a total cost of $789,000 in the first year, and $730,000 per year on an ongoing basis.

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: There are an estimated 72,439 local government employees exposed to lead. Of these, an estimated 68,341 work in General Industry, and 4,098 work in Construction. The proposed regulations will cost local governments an estimated $16.5 million in the initial year and $9.7 million per year in subsequent years. Just under half of this cost is associated with local police departments coming into compliance with more stringent occupational lead standards. Utilities and construction employees employed by local governments account for most of the rest of the additional cost.

The proposal reduces occupational exposure to lead and the associated health effects of this exposure, generating estimated annual benefits ranging from $9.5 million in the first year to $426.5 million by year 45, due to avoided lead–related illnesses and premature deaths in employees of local agencies. In addition, as the number of lead–related health conditions suffered by employees is reduced, local agencies should experience a decrease in fiscal losses due to work absence, staff replacement, workers' compensation costs and possibly other legal costs.

Cost or Savings in Federal Funding to the State: The Board is not aware of any cost or savings in Federal Funding to the State.

Cost Impacts on a Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. The Board is aware that there are cost impacts that a representative business may incur in reasonable compliance with the proposed action. The estimated compliance cost for a typical business is $10,647 in year 1 of the regulations, and $8,514 per year in subsequent years. Compliance costs include costs for air monitoring, engineering controls, respiratory protection, personal protective equipment, basic hygiene, advanced hygiene, medical surveillance, MRP and training.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete: The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

This proposal is expected to reduce serious illnesses and fatalities by reducing lead exposure to employees. The annual cost of compliance with the proposal for California employers is expected to be exceeded by the monetized annual benefit of the proposal by year seven of the proposed action.

Many of the businesses in the sectors that are most affected by the proposed regulations (for example, construction, firing ranges, security firms and scrap metal recycling) are not particularly susceptible to competition from outside of the state, since their work must be performed in California. All firms engaging in these activities are therefore subject to the proposed regulations. Berkeley Economic Advising and Research, LLC (BEAR) concluded in its *Standardized Regulatory Impact Assessment: Revisions to Occupational Lead Standards* that California firms are not expected to be at a competitive disadvantage due to the new regulations (BEAR, 2020).

Significant Effect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses.

California Government Code section 11346.3 defines small businesses as businesses that are independently owned and operated, not dominant in their field of operation and have fewer than 100 employees.

Using data from the California Employment Development Department (EDD) Labor Market Information (LMI) (EDD, 2018), it is estimated that 58% of employees in California work for small businesses. Therefore, it is estimated that approximately 58% of all private sector compliance costs will be incurred by small businesses in California. The cost of compliance for a small business, on average, is expected to be approximately $5,989 in the first year and $4,837 per year in subsequent years.

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ASSESSMENT (SRIA)

Introduction

The Standardized Regulatory Impact Assessment (SRIA) for revisions to California Code of Regulations title 8 occupational lead standards (sections 1532.1, 5155 and 5198) was conducted by David Roland–Hoist, Samuel Evans, and Samuel Neal from Berkeley Economic Advising and Research. The SRIA is in compliance with Department of Finance regulations, was completed in February 2019 and revised August 2020.

The SRIA was undertaken to update the existing title 8 regulations, which are based on outdated lead toxicity, medical and epidemiological data that is over 40 years old. More recent evidence demonstrates that the existing regulations do not protect employees fully from the harmful effects of lead and lead poisoning. The proposed regulations are designed to update the regulations to be more consistent with existing scientific knowledge and better protect employees from serious harm.

The creation or elimination of jobs in the state.

There is no net anticipated creation or elimination of jobs in California, as compliance costs may reduce jobs in some industries while simultaneously stimulating employment in smaller but more labor–intensive sectors providing compliance equipment and services in the state. The macroeconomic impacts of the regulatory revisions are expected to be quite small, and there is no indication that the regulations will significantly affect the number of jobs in California.

The creation of new businesses or the elimination of existing businesses in the state.

There is no net anticipated creation or elimination of businesses in California. A very small number of businesses may decide to cease operations rather than comply with the new requirements. However, new demand for labor and materials created by each compliance action creates opportunities for new businesses, which will likely increase new businesses in California. The macroeconomic impacts of the regulatory revisions are expected to be quite small, and there is no indication that the regulations will significantly affect the creation or elimination of new businesses in California.

The competitive advantages or disadvantages for businesses currently doing business in the state.

Many of the businesses in the sectors that are most affected by the proposed regulations (for example, construction, firing ranges, security firms and scrap metal recycling) are not particularly susceptible to competition from outside of the state, since their work must be performed in California. All firms engaging in these activities are therefore subject to the proposed regulations. Therefore, California firms are not expected to be at a competitive disadvantage due to the new regulations. The macroeconomic impacts of the regulatory revisions are expected to be quite small, and there is no indication that the regulations will significantly create advantages or disadvantages for businesses in California.

The increase or decrease of investment in the state.

Cal/OSHA held six advisory committee meetings to determine what amendments should be proposed for sections 1532.1 and 5198. The meetings were open to the public. Representatives from industry, labor, occupational medicine, advocacy groups and government agencies participated. All input was considered, and the current proposed regulations reflect a balanced, enforceable and prevention–focused approach to reducing risks related to the presence of lead in workplaces in California. The macroeconomic impacts of the regulatory revisions are expected to be quite small, and there is no indication that the regulations will significantly affect investment in California.

The incentives for innovation in products, materials, or processes.

In nearly all sectors considered in this analysis, the simplifying assumption is made that businesses would comply with the proposed regulations by protecting workers from lead in the workplace. This assumption implies no major changes to the production processes in each sector. However, an alternative compliance option for some sectors would be to find alternative processes that either do not use lead–containing materials, or that prevent the release of lead into the air. For example, law enforcement could plausibly switch over to lead–safer bullets, which prevent employee exposure to airborne lead, rather than adopt the prescribed protective measures. In industries where this

is feasible, this could provide some incentive to innovate as new lead–free methods of production would be sought out and developed. For many occupations, such as employees engaged in paint removal, working in a lead–free space is unlikely. In such sectors, considerable incentives for innovation from the proposed regulation are not expected.

The new demand for labor and materials created by each compliance action could create an opportunity for new businesses to develop in the state. While some of the new demand will be for products that are imported from outside the state, other requirements present an opportunity for innovation and new businesses, or the expansion of existing business enterprises, in California. For example, more stringent air monitoring requirements will increase demand for industrial hygienists. The advanced hygiene requirements will increase demand for portable showers and washrooms. The engineering control requirements will increase demand for ventilation systems and their installation. These services are likely to be met by an increase in business activity within the state.

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, environment and quality of life, and any other benefits identified by the agency.

These proposals would limit workplace exposure to lead and generate benefits in the form of avoided costs associated with morbidity (induced illness) and mortality (shortened life expectancy) caused by occupational lead exposure.

The current occupational lead regulations allow for acute and chronic harmful effects to employees from occupational lead exposure and are dangerously insufficient. The proposed changes will mitigate most of the harmful inadequacy of the existing regulations and better protect employees from increased mortality, impaired kidney function, high blood pressure, cardiovascular disease, nervous system and neurobehavioral effects, cognitive dysfunction later in life and cognitive effects associated with prenatal exposure.

It is estimated the monetary benefit of the regulation, due to avoided cases of lead–related illness and premature death, and the costs associated with them, would be $27.9 million at the end of year 1 of the proposed regulation. This value would increase each year, with annual benefits reaching $1.3 billion per year at the end of year 45 of the proposed regulation. The monetary value of benefits increases each year because the effects of lead exposure are cumulative. The longer the proposed regulation is in place, the more cases of lead–related illness and premature deaths are avoided each year. Benefit categories quantified in the SRIA include all–cause mortality, hypertension, non–fatal heart attack and depression/anxiety. The benefit estimates represent only a fraction of the total potential benefits, as they do not quantify the value of all health benefits that would result from these proposals.

In addition, by lowering workplace exposure to lead, the proposed regulation would also result in reduced "take home" lead exposure for non–employees and California society at large. In many cases, unless a lead–exposed employee changes clothes and showers prior to returning home, lead dust is transported into their home. The employee's family and other household members are then exposed to elevated levels of lead. Reducing levels of lead exposure in the workplace, and increasing hygiene measures, would therefore also reduce lead exposure to susceptible individuals, including infants, children and women of childbearing age. The negative health effects of lead on infants and children are well known, and include developmental delay, neurobehavioral disorders and lowered IQ. Avoiding these negative health effects would have a positive result on society as a whole.

These proposals will go far to protect the health of employees and their families in California, as well as the health of its residents.

Department of Finance (DOF) Comments and Department of Industrial Relations (DIR) Responses

DOF: *First, the SRIA must incorporate the costs of medical removal, consistent with data on blood lead levels. The SRIA assumes that no construction workers have a blood lead level above 30 µg/dl, but a California Department of Public Health report based on laboratory blood test results from California workers showed that in 2012, 13 out of a sample of 2000 construction employees demonstrated blood lead levels above 30 µg/dl. This is not surprising given that construction is one of the most lead–exposed industries. With around 930,000 construction workers projected in 2020, similar rates would imply more than 6,000 medical removals. Assuming those workers are not laid off (if laid off, they would lose wages), construction firms would have to absorb the lower productivity costs of assigning them to other tasks. An upper bound for those costs would be the wages of the construction worker through the medical removal period — at the average industry wage in 2020, a six–month removal would be around $40,000.*

DIR: The 2012 data showing 13 workers out of 2,000 tested with blood lead levels exceeding 30 µg/dl is not representative of the blood lead levels among all 930,000 construction workers in California. The sample of 2,000 workers in the referenced analysis was not a sample of the general construction workforce, but taken from workers known to have significant occupational lead exposures. The sample is not representative of the general construction workforce and as a result this analysis cannot be extrapolated to the general construction workforce. The vast majority of the

930,000 workers have no lead exposure whatsoever. The SRIA calculated that 84,868 construction workers have some lead exposure. The rate of 13 workers per 2,000 with blood lead levels over 30 µg/dl applied to the 84,868 construction workers with lead exposure would result in about 550 medical removals; not 6,000 medical removals.

The DOF wage rate assumption applied to these 550 medical removals would result in an additional compliance cost of $24.2 million in year 1 of the proposed regulations. However, as DOF noted, this is likely to be an upper bound of the cost estimate. If we assume that these workers can be reassigned to clerical tasks while on work removal, at an average wage of $18/hour (or $22,000 over six months), the total cost attributable to medical removal would be $12.1 million in year 1 of the proposed regulation.

DOF: *Given that the medical removal threshold in the second year is lowered to 20 µg/dl, blood lead levels decline slowly, and given current data, many construction workers are expected to be subject to medical removal protection in the second year. The additional medical removals would also yield larger health benefits for the workers.*

DIR: We stand behind our assertion that no construction employees are expected to be subject to medical removal protection in the second year of the standard. Based on a blood lead model developed by the California Environmental Protection Agency–Office of Environmental Health Hazard Assessment (OEHHA, 2013), employees with a BLL of 30 µg/dl who were exposed to high levels of lead for 40 years, on average would see their BLL reduced to less than 15 µg/dl in 210 days when removed from exposure to lead. Employees with a BLL of 20–30 µg/dl at the start of year 1 of the revised standard would see their BLL drop to below 20 µg/dl by the start of year 2 of the more protective revised lead standard.

DOF: *The SRIA should include the fiscal costs of enforcing medical removals and employee protections. Since most affected entities are small businesses, and given the large potential compliance costs incurred by employers, there are incentives to ignore testing results or lay off affected workers. Small specialized businesses are particularly unlikely to have other tasks or positions available within the firm, and could have to send employees home with pay to comply with the regulations. To protect against this, additional enforcement efforts are likely to be required, and these costs must be included in the SRIA and fiscal estimates in the STD. 399.*

DIR: Cal/OSHA estimates that it may need to conduct about 120 inspections per year if, after the proposed regulation becomes effective, all of the following occur:

1. Cal/OSHA is required to or otherwise decides to investigate every case where an employee's blood lead level exceeds 20 µg/dl;
2. One hundred percent of covered employers fail to comply with the proposed regulation; and
3. Lead exposures to employees do not decrease.

Although this scenario is highly unlikely, to conduct 120 additional inspections, Cal/OSHA would need an additional four industrial hygienists at a cost of $789,000 in the first year and $730,000 per year on an ongoing basis.

DOF: *Since the baseline is not a valid alternative, the SRIA must add and analyze a second alternative.*

In response to DOF's comment that the status quo is not a valid regulatory alternative, DIR developed a new less stringent regulatory alternative for the analysis. The new less stringent regulatory alternative would reduce the blood lead testing requirements for construction employees exposed at >500 µg/m^3 from a BLL test every month, to a BLL test every two months after the first year of the regulation. Medical surveillance is the main source of costs of the proposed regulation, and thus reducing the testing interval would decrease compliance costs substantially for construction (as shown below). Please see the Information on the summary of compliance costs for the less stringent regulatory alternative is listed below:

Air Monitoring (Year 2+)
Proposed Regulation = $2,175,011
Less Stringent Regulatory Alternative = $2,175,011

Engineering Controls (Year 2+)
Proposed Regulation = $6,666,374
Less Stringent Regulatory Alternative = $6,666,374

Respiratory Protection (Year 2+)
Proposed Regulation = $3,240,515
Less Stringent Regulatory Alternative = $3,240,515

Personal Protective Equipment (Year 2+)
Proposed Regulation = $1,243,819
Less Stringent Regulatory Alternative = $1,243,819

Hygiene (lunchroom, showers, change rooms) (Year 2+)
Proposed Regulation = $6,801,272
Less Stringent Regulatory Alternative = $6,801,272

Hygiene — basic (Year 2+)
Proposed Regulation = $12,151,886
Less Stringent Regulatory Alternative = $12,151,886

Medical Surveillance (Year 2+)
Proposed Regulation = $47,680,091
Less Stringent Regulatory Alternative = $24,639,158
Medical Removal Program (Year 2+)
Proposed Regulation = $0
Less Stringent Regulatory Alternative = $0
Training — Comprehensive (Year 2+)
Proposed Regulation = $4,431,073
Less Stringent Regulatory Alternative = $4,431,073
Total Compliance Cost — Construction (1532.1) (Year 2+)
Proposed Regulation = $84,390,041
Less Stringent Regulatory Alternative = $61,349,108

Cal/OSHA estimates that approximately 15,400 (18%) lead–exposed construction employees in California are exposed above 500 μg/m^3. They are predominantly engaged in the renovation of existing steel structures that are coated with lead–based paint (abrasive blasting, welding, torch cutting). In this group, exposures can be much higher than 500 μg/m^3. The original standard is based on data showing exposures to this group of employees can exceed 30,000 μg/m^3 during abrasive blasting activities. In addition, high airborne exposures mean that surface contamination is significant, and therefore the potential for lead exposure due to inadvertent ingestion is also high.

For further details on this alternative, please see the explanation below in the part entitled "CONSIDERATION OF ALTERNATIVES — Alternative 2: Less stringent regulatory alternative."

CONSIDERATION OF ALTERNATIVES

Alternative 1: More stringent regulatory alternative.

One alternative considered was more stringent than the proposal. In this alternative, the PEL would be set at 2 μg/m^3, rather than the proposed level of 10 μg/m^3. This change would both increase the compliance costs for regulated entities and potentially increase employee benefits by reducing even low–level occupational exposure to lead.

Under the more stringent regulatory alternative, with a lower PEL, the total compliance costs for construction employers would be higher than the compliance costs under the proposed regulation. This is due to the fact that Cal/OSHA's exposure modeling indicates that most employees in construction have exposure levels less than 10 μg/m^3 lead, so a lower PEL would capture many additional employees and therefore increase costs. Costs would increase from $104 million (year 1) and $84 million (year 2+) under the proposed regulation to $160 million (year 1) and $126 million (year 2+) under the more stringent alternative with the lower PEL. In general industry, the compliance costs would nearly double, from $144 million (year 1) and $111 million (year 2+) under the proposed regulation, to $281 million (year 1) and $203 million (year 2+) with the lower PEL. This is because most general industry employees are exposed to less than 10 μg/m^3 lead, so a lower PEL in the more stringent alternative would capture many additional employees and therefore increase costs. Significantly, for their thousands of law enforcement employees, employers would be required to adopt more stringent control requirements than would be required under the proposed regulatory changes.

Reducing the permissible exposure limit to 2 μg/m^3 would generate all of the same benefits as reducing the permissible exposure limit to 10 μg/m^3, as well as further benefits from the additional reduction below 10 μg/m^3. The benefits of reduction below 10 μg/m^3 depend on the health risks of low–level lead exposure and these remain unclear. While exposure to small amounts of lead was previously thought to present minimal health risk, recent evidence suggests that even low–level environmental lead exposure may increase the risk of cardiovascular disease mortality. While this new finding suggests substantial benefits would result from the additional reduction in exposure, most studies do not attempt to quantify the health benefits from reductions in exposure below these levels, so there is insufficient evidence to quantify the magnitude of these benefits. In addition, compliance costs would increase significantly in both construction and general industry. For these reasons, adopting a PEL of 2 μg/m^3 is rejected.

Alternative 2: Less stringent regulatory alternative.

A second alternative considered was less stringent than the proposal. In this alternative, construction employers would be required to provide employees exposed at > 500 μg/m^3 with a BLL test every two months, after the first year of the regulation, rather than the proposed requirement of a BLL test every month. Medical surveillance is the main source of costs of the proposed regulation, thus reducing the testing interval would decrease compliance costs for construction employers.

Under the less stringent regulatory alternative, with BLL tests required to be provided to construction employees exposed >500 μg/m^3 every two months, compliance costs for construction employers would be reduced, for years 2+ of the regulation, from $48 million under the proposal to $25 million under this alternative. This is based on Cal/OSHA's estimate that approximately 15,400 lead–exposed construction employees in California are exposed at levels above 500 μg/m^3.

While the less stringent regulatory alternative would potentially save employers in terms of lost employee time and testing expenditures, this alternative would result in less effective control of employees' exposure to lead. The proposed standards are aimed at maintaining all employees' BLLs below 10 µg/dl. In this group of employees, exposures can be much higher than 500 µg/m^3. The original standard is based on data showing exposures to this group of employees can exceed 30,000 µg/m^3 during abrasive blasting activities. In addition, high airborne exposures mean that surface contamination is significant, and therefore the potential for lead exposure due to inadvertent ingestion is also high.

This alternative would likely result in undetected BLL rises among the employees most highly exposed to lead. As such, it would be significantly less protective than the proposal. Undetected increases in employees' BLLs would likely result in additional cases of adverse health outcomes, including hypertension, cardiovascular disease, nervous system and neurobehavioral effects, and impaired kidney function. As a result, the benefits generated in the form of avoided costs associated with these diseases would be reduced. While it is not possible to quantify the magnitude of additional cases of adverse health outcomes and the resulting reduction in monetary benefits, it could be substantial.

In addition, projected savings would be reduced, if not eliminated, if more employees were placed on costly MRP as a result of less frequent blood testing. The current proposal mandates MRP at a single BLL of 30 µg/dl (or at multiple BLLs over 20 µg/dl). Keeping employees below these BLLs in high exposure trades will require strict controls, diligently adhered to, and carefully monitored. Less frequent BLL testing would mean it would be less likely that a rapidly rising BLL would be detected before the MRP criteria are met. MRP is expensive; it requires the removal of an employee from lead work, maintenance of salary and benefits, and significant medical costs. It is quite likely that any savings gained from less frequent BLL testing would be lost to increased MRP costs.

The savings of this alternative are questionable, and the costs in terms of additional adverse health effects are likely significant. For these reasons, adopting this less stringent alternative is rejected.

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

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

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the back–up contact person, Amalia Neidhardt (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274–5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process BY APPOINTMENT Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at oshsb@dir.ca.gov or by calling (916) 274–5721. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the initial statement of reasons for this proposed action and supporting documents. Copies may be obtained by contacting Ms. Shupe or Ms. Neidhardt at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Ms. Neidhardt at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 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 Ms. Shupe or Ms. Neidhardt at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed action and the Initial Statement of Reasons can be accessed through the Board's website at https://www.dir.ca.gov/oshsb/proposedregulations.html.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

RESEARCH ON LIGHT–FOOTED RIDGWAY'S RAIL, YUMA RIDGWAY'S RAIL AND CALIFORNIA BLACK RAIL

The Department of Fish and Wildlife (Department) received a proposal from Ryan Quilley, requesting authorization to take light–footed Ridgway's rail (*Rallus longirostris levipes*) and Yuma Ridgway's rail (*Rallus obsoletus yumanensis*) ('Ridgway's rails'), formerly known as clapper rails, and California black rail (*Laterallus jamaicensis coturniculus*; 'black rail') ('rails'), Fully Protected birds, for scientific research purposes, consistent with conservation and recovery of the species. The light–footed Ridgway's rail is listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act, the Yuma Ridgway's rail is listed as Threatened under the California Endangered Species Act and Endangered under the federal Endangered Species Act, and the black rail is listed as Threatened under the California Endangered Species Act.

Ryan Quilley is planning to conduct surveys throughout the range of the rails in California, in accordance with a standard protocol approved by the Department and the U.S. Fish and Wildlife Service (Service). The proposed research activities consist of searching for vocalizing individuals of the rails, and employing broadcasts of recorded, species–specific vocalizations to determine distribution and status of local populations. Ryan Quilley and any others deemed qualified for this purpose would collect data by interpreting calls received from marsh birds responding to the tape and by observing individual rails. There would be no attempt to capture individual rails or to approach nests of the rails, unless specifically approved by the Department. If any rails are found dead, they will be salvaged and donated to a scientific institution open to the public, as designated by the Department and the Service. No adverse effects on individual rails or rail populations are expected.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize qualified professional wildlife researchers, with Ryan Quilley as the Principal Investigator, to carry out the proposed activities. The applicants are also required to have a valid federal recovery permit for the Ridgway's rails.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after a 30–day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after April 2, 2023, for an initial and renewable term of up to, but not to exceed five years. Contact: Justin Garcia, Justin.Garcia@wildlife.ca.gov, (916) 207–4957.

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

RESEARCH ON YUMA RIDGWAY'S RAIL AND CALIFORNIA BLACK RAIL

The Department of Fish and Wildlife (Department) received a proposal from Kay Nicholson, requesting authorization to take Yuma Ridgway's rail (*Rallus obsoletus yumanensis;* 'Ridgway's rail'), formerly known as Yuma clapper rail, and California black rail (*Laterallus jamaicensis coturniculus*; 'black rail') ('rails'), Fully Protected birds, for scientific research purposes, consistent with conservation and recovery of the species. The Ridgway's rail is listed as Threatened under the California Endangered Species Act and Endangered under the federal Endangered Species

Act, and the black rail is listed as Threatened under the California Endangered Species Act.

Kay Nicholson is planning to conduct surveys throughout the range of the rails in California, in accordance with a standard protocol approved by the Department and the U.S. Fish and Wildlife Service (Service). The proposed research activities consist of searching for vocalizing individuals of the rails, and employing broadcasts of recorded, species–specific vocalizations to determine distribution and status of local populations. Kay Nicholson and any others deemed qualified for this purpose would collect data by interpreting calls received from marsh birds responding to the tape and by observing individual rails. There would be no attempt to capture individual rails or to approach nests of the rails, unless specifically approved by the Department. If any rails are found dead, they will be salvaged and donated to a scientific institution open to the public, as designated by the Department and the Service. No adverse effects on individual rails or rail populations are expected.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize qualified professional wildlife researchers, with Kay Nicholson as the Principal Investigator, to carry out the proposed activities. The applicants are also required to have a valid federal recovery permit for the Ridgway's rail.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after a 30–day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after April 2, 2023, for an initial and renewable term of up to, but not to exceed five years. Contact: Justin Garcia, Justin.Garcia@wildlife.ca.gov, (916) 207–4957.

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

RESEARCH ON THE SALT–MARSH HARVEST MOUSE

The Department of Fish and Wildlife (Department) received a proposal from Leonard Liu, requesting authorization to take the salt–marsh harvest mouse (*Reithrodontomys raviventris*) ('mouse'), a Fully Protected mammal, for scientific research purposes consistent with conservation and recovery of the species. The mouse is listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Leonard Liu is planning to conduct surveys throughout the historical range of the mouse in California, in accordance with a standard protocol approved by the Department and the U.S. Fish and Wildlife Service (Service). The proposed research and population monitoring activities include capture using baited cage traps, handling, measuring and weighing, temporary marking via non–toxic ink or fur clipping, and release at the site of capture. Genetic samples will be collected (e.g., fur and fecal material) to help determine population status. Additional research activities may include use of passive integrated transponders (PIT–tags) for individual identification, ear–tagging, biotelemetry, and other methods approved by the Department and the Service. If any mice are found dead, they will be salvaged (including any parts thereof) and donated to a scientific institution open to the public, as designated by the Department and the Service. No adverse effects on individual mice or mouse populations are expected.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize qualified professional wildlife researchers, with Leonard Liu as the Principal Investigator, to carry out the proposed activities. The applicant is also required to have a valid federal recovery permit for the mouse and a Scientific Collecting Permit (SCP) to incidentally take other mammal species in California.

Pursuant to California Fish and Game Code (FGC) Section 4700(a)(1), the Department may authorize take of Fully Protected mammal species after a 30–day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 4700 for take of Fully Protected mammals, it would issue the authorization on or after April 2, 2023, for an initial and renewable term of up to, but not to exceed five years. Contact: Justin Garcia, Justin.Garcia@wildlife.ca.gov, (916) 207–4957.

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653 CONSISTENCY DETERMINATION REQUEST FOR SALT CREEK GRAVEL PROJECT

(TRACKING NUMBER: 1653–2023–107–001–R1)

SHASTA COUNTY

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 2/14/2023, that the Reclamation District Number 108 (District) proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves improving salmonid spawning conditions through the addition of spawning gravel. The proposed project will be carried out on the Sacramento River, located immediately downstream of the confluence of Salt Creek with the Sacramento River, Redding, Shasta County, California.

On 12/19/2022, the Central Valley 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 Salt Creek Gravel 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 5A45CR00629) for coverage under the General 401 Order on 2/7/2023.

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

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

DEPARTMENT OF FISH AND WILDLIFE

CESA CONSISTENCY DETERMINATION REQUEST FOR HUMBOLDT REDWOOD COMPANY — HABITAT CONSERVATION PLAN FOR NORTHERN CALIFORNIA

SUMMER STEELHEAD (*ONCORHYNCHUS MYKISS*)

2080–2023–002–01

HUMBOLDT COUNTRY

The California Department of Fish and Wildlife (CDFW) received a notice on February 7, 2023, that the Humboldt Redwood Company proposes to rely on a federal permit to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves timber operations and related management activities including, but not limited to: felling and bucking timber, yarding timber, loading and other landing operations, salvaging timber products, transporting timber and rock products, construction, decommissioning and maintenance of roads, constructing and operating rock pits, water drafting for dust abatement and fire suppression, maintaining equipment, site preparation (prescribed burning, blasting, and other slash treatment), early season continuous operations, planting, pre–commercial thinning, and pruning, commercial thinning, and collecting and transporting minor forest products, monitoring and research. The proposed project will occur on 209,000 acres of land spread throughout Humboldt County, California.

The Humboldt Redwood Company prepared a Habitat Conservation Plan (HCP) which considered the effects of the proposed project on the federally threatened Northern California distinct population segment of steelhead (*Oncorhynchus mykiss*). A subset of this species, the summer–run ecotype, is endangered pursuant to the California Endangered Species Act. The National Marine Fisheries Service issued a federal incidental take permit (ITP)(Permit Number 1157) on March 1, 1999. The United States Fish and Wildlife Service also issued a Biological Opinion (BO) (FWS 1–14–99–18) on February 24, 1999.

Pursuant to California Fish and Game Code section 2080.1, the Humboldt Redwood Company is requesting a determination that the ITP and its associated HCP are consistent with CESA for purposes of the proposed project. If CDFW determines the ITP and its associated HCP are consistent with CESA for the

proposed project, the Humboldt Redwood Company will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

NOTICE OF INTENT TO LIST CHEMICALS BY THE LABOR CODE MECHANISM: 1,1,1–TRICHLOROETHANE AND LEUCOMALACHITE GREEN

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list 1,1,1–trichloroethane (CAS RN 71–55–6) and leucomalachite green (CAS RN 129–73–7), as known to the state to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65[1]).

This action is being proposed pursuant to the "Labor Code" listing mechanism[2]. OEHHA has determined that these substances meet the criteria for listing by this mechanism.

Background on listing by the Labor Code mechanism: Health and Safety Code section 25249.8(a) incorporates California Labor Code section 6382(b)(1) into Proposition 65. The law requires that certain substances identified by the International Agency for Research on Cancer (IARC) be listed as known to cause cancer under Proposition 65. Labor Code section 6382(b)(1) refers to substances identified as human or animal carcinogens by IARC. OEHHA has adopted regulations concerning these listings in Title 27, California Code of Regulations, section 25904. As the lead agency for the implementation of Proposition 65, OEHHA evaluates whether a chemical's listing is required.

OEHHA's determination: *1,1,1–Trichloroethane* and *leucomalachite green* meet the requirements for listing as known to the state to cause cancer for purposes of Proposition 65.

IARC has published on its website "IARC Monographs on the Identification of Carcinogenic Hazards to Humans" Volume 130 "1,1,1–Trichloroethane and Four Other Industrial Chemicals" (IARC, 2022a) and Volume 129 "Gentian Violet, Leucogentian Violet, Malachite Green, Leucomalachite Green, and CI Direct Blue 218" (IARC, 2022b). IARC concluded that *1,1,1–trichloroethane* is "probably carcinogenic to humans" (Group 2A) based on sufficient evidence of carcinogenicity in animals (IARC, 2022a). IARC concluded that *leucomalachite green* is "possibly carcinogenic to humans" (Group 2B) based on sufficient evidence of carcinogenicity in animals (IARC, 2022b).

Opportunity for comment: OEHHA is providing this opportunity to comment as to whether the chemicals identified above meet the requirements for listing as causing cancer specified in Health and Safety Code section 25249.8(a), Labor Code section 6382(b)(1), and Title 27, California Code of Regulations, section 25904(b). Because this is a ministerial listing, comments should be limited to whether IARC has identified the specific chemical or substance as a human or animal carcinogen. Under this listing mechanism, OEHHA cannot consider scientific arguments concerning the weight or quality of the evidence considered by IARC when it identified these chemicals and will not respond to such comments if they are submitted. (Title 27, Cal. Code of Regs., section 25904(c).)

Submission of Comments

All written comments must be submitted to OEHHA by electronic submission, mail, or hand–delivery, by **Monday, April 3, 2023**. OEHHA strongly recommends that comments be submitted electronically through our website at https://oehha.ca.gov/comments, rather than in paper form. Alternatively, comments can be submitted in paper form, either by mail or delivered in person.

Electronic Submission (preferred):
Through OEHHA website at:
https://oehha.ca.gov/comments

Mailed Submission:
Attention: Esther Barajas–Ochoa
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, California 95812–4010

In–person delivery submission:
Attention: Esther Barajas–Ochoa
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
Sacramento, California 95814

OEHHA encourages all commenters to submit their comments in a format compliant with Section 508 of the federal Rehabilitation Act, Web Content Acces-

[1] Health and Safety Code section 25249.5 *et seq.*

[2] Health and Safety Code section 25249.8(a) and Title 27, Cal. Code of Regs., section 25904.

sibility Guidelines 2.1[3] and California Government Code sections 7405 and 11135, so that they can be read using screen reader technology and people with visual impairments are able to listen to them.

Comments received during the public comment period will be posted on the OEHHA website after the close of the comment period.

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and e–mail may be available to third parties.

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

References

International Agency for Research on Cancer (IARC, 2022a). IARC Monographs on the Identification of Carcinogenic Hazards to Humans, Volume 130. 1,1,1–Trichloroethane and Four Other Industrial Chemicals. IARC, World Health Organization, Lyon, France. Available from https://publications.iarc.fr/611.

International Agency for Research on Cancer (IARC, 2022b). IARC Monographs on the Identification of Carcinogenic Hazards to Humans, Volume 129. Gentian Violet, Leucogentian Violet, Malachite Green, Leucomalachite Green, and CI Direct Blue 218. IARC, World Health Organization, Lyon, France. Available from https://publications.iarc.fr/603

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653−7715. Please have the agency name and the date filed (see below) when making a request.

California Film Commission
File # 2023–0103–01
California Soundstage Filming Tax Credit Program

This certificate of compliance rulemaking action by the California Film Commission makes permanent, with amendments, regulations originally adopted in emergency matter 2022–0330–03E, and readopted with modifications in emergency matters 2022–0921–01EE and 2022–1230–01, that implement a tax credit for qualified expenditures paid or incurred during a taxable year by a qualified motion picture produced in California at a certified studio construction project as provided for in Revenue and Taxation Code sections 17053.98(k) and 23698(k).

Title 10
Adopt: 5530, 5531, 5532, 5533, 5534, 5535, 5536, 5537, 5538, 5539, 5540, 5541
Filed 02/15/2023
Effective 02/15/2023
Agency Contact: Hedvig Marx (323) 817–4115

California Institute for Regenerative Medicine
File # 2023–0208–02
Conflict–of–Interest Code

This is a conflict–of–interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing.

Title 17
Amend: 100000
Filed 02/22/2023
Effective 02/22/2023
Agency Contact: C. Scott Tocher (415) 740–8735

California State Library
File # 2023–0209–01
Conflict–of–Interest Code

This is a conflict–of–interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and Printing.

Title 02
Amend: 55300
Filed 02/22/2023
Effective 02/22/2023
Agency Contact: Scott Taylor (916) 603–7205

Department of Health Care Services
File # 2023–0111–01
Social Rehabilitation Program (SRP)
Rule 100

In this change without regulatory effect, the Department changes the addressee of a request to review an action to withhold or rescind certification. The existing "Mental Health and Substance Use Disorder Services" is changed to "Behavioral Health."

Title 09
Amend: 535
Filed 02/21/2023
Agency Contact:
Erika Drayton–Jebali (916) 345–8404

[3] https://www.w3.org/WAI/standards–guidelines/wcag/

Department of Health Care Services
File # 2023–0111–02
Community Treatment Facility (CTF) Rule 100

This change without regulatory effect updates the mailing address of the Department program responsible for certifying mental health programs within community treatment facilities.

Title 09
Amend: 1904, 1913
Filed 02/16/2023
Agency Contact:
Erika Drayton–Jebali (916) 345–8404

Department of Justice
File # 2023–0110–03
Fair & Accurate Governance of the CalGang & Shared Gang Databases

In this submission the Department of Justice ("DOJ") updates its references to the Public Records Act to conform with the California Public Records Act Recodification Act of 2021.

Title 14
Amend: 753.6, 754, 754.2, 773, 773.4, 773.6
Filed 02/22/2023
Agency Contact:
Marlon Martinez (213) 269–6437

Department of Rehabilitation
File # 2023–0105–02
Vocational Rehabilitation Program

In this resubmitted rulemaking action, the Department amends, adopts, and repeals its regulations to align the state's regulations with the federal regulations, which were amended in 2014 by the Workforce Innovation and Opportunity Act.

Title 09
Adopt: 7006.1, 7006.6, 7021.6, 7026.5, 7029.2, 7029.4
Amend: 7001.5, 7002.5, 7004.6, 7005, 7006, 7006.3, 7011, 7013.6, 7014.1, 7017.5; 7018.4, 7019.5, 7028, 7028.1, 7028.6, 7029.1, 7029.6, 7035, 7037, 7038, 7052, 7053, 7053.5, 7060, 7062, 7098, 7128, 7129, 7130, 7131.2, 7136.4, 7136.6, 7137, 7140, 7141, 7141.5, 7142, 7142.5, 7143, 7143.5, 7149, 7151, 7154, 7155, 7159.5, 7160, 7161, 7162.3, 7163.5, 7164, 7168, 7170, 7176, 7179, 7179.1, 7179.2, 7179.3, 7179.4, 7179.5, 7197.7, 7181.1, 7320, 7330, 7331, 7332, 7350, 7351, 7363
Repeal: 7014, 7016.1, 7028.8, 7136, 7153, 7158
Filed 02/17/2023
Effective 02/17/2023
Agency Contact:
Michele M. Welz (916) 558–5833

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.