



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Area 4 Agency on Aging
Aspire Public Schools
East Bay Regional Park District

A written comment period has been established commencing on May 5, 2023 and closing on June 20, 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 June 20, 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 Com-

mission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

AMEND COMMISSION REGULATION 1003 EMPLOYMENT STATUS NOTIFICATIONS

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11, of the California Code of Regulations, as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or their duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by June 19, 2023.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 404-5619, by email to *Michelle Weiler* at michelle.weiler@post.ca.gov, or by letter to:

Commission on POST
Attention: Michelle Weiler
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) section 13503 (authority of POST), PC section 13506 (POST authority to adopt regulations), and PC section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC section 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 30, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements. SB 2 also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring

requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes went into effect on January 1, 2023.

This rulemaking action clarifies and makes specific the information required to be submitted on the *Affidavit of Separation, POST Form 2-357* to be more appropriately aligned with the requirements of Penal Code section 13510.9(d).

The regulatory amendment proposed in this rulemaking action will clarify the reasons for separation, including whether it was during probation; whether the separation is related to allegations of serious misconduct; and/or the result of a resolution or settlement. The proposed amendment also provides for a signed acknowledgment by the separating peace officer if they are served with a copy in person or a copy of the mailing receipt if a copy of the form was provided to the separating officer using a mail or courier service. Specific instructions have also been added to the form to clarify what information is expected in each section.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulation will provide clarity regarding the information required to be reported on the *Affidavit of Separation, POST Form 2-357*. This will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving public health, safety, and welfare in the state. The proposed amendments will have no impact on worker safety or the state's environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that this is the only regulation that concerns processes and procedures for making employment status notifications.

FORMS INCORPORATED BY REFERENCE

The proposed amendments primarily affect the *Affidavit of Separation, POST Form 2-357*, which is incorporated by reference.

DISCLOSURES REGARDING THE PROPOSED ACTION

POST has made the following initial determinations:

- Mandate on local agencies or school districts: None.
- Cost or savings to any state agency: None.

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

Other non-discretionary costs or savings imposed on local agencies: None.

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

Cost impacts on a representative private persons or business: POST 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 California businesses: POST has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending, or repealing regulations. Additionally, the Commission’s main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create nor eliminate jobs in the state of California, (2) unlikely that the proposal will create nor eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity regarding the information required to be reported on the *Affidavit of Separation, POST Form 2-357*. Thus, law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), POST must determine that no reasonable alternative it considered, or that has otherwise identified and brought to its attention,

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Michelle Weiler, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-4870. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the proposed text (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, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available

for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

AMEND COMMISSION REGULATION 1201 DEFINITIONS RELATED TO PEACE OFFICER CERTIFICATION

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11, of the California Code of Regulations, as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or their duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by June 19, 2023.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 404-5619, by email to Michelle Weiler at michelle.weiler@post.ca.gov, or by letter to:

Commission on POST
Attention: Michelle Weiler
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) section 13503 (authority of POST), PC section 13506 (POST authority to adopt regulations), and PC section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC section 13503(e), which authorizes POST to establish a certification program for peace officers in the state of California.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 30, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively.

These changes provide for additional peace officer hiring eligibility requirements. SB 2 also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes went into effect on January 1, 2023.

This rulemaking action clarifies and makes specific the definition of terms related to peace officer certification.

The regulatory amendment proposed in this rulemaking action will provide additional clarity by providing definitions for additional terms related to peace officer certification: “Active,” “division,” “Immediate Temporary Suspension,” “Inactive,” and “Ineligible.”

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulation will provide clarity by providing definitions for additional terms related to peace officer certification. This will increase the efficiency of the state of California in delivering services to stakeholders. Thus, law enforcement standards are maintained and effective in preserving public health, safety, and welfare in the state. The proposed amendments will have no impact on worker safety or the state’s environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that this is the only regulation that concerns processes and procedures for general qualifications to be an instructor in peace officer training in the state.

FORMS INCORPORATED BY REFERENCE

There are no forms to be incorporated by reference.

DISCLOSURES REGARDING THE PROPOSED ACTION

POST has made the following initial determinations:

Mandate on local agencies or school districts: None.
Cost or savings to any state agency: None.

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

Other non-discretionary costs or savings imposed on local agencies: None.

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

Cost impacts on a representative private persons or business: POST 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 California businesses: POST has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending, or repealing regulations. Additionally, the Commission’s main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create or eliminate jobs in the state of California, (2) unlikely that the proposal will create or eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity by providing definitions for additional terms related to peace officer certification. Thus, law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

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

effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to *Michelle Weiler*, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630, at (916) 227–4870. General questions regarding the regulatory process may be directed to *Katie Strickland* at (916) 227–2802.

TEXT OF PROPOSAL

Individuals may request copies of the proposed text (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, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630. These documents are also located on the *POST Website* at <https://post.ca.gov/Regulatory-Actions>.

ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

AMEND COMMISSION REGULATION 1202 PEACE OFFICER CERTIFICATES

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11, of the California Code of Regulations, as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or their duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by June 19, 2023.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 404-5619, by email to [Michelle Weiler](mailto:Michelle.Weiler@post.ca.gov) at michelle.weiler@post.ca.gov, or by letter to:

Commission on POST
Attention: Michelle Weiler
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) section 13503 (authority of POST), PC section 13506 (POST authority to adopt regulations), and PC section 13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC section 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On September 30, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively. These changes provide for additional peace officer hiring eligibility requirements. SB 2 also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring

requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes went into effect on January 1, 2023.

This rulemaking action provides additional clarity related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates.

The regulatory amendment proposed in this rulemaking action will address Police Chiefs appointed without a valid Basic Certificate; removes the Basic Certificate exemption for law enforcement agencies who do not participate in the POST program; corrects an incorrect regulatory reference; clarifies acceptable education units when applying for professional certificates; and clarifies that POST shall cancel any certificate obtained through misrepresentation, fraud, or administrative error, not just professional certificates.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulation will provide clarity related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates. This will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving public health, safety, and welfare in the state. The proposed amendments will have no impact on worker safety or the state's environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that this is the only regulation that concerns processes and procedures related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates.

FORMS INCORPORATED BY REFERENCE

There are no forms to be incorporated by reference.

DISCLOSURES REGARDING THE PROPOSED ACTION

POST has made the following initial determinations:

Mandate on local agencies or school districts: None.
Cost or savings to any state agency: None.

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

Other non-discretionary costs or savings imposed on local agencies: None.

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

Cost impacts on a representative private persons or business: POST 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 California businesses: POST has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending, or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create or eliminate jobs in the state of California, (2) unlikely that the proposal will create or eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates. Thus, law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), POST must determine that no reasonable alternative it considered, or that has otherwise identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more

cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Michelle Weiler, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-4870. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the proposed text (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, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of

this notice, the proposed text of the regulations, and the initial statement of reasons.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

TITLE 14. DEPARTMENT OF PARKS AND RECREATION

GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS

NOTICE IS HEREBY GIVEN the California Department of Parks and Recreation (Department) proposes to amend the regulations and documents incorporated by reference described below after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Department proposes to amend the California Code of Regulations, Title 14, Division 3, Chapter 15 (CCR) Sections 4970.01, 4970.03, 4970.05.1, 4970.06.1, 4970.07.2, 4970.08, 4970.08.1, 4970.08.2, 4970.09, 4970.10, 4970.10.1, 4970.13, 4970.17.1, 4970.19, 4970.19.2, 4970.20, 4970.23.2, 4970.24.1, and 4970.26.

PUBLIC HEARING

The Department has scheduled a telephonic public hearing on the proposed rulemaking. The hearing will be held on June 20, 2023. The meeting will commence at 2 p.m.

Conference Line: 1 916 409 6039

Phone conference ID: 786 198 766#

Any interested person, or his or her authorized representative, may present oral or written statements, arguments, or contentions relevant to the proposed action described in the Informative Digest. The Department may impose reasonable limits on oral presentations. The Department requests, but does not require, persons making oral comments at the hearings also submit a written copy of their testimony. Additionally, pursuant to Government Code Section 11125.1, any information presented to the Department during the open hearings in connection with the subject matter open to discussion or consideration becomes part of the public record. Such information shall be retained by the Department and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed rulemaking to the Department. The written comment period ends on June 19, 2023. The Department will consider only written comments received at the Department's office by that time. Written comments may be mailed to the following address:

California Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
Attention: Sixto J. Fernandez, Grants Manager
Grants and Cooperative Agreements
P.O. Box 842896
Sacramento, CA 94296

Written comments delivered by email will also be accepted by the Department. Written comments may be submitted by email to OHV.Grants@parks.ca.gov. Electronic mail must be received by the deadline given above.

AUTHORITY AND REFERENCE

Authority Citation: The proposed amendments are authorized by Public Resources Code (PRC) Sections 5001.5 and 5003.

Reference Citation: The particular code sections implemented, interpreted, or made specific by these proposed amendments are PRC Sections 5020.1(j), 5024.1, 5090.01 through 5090.65 and 21000 et seq.; Vehicle Code Sections 38001 and 38006; Education Code Sections 210.3 and 66010.4; 25 CFR Section 83.5(a); 40 CFR part 1500.1 et seq.; U.S. IRC Section 501(c)(3); USC Title 42, Section 4371.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

PRC Section 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation (OHMVR) Act of 2003, as amended, governs the OHMVR Division's grants and cooperative agreements with cities, counties, Districts, U.S. Forest Service, U.S. Bureau of Land Management, other Federal Agencies, State and Federally Recognized Native American Tribes, Nonprofit organizations, Educational Institutions, Certified Community Conservation Corps, and State agencies.

The Grants and Cooperative Agreements Program (Program) is administered by the OHMVR Division within the Department. The Program allows the State to assist eligible agencies and organizations to develop, maintain, expand and manage high-quality off-highway vehicle (OHV) recreation areas, roads, trails,

and other facilities, while responsibly maintaining the wildlife, soils, and habitat in a manner that will sustain long-term OHV recreation. Assistance is provided in the form of project-specific grant funding. Grants are awarded through a competitive process where applicants and their projects are evaluated using objective criteria.

Effect of the Proposed Rulemaking

Generally, the proposed regulatory revisions will make the regulatory language more concise, clear, and consistent by amending Program regulations and various documents within the Appendix, incorporated by reference.

Specifically, the proposed regulatory revisions would:

Article 1: General Provisions

CCR Section 4970.01:

Amend CCR Section 4970.01(e) and (qq):

Specific purpose: The specific purpose of this amendment is to revise existing terminology to be consistent with current nomenclature when referring to Native American Tribes within California.

Benefit/Necessity: The proposed amendment is necessary to update terminology used in these regulations when referring to Native American Tribes within California. The revised language uses the current nomenclature used in California Public Resources Code 21080.3.1.

Amend CCR Section 4970.01(e)

Specific purpose: The specific purpose of this amendment is to update numbering of 4970.01(f) through 4970.01(qq) to reflect the alphabetical order of the definitions with the change from “State Recognized Native American Tribe” to “California Native American Tribe”.

Benefit/Necessity: The updated numbering is necessary to ensure that definitions are organized alphabetically.

Amend CCR Section 4970.01(u):

Specific Purpose: The specific purpose of this amendment is to correct the word “statues” to read “statutes”.

Benefit/Necessity: The proposed amendment is necessary to correct a spelling error within the definition of “Good Standing”.

Amend CCR Section 4970.01(v):

Specific Purpose: The specific purpose of this amendment is to revise existing regulatory terminology to be consistent with current nomenclature when referring to Native American Tribes within California.

Benefit/Necessity: The proposed amendment is necessary to update terminology used in these regulations when referring to Native American Tribes within California. The revised language uses the current no-

menclature used in California Public Resources Code 21080.3.1.

Amend 4970.03(a)(6)

Specific Purpose: The specific purpose of this amendment is to revise existing regulatory terminology to be consistent with current nomenclature when referring to Native American Tribes within California.

Benefit/Necessity: The proposed amendment is necessary to update terminology used in these regulations when referring to Native American Tribes within California. The revised language uses the current nomenclature used in California Public Resources Code 21080.3.

Amend 4970.03(b) Table 1:

Specific Purpose: The specific purpose of this amendment is to revise existing regulatory terminology to be consistent with current nomenclature when referring to Native American Tribes within California.

Benefit/Necessity: The proposed amendment is necessary to update terminology used in these regulations when referring to Native American Tribes within California. The revised language uses the current nomenclature used in California Public Resources Code 21080.3.

CCR Section 4970.05:

Amend 4970.05.1(d):

Specific Purpose: The specific purpose of this amendment is to relocate subsection (f) to subsection (d) in order to improve the flow of information.

Benefit/Necessity: The proposed amendment is necessary to improve the flow of information regarding the subject matter being presented.

Amend 4970.05.1(e):

Specific Purpose: The specific purpose of this amendment is to relocate subsection (o) to subsection (e) to improve the flow of information and include language that broadens the number of recognized governmental agencies that can investigate applicants.

Benefit/Necessity: The proposed amendment is necessary to improve the flow of information about the information being presented. Additionally, the amendment ensures that applicants who may be under investigation by any government agency cannot apply to the Program until such investigation is complete. Restricting an investigative body solely to the Attorney General is too restrictive and does not adequately safeguard the taxpayer’s funds.

Amend 4970.05.1(f)(1–2):

Specific Purpose: The specific purpose of this amendment is to adjust the numbering of this section following the movement of subsections (d) through (e).

Benefit/Necessity: The proposed amendment is necessary to reduce confusion with regards to information being presented.

Amend 4970.05.1(g)(2):

Specific Purpose: The specific purpose of this amendment is to ensure applicants are aware that inventories of equipment must include heavy equipment.

Benefit/Necessity: The proposed amendment is necessary as equipment, in its regulatory definition, does not include items classified as heavy equipment. The Division must also maintain records of heavy equipment purchased by a grantee through the program.

Amend 4970.05.1(g)(1-8):

Specific Purposes: The specific purpose of this amendment is to renumber sections 1-8 to improve clarity for reading. The content of subsection (g) (1-8) has not changed.

Benefit/Necessity: The proposed amendment is necessary to reduce confusion regarding information being presented. The content of subsection (g) (1-8) has not changed.

Amend 4970.05.1(g)(5)(D)

Specific Purpose: The specific purpose of this amendment is to require land manager letters state how HMP and Soils Plan requirements will be addressed by both the land manager and the applicant if the project requires such reports.

Benefit/Necessity: The proposed amendment is necessary to ensure that both the applicant and the land manager have communicated and recorded how each party will be participating in the HMP and Soils process.

Repeal 4970.05.1(o):

Specific Purpose: The specific purpose of this amendment is to remove this section and move it to 4970.05.1(e).

Benefit/Necessity: The proposed amendment is necessary to reduce confusion regarding information being presented.

Subarticle 1: Environmental Requirements

CCR Section 4970.06.1

Amend 4970.06.1(c):

Specific Purpose: The specific purpose of this amendment is to revise existing regulatory terminology to be consistent with current nomenclature when referring to Native American Tribes within California.

Benefit/Necessity: The proposed amendment is necessary to update terminology used in these regulations when referring to Native American Tribes within California. The revised language uses the current nomenclature used in California Public Resources Code 21080.3.1.

Amend 4970.06.1(c)(1):

Specific Purpose: The specific purpose of this amendment is to revise existing regulatory terminology to be consistent with current nomenclature when referring to Native American Tribes within California.

Benefit/Necessity: The proposed amendment is necessary to update terminology used in these regulations when referring to Native American Tribes within California. The revised language uses the current nomenclature used in California Public Resources Code 21080.3.1

CCR Section 4970.07.2

Amend 4970.07.2(f)(4):

Specific Purpose: The specific purpose of this amendment is to include heavy equipment as an item which associated costs can be decreased or eliminated by the Division.

Benefit/Necessity: The proposed amendment is necessary as equipment, in its regulatory definition, does not include items classified as heavy equipment. This amendment is necessary to ensure that heavy equipment costs submitted by grantees to the Division can be reviewed and adjusted by staff to only allow for the reimbursement of actual costs.

CCR Section 4970.08

Amend 4970.08 (b)(6)

Specific Purpose: The specific purpose of this amendment is to remove “etc.”.

Benefit/Necessity: The proposed amendment is necessary to eliminate a redundancy within the parenthesis and to improve the readability and clarity of the text.

Amend 4970.08 (b)(9)(B)

Specific Purpose: The specific purpose of this amendment is to provide specific examples of eligible costs and documentation related to transportation of which are accepted by the Division.

Benefit/Necessity: The proposed amendment is necessary to specify what documentation will be accepted by the Division in order to be reimbursed for transportation costs. The revision to the language are common ways transportation fees can be documented.

Amend 4970.08(b)(10):

Specific Purpose: The specific purpose of this amendment is to provide clarity to grantees that all written material containing the “OHV Funds at Work” logo must have Division approval prior to publishing and distribution to the public.

Benefit/Necessity: This proposed amendment is necessary to ensure consistent and appropriate messaging to the public regarding various written materials funded by the Program.

Amend 4970.08(b)(10):

Specific Purpose: The specific purpose of this amendment is to update the title of the logo that is to appear on materials funded by the Division and maintain consistency throughout the CCR.

Benefit/Necessity: The proposed amendment is necessary to ensure that applicants are aware of the prop-

er name of the logo that needs to go on grant funded publications.

Amend 4970.08(b)(10)(A):

Specific Purpose: The specific purpose of this amendment is to specify that all grant funded materials be available to the public for free.

Benefit/Necessity: The proposed amendment is necessary to ensure that all materials funded by the Program be made available to the public for free.

Repeal 4970.08(b)(11):

Specific Purpose: The specific purpose of this amendment is to disallow the renting or leasing of a facility for office space.

Benefit/Necessity: Past misuse of leased or rented facilities paid for with grant funds for purposes not directly related to OHV use and the inability for Division staff to uniformly enforce appropriate facility use has led to this change being proposed. The proposed amendment is necessary to ensure that taxpayer funds are being spent appropriately and are being used on activities that are directly related to OHV Recreation in California.

Amend 4970.08(b)(12):

Specific Purpose: The specific purpose of this amendment is to renumber the section following the repeal of section 4970.08 (b) (11).

Benefit/Necessity: The proposed amendment is necessary to retain consistent numbering within the CCR.

Amend 4970.08.1(c)(4)

Specific Purpose: The specific purpose of this amendment is to specifically state that repairs to equipment purchased with Program funds may be reimbursed upon Division approval and only at a license repair facility.

Benefit/Necessity: The proposed amendment is necessary to ensure that work on Program purchased equipment be done by qualified repair personnel to ensure proper repair is completed.

Amend 4970.08.1(c)(5)

Specific Purpose: The specific purpose of this amendment is to renumber the section following the addition of section 4970.08.1(c)(4).

Benefit/Necessity: The proposed amendment is necessary to retain consistent numbering within the CCR.

CCR Section 4970.08.2

Amend 4970.08.2(a)(2)

Specific Purpose: The specific purpose of this amendment is to add “mileage” as a method for a grantee to seek reimbursement for fuel costs.

Benefit/Necessity: The proposed amendment is necessary to provide the grantee flexibility to recover fuels costs for the project aside from only gas receipts. It also provides guidance to the grantee that fuels costs can only be reimbursed for actual costs.

Amend 4970.08.2(b)(2)

Specific Purpose: The proposed amendment is necessary to provide the grantee flexibility to recover fuels costs for the project aside from only gas receipts. It also provides guidance to the grantee that fuels costs can only be reimbursed for actual costs. Sections 2–4 were formerly combined and needed to be separated out for clarity; the subsection’s language and intent has not changed.

Benefit/Necessity: The proposed amendment is necessary to provide the grantee flexibility to recover fuels costs for the project aside from only gas receipts. It also provides guidance to the grantee that fuels costs can only be reimbursed for actual costs.

Adopt 4970.08.2(b)(3)

Specific Purpose: The specific purpose of this amendment is to provide clarity to the grantee that maintenance costs may be reimbursed if the maintenance is consistent with the equipment’s manufacturer’s maintenance schedule. Additionally, this amendment requires that all maintenance be completed by a licensed repair facility. Sections 2–4 were formerly combined and needed to be separated out for clarity; the subsection’s language and intent has not changed.

Benefit/Necessity: The proposed amendment is necessary to provide the grantee further clarity on how maintenance costs for equipment may be recovered through the Program.

Amend 4970.08.2(b)(4)

Specific Purpose: The specific purpose of this amendment is to update the numbering of the section following the adoption of section (3). Sections 2–4 were formerly combined and needed to be separated out for clarity. The subsection’s language and intent has not changed.

Benefit/Necessity: The proposed amendment is necessary to be consistent with the numbering system within the current regulations.

Amend 4970.08.2(c)

Benefit/Necessity: The specific purpose of this amendment is to specify that a grantee may only seek reimbursement for transportation costs at their actual cost.

Specific Purpose: The proposed amendment is necessary to maintain consistency with sections of the regulations that state transportation costs may not exceed actual costs.

CCR Section 4970.09

Amend 4970.09 (b)(15)

Specific Purpose: The specific purpose of this amendment is to disallow the renting or leasing of a facility for office space.

Benefit/Necessity: Past misuse of leased or rented facilities paid for with grant funds for purposes not directly related to OHV use and the inability for Divi-

sion staff to uniformly enforce appropriate facility use has led to this change being proposed. The proposed amendment is necessary to ensure that taxpayer funds are expended appropriately and are used in ways that are directly related to OHV recreation in California. This amendment is consistent with the repeal of CCR section 4970.08(b)(11).

Article 2: Project Types and Specific Application Requirements.

CCR Section 4970.10

Amend 4970.10(f) table 3

Specific Purpose: The specific purpose of this amendment is to revise existing terminology to be consistent with current nomenclature when referring to Native American Tribes within California.

Benefit/Necessity: The proposed amendment is necessary to update terminology used in these regulations when referring to Native American Tribes within California. The revised language uses the current nomenclature used in California Public Resources Code 21080.3.

CCR Section 4970.10.1

Repeal 4970.10.1(d)(3)

Specific Purpose: The specific purpose of this amendment is to repeal a section that has become irrelevant to the ground operations project type.

Benefit/Necessity: The proposed amendment is necessary as the section contains requirements that are irrelevant for ground operations activities when those activities are conducted for emergency purposes.

Amend 4970.10.1(d)(4)

Specific Purpose: The specific purpose of this amendment is to update the numbering of the section following the removal of section (3).

Benefit/Necessity: This amendment is necessary to remain consistent with the numbering system within the regulations.

CCR Section 4970.13

Amend 4970.13 (e)(2)(B)

Specific Purpose: The specific purpose of the amendment is to remove reference to the “loan program”, which no longer exists.

Benefit/Necessity: This amendment is necessary to remove reference to a program to loan grantees safety equipment that the Division no longer offers.

Article 3: Application Evaluation System and Funding.

CCR Section 4970.17.1

Amend 4970.17.1(f)

Specific Purpose: The specific purpose of this amendment is to revise the expiration date of the contingency list.

Benefit/Necessity: The proposed amendment is necessary to allow the Division to fully utilize unused grant funds during any given grant cycle.

Article 4: Project Administration Process

CCR Section 4970.19

Amend 4970.19(d)

Specific Purpose: The specific purpose of this amendment is to achieve consistency of terms used within the CCR when using the defined term “Good Standing”.

Benefit/Necessity: The proposed amendment is necessary for clarity and consistency in the use of specialized terminology within the CCR.

CCR Section 4970.19.2

Amend 4970.19.2

Specific Purpose: The specific purpose of this amendment is to specify that project amendments will only be needed solely for time extensions.

Benefit/Necessity: The proposed amendment is necessary to ensure that grantees are made aware that changes to the Project Cost Estimate will no longer require a formal amendment.

CCR Section 4970.20

Amend 4970.20

Specific Purpose: The specific purpose of this amendment is to ensure grantees have the same regulatory management requirements for regular equipment, heavy equipment and trailers.

Benefit/Necessity: The proposed amendment is necessary to ensure that equipment, heavy equipment, and trailers are cared for and managed in a consistent manner.

Amend 4970.20(a)

Specific Reason: The specific purpose of this amendment is to increase readability by reducing redundancy.

Benefit/Necessity: The proposed amendment is necessary to ensure that requirements related to equipment, heavy equipment, and trailers are clear to understand.

Amend 4970.20(b)

Specific Reason: The specific purpose of this amendment is to increase readability by reducing redundancy.

Benefit/Necessity: The proposed amendment is necessary to ensure that requirements related to equipment, heavy equipment, and trailers are clear to understand.

Amend 4970.20(b)(1)

Specific Reason: The specific purpose of this amendment is to increase readability by reducing redundancy.

Benefit/Necessity: The proposed amendment is necessary to ensure that requirements related to equipment, heavy equipment, and trailers are clear to understand.

Amend 4970.20(b)(2)

Specific Reason: The specific purpose of this amendment is to increase readability by reducing redundancy.

Benefit/Necessity: The proposed amendment is necessary to ensure that requirements related to equipment, heavy equipment, and trailers are clear to understand.

Amend 4970.20(d)

Specific Reason: The specific purpose of this amendment is to increase readability by reducing redundancy.

Benefit/Necessity: The proposed amendment is necessary to ensure that requirements related to equipment, heavy equipment, and trailers are clear to understand.

Amend 4970.20(e)

Specific Reason: The specific purpose of this amendment is to increase readability by reducing redundancy.

Benefit/Necessity: The proposed amendment is necessary to ensure that requirements related to equipment, heavy equipment, and trailers are clear to understand.

Amend 4970.20(f)

Specific Reason: The specific purpose of this amendment is to increase readability by reducing redundancy.

Benefit/Necessity: The proposed amendment is necessary to ensure that requirements related to equipment, heavy equipment, and trailers are clear to understand.

CCR Section 4970.23.2

Amend 4970.23.2(f)

Specific Reason: The specific purpose of this amendment is to promote consistency throughout the CCR as GPS coordinates and photos are required documentation for payment advances but were not previously listed as such for payment reimbursements.

Benefit/Necessity: The proposed amendment is necessary to ensure grantees provide GPS coordinates and photos of project areas for payment reimbursements like the requirement for payment advances.

CCR Section 4970.24.1

Amend 4970.24.1(a)(3)

Specific Purpose: The specific purpose of this amendment is to update the submission requirements for project documentation.

Benefit/Necessity: The proposed amendment is necessary to require grantees provide necessary documents in an electronic format as opposed to “hard copies”. Electronic documentation has become a more effective and efficient way to maintain official records within the Program.

Amend 4970.24.1(a)(5)

Specific Purpose: The specific purpose of this amendment is to provide consistency with equipment, heavy equipment and trailers with regards to providing photos to the Program and the affixing of the “OHV Funds at Work” logo requirement.

Benefit/Necessity: The proposed amendment is necessary to ensure consistency in the regulatory requirements of equipment, heavy equipment and trailers.

Adopt 4970.24.1(e)

Specific Purpose: The specific purpose of this amendment is to require grantees obtain Division approval prior to any modifications to the project cost estimate.

Benefit/Necessity: The proposed amendment is necessary to prevent a grantee from making unilateral changes to the project cost estimate.

Adopt 4970.24.1(e)(1)

Specific Purpose: The specific purpose of this amendment is to clarify to grantees that any change to a project cost estimate made without prior Division approval may not be reimbursed.

Benefit/Necessity: The proposed amendment is necessary to ensure effective communication between the grantee and the Division as it relates to the expenditures of grant funds.

Article 5: Contacting the OHMVR Division.

CCR Section 4970.26

Amend 4970.26(a)

Specific Purpose: The specific purpose of this amendment is to update the mailing address for the Division.

Benefit/Necessity: The proposed amendment is necessary to ensure that correspondence reaches the Division at its most current address.

Amend 4970.26(c)

Specific Purpose: The specific purpose of this amendment is to update the contact information for the Program, namely the removal of the fax number and the updating of the email address.

Benefit/Necessity: The proposed amendment is necessary to ensure that correspondence reaches the Program at its new email address, and to reflect the removal of a fax number that is no longer associated with the Program.

Comparable Federal Regulations

The proposed amendments do not duplicate or conflict with federal regulations or statutes.

Policy Statement Overview and Anticipated Benefits of the Proposed Rulemaking

The overall objective of the proposed action is to improve the Program’s regulatory language, documents incorporated by reference, and ensure public funds are

being spent wisely and within the State’s best interest in supporting motorized recreation.

These proposals, based on Division experience implementing the Program, will also reduce confusion for applicants and grantees and make the regulatory language concise, clear, and consistent by adopting, amending, and repealing Program regulations and various documents within the Appendix, incorporated by reference.

Determination of Inconsistency/Incompatibility with Existing Regulations

After conducting an evaluation for any regulations related to this area, the Department has found that there are no other regulations concerning grants that supports the planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities associated with the use of off-highway motor vehicles, and programs involving off-highway motor vehicle safety or education. Therefore, the Department has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

Grants and Cooperative Agreements Program — Appendix (Rev. 1/21)

MANDATED BY FEDERAL LAW OR REGULATIONS

None.

OTHER STATUTORY REQUIREMENTS

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to any Local Agency or School District: None.

Cost or Savings to any State Agency: None.

Other Non-Discretionary Cost or Savings Imposed of Local Agencies: None.

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

Significant Effects on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including Ability to Compete: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department finds that jobs, at worst would not be affected, but, mostly likely may see an increase in the creation of jobs. Additionally, the Department finds that at worst, no new business will be created, and no business will be eliminated; however, the Department finds that it is likely that private businesses may be created and or expanded because of the proposed action.

This regulatory action benefits the health and welfare of California residents by improving the funding method that assists land managers and partners to provide recreational opportunities within the State. This regulatory action also benefits the State’s environment by improving the funding method that supports resource protection and restoration activities related to OHV recreation.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

BUSINESS REPORTING

None.

SMALL BUSINESS DETERMINATION

The Department has determined there are no cost impacts on small businesses. Program history has shown that small businesses benefit by the Program. Many of the grant funds go to entities that utilize small businesses when they purchase goods and services. The proposed changes will provide a more streamline and efficient program that should boost the ability of small business to capture revenue from the various grantees.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the 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 regulation during the public comment period or at the public hearing.

CONTACT PERSON(S)

Inquiries concerning the proposed action may be directed to:

Sixto J. Fernandez, Grants Manager
California Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
P.O. Box 842896
Sacramento, CA 94296
(916) 324-1572
sixto.fernandez@parks.ca.gov.

The back-up contact person regarding the proposed action is:

Katie Buesch, Grant Administrator
California Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
P.O. Box 942896
Sacramento, CA 94296
(916)-639-4587
Caitlyn.buesch@parks.ca.gov

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

The Department will make the entire rulemaking available for inspection and copying throughout the rulemaking process at its office located at California Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division, 715 P Street, Sacramento, CA 95814.

As of the date this Notice of Proposed Rulemaking is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, the express terms of the regulation, the Initial Statement of Reasons, any information upon which the proposed rulemaking is based, and an economic impact assessment contained in the Initial Statement of Reasons. Copies may be obtained by contacting the above contact person at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After any public hearings and consideration of all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice of Proposed Rulemaking.

If the Department makes substantive 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 regulations as revised.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting Sixto Fernandez, Grants Manager at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout is available through the Division website at www.ohv.parks.ca.gov, under the grants link.

TITLE 14. DEPARTMENT OF PARKS AND RECREATION/OFFICE OF HISTORIC PRESERVATION

The California Office of Historic Preservation (OHP) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

It is anticipated that the California Tax Credit Allocation Committee (CTCAC) will also adopt proposed regulations to implement their responsibilities under SB451 after considering all comments, objections, and recommendations regarding their proposed action.

PUBLIC HEARING

The OHP has not scheduled a public hearing on this proposed action. However, OHP 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 OHP. Submit comments by email to info.calshpo@parks.ca.gov or by FAX to (916) 445-7053. The written comment period closes **on June 20, 2023**. OHP will consider only comments received at the OHP office by that time. Comments may also be mailed in writing to:

California Office of Historic Preservation
Attention: Aubrie Morlet
1725 23rd Street, Suite 100
Sacramento, CA 95816

AUTHORITY AND REFERENCE

Authority Citation

Revenue and Taxation Code sections 38.10, 17053.91, and Section 23691 authorize OHP to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Sections 38.10, 17053.91, and 23691 of the Revenue and Taxation Code, relating to taxation.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the OHP requirements for obtaining/qualifying for personal income tax credits and corporation tax credits for the rehabilitation of certified historic structures.

Senate Bill 451, Chapter 703 added and repealed Sections 38.10, 17053.91, and 23691 of the Revenue and Taxation Code, relating to taxation, regarding personal income and corporation taxes, credits, and the rehabilitation of certified historic structures.

Sections SEC.3.17053.91(g) and SEC.4.23691(g) authorizes OHP to adopt regulations to implement the requirements of these sections within the bill, establish a written application in coordination with the California Tax Credit Allocation Committee (CTCAC), establish a process to determine that an applicant meets the requirements of these sections and to ensure that the rehabilitation project meets the Secretary of the Interior's Standards for Rehabilitation, and establish a process to approve or reject all tax credit allocation applications. (Senate Bill Number 451 (legislative session year Regular Session))

The regulations proposed in this rulemaking action would specify the procedures required to obtain a 20% or 25% tax credit of qualified rehabilitation expenditures if the structure meets specified criteria, for rehabilitation of a certified historic structure or a qualified residence.

Sections SEC.3.17053.91(h) and SEC.4.23691(h) authorizes CTCAC to establish a process jointly with OHP to implement the provisions of these sections of the bill, allocate on a first-come-first-served basis an aggregate amount of the credit and allocate any carryover of unallocated credits from prior years, certify tax credits allocated to taxpayers, provide the Franchise Tax Board an annual list of taxpayers that were allocated a credit including each taxpayer's taxpayer identification number and the amount allocated to each taxpayer, and establish procedures for the recap-

ture of amounts allocated for a tax credit allowed to a taxpayer for the rehabilitation of a qualified residence if the taxpayer does not used the qualified residence as their principal residence within two years after rehabilitation of the residence.

Tax and Revenue Code Section 38.10 authorizes the Legislative Analyst to collaborate with the California Tax Credit Allocation Committee and the Office of Historic Preservation to review the effectiveness of the tax credits allowed by Sections 17053.91 and 23691.

Anticipated Benefits of the Proposed Regulations:

The broad objective of the legislation is to leverage dollars in private investment enabled by allocation of the credits, create construction jobs as a result of this investment, create long-term jobs associated with the use of rehabilitated historic buildings, and stimulate economic activity associated with the rehabilitation of historic buildings facilitated by the credits.

The specific benefits from the legislation are a 20% or a 25% personal income tax or corporate tax credit for the certified rehabilitation of a certified historic structure or a qualified residence.

These regulations do not create or expand any benefits beyond those already offered by the legislation that created this tax credit program.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

After conducting a review for any regulations that would relate to or affect this area, the OHP has concluded that these are the only regulations that concern the procedures required to obtain a 20% or 25% tax credit of qualified rehabilitation expenditures if the structure meets specified criteria, for rehabilitation of a certified historic structure or a qualified residence in California. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Documents Relied Upon in Preparing Regulations

- Code of Federal Regulations, Title 36 Part 67: Historic Preservation Certifications under the Internal Revenue Code, last updated May 26, 2011: 36cfr67.pdf ([nps.gov](https://www.nps.gov)).

DISCLOSURES REGARDING THE PROPOSED ACTION

The OHP has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: Staffing and program costs will be incurred by the OHP.
- 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:
 - As a voluntary program, businesses and individuals are not required to comply with the program regulations or requirements or incur any costs if they do not submit an application applying for the tax credit program.
 - SB451 cites that the OHP (and the CTCAC) may charge a reasonable fee in an amount that does not exceed the reasonable costs incurred by fulfilling its responsibilities under SB451.
 - OHP proposes that fees be established on a sliding scale based on the proposed cost of the rehabilitation of a certified historic structure and be capped at \$6,000 for income-producing projects and \$1,250 for qualified residence projects.

Results of the Economic Impact Analysis/Assessment

Beyond the fees to apply for the program, these regulations do not create any costs or benefits. Based on the legislation that created the tax credit program, however, the OHP concludes that it is: (1) unlikely that the program will eliminate any jobs within the state, (2) likely that the program will create an unknown number of jobs before, during, and after projects under this regulation, (3) likely that the program will create an unknown number of new businesses providing consultant and construction services for tax credit applicants, (4) unlikely that the program will eliminate any existing businesses, and (5) likely that the program will result in the expansion of businesses currently doing business within the state.

This tax credit program benefits the health and welfare of California residents by providing a financial incentive for reinvestment and reuse of historic properties that represent California’s diverse cultural inheritance. Reuse of existing buildings also lowers greenhouse gas production associated with the procurement and transportation of materials for new construction, potentially having a positive impact on the state’s environment. Historic preservation tax incentives generate jobs, enhance property values, create affordable housing, and augment revenue for federal, state, and local governments. There is no anticipated benefit to worker safety.

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

Significant effect on housing costs: None.

Applicant Reporting Requirement

Under the legislation that created this program, all applicants must submit a summary of the expected economic benefits of the project. The economic benefits shall include, but are not limited to, all of the following:

- A) Number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure.
- B) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increase wages and property taxes.
- C) Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments.
- D) Any public benefit(s) resulting from qualified rehabilitation expenditures of a qualified residence.

Section 38.10 requires that the Legislative Analyst collaborate on an annual basis with the CTCAC and OHP to review the effectiveness of the tax credits allowed by Sections 17053.91 and 23691. The review shall include, but is not limited to, an analysis of the demand for the tax credit, the types and uses of projects receiving the tax credit, the jobs created by the use of the tax credits, and the economic impact of the tax credits.

Small Business Determination:

The OHP has determined there are no cost impacts on small businesses. Federal tax credit program history has shown that small businesses benefit by the tax credit program at both the federal and state level. Many of the tax credits go to entities that utilize small businesses when they purchase goods and services or lease space to small businesses.

The proposed regulation may also positively affect small businesses in the rehabilitation of a certified historic structure under their ownership. Small business owners of certified historic structures may benefit by an eight million dollar (\$8,000,000) set aside for taxpayers with qualified rehabilitation expenditures of less than one million dollars (\$1,000,000).

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the OHP must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of OHP would be more effective in carrying out the purpose of 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 OHP invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON(S)

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

Aubrie Morlet
California Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, CA 95816
(916) 445-7000
info.calshpo@parks.ca.gov

The backup contact person for these inquiries is:

Mark Huck, Restoration Architect
California Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, CA 95816
(916) 445-7000
info.calshpo@parks.ca.gov

Please direct requests for copies of the proposed text (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 the contact at the above address or access these documents at https://ohp.parks.ca.gov/?page_id=27495.

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

OHP will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address and on the OHP website at https://ohp.parks.ca.gov/?page_id=27495. As of the date this Notice of Proposed Rulemaking is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, the express terms of the regulation, the Initial Statement of Reasons, any information upon which the proposed rulemaking is based, and an economic impact assessment contained in the Initial Statement of Reasons.

Copies may be obtained by contacting the above contact person at the address or phone number listed above. Copies are also available through the OHP website at https://ohp.parks.ca.gov/?page_id=27495.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

Please send requests for copies of any modified regulations to the attention of the contact indicated above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting Aubrie Morlet, at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout are available through the OHP website at https://ohp.parks.ca.gov/?page_id=27495.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATIONS

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or department), proposes to amend Section 3268.1 into Title 15, Division 3, Chapter 1, regarding Institutional Executive Review Committee Timeframe.

PUBLIC COMMENT PERIOD

The public comment period begins **May 5, 2023** and closes on **June 23, 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

D. Kostyuk
 Telephone: (916) 445-2276
 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

T. Snyder
 Telephone: (916) 324-6808
 Division of Adult Institutions

PUBLIC HEARING

Date and Time:

June 26, 2023 —10:00 a.m. to 11:00 a.m.

Place:

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

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. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY
 STATEMENT OVERVIEW

As part of the Institutional Executive Review Committee (IERC) process, the Use of Force Coordinator shall schedule all logged use of force cases for review within 30 calendar days of their logged occurrence. CDCR proposes to increase the review period to 60 calendar days because there has been an increase in the use of different types of video recording devices such as fixed, mobile, hand-held cameras, and body-worn cameras. With the increase of video recording devices, the Use of Force Coordinator is required to review more video footage. This time extension will provide the Use of Force Coordinator with sufficient time to conduct a thorough review of all video footage. These regulations will also establish when the IERC will refer an incident package to Allegation Inquiry Unit (AIU) for an investigation and when an initial review may be put on pause by the IERC.

This action will:

- Increase the timeframe for the Use of Force Coordinator to schedule a review of all logged use of force cases from within 30 calendar days to within 60 calendar days, as part of the IERC review process.
- Increase the IERC review timeframe from within 30 calendar days to within 60 calendar days to provide sufficient time to allow for a thorough review of all video footage from fixed, mobile, hand-held cameras, and body-worn cameras.
- Establish when an incident being reviewed by the IERC shall be referred to AIU for an investigation.
- Establish when the IERC may put an initial review on pause.

DOCUMENTS INCORPORATED
 BY REFERENCE

None.

SPECIFIC BENEFITS ANTICIPATED BY
THE PROPOSED REGULATIONS

The department anticipates that the proposed regulatory action will have a long-term beneficial effect on CDCR's use of force committees in scheduling and meeting use of force review deadlines, by establishing when the IERC shall refer an incident to AIU and how it will affect the IERC. The proposed regulations will also establish when the IERC may pause an initial review. Additionally increasing the timeframe for the IERC will allow additional time to gather and review camera footage, which will better equip the IERC members in their review.

EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH
EXISTING 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 revising the IERC Timeframe.

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: *None*.
- 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 businesses because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The department has determined that the proposed regulation 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 worker safety or the state's environment. These regulations may benefit the welfare of California residents by helping to make CDCR institutions safer for inmates, staff, and visitors. Additionally, safer institutions may provide an environment more conducive to rehabilitation, thereby reducing recidivism.

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 16. ARCHITECTS BOARD/
LANDSCAPE ARCHITECTS
TECHNICAL COMMITTEE**

FORM OF EXAMINATIONS, § 2615

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

PUBLIC HEARING

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

sentative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under Contact Person in this Notice.

COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or email to the addresses listed under *Contact Person* in this Notice, must be received by the Board at its office not later than **5:00 p.m. on Tuesday, June 20, 2023**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

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

Authority and Reference: Pursuant to the authority vested by section 5630 of the Business and Professions Code (BPC), the Board is considering amending article 1 of division 26 of title 16 of the California Code of Regulations (CCR).¹ This regulatory proposal will interpret and make specific the language in BPC sections 5650 and 5651, concerning the Form of Examinations.

INFORMATIVE DIGEST

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

¹ All CCR references are to title 16 unless otherwise noted.

license upon successful completion of the licensing examination.

The Council of Landscape Architectural Registration Boards (CLARB) is the national test vendor that supplies the Landscape Architect Registration Examination (LARE), the licensing examination, to the LATC. In December 2023, CLARB will implement modest structural changes to the LARE to better align the content of the LARE with current practice.

This proposal would amend CCR section 2615(a)(2) to align the regulation text with the new LARE format by removing references to LARE Sections 1, 2, 3, and 4, which will no longer be administered after December 2023; and allow California candidates to take any section of the LARE if they hold a degree in landscape architecture accredited by the Landscape Architectural Accreditation Board or an extension certificate in landscape architecture that meets the standards in CCR section 2620.5, along with a four-year degree (CCR Section 2060(a)(8)). This proposal would also make non-substantive changes to abbreviate references to the LARE and California Supplemental Examination (CSE) throughout.

The Board is proposing the following changes:

Amend CCR Section 2615 —Form of Examinations

CCR section 2615 is being amended to align subdivision (a)(2) with the new LARE format by removing references to LARE Sections 1, 2, 3, and 4, which will no longer be administered after December 2023; and to allow California candidates to take any section of the LARE if they hold a degree in landscape architecture accredited by the Landscape Architectural Accreditation Board or an approved extension certificate in landscape architecture along with a four-year degree. This proposal would also make non-substantive changes to abbreviate references to the LARE and CSE throughout.

**POLICY STATEMENT OVERVIEW/
ANTICIPATED BENEFITS OF PROPOSAL**

The Board seeks to allow qualified candidates to take the LARE prior to obtaining training/practice experience; and make it clear to candidates what type of educational experience is required for early entrance to take the LARE. Specifically, the proposed amendments of CCR section 2615 permit California candidates to take any section of the LARE if they hold a degree in landscape architecture accredited by the Landscape Architectural Accreditation Board or an approved extension certificate in landscape architecture along with a four-year degree.

**CONSISTENCY AND COMPATIBILITY
WITH EXISTING STATE REGULATIONS**

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

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

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

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

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

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

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

Benefits of Regulation:

The Board has determined that this regulatory proposal may benefit the public health, safety, and welfare by reducing any potential barriers to licensure by allowing more candidates to the national licensure ex-

amination. This regulatory proposal will not impact worker safety or the state's environment, as it does not involve worker safety or the state's environment.

This regulatory proposal updates candidate eligibility requirements for early entrance to take the LARE.

CONSIDERATION OF ALTERNATIVES

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

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

The Board considered keeping the status quo; however, this alternative was rejected because this would not address the structural changes to the LARE that will be implemented in December 2023.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing, if one is requested.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

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

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below (or by accessing the website listed below).

CONTACT PERSON

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

Name: Kourtney Fontes
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number: (916) 575-7233
Fax Number: (916) 575-7283
Email Address: kourtney.fontes@dca.ca.gov

The backup contact person is:

Name: Stacy Townsend
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number: (916) 575-7235
Fax Number: (916) 575-7283
Email Address: latc@dca.ca.gov

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

GENERAL PUBLIC INTEREST

BUILDING STANDARDS COMMISSION/STATE FIRE MARSHAL

NOTICE OF CORRECTION

(SFM 04/22)

The California Building Standards Commission (CBSC) Notice of Proposed Action (NOPA) for SFM's amendments to the 2022 California Electrical Code (Part 3, Title 24, California Code of Regulations) was originally published in the April 21 Notice Register 2023, 16-Z, p. 564 (OAL Notice File Number Z2023-0411-08). This published NOPA contains errors, which inadvertently omitted language intended for inclusion in the Summary of Existing Laws section on page 6 of 11 and the Declaration of Evidence section on page 9 of 11. The NOPA should have provided the following information:

SUMMARY OF EXISTING LAWS

Health and Safety Code Section 18949.2

- (a) Any responsibilities of the State Fire Marshal to adopt, through a formal rulemaking process as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, relating to building standards, including, but not limited to, Sections 13108, 13143, 13143.6, and 13211, are hereby transferred to the commission.
- (b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.
- (c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relied upon to support its initial determination of no effect.

SFM has determined that this proposed action will not have a significant adverse economic impact on business. The SFM affirms that this rulemaking action complies specifically with the mandates of HSC Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM. Numerous public workshops were held during the pre-rulemaking phase of the intervening code cycle and no comments have been made that the proposed changes would have significant statewide adverse economic impact on businesses.

Therefore, the SFM has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.2(b)(5)(A). The public is welcome to submit any information, facts, or documents either supporting SFM's initial determination or finding to the contrary.

The complete text of the notice, the Initial Statement of Reasons, and the Express Terms are available on the CBSC Web site for this rulemaking at: <https://www.dgs.ca.gov/BSC/Rulemaking/2022-Intervening-Cycle/2022-Public-Comments/PEME-45>.

Any inquiries regarding this correction should be made to the following:

Primary Contact:

Greg Andersen, Acting Division Chief
CALFIRE / Office of the State Fire Marshal
Code Development and Analysis Division
(626) 712-4260
Greg.Andersen@fire.ca.gov

Back up Contact:

Crystal Sujeski, DSFM III Acting Supervisor
CALFIRE / Office of the State Fire Marshal
Code development and Analysis Division
(510) 846-1276
Crystal.Sujeski@fire.ca.gov

**BUILDING STANDARDS
COMMISSION/STATE FIRE MARSHAL**

NOTICE OF CORRECTION

(SFM 05/22)

The California Building Standards Commission (CBSC) Notice of Proposed Action (NOPA) for SFM's amendments to the 2022 California Mechanical Code (Part 4, Title 24, California Code of Regulations) was originally published in the April 21 Notice Register 2023, 16-Z, p. 570 (OAL Notice File Number Z2023-0411-09). This published NOPA contains errors, which inadvertently omitted language intended for inclusion in the Summary of Existing Laws section on page 6 of 12 and the Declaration of Evidence section on page 9 of 12. The NOPA should have provided the following information:

SUMMARY OF EXISTING LAWS

Health and Safety Code Section 18949.2

- (a) Any responsibilities of the State Fire Marshal to adopt, through a formal rulemaking process as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, relating to building standards, including, but not limited to, Sections 13108, 13143, 13143.6, and 13211, are hereby transferred to the commission.

- (b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.
- (c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relied upon to support its initial determination of no effect.

SFM has determined that this proposed action will not have a significant adverse economic impact on business. The SFM affirms that this rulemaking action complies specifically with the mandates of HSC Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM. Numerous public workshops were held during the pre-rulemaking phase of the intervening code cycle and no comments have been made that the proposed changes would have significant statewide adverse economic impact on businesses.

Therefore, the SFM has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.2(b)(5)(A). The public is welcome to submit any information, facts, or documents either supporting SFM's initial determination or finding to the contrary.

The complete text of the notice, the Initial Statement of Reasons, and the Express Terms are available on the CBSC Web site for this rulemaking at: <https://www.dgs.ca.gov/BSC/Rulemaking/2022-Intervening-Cycle/2022-Public-Comments/PEME-45>.

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**BUILDING STANDARDS
 COMMISSION/STATE FIRE MARSHAL**

NOTICE OF CORRECTION

(SFM 06/22)

The California Building Standards Commission (CBSC) Notice of Proposed Action (NOPA) for SFM's amendments to the 2022 California Plumbing Code (Part 5, Title 24, California Code of Regulations) was originally published in the April 21 Notice Register 2023, 16-Z, p. 576 (OAL Notice File Number Z2023-0411-10). This published NOPA contains errors, which inadvertently omitted language intended for inclusion in the Summary of Existing Laws section on page 6 of 12 and the Declaration of Evidence section on page 9 of 12. The NOPA should have provided the following information:

SUMMARY OF EXISTING LAWS

Health and Safety Code Section 18949.2

- (a) Any responsibilities of the State Fire Marshal to adopt, through a formal rulemaking process as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, relating to building standards, including, but not limited to, Sections 13108, 13143, 13143.6, and 13211, are hereby transferred to the commission.
- (b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups

involved in development of the state's codes related to fire and life safety.

- (c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relied upon to support its initial determination of no effect.

SFM has determined that this proposed action will not have a significant adverse economic impact on business. The SFM affirms that this rulemaking action complies specifically with the mandates of HSC Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM. Numerous public workshops were held during the pre-rulemaking phase of the intervening code cycle and no comments have been made that the proposed changes would have significant statewide adverse economic impact on businesses.

Therefore, the SFM has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.2(b)(5)(A). The public is welcome to submit any information, facts, or documents either supporting SFM's initial determination or finding to the contrary.

The complete text of the notice, the Initial Statement of Reasons, and the Express Terms are available on the CBSC Web site for this rulemaking at: <https://www.dgs.ca.gov/BSC/Rulemaking/2022-Intervening-Cycle/2022-Public-Comments/PEME-45>.

Any inquiries regarding this correction should be made to the following:

Primary Contact:

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CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
626-712-4260
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Back up Contact:

Crystal Sujeski, DSFM III Acting Supervisor
CALFIRE/Office of the State Fire Marshal
Code Development and Analysis Division
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OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

AIR TOXICS HOT SPOTS PROGRAM

NOTICE OF PUBLIC COMMENT PERIOD AND WORKSHOPS ON DRAFT REVISED CANCER INHALATION UNIT RISK FACTORS FOR COBALT SULFATE HEPTAHYDRATE AND WATER-SOLUBLE COBALT COMPOUNDS

The Office of Environmental Health Hazard Assessment (OEHHA) is releasing a draft document for public review that corrects the cancer inhalation unit risk factors (IURs) for cobalt sulfate heptahydrate and water-soluble cobalt compounds. OEHHA adopted IURs for these compounds in October 2020¹ following public comment and review by the Scientific Review Panel on Air Toxic Contaminants. The draft revised document identifies two revisions in the derivation methodology:

- 1) a correction and update to the conversion factor used to normalize to the concentration of cobalt in cobalt sulfate heptahydrate (the substance in the bioassay used to derive IURs for water soluble cobalt compounds); and
- 2) a correction of an error in the final derivation of the previous IUR value.

The cancer IURs are used to estimate lifetime cancer risks associated with inhalation exposure to a carcinogen. While the IURs for cobalt sulfate heptahydrate and water-soluble cobalt compounds have been corrected, the IURs for cobalt metal and insoluble cobalt compounds were not affected by the errors and have not changed.

OEHHA is required to develop guidelines for conducting health risk assessments under the Air Toxics Hot Spots Program. (Health and Safety Code Section 44360(b)(2).) In response to this requirement, OEHHA develops unit risk factors for carcinogens, such as

¹ OEHHA (2020). Cobalt and Cobalt Compounds Cancer Inhalation Unit Risk Factors. Technical Support Document for Cancer Potency Factors, Appendix B, October 2020. Available at: <https://oehha.ca.gov/media/downloads/crn/cobaltcpf100220.pdf>

cobalt sulfate heptahydrate. The draft revised document containing the corrected cancer IURs for cobalt sulfate heptahydrate and water-soluble cobalt compounds is being made available today on the OEHHA website. Changes to the document are indicated in underline (additions) and strikeout (deletions). **OEHHA will only consider comments which pertain to the corrected text and numbers, as indicated in strikeout and underline, and the accompanying document explaining the changes (OEHHA, 2023)².**

The posting of the document will commence a 30-day public review period that will end on June 5, 2023.

Public workshops will be held in Southern and Northern California at the following locations and times.

Southern California

May 23, 2023
 9:00 a.m.–12:00 p.m.
 Room CC-2
 South Coast Air Quality Management District
 21865 E. Copley Drive
 Diamond Bar, CA 91765

Northern California

May 31, 2023
 9:00 a.m.–12:00 p.m.
 Sierra Hearing Room
 Cal EPA Building
 1001 I Street
 Sacramento, CA 95814

After the close of the public comment period, the document will be revised as appropriate by OEHHA, and corrected text and numbers will be peer reviewed by the state’s Scientific Review Panel on Toxic Air Contaminants (<https://ww2.arb.ca.gov/resources/documents/scientific-review-panel-toxic-air-contaminants>).

The public is encouraged to submit written information via OEHHA’s website, rather than in paper form. Comments may be submitted electronically through the following link: <https://oehha.ca.gov/comments>.

Hard-copy comments may be mailed, faxed, or hand-delivered to the address below:

² OEHHA (2023). Corrections to the Cancer Inhalation Unit Risk Factors for Cobalt Sulfate Heptahydrate and Water-Soluble Cobalt Compounds and to the Technical Support Document

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Information about dates and agendas for meetings of the Scientific Review Panel can be obtained from the California Air Resources Board website at <http://www.arb.ca.gov/srp/srp.htm>.

DEPARTMENT OF FISH AND WILDLIFE

**HABITAT RESTORATION AND ENHANCEMENT ACT
 INCONSISTENCY DETERMINATION
 NUMBER 1653-2023-109-001-R1**

Project: Tenmile Creek Streambank Erosion Prevention & Riparian Restoration Project
Location: Mendocino County
Applicant: Patrick Higgins, Eel River Recovery Project

Background

Project Description: Patrick Higgins (Applicant), representing the Eel River Recovery Project, proposes to implement the Tenmile Creek Streambank Erosion Prevention & Riparian Restoration Project (Project), which includes stabilizing eroding streambanks at four locations in three tributaries to Tenmile Creek. Specific Project actions include installing vegetated boulder wing deflectors with log habitat structures, willow staking, and vegetated coir lifts with boulders and logs.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.74 acres and 475 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project.

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050, subdivision (e), resulting from the Project include those associated with addition of the

following: (1) boulders, (2) native cobbles and gravel, and (3) large woody debris and live willow cuttings.

Project Timeframes: Start date: September 2022

Completion date: October 2023.

Work window: July 1–October 15.

Water Quality Certification Background: The Regional Water Board issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1B22057WNME, Electronic Content Management Identification (ECM PIN) Number CW–880975) for the Project. The NOA describes the Project and requires the Applicant to comply with the terms of the Order. Additionally, the Applicant has provided supplemental documents that set forth measures to avoid and minimize impacts to aquatic species including coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), and steelhead trout (*O. mykiss*). These supplemental documents include the Biological Assessment and Essential Fish Habitat Assessment for Tenmile Creek Erosion Control and Riparian Restoration Project SWRCB 319h Grant #D2013114 (BA), and Project Preliminary Design Reports (Design Reports) for Cahto, Mill, and Streeter Creeks.

Receiving Water: Mill Creek, Cahto Creek, and Streeter Creek, within Eel River Hydrologic Unit 111.33

Filled or Excavated Area: Length temporarily impacted: 425 linear feet

Length permanently impacted: 425 linear feet

Dredge Volume: None.

Discharge Volume: 246 cubic yards of boulders, 162 cubic yards of native cobbles and gravel, and 15 cubic yards of large woody debris and live willow cuttings.

Project Location: The four Project sites are located at 39.744701° N, 123.529798° W; 39.678280° N, 123.485987° W; 39.676888° N, 123.486770° W; and 39.683430° N, 123.514195° W.

Other Project Background: On March 21, 2023, the Director of CDFW received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the Project, based on the NOI, NOA, BA, and Design Reports, is consistent with the Habitat Restoration and Enhancement Act (HREA).

Pursuant to Fish and Game Code section 1653, subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on March 21, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2023–0321–01) on March 31, 2023.

Determination

After review and consideration of the NOI, NOA, BA, and Design Reports, CDFW has determined that there is substantial evidence to conclude the Project is **not consistent** with the HREA because the Project does not meet the eligibility requirements of the HREA.

This determination is based on the following considerations:

1. The Project is not a “habitat restoration or enhancement project” as defined in Fish and Game Code section 1651, subdivision (b): “a project with the primary purpose of improving fish and wildlife habitat.” Although the Project is designed to immediately address issues associated with erosion and streambank failure, the Project would result in hardening the stream banks, which would cause long-term negative impacts to coho salmon, Chinook salmon, and steelhead trout and their habitat by disrupting natural channel evolution processes. The Project’s use of large boulders to harden the stream banks for the purpose of scouring pools in channels that are already incised is contrary to common restoration practices, which would aim to elevate water tables and surfaces in incised channels. Further, the goal of scouring pools may not even be possible in Cahto Creek, as the channel has already scoured down to erosion-resistant rock in some locations.

Additionally, there is a significant risk that streamflow would flank the Project’s large rock bank hardening structures, which would leave oversized rock in the channel that the stream is incapable of moving. Flanking of large rock structures can occur where streambanks are naturally eroding as the stream works to establish equilibrium conditions in its present incised condition. Based on both the Stream Evolution Model and Riverscape Evolution Model, stream widening can be expected to follow incision. Flanking of large rocks from previous bank stabilization efforts were observed at the Project sites for Mill and Streeter Creeks.

2. Adequate species protection measures to avoid and minimize impacts to potentially present species protected by state and federal law have not been incorporated into the Project design as required by Fish and Game Code section 1653(b)(4). The Applicant has proposed vegetation removal activities but has not described any measures to avoid impacts on nesting birds. During a site visit on June 15, 2022, CDFW staff observed swallows flying in and around the eroding banks on Streeter Creek where the proposed bank stabilization efforts would be implemented. Further, the

Project’s proposed fish protection measures are too general and improperly defer the determination of more specific fish protection measures to a later time.

For the reasons described above, CDFW has determined there is substantial evidence that the Project, based on the NOI, NOA, BA, and Design Reports, is **not consistent** with the HREA. If the Project is not authorized pursuant to the HREA, notification pursuant to Fish and Game Code section 1602 will be required for the Project. If the Project may result in take¹ of species listed as threatened or endangered under the California Endangered Species Act (CESA) (Fish and Game Code, § 2050 et seq.), CDFW strongly encourages you to seek CESA take authorization for the Project from CDFW. CDFW staff are available to work with you on obtaining CDFW permits for the Project or discussing possible changes to the Project that would make it a habitat restoration or enhancement project eligible for the HREA pathway.

¹ Fish and Game Code section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.”

**DEPARTMENT OF
FISH AND WILDLIFE**

**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION
NUMBER 2080–2023–004–01**

Project: Green Diamond AHCP/CCAA
Location: Del Norte and Humboldt Counties
Applicant: Green Diamond Resource Company

Background

Green Diamond Resource Company (GDRCo) has been implementing a fifty-year Aquatic Habitat Conservation Plan and Candidate Conservation Agreement with Assurances (AHCP/CCAA) since 2008 that has enabled it to carry out forest management activities including timber operations on more than 400,000 acres of commercial timberland owned by GDRCo in Humboldt and Del Norte counties in Northern California (Project). Activities proposed under the Project include harvesting and transporting timber, timber stand regeneration and improvement, road construction, maintenance and decommissioning, rock pit construction and use, and water drafting activities for dust abatement and fire suppression. The Project also identifies activities GDRCo will implement to minimize and fully mitigate the adverse environmental effects of GDRCo’s timber operations to aquatic habitats related

to woody debris recruitment, shade, surface erosion, and mass wasting.

The Project activities described above are expected to incidentally take¹ northern California summer steelhead (*Oncorhynchus mykiss*) (NCSS)² where those activities take place within the Mad River, Redwood Creek and Eel River watersheds in Humboldt County. In particular, eggs, fry, juvenile and/or adult NCSS could be incidentally taken as a result of Project activities that cause direct mortality from the operation of equipment within streams, discharge considerable amounts of sediment to NCSS habitat, substantially alter stream flows, discharge hazardous contaminants to NCSS habitat, or contribute to long-term reduction in habitat or maintenance of low-quality habitat.

NCSS is part of the Northern California Steelhead Distinct Population Segment and is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and an endangered species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (a)(2)(P).)

NCSS individuals are known to occur in streams and rivers in the Mad River, Redwood Creek and Eel River watersheds, and there is occupied NCSS habitat within and adjacent to the Project. Due to the proximity of the nearest documented NCSS, dispersal patterns of NCSS, and the presence of suitable NCSS habitat within the Project, the National Marine Fisheries Service (NMFS) and United States Fish and Wildlife Service (USFWS)(jointly referred to as ‘Services’) determined that NCSS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of NCSS.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the Services formally initiated an environmental review of the AHCP/CCAA through a Notice of Intent to prepare an Environmental Impact Statement (EIS) in the Federal Register on July 11, 2000 (65 FR 42674). The Notice of Intent also announced a 30-day public

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’...means to catch, capture or kill”).

² The Project is also expected to take coho salmon (*Oncorhynchus kisutch*) of the Southern Oregon/Northern California Coast evolutionarily significant unit (SONCC coho salmon). SONCC coho salmon is listed as threatened under both the federal Endangered Species Act and the California Endangered Species Act. GRDCo received a consistency determination for this Project from the California Department of Fish and Wildlife that covers SONCC coho salmon on March 24, 2008 (tracking number 2080–2008–008–01).

scoping period, during which other agencies, tribes, and the public were invited to provide comments and suggestions regarding issues and alternatives to be included in the EIS. On July 25, 2002, GDRCo submitted an application to NMFS for an incidental take permit (ITP) and to the USFWS for an enhancement of survival permit (ESP). An ITP and an ESP (collectively referred to as Permits) are both authorized under section 10(a)(1) of the Endangered Species Act of 1973, as amended. Issuance of a 10(a)(1) permit is a Federal action subject to ESA section 7 consultation. On August 16, 2002, the Services announced the availability of the draft EIS, AHCP/CCAA, and Implementation Agreement (IA) for a 90-day public comment period (67 FR 53567). In response to public, tribal, and agency comments, modifications were made to the July 25, 2002 AHCP/CCAA. On May 30, 2007, NMFS issued a biological and conference opinion (Service file Number 151422SWR2002AR6231) (BO) to the USFWS that analyzed the final March 2005 version of the proposed AHCP/CCAA that was prepared following the response to public comment. On July 1, 2007, NMFS issued an ITP (Permit number 1613) for implementation of the AHCP/CCAA. The BO describes the Project, requires GDRCo to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures. The ITS also requires GDRCo to implement and adhere to measures contained within the AHCP/CCAA and ITP.

On March 23, 2023, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from GDRCo, requesting a determination pursuant to Fish and Game Code Section 2080.1 that the ITP and related AHCP/CCAA, and the ITS and accompanying BO are consistent with CESA for purposes of the Project and NCSS. (Cal. Reg. Notice Register 2022, Number 19-Z, p. 542.)

Determination

CDFW has determined that the ITP and related AHCP/CCAA, and ITS and accompanying BO are consistent with CESA as to the Project and NCSS because the mitigation measures contained in the BO and ITS, as well as the conditions in the AHCP/CCAA and ITP, meet the conditions set forth in Fish and Game Code Section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of NCSS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITS, BO, ITP, and AHCP/CCAA, will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of NCSS. The mitigation measures in the

ITS, BO, ITP, and AHCP/CCAA include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) GDRCo Class I riparian management zone (RMZ) widths are at least 150 feet slope distance, divided into inner and outer zones. During the life of the AHCP/CCAA, GDRCo will carry out only one harvest entry into Class I RMZs.
- 2) GDRCo will retain at least 85 percent overstory canopy closure within the inner zone and at least 70 percent canopy overstory closure will be retained within the outer zone. Within the RMZ, GDRCo will not harvest trees that contribute to maintaining bank stability.
- 3) To ensure adequate recruitment of large woody debris to Class I watercourses, GDRCo will retail all trees likely to recruit to a Class I watercourse.
- 4) Any ground disturbance caused by management activities that is larger than 100 square feet within an RMZ will be mulched and seeded or otherwise treated to reduce the potential for sediment delivery from sheet and gully erosion.
- 5) GDRCo will not carry out salvage within the inner zone of the Class I RMZ. If any part of the salvageable piece is in the inner zone, the entire piece will be left. GDRCo will not carry out salvage within an identified floodplain or RMZ. Within the outer zone of the Class I RMZ, GDRCo will conduct salvage operations only of downed trees and only if specific criteria are met.
- 6) GDRCo Class II RMZ widths are at least 75- or 100-foot slope distance, based on the size and location of the watercourses (first or second order watercourses) depending on slope, divided into inner and outer zones. During the life of the AHCP/CCAA, GDRCo will carry out only one harvest entry into Class II RMZs.
- 7) GDRCo will retain at least 85 percent overstory canopy closure within the inner zone and at least 70 percent canopy overstory closure will be retained within the outer zone. Within the RMZ, GDRCo will not harvest trees that contribute to maintaining bank stability.
- 8) The same strategy used in Class I RMZs to identify trees within the RMZ as potential candidates for harvest due to their low likelihood of recruitment to the watercourse will be used in the lower reaches of Class II watercourse RMZs tributary to Class I watercourses.
- 9) Ground disturbance treatments and salvage restrictions in Class II RMZs apply similarly to those for Class I RMZs.
- 10) GDRCo will apply one of two tiers of protection measures within Class III watercourses in

accordance with Hydrographic Planning Areas (HPAs) and slope gradients.

- 11) Slope Stability Measures provisions in the AHCP/CCAA include comprehensive identification and protection of steep streamside slopes based on HPAs. Restrictions on silviculture and canopy retention apply to an inner Riparian Slope Stability Management Zone (RSMZ) and an outer Slope Stability Management Zone (SMZ), GDRCo's road construction will also avoid these zones where feasible. Where such zones cannot be avoided or where major road reconstruction is required, the road alignment within a RSMZ or SMZ will be evaluated by a Professional Geologist and a Registered Professional Forester with experience in road construction in steep forested terrain.
- 12) Similar requirements to the above slope stability measures also apply to headwall swales, deep-seated landslides, and shallow rapid landslides, again based on HPAs.
- 13) GDRCo's AHCP/CCAA also includes a comprehensive road management plan designed to reduce road sediment delivery to watercourses throughout the AHCP/CCAA area over the life of the plan, based on a road assessment process and priority for repair. The AHCP/CCAA requires timely road-related sediment source identification and treatment and guarantees adequate funding to treat sediment sources on GDRCo's approximately 4,000 miles of permanent and seasonal logging roads.

Monitoring and Reporting Measures

- 1) Monitoring and Adaptive Management: The AHCP/CCAA requires GDRCo to comprehensively monitor the effectiveness of the plan's aquatic conservation measures. When monitoring the effectiveness of the conservation measures demonstrates the measures are not succeeding, adaptive management measures will be triggered and the AHCP/CCAA adjusted, within the range of changes identified in the AHCP/CCAA, to ensure the conservation strategy will meet the AHCP/CCAA objectives. The AHCP/CCAA also requires an Adaptive Management Reserve Account to be available to fund any necessary adjustments over the term of the plan.
- 2) Reporting: The AHCP/CCAA requires biennial reports submitted to the Services. In part, the

biennial report must include results of the monitoring program and any changes in the Operating Conservation Program.

Security

GDRCo has provided CDFW with a letter of credit (Number IS0018022U) in the sum of \$610,000.00 to ensure funding for full implementation of the AHCP/CCAA at the time CDFW determined such implementation was consistent with CESA as to Southern Oregon/Northern California Coast coho salmon in 2008. The significant time and money invested by GDRCo while implementing the AHCP/CCAA since 2008 demonstrates the company's commitment to implement the terms and conditions of the AHCP/CCAA. This investment includes, but is not limited to, improving road and stream crossing conditions to reduce road related impacts and sedimentation, harvesting restrictions to protect slope stability, and efforts to reduce harvest-related ground disturbance (the specific measures are outlined in the Mitigation and Minimization Measures discussion above). CDFW has determined that the sum provided by GDRCo adequately ensures funding for the originally covered state-listed species, SONCC coho salmon, as well as NCSS.

Conclusion

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of NCSS, provided GDRCo implements the Project as described in the ITS and accompanying BO and ITP and related AHCP/CCAA, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITS, BO, ITP, and AHCP/CCAA. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Services amend or replace the ITS, BO, ITP, or AHCP/CCAA, GDRCo shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c)).

CDFW's determination that the Services' ITS and accompanying BO, and ITP and related AHCP/CCAA are consistent with CESA is limited to NCSS.

DEPARTMENT OF
FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION
NUMBER 2080R–2023–005–05

Project: Santa Clara River Restoration Project
Location: Ventura County
Applicant: The Nature Conservancy

Background

The Nature Conservancy (Applicant) proposes to implement the Santa Clara River Restoration Project (Restoration Project) to restore approximately 2,823 acres along the Santa Clara River at five locations (Restoration Project Sites) to improve riparian habitat for bird species and increase the extent of quality habitat. The Restoration Project Sites are shown in the Restoration Project map, which is attached hereto and incorporated herein as Exhibit 1. The Restoration Project includes removal of trash and debris, native revegetation efforts, removal of invasive vegetation, re-creation of natural hydrological and topographical functions, access road and trail maintenance, and vegetation clearing.

The Restoration Project activities described above are expected to take¹ least Bell’s vireo (*Vireo bellii pusillus*) (Covered Species) within those areas of the Restoration Project Sites where removal of invasive vegetation will occur. In particular, the Covered Species could be taken as a result of invasive vegetation removal and this activity could result in lethal take. The Covered Species is designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and as an endangered species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (a)(5)(I).)

Covered Species individuals are documented as present at the Restoration Project Sites and there is suitable habitat for the Covered Species within and adjacent to the Restoration Project Sites. Because of the proximity of the nearest documented Covered Species and the presence of suitable habitat for the Covered Species within the Restoration Project Sites, the United States Fish and Wildlife Service (USFWS) determined that the Covered Species is reasonably certain

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’...means to catch, capture or kill”).

to occur within the Restoration Project Sites and that Restoration Project activities are expected to result in take of the Covered Species. The USFWS anticipates that up to two adults or four eggs of Covered Species will be taken as a result of implementing the proposed Restoration Project and expects higher numbers of Covered Species to occur within the Restoration Project Sites after the Restoration Project is complete.

The intent of the Restoration Project is to restore native vegetation and enhance habitat for usage by Covered Species. The USFWS has determined that the long-term effects of Restoration Project actions will be beneficial to the Covered Species and are expected to result in increased usage of the area by Covered Species. According to the USFWS, construction of the Restoration Project will result in the restoration of 2,823 acres of riparian habitat.

Because the Restoration Project is expected to result in take of a species designated as endangered under the federal ESA, the USFWS consulted with itself, as required by the ESA. On August 31, 2022, the USFWS issued a programmatic biological opinion for eligible restoration projects, entitled Programmatic Biological and Conference Opinion California Statewide Programmatic Restoration Effort (USFWS file Number 2022–0005149–S7) (PBO), on the Statewide Programmatic Biological Assessment for Restoration: Multi-Agency Implementation of Aquatic, Riparian, Floodplain and Wetland Restoration Projects to Benefit Fish and Wildlife in California (PBA). The PBA was developed by the USFWS, U.S. Army Corps of Engineers, and the National Oceanic and Atmospheric Administration’s Restoration Center. The PBO describes eligible restoration projects, requires all project applicants operating under the PBO to comply with terms of the PBO and its incidental take statement (ITS), and incorporates additional measures. The PBO requires the project proponent to request and receive project-specific approval from the USFWS through execution of an ESA Section 7(a)(2) Review Form. The Applicant submitted an ESA Section 7(a)(2) Review Form for the Restoration Project to USFWS, and USFWS gave its project-specific approval for the Restoration Project by signing that ESA Section 7(a)(2) Review Form on February 17, 2023 (Approved ESA Section 7(a)(2) Review Form). A copy of the Approved ESA Section 7(a)(2) Review Form is attached hereto and incorporated herein as Exhibit 2.

On March 22, 2023, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form, is consistent with CESA for purposes of the Restoration

Project and the Covered Species. (Cal. Reg. Notice Register 2023, Number 14–Z, p. 495.)

Determination

CDFW has determined that the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form, is consistent with CESA as to the Restoration Project and the Covered Species because the measures contained in the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (a) and (c), for authorizing take of CESA-listed species. Specifically, CDFW finds that: (1) take of the Covered Species will be for management purposes; (2) the measures required are roughly proportional in extent to any impact on the Covered Species that is caused by the Restoration Project; (3) the measures required maintain the Applicant’s Restoration Project purpose to the greatest extent possible; and (4) the Restoration Project will not jeopardize the continued existence of the Covered Species.

Avoidance, Minimization, and Mitigation Measures. The avoidance, minimization, and mitigation measures in the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form, include, but are not limited to, the following:

- 1) **Airborne Noise Reduction.** Equipment (including the noise abatement systems) will be maintained in good working order. If construction noise has the potential to adversely affect Covered Species, the Applicant will implement site-specific protection measures for construction activities to minimize impacts. Muffler (or spark arrester) damage must be promptly remedied. Potential adverse effects from Restoration Project-related noise shall be avoided or minimized to the maximum extent practicable by implementing sufficient disturbance buffers between noise generating Restoration Project activities and Covered Species habitat. When applicable, species-specific noise buffer distances are provided in Section 2.1.5.3, *Guild and Species-Specific Protection Measures*. Noise buffer distances may be modified in coordination with the USFWS based on Restoration Project-specific characteristics or the Applicant may choose to submit their own analysis and buffer recommendations for the USFWS’s consideration.
- 2) **Habitat Avoidance.** Staging and temporary construction areas will be outside of suitable habitat and will use existing roads and developed areas to the maximum extent practicable. All mature riparian vegetation (e.g., willows and cottonwoods) greater than 30 feet in height will be avoided. If mature riparian vegetation cannot be avoided, it

will be either transplanted elsewhere in or near the Restoration Project area or placed horizontally or diagonally outside the Project footprint, under the direction of a qualified biologist.

- 3) **Work Window.** To minimize effects to nesting Covered Species, all clearing of vegetation in occupied habitat or potential suitable habitat will occur outside the breeding season (September 16 through March 14). If the breeding season cannot be avoided, a USFWS-approved biologist will conduct preconstruction nesting bird surveys at least 48 hours before and no more than 1 week prior to vegetation removal. If no active nests are found in the Restoration Project Sites, Restoration Project activities may proceed.
- 4) **Work Restrictions Near Active Nests.** If an active Covered Species nest is detected during the survey, either work will be suspended until the young have fledged/beginning of the nonbreeding season or the following will apply:
 - a. An exclusionary buffer of 500 feet will be established around the nest and will be maintained between noise-generating Restoration Project activities and the nest’s location. Noise buffer distances may be modified in coordination with the USFWS based on Restoration Project specific characteristics or the Applicant may choose to submit their own analysis and buffer recommendations for USFWS’s consideration.
 - b. A qualified biologist will monitor the nest during construction for signs of adverse effects, including distress/disturbance. If adverse effects are detected, then the qualified biologist will have the authority to stop all construction activity near the nest. The USFWS-approved biologist will identify additional measures to protect the nest and will coordinate with the applicable USFWS Office regarding additional protection measures to avoid or minimize effects on the nesting birds. Construction may resume only with approval from the USFWS approved biologist; AND
 - c. The qualified biologist, in coordination with the USFWS-approved biologist, will continue to monitor the nest and will determine when young have fledged. Once the USFWS-approved biologist has confirmed that the young have left the nest, the buffer and exclusion zone may be removed and construction activities in these areas may resume; OR
 - d. If construction must occur in the buffer and exclusion zones, the appropriate USFWS

staff will be contacted to determine what additional measures may be necessary to avoid and/or minimize effects to these species.

Monitoring and Reporting Measures. The monitoring and reporting measures in the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form, include, but are not limited to, the following:

- 1) **Annual Report:** Annual reports for all activity performed will be submitted by the Applicant to the USFWS.
- 2) **Revegetation Monitoring and Reporting.** All revegetated areas will be maintained and monitored for a minimum of two years after replanting is complete, or until success criteria are met, to ensure that the revegetation effort is successful. The standard for success is 60 percent cover compared to pre-Restoration Project conditions at the Restoration Project site or at least 60 percent cover compared to an intact, local reference site. If an appropriate reference site or pre-Restoration Project conditions cannot be identified, success criteria will be developed for review and approval on a project-by-project basis, based on the specific habitat impacted and known recovery times for that habitat and geography. The Applicant will prepare a summary report of the monitoring results and recommendations on December 1 each year. The report will be provided to the USFWS.
- 3) **Herbicide Application Reporting.** The licensed applicator will keep a record of all plants/areas treated, amounts and types of herbicides used, and dates of application as well as other monitoring elements prescribed by the pest control advisor in condition labeled VHDR-7 of the PBO. Pesticide application reports must be completed within 24 hours of application and submitted to the applicable agencies for review. Wind and other weather data will be monitored and reported for all application reports.
- 4) **Environmental Monitoring.** Where appropriate and based on Restoration Project-specific requirements, a qualified biologist will perform site clearance at the beginning of each day and will monitor construction activities throughout the day in, or immediately adjacent to, sensitive resources and/or Covered Species habitat (including critical habitat as applicable), as necessary. The qualified biologist will confirm that all applicable protection measures are implemented during Restoration Project construction. The qualified biologist will have the authority to stop any work if they determine that any permit requirement is not fully implemented or if it is necessary to protect Covered Species, consistent with the

information provided in a Approved ESA Section 7(a)(2) Review Form. The qualified biologist will prepare and maintain a biological monitoring log of construction site conditions and observations, which will be kept on file.

Although not a condition of the ITS, its accompanying PBO, or the Approved ESA Section 7(a)(2) Review Form, CDFW requests a copy of the monitoring reports as well. The reports should include dates that restoration occurred and the success of revegetation and restoration.

Conclusion

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Restoration Project for take of the Covered Species, provided the Applicant implements the Restoration Project as described in the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form, including adherence to all measures contained therein, and complies with the measures and other conditions described in the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form. If there are any substantive changes to the Restoration Project, including changes to the measures, or if the USFWS amends or replaces the ITS, its accompanying PBO, or the Approved ESA Section 7(a)(2) Review Form, the Applicant shall be required to obtain a new consistency determination or a CESA take permit for the Restoration Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (a) and (c)).

CDFW’s determination that the ITS, along with its accompanying PBO and the Approved ESA Section 7(a)(2) Review Form, is consistent with CESA is limited to the Covered Species.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**ANNOUNCEMENT AND PRELIMINARY
AGENDA OF THE CARCINOGEN
IDENTIFICATION COMMITTEE MEETING
SCHEDULED FOR JUNE 13, 2023**

The *Carcinogen Identification Committee* (CIC) will meet virtually on June 13, 2023. This public meeting will be held from 10:00 a.m. to 5:00 p.m., or until all

business is conducted. Presentations and discussions will address (a) the key characteristics of carcinogens and their use in cancer hazard identification and (b) analysis of tumor data from animal carcinogenicity studies. A list of background materials for the meeting is available below. **No listing decisions will be made at this meeting.**

Preliminary Agenda

The order of items on the agenda is provided for general reference only. The order in which items are taken up by the Committee is subject to change at the discretion of the Committee Chair.

- I. Welcome and Opening Remarks
- II. Key Characteristics of Carcinogens and their Use in Cancer Hazard Identification
 - Presentation: Dr. Vincent Cogliano, OEHHA
 - Presentation: Dr. Kathryn Guyton, National Academies of Sciences, Engineering and Medicine
 - Presentation: Dr. Ivan Rusyn, Texas A&M University
 - Public Comments
 - Committee and Speakers Discussion
- III. Analysis of Tumor Data from Animal Carcinogenicity Studies
 - Introduction: Dr. Vincent Cogliano, OEHHA
 - Staff Presentation: Ms. Rose Schmitz and Dr. Jennifer Hsieh, OEHHA
 - Public Comments
 - Committee and Speakers Discussion
- IV. Staff Updates
 - Chemical listings via the administrative listing mechanisms
 - Safe harbor levels
 - Other regulations and litigation
- V. Summary

Background

OEHHA is the lead agency for implementation of Proposition 65. The CIC serves as the state’s qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer. In this capacity, the CIC advises and assists OEHHA in compiling the list of chemicals known to the state to cause cancer as required by Proposition 65.

Meeting Registration and Oral Comment Instructions

OEHHA will be using the Zoom Webinar platform for this meeting. You can join the webinar from a PC, Mac, iPad, iPhone or Android device using the following link: <https://bit.ly/registerCIC2023>.

If you wish to provide oral public comments at the meeting, you must register as an attendee at the link

above. Public comments are limited to 5 minutes or less per commenter. If slides will be used during a public comment, please provide the slides at least 24 hours before the meeting by emailing them to p65public.comments@oehha.ca.gov.

We encourage advance registration and request that registered attendees join the webinar at least 5 minutes before the 10:00 a.m. meeting start time. However, registration will not close until the meeting has adjourned.

Note that you do not have to enter your actual name during registration; for example, you could use initials instead. If you do not enter a functioning email address, you will need to save the meeting attendance information that displays after completing the registration form.

For View and Listen Only Mode

If you wish to view the meeting without participating, you can watch the *webcast* at <https://video.calepa.ca.gov/>. The webcast will become active approximately 15 minutes prior to the event. Please note that viewers of the webcast will not be able to provide oral comments during the meeting.

Special Accommodations or Language Needs

If you have special accommodation or language needs, please contact the Proposition 65 Implementation Office at (916) 216-0002 or Kiana.Vaghefi@oehha.ca.gov as soon as possible before the meeting. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

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 Energy Commission
 File # 2023-0403-01
 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 only.

Title 20
Amend: 2402
Filed 04/25/2023
Effective 05/25/2023
Agency Contact:
Josephine Crosby (916) 907-4278

California State Auditor's Office
File # 2023-0327-01
Conflict-of-Interest Code

This is a Conflict-of-Interest code amendment that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing only.

Title 02
Amend: 54300
Filed 04/19/2023
Effective 04/19/2023
Agency Contact:
Brianna Behnoud (916) 445-0255

California State University
File # 2023-0307-01
The Doctor of Public Health Degree

This action by the Board of Trustees of the California State University, submitted to OAL for courtesy filing with the Secretary of State and for printing in the California Code of Regulations, amends Doctor of Public Health degree requirements. This action is exempt from the Administrative Procedure Act and takes effect upon filing with the Secretary of State pursuant to Education Code sections 89030 and 89030.1, respectively.

Title 05
Adopt: 40519.2, 40519.3, 41025
Filed 04/19/2023
Effective 04/19/2023
Agency Contact: Jason Taylor (562) 951-4500

Department of Managed Health Care
File # 2023-0315-05
Timely Access to Non-Emergency Health Care Services

In this request for filing and printing, the Department of Managed Health Care is amending regulations pertaining to the timely access to care requirements for health care service plans and requirements for reporting compliance with those requirements. This action is exempt from the Administrative Procedure Act pursuant to paragraphs (f)(3) and (5) of Health and Safety Code section 1367.03.

Title 28
Amend: 1300.67.2.2
Filed 04/25/2023
Effective 04/25/2023
Agency Contact: Leah Gray (916) 327-8031

Department of Motor Vehicles
File # 2023-0315-01
Fee Adjustment (2024)

This action by the Department of Motor Vehicles ("DMV") makes changes without regulatory effect to adjust Various Vehicle Code ("VC"), Revenue & Taxation Code ("R&TC"), and Code of Civil Procedure ("CCP") authorized fees relating to motor vehicles pursuant to VC sections 1678(b), 1685(e), and 9250.6(b), and R&TC section 11052(b).

Title 13
Amend: 423.00
Filed 04/19/2023
Agency Contact: Randi Calkins (916) 282-7294

California Energy Commission
File # 2023-0321-01
Repeal of Portable Luminaires

This action repeals the portable luminaires appliance type from the Appliance Efficiency Regulations.

Title 20
Amend: 1601, 1602, 1604, 1605, 3, 1606
Filed 04/25/2023
Effective 04/25/2023
Agency Contact:
Corrine Fishman (916) 805-7452

Commission on Peace Officer Standards and Training
File # 2023-0315-07
Requirements for Course Certification

In this regular rulemaking action the Commission on Peace Officer Standards and Training ("POST") amends existing requirements for course certification and presentation to prohibit the use of current or former peace officers from serving as instructors of POST-certified specialized training courses if their POST peace officer certifications were revoked or voluntarily surrendered, or are actively suspended.

Title 11
Amend: 1052
Filed 04/25/2023
Effective 04/25/2023
Agency Contact:
Michelle Weiler (916) 227-4870

Department of Motor Vehicles
File # 2023-0315-04
Ignition Interlock Devices

In this regular rulemaking action the Department of Motor Vehicles updates requirements for the certification of ignition interlock devices by device manufacturers.

Title 13

Amend: 125.02

Filed 04/25/2023

Effective 07/01/2023

Agency Contact:

Randi Calkins

(916) 282-7294

**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.

