



# 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**

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

**TITLE 2. STATE CONTROLLER’S OFFICE**

**REGULATIONS GOVERNING THE ACTIVITIES OF THIRD-PARTY AUDITORS WHO ARE HIRED BY THE CONTROLLER**

**NOTICE IS HEREBY GIVEN** that the California State Controller is proposing to take the action described in Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the State Controller’s Office not later than August 7, 2023.

**NOTICE IS FURTHER HEREBY GIVEN that a public hearing has been scheduled.** The hearing shall take place on August 22, 2023 at 10:00 a.m. Pacific Standard Time at 300 Capitol Mall, Suite 616, Sacramento, CA 95814, and shall be conducted by Lisa Hughes, Bureau Chief, Division of Audits. At the public hearing, both written and oral comments will be accepted.

Following the public hearing and the written comment period, the State Controller’s Office, upon its own motion or at the instance 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 persons 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.

Public Comment Period: June 23, 2023 through August 7, 2023.

**AUTHORITY AND REFERENCE**

California Code of Civil Procedure (CCP) Section 1571(a) provides authority for the Office of the State

Controller, at reasonable times and upon reasonable notice, to examine the records of any person if the State Controller has reason to believe the person is a holder who has failed to report property that should have been reported pursuant to CCP Section 1500 et seq.

California Code of Civil Procedure Section 1571(b) provides authority for the Office of the State Controller to request that the unclaimed property examination be conducted by third-party auditors.

California Code of Civil Procedure § 1571(c) states that “Following a public hearing, the Controller shall adopt guidelines as to the policies and procedures governing the activity of third-party auditors who are hired by the Controller.”

California Code of Civil Procedure § 1580 provides: **Rules and Regulations.** The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

Authority cited: Sections 1571(a), 1571(b), 1571(c), 1580 California Code of Civil Procedure.

Reference cited: Sections 1571(a), 1571(b), 1571(c), 1580 California Code of Civil Procedure.

**INFORMATIVE DIGEST**

As required by California Code of Civil Procedure § 1571(c), following a 1999 public hearing, the State Controller’s Office adopted guidelines as to the policy and procedures governing the activities of third-party auditors who are hired by the Controller (the “Policies and Procedures”). These policies and procedures were enacted in 2003, and amended in 2020.<sup>1</sup>

However, on April 27, 2021, the Superior Court of the County of San Francisco, ruling in the case of *Yee v. Clubcorp Holdings, Inc.*, Case Number CGC-19-576314, held that despite the language of 1571(c), the California Administrative Procedure Act “applies to the Policies and Procedures.” Order Re Demurrer to Petition for Writ of Mandate and Cross-Complaint (April 27, 2021), page 6.

In order to avoid further disruption to the Controller’s enforcement efforts, and to resolve any lingering questions about the validity of the Policies and Procedures, the Controller proposes to herein adopt Regulations governing the activities of third-party auditors who are hired by the Controller (the “Proposed Regulations”).

*Policy Statement Overview/Anticipated Benefits of Proposal*

The State Controller’s Office has, for a number of years, relied on third-party auditors to conduct unclaimed property audits for the Controller. The use of

<sup>1</sup> 2003 is the earliest dated version of the Policies and Procedures the Controller has been able to identify.

third-party auditors has provided a number of benefits to the residents of California, and the State Controller’s Office uses third-party auditors to locate, identify, and collect unclaimed property. For example, the Controller, working with the assistance of third-party auditors, led a national team that restored approximately \$2.4 billion in life insurance benefits nationally, and more than \$300 million to Californians. See [https://www.sco.ca.gov/eo\\_pressrel\\_17198.html](https://www.sco.ca.gov/eo_pressrel_17198.html). As reported in a recent report by the Legislative Analyst’s Office, only approximately 2% of California businesses file unclaimed property reports annually. See <https://lao.ca.gov/Publications/Report/3978>. The use of third-party auditors is one way for the Controller to increase compliance with the unclaimed property law.

Continued use of third-party auditors, as proposed in the Proposed Regulations, will allow the Controller to continue to locate, identify, and collect unclaimed property.

Unless otherwise specifically noted, the Proposed Regulations are closely analogous to the Policies and Procedures.

*Consistency/Compatibility with Existing State Regulations*

The Controller has determined that 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 Controller has concluded that these are the only regulations that concern the use of third-party auditors in California. In fact, the use of third-party auditors was governed by the Policies and Procedures for the last two decades and adoption of the Proposed Regulations will allow the use of third-party auditors to continue.

*Documents Incorporated by Reference:* (1) The State Controller’s Regulations For Appealing an Examination of Unclaimed Property, (2) the Unclaimed Property Appeal Hearing Request form, (3) the Unclaimed Property Law and Regulations.

*Documents Relied Upon in Preparing the Regulations:* None.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: No.

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

**Adverse Business Impact:** The Controller has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete:** The Controller has made an initial determination that this regulatory action 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. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

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

**Effect on Housing Costs:** None.

**Effect on Small Business:** The Controller has made an initial determination that the proposed regulatory action will have no effect on small business. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

**Result of Economic Impact Assessment/Analysis Summary Comments:** The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. These regulations will benefit the health and welfare of California residents by allowing formal, transparent processes and procedures that govern the retention of third-party auditors and providing and clear, standardized set of guidelines to be followed in connection with retention of such auditors. The regulations are not expected to affect worker safety or the state’s environment. These regulations formally adopt the Policies and Procedures, and therefore do not represent any significant departure from past practices.

CONSIDERATION OF ALTERNATIVES

The agency must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is

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

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action.

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The Controller has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the Controller’s website.

Copies of the express language of the Proposed Regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the Controller contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

California State Controller’s Office  
 Contact: Ethan Jaffe | Staff Counsel  
 State Controller’s Office — Legal Division  
 300 Capitol Mall, Suite 1850  
 Sacramento, CA 95814  
 Phone: (530) 902-3050  
 Fax: (916) 322-1220

Please contact the contact persons listed herein to arrange for public inspection of the rulemaking documents.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

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

California State Controller’s Office  
 Contact: Ethan Jaffe | Staff Counsel  
 State Controller’s Office — Legal Division  
 300 Capitol Mall, Suite 1850  
 Sacramento, CA 95814  
 Phone: (530) 902-3050  
 Fax: (916) 322-1220  
 Email: [EJaffe@sco.ca.gov](mailto:EJaffe@sco.ca.gov)

The backup contact shall be:

California State Controller’s Office  
 Backup Contact: Richard J. Chivaro | Special Counsel  
 State Controller’s Office — Legal Division  
 300 Capitol Mall, Suite 1850  
 Sacramento, CA 95814  
 Phone: (916) 445-6854  
 Fax: (916) 322-1220  
 Email: [rchivaro@sco.ca.gov](mailto:rchivaro@sco.ca.gov)

*Website Access:* Materials regarding this proposal can be found at:

<https://www.sco.ca.gov/>

**TITLE 2. STATE CONTROLLER’S OFFICE**

REGULATIONS GOVERNING THE SUBMISSION OF CLAIMS FOR UNCLAIMED PROPERTY HELD BY THE CALIFORNIA STATE CONTROLLER

**NOTICE IS HEREBY GIVEN** that the California State Controller is proposing to take the action described in Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the State Controller’s Office not later than August 7, 2023.

**NOTICE IS FURTHER HEREBY GIVEN that a public hearing has been scheduled.** The hearing shall take place on August 22, 2023 at 10:00 a.m. Pacific Standard Time at 300 Capitol Mall, Suite 616, Sacramento, CA 95814, and shall be conducted by Gina Doll of the State Controller’s Office’s Unclaimed Property Division. At the public hearing, both written and oral comments will be accepted.

Following the public hearing and the written comment period, the State Controller’s Office, upon its own motion or at the instance 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 persons 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.

Public Comment Period: June 23, 2023 through August 7, 2023

## AUTHORITY AND REFERENCE

California Code of Civil Procedure § 1580 provides: **Rules and Regulations.** The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

California Code of Civil Procedure § 1540 provides: **Filing of Claim — Controller’s Notice of Decision to Claimant.** (a) Any person, excluding another state or state agency, who claims to have been the owner, as defined in subdivision (d), of property paid or delivered to the Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the Controller and shall be verified by the claimant.

California Code of Civil Procedure § 1540(e) provides: Following a public hearing, the Controller shall adopt guidelines and forms that shall provide specific instructions to assist owners in filing claims pursuant to this article.

Authority cited: Sections 1540, 1580, California Code of Civil Procedure.

Reference cited: Sections 1540, 1580, California Code of Civil Procedure.

## INFORMATIVE DIGEST

As required by California Code of Civil Procedure § 1580, following a 1999 public hearing, the State Controller’s Office proposed Guidelines for Claiming Unclaimed Property (the “Claims Guidelines”). These Claims Guidelines were adopted and last updated in September 2003 and are available on the Controller’s web site at: [https://www.sco.ca.gov/Files-UPD/guide\\_upd\\_claiming.pdf](https://www.sco.ca.gov/Files-UPD/guide_upd_claiming.pdf).

In addition, the Controller’s web site contains a set of claims guidance and resources for owners of unclaimed property to assist them with claiming property in the custody of the Controller’s office. Such resources include, but are not limited to, claim filing instructions and forms, video tutorials to assist owners with electronically claiming property, and instructions for contacting the Property Owner Advocate’s Office.

However, on April 27, 2021, the Superior Court of the County of San Francisco, ruling in the case of *Yee v. Clubcorp Holdings, Inc.*, Case Number CGC–19–576314 (“*Clubcorp*”), held that the California Administrative Procedures Act “applies to the Policies and Procedures.” Order Re Demurrer to Petition for Writ of Mandate and Cross–Complaint (April 27, 2021), page 6.

While not directly at issue, the logic of *Clubcorp* would be applicable to the Claims Guidelines. Currently, the above–described information and guidance made available by the Controller on the Controller’s web site set forth the requirements and procedures for owners to submit claims regarding unclaimed property, as well as certain information for holders of unclaimed property. However, there is no formal regulatory framework for the unclaimed property claims process in place at this time.

In order to provide clarity and formal guidance for owners seeking to claim unclaimed property, the Controller proposes regulations implementing and governing a process by which owners may submit unclaimed property claims to the Controller’s office (the “Proposed Claims Regulations”). By promulgating these regulations, the Controller endeavors to provide concise instructions and guidance to individuals to assist them with submitting claims to the State Controller’s Office’s Unclaimed Property Division, which processes claims and disburses funds to rightful owners. Moreover, through these regulations, the Controller incorporates by reference the specific claim form to be submitted by property owners submitting claims.

### *Policy Statement Overview/Anticipated Benefits of Proposal*

The State Controller’s Office has, since September 2003, adhered to the Claims Guidelines, which explain the claims submission process for owners, the required documentation an owner must submit, the Controller’s claims consideration processes, claims reporting processes for holders, and rules pertaining to interest income on unclaimed property held by the Controller. In addition, the Appendices to the Claims Guidelines contain certain mandatory forms required as part of the claims submission processes, including the Universal Holder Face Sheet (UFS–1) (required in connection with all reports), Claim Form/Affirmation for the claimant, Declaration Under Probate Code Section 13101, Table of Heirship, and Holder’s Claim For Reimbursement.

The adoption of the Proposed Claims Regulations will formalize the procedures and requirements employed by the Controller in seeking to reunite owners with their unclaimed property entrusted to the Controller for safekeeping pursuant to California’s unclaimed property laws.

*Consistency/Compatibility with Existing State Regulations*

The Controller has determined that the Proposed Claims 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 Controller has concluded that these are the only regulations that govern the procedures for claiming unclaimed property. The Proposed Claims Regulations are meant to formalize the processes already in place and in use by the Controller’s office for several decades.

*Documents Incorporated by Reference:* The claim form, made available on the Controller’s web site, is hereby incorporated herein by reference. A copy of the claim form in use as of the promulgation of these regulations is attached hereto as Exhibit A.

*Documents Relied Upon in Preparing the Regulations:* None.

*Effect on Housing Costs:* None.

*Effect on Small Business:* The Controller has made an initial determination that the proposed regulatory action will have little to no effect on small business. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices and are not intended to impose changes or additional requirements on small businesses in order to comply with these regulations.

*Result of Economic Impact Assessment/Analysis Summary Comments:* The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. The proposed regulations will benefit the health and welfare of California residents by allowing for a formal, transparent process and procedures for claimants to submit claims for unclaimed property held by the California State Controller’s Office. The regulations are not expected to affect worker safety or the state’s environment. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices.

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: No.

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

*Adverse Business Impact:* The Controller has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices.

*Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete:* The Controller has made an initial determination that this regulatory action 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. These regulations formally adopt the Claims Guidelines, and therefore do not represent any significant departure from past practices.

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

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action.

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The Controller has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the Controller’s website.

Copies of the express language of the Proposed Claims Regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon

request from the Controller contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

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State Controller's Office — Legal Division  
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Sacramento, CA 95814  
Phone: (530) 902-3050  
Fax: (916) 322-1220

Please contact the contact the person(s) identified herein to arrange for public inspection of the rulemaking documents.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

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Sacramento, CA 95814  
Phone: (530) 902-3050  
Fax: (916) 322-1220  
Email: [EJaffe@sco.ca.gov](mailto:EJaffe@sco.ca.gov)

The backup contact shall be:

California State Controller's Office  
Backup Contact: Richard J. Chivaro | Special Counsel  
State Controller's Office — Legal Division  
300 Capitol Mall, Suite 1850  
Sacramento, CA 95814  
Phone: (916) 445-6854  
Fax: (916) 322-1220  
Email: [rchivaro@sco.ca.gov](mailto:rchivaro@sco.ca.gov)

*Website Access:* Materials regarding this proposal can be found at:

<https://www.sco.ca.gov/>

## TITLE 2. STATE CONTROLLER'S OFFICE

### REGULATIONS GOVERNING PROCEDURE FOR ADMINISTRATIVE REVIEW OF UNCLAIMED PROPERTY AUDIT FINDINGS AND INTEREST ASSESSMENTS

**NOTICE IS HEREBY GIVEN** that the California State Controller is proposing to take the action described in Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the State Controller's Office not later than August 7, 2023.

**NOTICE IS FURTHER HEREBY GIVEN that a public hearing has been scheduled.** The hearing shall take place on August 22, 2023 at 10:00 a.m. Pacific Standard Time at 300 Capitol Mall, Suite 616, Sacramento, CA 95814, and shall be conducted by Lisa Hughes, Bureau Chief, Division of Audits. At the public hearing, both written and oral comments will be accepted.

Following the public hearing and the written comment period, the State Controller's Office, upon its own motion or at the instance 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 persons 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.

Public Comment Period: June 23, 2023 through August 7, 2023

#### AUTHORITY AND REFERENCE

California Code of Civil Procedure (CCP) Section 1571(a) provides authority for the Office of the State Controller, at reasonable times and upon reasonable notice, to examine the records of any person if the State Controller has reason to believe the person is a holder who has failed to report property that should



have been reported pursuant to CCP Section 1500 et seq.

California Code of Civil Procedure Section 1571(b) provides authority for the Office of the State Controller to request that the unclaimed property examination be conducted by third-party auditors.

California Code of Civil Procedure § 1571(c) states that “Following a public hearing, the Controller shall adopt guidelines as to the policies and procedures governing the activity of third-party auditors who are hired by the Controller.”

California Code of Civil Procedure § 1580 provides: **Rules and Regulations.** The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

Authority cited: Sections 1571(a), 1571(b), 1571(c), 1580 California Code of Civil Procedure.

Reference cited: Sections 1571(a), 1571(b), 1571(c), 1580 California Code of Civil Procedure.

INFORMATIVE DIGEST

As required by California Code of Civil Procedure § 1571(c), following a 1999 public hearing, the State Controller’s Office adopted guidelines as to the policy and procedures governing the activities of third-party auditors who are hired by the Controller (the “Policies and Procedures”). These Policies and Procedures were adopted in 2003, and amended in 2020.

However, on April 27, 2021, the Superior Court of the County of San Francisco, ruling in the case of *Yee v. Clubcorp Holdings, Inc.*, Case Number CGC-19-576314 (“*Clubcorp*”), held that the California Administrative Procedure Act “applies to the Policies and Procedures.” Order Re Demurrer to Petition for Writ of Mandate and Cross-Complaint (April 27, 2021), page 6.

While not directly at issue, the logic of *Clubcorp* would be applicable to the Guidelines for Requesting an Informal Review of an Unclaimed Property Examination, which were also adopted in September 2003 (the “Guidelines”). Under the Guidelines, reviews are independently conducted by the State Controller’s Legal Office. Currently, the audit review process allows unclaimed property holders to request an informal review of audit findings and/or interest assessment. There is no formal administrative review process in place at this time.

In order to ensure consistency and efficiency in the audit review process, the Controller proposes regulations implementing and governing a process by which holders may request a formal review of audit findings and/or interest assessments (the “Proposed Regulations”).

*Policy Statement Overview/Anticipated Benefits of Proposal*

The State Controller’s Office seeks to implement a standardized procedure by which holders can request a review of audit findings and/or interest assessments made at the conclusion of an unclaimed property audit. The review process being proposed is voluntary on the part of the holder.

The Proposed Regulations will give holders the opportunity to seek review of audit findings and assessments on which the notice is based by persons within the Controller’s Office who will not have had direct involvement in the audit. The panel will have the authority to correct audit findings in whole or in part based upon an incorrect interpretation or application of law and errors of fact or auditing procedures having a substantial effect on the audit findings or assessments. The panel shall have the power to decrease, increase or reaffirm the amount assessed in the billing notice.

*Consistency/Compatibility with Existing State Regulations*

The Controller has determined that 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 Controller has concluded that these are the only regulations that concern the review of audit findings and interest assessments in California. The informal process of audit reviews that has been in place until now is serving as a basis for the audit review process set forth in the Proposed Regulations. Adoption of the Proposed Regulations will establish procedures and deadlines for the audit review process.

*Documents Incorporated by Reference: Unclaimed Property Informal Audit Review Request: Form AR-1 as of January 2011.*

*Documents Relied Upon in Preparing the Regulations: None.*

FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: No.

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

Adverse Business Impact: The review process being proposed is voluntary. The Controller has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic

impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Proposed Regulations will formalize an unclaimed property audit review process, replacing an existing informal audit review process.

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete:** The review process being proposed is voluntary. The Controller has made an initial determination that this regulatory action 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. The Proposed Regulations will formalize an unclaimed property audit review process, replacing an existing informal audit review process.

**Cost Impact on Representative Private Person or Business:** The review process being proposed is voluntary. The Controller is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Effect on Housing Costs:** None.

**Effect on Small Business:** The Controller has made an initial determination that the proposed regulatory action will have no effect on small business. The Proposed Regulations will formalize an audit review process and replace an existing informal audit review process.

**Result of Economic Impact Assessment/Analysis Summary Comments:** The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. The proposed regulations will benefit the health and welfare of California residents by allowing a formal, transparent appeal process for review of audits of unclaimed property findings and interest assessments. The regulations are not expected to affect worker safety or the state's environment. The Proposed Regulations will formalize an audit review process and replace an existing informal audit review process.

## CONSIDERATION OF ALTERNATIVES

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

sons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action.

## AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The Controller has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the Controller's website.

Copies of the express language of the Proposed Regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the Controller contact or on the website listed below.

The documents and other information are available for public inspection during the dates of the public comment period, described below, excluding weekends and holidays, from 8:00 a.m. through 5:00 p.m. The rulemaking file is maintained at the following address:

California State Controller's Office  
Contact: Ethan Jaffe | Staff Counsel  
State Controller's Office — Legal Division  
300 Capitol Mall, Suite 1850  
Sacramento, CA 95814  
Phone: (530) 902-3050  
Fax: (916) 322-1220

Please contact the contact persons identified herein to arrange for public inspection of the rulemaking documents.

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

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

## CONTACT PERSONS

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

California State Controller’s Office  
 Contact: Ethan Jaffe | Staff Counsel  
 State Controller’s Office — Legal Division  
 300 Capitol Mall, Suite 1850  
 Sacramento, CA 95814  
 Phone: (530) 902-3050  
 Fax: (916) 322-1220  
 Email: [EJaffe@sco.ca.gov](mailto:EJaffe@sco.ca.gov)

Time: 10:00 a.m. until all comments have been received  
 Location: Junipero Serra State Building,  
 Pacific Ocean Room  
 320 West Fourth Street  
 Los Angeles, CA 90013

The backup contact shall be:

California State Controller’s Office  
 Backup Contact: Richard J. Chivaro | Special Counsel  
 State Controller’s Office — Legal Division  
 300 Capitol Mall, Suite 1850  
 Sacramento, CA 95814  
 Phone: (916) 445-6854  
 Fax: (916) 322-1220  
 Email: [rchivaro@sco.ca.gov](mailto:rchivaro@sco.ca.gov)

*Website Access:* Materials regarding this proposal can be found at:

<https://www.sco.ca.gov/>

**TITLE 8. APPRENTICESHIP COUNCIL**

TITLE 8, CHAPTER 2, SUBCHAPTER 1,  
 SECTIONS 202 ET SEQ.

The California Apprenticeship Council (Council or CAC) proposes to adopt the proposed regulation described below after considering all comments, objections and recommendations regarding the proposed action.

Notice is hereby given that the Council, pursuant to rulemaking authority derived from Labor Code section 1777.7, in order to implement, interpret and make specific Labor Code section 1777.5, proposes to amend Section 230.1 of Art. 10, Part I, Chapter 2 of Title 8 of the California Code of Regulations (CCR) concerning employment of apprentices on public works.

**PUBLIC HEARING**

The Council will hold public hearings on this proposal as follows:

Date: Monday August 14, 2023  
 Time: 10:00 a.m. until all comments have been received  
 Location: Elihu Harris Oakland State Building,  
 Room 10  
 1515 Clay Street  
 Oakland, CA 94612  
 Date: Wednesday August 16, 2023

At the hearings, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest below. The Council requests but does not require that a person who makes oral comments at a hearing also submit the comments in writing.

**WRITTEN COMMENT PERIOD**

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the attention of Glen Forman at the California Apprenticeship Council, addressed as follows:

- By mail to 1515 Clay Street, Suite 1902, Oakland, CA 94612
- By electronic mail to [csuggest@dir.ca.gov](mailto:csuggest@dir.ca.gov)
- By facsimile to (510) 286-1448

The Council will only consider written comments received by 11:59 p.m., August 17, 2023.

Written and oral comments, attachments, and associated contact information (e.g., address, phone, or email) become part of the public record and can be released to the public upon request.

**AUTHORITY AND REFERENCE**

Labor Code section 3071 authorizes the Council to issue rules and regulations establishing minimum standards of wages, hours, and working conditions for apprentices. Labor Code section 1777.7(g) authorizes the Council to adopt regulations to interpret the provisions of Labor Code section 1777.5, which governs the employment of apprentices on public works.

**INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW**

The Council is established within the Division of Apprenticeship Standards (DAS), which in turn is within the Department of Industrial Relations. The Council assists the Director of Industrial Relations in formulating policies with respect to apprentice regulation.

California encourages contractors and subcontractors to employ registered apprentices on public works projects, including by authorizing payment of apprentice wage rates in lieu of the substantially higher journey level prevailing wages. Labor Code § 1777.5.

To qualify for the lower wage rates, apprentices must be registered with the DAS, training under DAS–approved apprenticeship standards (i.e. with a DAS/Council–approved program), and working at a specified minimum ratio of apprentices to journeyworkers. Labor Code §§ 3077, 1777.5. Apprentices may only be employed at the work of the craft or trade to which they are registered.

A contractor who employs workers in an “apprenticeable craft or trade” can have apprentices dispatched to a public works project by applying “to any apprentice program in the craft or trade that can provide apprentices to the site” or by obtaining them from an approved program that already covers the contractor’s work. The statute defines “apprenticeable craft or trade” as “a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council.” Labor Code § 1777.5(d).

Labor Code section 1777.5(e) requires contractors to send public works contract award information to apprenticeship programs that can supply apprentices to the work site. Notice requirements and time limits are currently spelled out in greater detail in California Code of Regulations, title 8, section 230. The following section, existing section 230.1 (Regulation 230.1) sets forth, among other things, requirements and time frames for requesting a program to dispatch apprentices to a job site. Contractors currently may use DAS Form 142 to request dispatches.

The proposed amendment to Regulation 230.1, subdivision (a), clarifies and standardizes the information that is required to be included in dispatch requests. The amendment specifies that dispatch requests must be made without conditions circumventing the employer’s obligation in Labor Code Section 1777.5 subdivision (b)(2) to pay for preemployment testing, training, examination and other mandatory preemployment processes and requires that certain information be included in dispatch requests.

The amendment will increase the opportunities for employment and training of apprentices. Without the amendment, public works contractors could impose conditions on the dispatch of apprentices that would undermine the purpose of the apprenticeship laws to provide for the training and employment of apprentices. For example, contractors could require as a condition to dispatch that apprentices already have training or skills which they should acquire from the employer through the apprenticeship program. Further, if contractors are not required to provide a specific date to report when a journeyman of the same apprenticeable craft is employed, then apprentices will not be given a sufficient opportunity to receive training.

The proposed changes to the regulation will assist the regulated public in understanding their apprentice-

ship obligations on public works projects. The regulation will also allow DAS to effectively and efficiently carry out its mandate in relation to apprenticeship enforcement. The proposed amendment to subdivision (a) of Regulation 230.1 will increase the opportunities for employment and training of apprentices by clarifying and standardizing the requirements for written requests by public works contractors for dispatch from applicable apprenticeship committees.

### **Evaluation of Inconsistency/Incompatibility with Existing State Regulations**

After evaluating other regulations, the Council has concluded that this is the only regulation that governs dispatch requirements for registered apprentices on public works projects. Therefore, the proposed regulation is neither inconsistent nor incompatible with existing state regulations. No comparable federal regulation or statute exists.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Council has made the following initial determinations:

- Costs or savings to state agencies or costs/savings in federal funding to the State: None.
- Local Mandate: None.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code: None.
- Other nondiscretionary costs/savings imposed upon local agencies: None.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- The effect on small businesses: Each small business will be required to provide additional information on a form that it fills out to request apprentices for a public works project. It is estimated that the amount of time required of each contractor to enter the additional information will be approximately five minutes per project.
- Significant effect on housing costs: None.
- Cost impacts on representative private person or small business: It is estimated that the cost for each small business and typical business to comply with the regulation will be \$4.30 per year in additional office work to identify and provide the information required.

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT

Because a survey of potentially-affected contractors found that providing the additional information required by amended section 230.1 would require a maximum of 5 minutes of additional office time per project, the Council concludes the following: it is unlikely that the proposed changes will (1) create or eliminate any jobs, (2) create new businesses or eliminate existing businesses in California, (3) expand businesses currently doing business in the state, or (4) benefit worker safety or the state's environment. It is likely that the proposed changes will benefit the health and welfare of California residents by increasing opportunities for employment and training of apprentices.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Council must determine that no reasonable alternative it considered or that otherwise has been identified and brought to the attention of the Council would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as the proposed action and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of the law. Although this proposal was presented for public comment at regular meetings of the CAC and its committee on Standards, Rules, Regulations & Operating procedures from March 3, 2021 through July 29, 2021, no commissioner or member of the regulated public proposed any alternative to the proposal under consideration.

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Glen Forman, Deputy Chief  
of Apprenticeship Standards  
California Apprenticeship Council  
1515 Clay Street, Suite 1902  
Oakland, CA 94612  
(510) 879-3965

The backup contact person for these inquiries is:

Deneen Phillips  
Division of Apprenticeship Standards  
1515 Clay Street, Suite 1902  
Oakland, CA 94612  
(510) 879-3966

Please direct requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulation, or other information upon which the rulemaking is based to Glen Forman at the above address.

AVAILABILITY OF INITIAL STATEMENT  
OF REASONS AND TEXT OF PROPOSED  
REGULATIONS/INTERNET ACCESS

The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 1515 Clay Street, Suite 1902, Oakland CA, 94612. Rulemaking records may be accessed through the agency's Internet website at [www.dir.ca.gov/das/rulemaking/cac\\_rulemaking\\_proposed.html](http://www.dir.ca.gov/das/rulemaking/cac_rulemaking_proposed.html). As of the date of this notice, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, and the information upon which the rulemaking is based. Copies may be obtained by contacting Glen Forman at the address or phone number listed above.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Council may adopt the proposed regulation substantially as described in this notice. If the Council 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 Council adopts the regulations as revised. Any such modifications will also be posted on the Council's website at [www.dir.ca.gov/das/rulemaking/cac\\_rulemaking\\_proposed.html](http://www.dir.ca.gov/das/rulemaking/cac_rulemaking_proposed.html).

Please send requests for copies of any modified regulations to the attention of the contact person(s) identified above. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from Glen Forman at the above address, or may be accessed on the website identified above.

**TITLE 15. DEPARTMENT  
OF CORRECTIONS AND  
REHABILITATION**

AUTHORITY AND REFERENCE

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or department), proposes to amend Sections 3173.2, 3174, and 3176 in Title 15, Division 3, Chapter 1, regarding Visiting.

**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.

PUBLIC COMMENT PERIOD

The public comment period begins **June 23, 2023** and closes on **August 9, 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](mailto: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.

**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.

CONTACT PERSONS

**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.

*Primary Contact*

S. Pollock  
Telephone: (916) 445-2308  
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*

Justin Penney  
Telephone: (916) 323-4219  
Division of Adult Institutions  
P.O. Box 942883  
Sacramento, CA 94283-0001

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

The proposed revisions will clarify that the reason for any clothed or unclothed body search shall be documented on the CDCR Form 888, Notice of Request for Search, to exclude any confidential information. Additionally, the CDCR Form 888 will provide new language regarding a visitor's right to refuse to be searched and forgo visiting for the day. These revisions will help to ensure transparency regarding the visitor search process, and provide for visitors' rights to a fair and honest process. Revisions also add language to specify that an unclothed body search consists of a visual inspection of a person's body and body cavities. This revision will help to provide a clear understanding to visitors of what an unclothed body search consists of, and will help to prevent the introduction of contraband into institutions and facilities. Further, verbiage updates will provide clarity, and consistency with current language and terminology that is used.

PUBLIC HEARING

Date and Time: **August 9, 2023  
10:00 a.m. to 11:00 a.m.**  
Place: Department of Corrections and Rehabilitation  
Conference Room 150  
1515 S Street — North Building  
Sacramento, CA 95811

**This action will:**

- Revise the CDCR Form 888, Notice of Request for Search, to include documenting the specific reasons for the search, along with comments; adding new language regarding a visitor’s right to refuse to be searched and forego their visit for the day; and adding clarifying information to define the unclothed body search process.
- Add language to the regulatory text specifying that the CDCR Form 888 shall include all information regarding the reason(s) for the search excluding any confidential information.
- Specify that an unclothed body search involves a visual inspection of a person’s body and body cavities.
- Clarify language regarding acceptable clothing or accessories of visitors.
- Update language from “probable cause” to “reasonable suspicion.”
- Update the CDCR Form 887–B, Notice of Visitor Warning/Termination/Suspension/Denial/Revocation, to make minor revisions such as updating the acronym from “CDC” to “CDCR,” and updating a reference within the form.

DOCUMENTS INCORPORATED  
BY REFERENCE

CDCR Form 888 (Rev. 03/23), Notice of Request for Search.

CDCR Form 887–B (Rev. 02/23), Notice of Visitor Warning/Termination/Suspension/Denial/Revocation.

SPECIFIC BENEFITS ANTICIPATED BY  
THE PROPOSED REGULATIONS

The department anticipates the proposed regulatory amendment will benefit the public by ensuring that visitors understand the reason for a search, and that they have the right to refuse the search and forgo the visit for the day, or stop the search at any time and forgo the visit for the day. The revisions will ensure transparency, fairness, honesty, and due process for visitors. Additionally, safety and security within CDCR institutions/facilities will be enhanced by proper inspection and searching of visitors to remove the threat of any introduction of contraband into institutions/facilities.

EVALUATION OF INCONSISTENCY/  
INCOMPATIBILITY WITH EXISTING  
LAWS AND REGULATIONS

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

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 business 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 the state's environment. These regulations may benefit worker safety, and the welfare of CDCR staff and inmates by helping to make CDCR institutions safer. 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](http://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**

**ZERO NET CARBON DESIGN  
CONTINUING EDUCATION  
FOR ARCHITECTS**

**NOTICE IS HEREBY GIVEN** that the California Architects Board (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

**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 representative, 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.

**WRITTEN COMMENT PERIOD**

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail 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, August 8, 2023**, or must be received by the Board at the hearing, should one be scheduled.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 5556 and to implement, interpret or make specific BPC section 5600.05 (a)(2)(B), the Board is considering adopting section 166 in article 10 of division 2 of title 16 of the California Code of Regulations<sup>1</sup> (CCR).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

*Assembly Bill (AB) 1010 (Chapter 176, Statutes of 2021)* added BPC section 5600.05 subsection (a), paragraph (2), subparagraph (B), which requires architects to complete five hours of continuing education (CE) coursework on zero net carbon design (ZNCD). The statute requires the Board to develop regulations to implement a requirement for architects to complete five hours of coursework regarding ZNCD as a condition of license renewals occurring on or after January 1, 2023. The statute requires the Board to promulgate regulations to establish qualifications for courses and course providers by July 1, 2024.

The Board currently does not have any regulation regarding ZNCD CE courses and course providers as required by BPC section 5600.05 (a)(2)(B).

This regulatory proposal will establish within CCR section 166 the following subsections:

- Subsection (a) provides definitions of the terms used in the proposed regulation.

Subsection (a), paragraph (1) would define “trainers or educators with knowledge and expertise in zero net carbon design” as a person with a minimum of three projects within the last ten years in the designing of carbon neutral architecture and who meets one of the three additional requirements of subsection (f).

Subsection (a), paragraph (2) would define “zero net carbon design requirement” to mean architectural designs including resilient designs of new construction and/or existing facilities that produce onsite, or equitably procures from offsite, enough carbon-free renewable energy to meet the building’s operations energy consumption over the building project’s lifecycle. This also includes architectural design responsive to embodied carbon reduction and resilient performance of a facility that results in reduced embodied carbon or minimized carbon.

Subsection (a)(2)(A) would define resilient performance as the capacity of a system, for example: a community, society, or ecosystem, to withstand physical calamities and continue to function. Resilient building design as described in this subparagraph fosters resilient performance.

Subsection (a)(2)(B) would define “equitably procures from offsite” as referring to consideration of environmental justice goals.

- Subsection (b) clarifies the number of CE hours required as well as the two-year period during which the mandated five hours of ZNCD CE must be completed. Subsection (b) also clarifies that when a licensee is renewing on a delinquent basis, the mandated ZNCD CE completion must have occurred during the 24 months immediately preceding their delinquent renewal. This further clarifies that a licensee cannot use completion of the same ZNCD CE coursework to fulfill the ZNCD CE requirement for multiple renewal periods. Subsection (b) clarifies that credit towards the ZNCD CE requirements will not qualify if a licensee is unable to maintain, and upon request of the Board make available, a certificate of completion, records, or other evidence showing completion of the ZNCD CE requirement, and that the completed coursework meets the criteria specified in the proposed regulation.
- Subsection (c) clarifies that course materials must be pertinent to architecture and ZNCD. Subsection (c) also clarifies which course topics will fulfill the ZNCD CE requirement by setting out a list of acceptable ZNCD CE course topics.
- Subsection (d) establishes minimum quality standards that ZNCD CE courses must meet by requiring the educational objective(s) of the course be in subject matters identified in subsection (c), the material logically organized and presented, and the material be presented by qualified educators or trainers who meet the qualifications in subsection (f).
- Subsection (e) establishes the two conditions under which a certificate of completion is provided. A certificate of completion is provided (1) for completing an in-person or live webinar course or (2) for completing a recorded webinar course and passing a test demonstrating proficiency in the ZNCD CE coursework with a minimum cumulative score of at least 70%.
- Subsection (f) establishes a trainer or educator’s minimum qualifications for knowledge and expertise required to teach ZNCD CE coursework.
- Subsection (g) clarifies that a licensee cannot fulfill their ZNCD CE requirement through self-teaching, self-directed activities, or by teach-

<sup>1</sup> All CCR references are to title 16 unless otherwise noted.

ing, instructing, or presenting a course on ZNCD requirements.

- Subsection (h) specifies course providers must maintain for three years course completion records that include the information specified in BPC section 5600.05(b).
- Subsection (i) requires, within ten business days of the completion of the course, that course providers issue to a licensee who completed an in-person or live webinar course, or who took a recorded course and passed a post-course test with a minimum score of at least 70%, a certificate of completion that includes the information specified in BPC section 5600.05(b). This subsection helps to ensure that ZNCD CE providers and licensees will be able to provide the completion documentation that the Board will require during ZNCD CE audits.
- Subsection (j) requires course providers to issue, within ten business days of receiving a request from a licensee who is subject to a CE audit, copies of coursework documentation described in subsection (h). This subsection also makes clear that obtaining such records and providing them to the Board is the responsibility of the licensee who is the subject of a ZNCD CE audit and places an affirmative duty on licensees to cooperate and take all steps needed to obtain required information, by providing any authorization or consent needed to release records.
- Subsection (k) requires non-compliant licensees to complete both the CE prescribed for the prior renewal period as well as the CE prescribed for the current renewal period, and to provide proof to the Board that the deficiency has been remedied before the end of the current renewal period.

**Anticipated Benefits of Proposal:**

The anticipated benefits of this regulation are healthier buildings with reduced zero carbon emissions for the public. This regulation aligns with Governor Newsom’s climate change policy goal relating to clean and healthy buildings — *a goal of 3 million climate-ready and climate-friendly homes by 2030 and 7 million by 2035, supplemented by 6 million heat pumps by 2030, and directing 50 percent of investments to low-income and disadvantaged communities.* Requiring architects to learn about ZNCD in architecture and to keep their knowledge current will contribute to the creation of clean and healthy buildings and therefore healthier people.

Architects will benefit from this regulation by regularly updating their knowledge of ZNCD in architecture. For architects licensed in multiple states, this can be an enhanced benefit as California is leading the nation in this area of architecture and climate action.

This regulatory proposal benefits the state’s environment because it will lead to reduction in the release of greenhouse gases, specifically carbon, into the environment.

This regulatory proposal does affect the health and welfare of California residents because it will lead to healthier buildings with reduced carbon emissions for the public. Requiring architects to learn about ZNCD in architecture and to keep their knowledge current will contribute to the creation of clean and healthy buildings and therefore healthier people. This regulatory proposal does not affect worker safety because it does not involve worker safety. This regulatory proposal does affect the state’s environment because it will lead to reduction in greenhouse gases, specifically carbon, into the environment.

The regulation promotes fairness by both including in the definition of “zero net carbon design requirement” in subsection (a)(2) and the term “equitably procures” in describing procuring offsite carbon-free renewal energy, and by allowing courses on environmental justice in subsection (c). Minority communities are exposed to disproportionate concentrations of environmental toxicities that are often the result of building design, location of industry, materials used, and other factors that are impacted by architects. Environmental justice goals seek to treat all people and communities fairly and to ameliorate these disproportionate conditions. The US Environmental Protection Agency (EPA) defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies and fair treatment as no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies. Applying the EPA’s definition of environmental justice to the ZNCD CE regulation means that during the lifecycle of the building, from extraction to recycling or disposal of materials, all people and communities should be treated fairly, and no one should bear a disproportionate share of toxins or other polluting byproducts in the quest for ZNCD building design.

**Evaluation of 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.

DISCLOSURES REGARDING THIS  
PROPOSED ACTION

FISCAL IMPACT ESTIMATES

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State:** The regulations do not result in a fiscal impact to the state. The Board does not anticipate additional workload or costs resulting from the proposed regulations.

The regulations do not result in costs or savings in federal funding to the state.

**Nondiscretionary Costs/Savings to Local Agencies:** None.

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

**Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard):** None.

BUSINESS IMPACT ESTIMATES

The Board has made an initial determination that the adoption of this regulation may not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following.

The following reporting, recordkeeping, or other compliance requirements are projected to result from the proposed action:

- (A) ZNCD CE course providers are required to keep proof of course completion, including course completion records and other records of completion that contain information specified in BPC section 5600.05 for at least three years from the date of course completion.
- (B) CE providers are required to issue a certificate of completion to each ZNCD CE course participant who successfully completes the course within ten days from the completion of the course.
- (C) Upon written request by a licensee who is subject of a ZNCD CE audit, the provider must provide a copy of the requested records within ten days of the date of the request.
- (D) If selected for audit by the Board, a licensee is responsible to obtain provider records requested by the Board and to make them available to the Board.

The Board has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence that supports this determination.

**Cost Impact on Representative Private Person or Business**

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

Any costs to comply with the five–units of ZNCD coursework are a result of current law.

The Board notes the regulations do not increase or decrease the total number of CE hours required for license renewal. As a result, no economic impact is being reported.

RESULTS OF ECONOMIC  
IMPACT ASSESSMENT

The Board has determined that this regulatory proposal will not impact the creation of jobs, new businesses, or existing businesses or the expansion of business in the State of California.

This regulatory proposal will have the following effects:

It will not create jobs within the State of California because it is anticipated that existing CE providers will expand to offer additional courses to meet the ZNCD CE requirements. It will not eliminate jobs within the State of California.

It will not create new businesses nor affect the expansion of businesses currently doing business within the State of California because existing CE providers may offer additional courses to meet the ZNCD CE requirements.

The Board does not maintain data on the number of businesses and is unable to determine the number of jobs, new businesses, and expansion of businesses that will be impacted.

**Benefits of Regulation**

This regulatory proposal does affect the health and welfare of California residents because it will lead to healthier buildings with reduced carbon emissions for the public. Requiring architects to learn about zero net carbon design in architecture and to keep their knowledge current will contribute to the creation of clean and healthy buildings and therefore healthier people.

This regulatory proposal does not affect worker safety because it does not involve worker safety. This regulatory proposal does affect the state’s environment because it will lead to reduction in greenhouse gases, specifically carbon, into the environment.

**Business Reporting Requirements**

This regulatory action does not require businesses to file a report with the Board.

**Effect of Small Businesses**

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted, any costs of compliance is a result of current law.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subsection (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would 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.

Any interested person may submit written comments relevant to the above determinations at the 2420 Del Paso Road, Suite 105, Sacramento, California 95834 during the written comment period, or at the hearing if one is scheduled or requested.

**AVAILABILITY OF STATEMENT OF REASONS AD RULEMAKING FILE**

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2420 Del Paso Road, Suite 105, Sacramento, California 95834.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments, 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

**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 PERSONS**

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

Name: Jane Kreidler  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone Number: (916) 471-0772  
E-Mail Address: [jane.kreidler@dca.ca.gov](mailto:jane.kreidler@dca.ca.gov)

The backup contact person is:

Name: Laura Zuniga  
Address: 2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
Telephone Number: (916) 471-0760  
E-Mail Address: [laura.zuniga@dca.ca.gov](mailto:laura.zuniga@dca.ca.gov)

AVAILABILITY OF DOCUMENT  
ON THE INTERNET

Materials regarding this proposal can be found at <https://www.cab.ca.gov/news/laws/proposed-regulation.shtml>.

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at <https://www.cab.ca.gov/news/laws/proposed-regulation.shtml>

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND  
WILDLIFE**

HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653-2023-111-001-R1

**Project:** Sugar Creek Coho Refugia Project:  
Phase 1 and 2  
**Location:** Sugar Creek, Siskiyou, California  
**Applicant:** Betsy Stapleton  
**Notifier:** Scott River Watershed Council

**Background**

*Project Location:* The project is located within the “Yuba Dredge Tailings” reach within the historic Scott River floodplain. The project area is immediately upstream of the confluence of Sugar Creek and the Scott River, and downstream (north-east) of the Sugar Creek State Highway 3 Bridge, in Siskiyou County, CA. Coordinates of the Project are 41.33905° N, 122.82424° W.

*Project Description:* This Project will construct one acre of new floodplain and pool habitat with multiple connection points to Sugar Creek, construct a passage channel from the newly constructed habitat to existing but currently isolated high-quality cold-water pond habitat, and construct a bridge over the newly constructed channel to allow landowner and right-of-way access. The project will incorporate 28 large wood features throughout the site to provide immediate habitat benefits of cover and shade, help build and establish soil, and improve conditions for vegetation growth. Soil amendments will also be imported and utilized to create a better planting environment for native vegetation. Brush and “nurse” logs will be bur-

ied in trenches to create pockets of organic material, thereby helping to accelerate deeper soil generation, increase the water retention in and around the trench, and to help support the establishment of vegetation in the project area.

Adaptive management activities, such as the addition of more habitat features, removal of sediment at the stream connection points, additional riparian vegetation planting, and more, may be required following phase 1 and phase 2 implementation. For the duration of the NOA, the Applicant may submit annual work plans requesting authorization to conduct approved adaptive management actions. Regional Water Board and California Department of Fish and Wildlife (CDFW) staff will review the annual work plans with 30 days of receipt and then approve, deny, or request modification to the plan in writing.

It is anticipated that both phases 1 and 2 will be completed in a single work season. Currently, Phase 3 is not yet funded. Once funding has been received and landowner access is granted, permitting for this phase will be requested as a new project (see below for size limit qualification).

*Project Size:* The total project area for Phase 1 and 2 is approximately 2.6 acres and 200 linear feet. Cumulatively, all phases (1-3) will not exceed five acres or 500 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Impacts to jurisdictional resources: 2.6 acres, 200 linear feet of streambed, bank, and/or channel.

*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 the placement of the following: approximately 1,064 cubic yards of soil amendments, 230 cubic yards of planting material, 20 nurse logs, 90 logs (both with and without rootwads), 189 cubic yards of boulders, 652 cubic yards of cobbles, and 155 cubic yards of fine sand-gravel will be discharged to Waters of the State.

*Project Timeframes:* Start date: June 1, 2023

Completion date: May 8, 2028

Seasonal work window:

*Instream work* — September 1 to October 31

*Out-of-stream work* — August 15 to February 15 (with preconstruction surveys — as outlined in Avoidance and Minimization Measures)

Number of workdays: Not stated

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California,

the Central Valley Regional Water Quality Control Board (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 1A23056WNSI for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided supplemental documents that set forth measures to avoid and minimize impacts to fish and wildlife.

*Receiving Waters:* Sugar Creek, a tributary to the Scott River.

*Filled or Excavated Areas:* A large amount of the stated project impact area is due to excavation to create the new pond and associated floodplain habitat. Specific calculations were not provided beyond 2.6 acres and 200 linear feet.

*Discharge volume:* Approximately 1,064 cubic yards of soil amendments, 230 cubic yards of planting material, 20 nurse logs, 90 logs (both with and without rootwads), 189 cubic yards of boulders, 652 cubic yards of cobbles, and 155 cubic yards of fine sand-gravel will be discharged throughout Phases 1 and 2.

*Project location:* The project area is immediately upstream of the confluence of Sugar Creek and the Scott River, and downstream (north-east) of the Sugar Creek State Highway 3 Bridge, in Siskiyou County, CA. Coordinates of the Project are 41.33905° North, 122.82424° West.

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On 5/8/2023, 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 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on May 8, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0508-02) on May 19, 2023. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

**Determination**

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set

forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

**Avoidance and Minimization Measures**

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included as a component of the NOI. The specific avoidance and minimization measures as well as water quality protection measures are found in the addendum titled: *SRNOIProject DescriptionFinal.pdf — Best Management Practices and Resource Protection Measures* (beginning on page 17) of the addendum.

**Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a description of the monitoring and evaluation objectives for the project, as well as a reporting outline for the data generated. The specific monitoring and reporting details are found in the addendum titled: *SRNOIProject DescriptionFinal.pdf — Monitoring Plan and Reporting* (beginning on page 16) of the addendum.

**Notice of Completion**

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Applicant shall include the project name and WDID number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: [RIHABCONRedding@wildlife.ca.gov](mailto:RIHABCONRedding@wildlife.ca.gov).

**Project Authorization**

Pursuant to Fish and Game Code section 1654, CDFW’s approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subdivision (c).)

**DEPARTMENT OF FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
SMITH RIVER ESTUARY BACKWATER  
HABITAT ENHANCEMENT PROJECT  
2080R-2023-009-01  
DEL NORTE COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on June 6, 2023, that the Smith River Alliance proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves improving off-channel, slow water, winter rearing habitat for juvenile salmonids, and providing high-flow refugia for adult salmonids in the Smith River estuary. Proposed activities will include, but are not limited to, widening and deepening off-channel habitat, installing engineered and non-engineered log jams, installing willow baffles, planting native plants, installing riparian fencing, and removing sediment from the backwater. The proposed project will occur in the Smith River Estuary.

The National Marine Fisheries Service a federal programmatic biological opinion (PBO)(Service Reference Number WCRO-2021-02830) in a memorandum to the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC) and the U.S. Army Corps of Engineers on March 31, 2022, which considered the effects of the eligible restoration projects on multiple federally listed species. On April 24, 2023, the Smith River Alliance applied to NOAA

RC for inclusion of the proposed project under the PBO for state and federally threatened Southern Oregon Northern California Coast coho salmon (*Oncorhynchus kisutch*).

Pursuant to California Fish and Game Code section 2080.1, the Smith River Alliance is requesting a determination that the Incidental Take Statement (ITS) and its associated PBO are consistent with CESA for purposes of the proposed project. If CDFW determines the ITS and associated PBO are consistent with CESA for the proposed project, the Smith River Alliance will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
FIRST SLOUGH FISH PASSAGE,  
FLOODPLAIN RESTORATION, AND  
COASTAL HABITAT  
CONNECTIVITY PROJECT  
2080R-2023-010-01  
HUMBOLDT COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on June 7, 2023, that the City of Eureka proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves removing three fish passage barriers on First Slough, tributary to Eureka Slough, in the City of Eureka, Humboldt County.

The National Marine Fisheries Service a federal programmatic biological opinion (PBO)(Service Reference Number WCRO-2021-02830) in a memorandum to the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC) and the U.S. Army Corps of Engineers on March 31, 2022, which considered the effects of the eligible restoration projects on multiple federally listed species. On February 6, 2023, the City of Eureka applied to NOAA RC for inclusion of the proposed project under the PBO for state and federally threatened Southern Oregon Northern California Coast coho salmon (*Oncorhynchus kisutch*), state and federally endangered Central California Coast coho salmon (*O. kisutch*), and federally threatened Northern California steelhead (*O. mykiss irideus*) of which the summer-run ecotype is state endangered. On February 13, 2023, NOAA RC

determined that the proposed project fits within the scope of the PBO.

Pursuant to California Fish and Game Code section 2080.1, the City of Eureka is requesting a determination that the Incidental Take Statement (ITS) and its associated BO are consistent with CESA for purposes of the proposed project. If CDFW determines the ITS and associated BO are consistent with CESA for the proposed project, the City of Eureka will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**SUMMARY OF  
REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE  
SECRETARY OF STATE**

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

State Allocation Board  
File # 2023-0503-01  
Leroy F. Greene School Facilities Act of 1998; Direct Apportionments

In this certificate of compliance, the Department makes permanent its emergency regulations, which shortened the direct Apportionment process to make it align with the priority funding process and amended the Grant Agreement to align to the direct Apportionment process.

Title 02  
Amend: 1859.2, 1859.90, 1859.90.2  
Filed 06/13/2023  
Effective 06/13/2023  
Agency Contact: Lisa Jones (279) 946-8459

California Library Services Board  
File # 2023-0525-01  
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 02  
Amend: 34000  
Filed 06/07/2023  
Effective 07/07/2023  
Agency Contact: Scott Taylor (916) 603-7205

Department of Public Health  
File # 2023-0428-02  
Industrial Hemp Fees

This action by the Department of Public Health makes permanent emergency regulations that establish registration requirements and fees for industrial hemp manufacturers. Pursuant to Health and Safety Code section 110065, subdivision (c), this action is exempt from OAL review and is submitted to OAL for filing with the Secretary of State and for printing in the California Code of Regulations.

Title 17  
Adopt: 23200, 23205, 23210, 23215, 23220, 23225, 23230, 23235  
Filed 06/12/2023  
Effective 06/12/2023  
Agency Contact: David Martin (916) 440-7673

Department of Resources Recycling and Recovery  
File # 2023-0518-02  
Covered Electronic Waste Recovery and Recycling Payment Rates

This action by the Department of Resources, Recycling and Recovery (CalRecycle) amends the payment rates for recovering and recycling covered electronic waste and is submitted to OAL for filing and printing only as exempt from the Administrative Procedure Act pursuant to the exemption for regulations that establish or fix rates (Government Code section 11340.9(g)).

Title 14  
Amend: 18660.24, 18660.25, 18660.33, 18660.34  
Filed 06/07/2023  
Effective 07/01/2023  
Agency Contact: Kris Chisholm (916) 322-2404

Office of Environmental Health Hazard Assessment  
File # 2023-0425-01  
Chemicals Known to the State to Cause Cancer or Reproductive Toxicity

This file and print action updates the list of chemicals known to the state to cause cancer or reproductive toxicity to include 1-Bromo-3-chloropropane, 1-Butyl glycidyl ether, Glycidyl methacrylate, Leucoma lachite green, and 1,1,1-Trichloroethane as chemicals known to the state to cause cancer. This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 25249.8.



Title 27  
 Amend: 27001  
 Filed 06/07/2023  
 Effective 04/21/2023  
 Agency Contact: Kiana Vaghefi (279) 216-0002

California Health Facilities Financing Authority  
 File # 2023-0516-01  
 Investment in Mental Health Wellness Grant  
 Program — Children and Youth/Community  
 Service Infrastructure Program

This action without regulatory effect amends two incorporated-by-reference forms to: remove a duplicate word; correct an erroneous cross-reference without any material effect, and to correct the numbering of the Parts of the forms to no longer skip Roman numerals.

Title 04  
 Amend: 7328, 7428  
 Filed 06/14/2023  
 Agency Contact: Bianca Smith (916) 653-2408

Fish and Game Commission  
 File # 2023-0426-01  
 Permits for Special Use of Department Lands

This action by the Fish and Game Commission makes changes without regulatory effect by amending permit fees for Permit Applications for Special Use of Department Lands pursuant to Fish and Game Code section 713 and title 14, section 699.

Title 14  
 Amend: 702  
 Filed 06/08/2023  
 Agency Contact: Maurene Trotter (916) 902-9281

Cannabis Control Appeals Panel  
 File # 2023-0515-01  
 Amendment to Improve Due Process by Instituting  
 Automatic Stay

This regular rulemaking action by the Cannabis Control Appeals Panel (“CCAP”) amends existing stay provisions for appeals before the CCAP. Specifically, upon the filing of an appeal, the effect(s) of an adverse administrative decision on a licensee are automatically stayed until a final order is made by the CCAP; the Department of Cannabis Control (“DCC”) can also move to vacate such a stay where the stay presents an immediate danger to the health, safety, or welfare of the public.

Title 16  
 Amend: 6014  
 Filed 06/13/2023  
 Effective 10/01/2023  
 Agency Contact:  
 Christopher Phillips (916) 322-6874

Commission on Peace Officer Standards and Training  
 File # 2023-0427-03  
 Amendments to Peace Officer Selection Standards

This action by the Commission on Peace Officer Standards and Training (POST) mandates a specific format for the background investigation narrative report and incorporates by reference a medical suitability declaration form (POST 2-363) and a psychological suitability declaration form (POST 2-364).

Title 11  
 Amend: 1953, 1954, 1955  
 Filed 06/08/2023  
 Effective 10/01/2023  
 Agency Contact: Melani Singley (916) 227-4258

Department of Corrections and Rehabilitation  
 File # 2023-0601-01  
 Elderly Parole Eligible Date

This rulemaking action by the Department of Corrections and Rehabilitation adopts requirements for elderly parole eligible date determinations and grievance procedure for inmates.

Title 15  
 Adopt: 3499, 3499.1, 3499.2  
 Filed 06/13/2023  
 Effective 10/01/2023  
 Agency Contact:  
 Dmitriy Kostyuk (916) 445-2276

**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](http://oal.ca.gov).

