



# 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. FAIR POLITICAL PRACTICES COMMISSION

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

#### CONFLICT-OF-INTEREST CODES

##### AMENDMENT

MULTI-COUNTY: Alameda Contra Costa Transit District  
Gateway Community Charters  
Golden State Finance Authority  
Rural Counties' Environmental Services' JPA  
Truckee Sanitary District  
STATE AGENCY: California Health Benefit Exchange  
California State Lottery

##### ADOPTION

MULTI-COUNTY: California Community Choice Financing Authority  
Golden State Connect Authority  
Rural County Representatives of California

A written comment period has been established commencing on August 18, 2023 and closing on October 2, 2023. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest codes will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days pri-

or to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed codes will be submitted to the Commission for review.

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest codes. Any written comments must be received no later than October 2, 2023. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act

and amend their codes when change is necessitated by changed circumstances.

#### **CONTACT**

Any inquiries concerning the proposed conflict-of-interest codes should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 323-9103.

#### **AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 323-9103.

### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

#### **DIVISION 4. PLANT INDUSTRY CHAPTER 1. CHEMISTRY SUBCHAPTER 1. FERTILIZING MATERIALS ARTICLE 1. STANDARDS AND LABELING ARTICLE 4. REGISTRATION ARTICLE 6. ADMINISTRATIVE PENALTIES**

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to adopt or make changes to the California Code of Regulations (CCR), Title 3, Division 4, Chapter 1, Subchapter 1, Articles 1, 4, and 6, Sections 2300, 2300.1, 2302, 2303, 2311, 2320.1, 2320.2, 2322.2, and 2322.3.

#### **PUBLIC HEARING**

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

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant

to the proposed regulatory action to the Department by mail, fax, or email. The written comment period closes on October 3, 2023. The Department will only consider comments received by that time.

Submit comments to:

Brittnie Williams, Associate Governmental  
Program Analyst  
California Department of Food and Agriculture  
Feed, Fertilizer, and Livestock Drugs Regulatory  
Services Branch  
P.O. Box 942872  
Sacramento, CA 94271-2872  
(916) 900-5022  
[brittnie.williams@cdfa.ca.gov](mailto:brittnie.williams@cdfa.ca.gov)

Following the written comment period or public hearing, if one is requested, the Department, at its own motion or at the request of any interested person, may adopt the proposal substantially as set forth without further notice.

#### **AUTHORITY AND REFERENCE**

Notice is hereby given that the California Department of Food and Agriculture, pursuant to the authority vested by sections 407, 14502, 14601, 14604 14631, 14643, 14651, 14651.5, and 14682 of the Food and Agricultural Code (FAC) and Section 11400.20 of the Government Code, proposes to make changes to Title 3, Division 4, Chapter 1 of the CCR to implement, interpret, or make specific FAC Sections 14501, 14502, 14550.5, 14601, 14631, 14641, 14642, 14643, 14653, 14655, 14681, and 14682, as well as Sections 6254.7, 11501, 11502, 11503, 11425.50, and 11445.10 of the Government Code.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department's Fertilizing Materials Inspection Program (FMIP) is statutorily tasked with licensing, product label registration, and field inspection of fertilizing materials in the State of California. The FMIP is responsible for reviewing and registering product labels, and ensuring fertilizing materials are safe, effective, and meet the nutrients guaranteed by the manufacturer. Producers of specialty fertilizers, packaged agricultural minerals, auxiliary soil and plant substances, packaged soil amendments, and organic input materials are statutorily mandated to register fertilizing materials with the FMIP.

These rulemaking actions provide greater transparency and clarity for fertilizing materials labeling, enhances consumer protections, better explains product registration requirements, and provides additional flexibility with administrative hearings. It will also

provide the FMIP with improved mechanisms for firms that failed to resolve administrative penalties.

The proposed amendment to Section 2300(c) improves transparency by publishing laboratory analysis methods. It also creates greater flexibility by recognizing additional validated laboratory methods in addition to those already utilized by the Association of Official Analytical Chemists (AOAC).

The proposed amendment to Section 2300(g)(1) provides additional flexibility to fertilizing material manufacturers and product guarantors by permitting a two-color “Registered Organic Input Material” logo on product labels, in addition to the existing four-color and one-color logo options.

The proposed adoption of Section 2300.1(m) provides clarity and consensus by adopting a universal definition of “protein hydrolysate,” a common ingredient in liquid fertilizing materials. This definition has been officially recognized within the 2023 Official Publication of the Association of American Plant Food Control Officials, which most states and Canada utilize to create uniform fertilizer regulations.

The proposed amendment within Sections 2302(a)(1) and (2) provides clarity for non-nutritive metals by demonstrating that the standards are based upon the value provided on a label within a product’s guaranteed analysis for iron, manganese, zinc, and available phosphate.

The proposed amendment for Section 2303(d)(1) better explains that organic input materials are exempt from bulk commercial fertilizer and bulk agricultural mineral label guarantor requirements. Organic input materials require product registration, while bulk commercial fertilizers and bulk agricultural minerals do not.

The proposed adoption of Sections 2303(x) and (y) provide clarity and consensus by recognizing when amino acid or amino acid complexing label claims may be applied. These subsections also recognize the adoption of the “protein hydrolysate” definition within Section 2300.1(m) to ensure uniformity and consistency that certain amino acid claims can be made when protein hydrolysate is used as an ingredient.

The proposed amendment to Section 2311(b)(1) provides additional clarity that water insoluble nitrogen products are not limited to the existing examples provided within the section.

The proposed adoption of Section 2320.1(d) provides clear specificity as to what types of revisions on registered labels require a registration update request and what elements are required for re-review by FMIP.

The proposed amendments and adoptions within Section 2320.2(b) eliminate the need to identify a specific, outdated version of a physical, hard copy Organic Input Material Fertilizing Materials Registration Application (513–026 Rev.07/13) and replaces

it by more clearly identifying all of the registration application elements that FMIP requires. Since fertilizer firms submit registration application information through either an online database or a physical form, the amendments to this section transparently communicate all requirements regardless of the format that the information is submitted. None of the requested information or documentation in the proposed text is novel as it represents fields within the existing physical application and online database application.

The proposed adoptions and amendments to Sections 2322.2(c) is to provide flexibility by having the CDFA legal office determine the location of an informal hearing and to provide the additional option to hold hearings virtually through Internet video conferencing.

The proposed adoption of Section 2322.3(g)(1) provides clarification as to when administrative penalty payments would be due after a written hearing decision is rendered in favor of the Department.

#### *Anticipated Benefits of the Proposed Regulations:*

The Department anticipates the proposed regulatory changes will provide improved clarity and uniformity with fertilizing materials labeling requirements and fertilizing materials product registration, provide increased flexibility for administrative penalty hearings, and provides needed guidance on the failure to remit administrative penalties. Further, these changes will provide benefits to growers and consumers through greater transparency with fertilizer labeling, improved disclosures for the end user, and enhanced consumer protections. Through greater transparent labeling, enhanced consumer protections, and clarity of non-nutritive standards, these proposed regulatory changes may also positively affect the health and welfare of California residents, worker safety, and the state’s environment.

#### *Determination of Inconsistency/Incompatibility with Existing Regulations:*

The Department evaluated the proposed regulations and made several determinations required by Government Code Section 11346.5(a)(3)(A) to 11346.5(a)(3)(D). The Department determined that there are no existing state laws or regulations related directly to the proposed action and the effect of the proposed action; the proposed regulations are not inconsistent or incompatible with existing state regulations.

### PLAIN ENGLISH REQUIREMENT

The Department prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regula-

tions are written to be easily understood by the individuals that will use them.

### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate of local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

Cost impacts on a representative private person or business: 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 effect on housing costs: None.

### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department has initially determined that the proposed regulatory action will not have an economic or fiscal impact to the fertilizer industry but will provide benefits to growers and consumers through greater transparency and clarity for fertilizing materials labeling. These proposed regulations will not:

- (1) Create or eliminate jobs within California
- (2) Create new businesses or eliminate existing businesses within the State of California
- (3) Affect the expansion of businesses currently doing business within the State of California

#### *Anticipated Benefits:*

The Department anticipates the proposed regulatory changes will provide improved clarity and uniformity with fertilizing materials labeling requirements and fertilizing materials product registration, provide increased flexibility for administrative penalty hearings, and provides needed guidance on the failure to remit administrative penalties. Further, these changes will provide benefits to growers and consumers through greater transparency with fertilizer labeling, improved

disclosures for the end user, and enhanced consumer protections. Through greater transparent labeling, enhanced consumer protections, and clarity of non-nutritive standards, these proposed regulatory changes may also positively affect the health and welfare of California residents, worker safety, and the state's environment.

### SMALL BUSINESS DETERMINATION

The Department has determined that the proposed regulations may affect small businesses, but will not have an economic impact on those businesses. The proposed actions do not involve any area that would increase fees or result in any increased costs to these businesses. Administrative penalties do not financially impact any firm compliant with the laws and regulations.

### CONSIDERATION OF ALTERNATIVES

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

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

### CONTACT PERSONS

Written comments and inquiries concerning the substance of the proposed regulation should be directed to:

Nick Young, Environmental Program Manager I  
California Department of Food and Agriculture  
Fertilizing Materials Inspection Program  
P.O. Box 942872  
Sacramento, CA 94271-2872  
[nick.young@cdfa.ca.gov](mailto:nick.young@cdfa.ca.gov)

Written comments and inquiries about the initial statement of reasons, proposed actions, or location of the rulemaking files; or a request for a public hearing should be directed to:



Brittnie Williams, Associate Governmental  
Program Analyst  
California Department of Food and Agriculture  
Feed, Fertilizer, and Livestock Drugs Regulatory  
Services Branch  
P.O. Box 942872  
Sacramento, CA 94271-2872  
(916) 900-5022  
[brittnie.williams@cdfa.ca.gov](mailto:brittnie.williams@cdfa.ca.gov)

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

The Department will have the entire rulemaking file available for inspection throughout the rulemaking process. A copy of this Notice, the Proposed Regulation Text, and the Initial Statement of Reasons may be obtained by contacting Brittnie Williams at the information provided in the “Contact Persons” section.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, and Proposed Regulation Text in underline and strikethrough can be accessed through the Department’s website at <http://www.cdfa.ca.gov/is/regulations.html>.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received during the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which differ, but 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 prior to amendment. Please send requests for copies of any modified regulations to the attention of Brittnie Williams at the information provided in the “Contact Persons” section. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Brittnie Williams at the information provided in the “Contact Persons” section.

## TITLE 14. DEPARTMENT OF CONSERVATION

### COST ESTIMATE REGULATIONS FOR OIL AND GAS OPERATIONS

#### DIVISION 2, CHAPTER 4. DEVELOPMENT, REGULATION, AND CONSERVATION OF OIL AND GAS RESOURCES

**NOTICE IS HEREBY GIVEN** that the California Department of Conservation (Department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### WRITTEN COMMENT PERIOD AND PUBLIC COMMENT HEARING

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the Department.

Comments may be submitted by email to:

[CalGEMCostEstimates@conservation.ca.gov](mailto:CalGEMCostEstimates@conservation.ca.gov)

or by mail to:

Department of Conservation  
715 P Street, MS 1907  
Sacramento, CA 95814  
Attention: Cost Estimate Regulations

**The written comment period closes at 12 midnight on October 4, 2023.** The Department will only consider comments received at the Department’s offices by that time.

#### **Public Hearing**

Any interested person, or his or her authorized representative, may present, either orally or in writing, comments regarding the proposed action at the virtual public hearing to be held on **October 3, 2023, at 5:30 p.m.**

Register for the public hearing on zoom by clicking **HERE**.

Or join by Telephone:

US Toll 213-787-0529  
US Toll Free 888-808-6929  
Conference Code 847183

#### **Accessibility**

If you have a disability and require a reasonable accommodation to fully participate in this event, please contact Sarah Rubin, Outreach and Engagement Co-

ordinator as soon as possible to discuss your accessibility needs.

Email: [Sarah.Rubin@conservation.ca.gov](mailto:Sarah.Rubin@conservation.ca.gov)

Phone: (916) 214-5731

Translation and interpretation services in Spanish, Vietnamese, Chinese (simplified), Tagalog, Punjabi, and Hmong may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior to the public hearing by contacting Sarah Rubin, Outreach and Engagement Coordinator.

Email: [Sarah.Rubin@conservation.ca.gov](mailto:Sarah.Rubin@conservation.ca.gov)

Phone: (916) 214-5731

Se podrán proporcionar servicios de traducción e interpretación a petición previa. Para poder garantizar la disponibilidad de estos servicios, asegúrese de realizar su solicitud a más tardar diez días hábiles antes de la reunión comunitaria comunicándose con Sarah Rubin, Coordinadora de Alcance y Participación.

Correo electrónico:

[Sarah.Rubin@conservation.ca.gov](mailto:Sarah.Rubin@conservation.ca.gov)

Teléfono: (916) 214-5731

## AUTHORITY AND REFERENCE

Pursuant to the authority vested by California Public Resources Code (Pub. Resources Code or PRC) sections 3013 and 3106, and to implement, interpret, or make specific sections 3011, 3106, and 3205.7 of the Public Resources Code, the Department proposes to add sections 1753, 1753.1, 1753.1.1, 1753.1.2, 1753.2, 1753.2.1, 1753.2.2, 1753.3, 1753.3.1, and 1753.3.2 within the California Code of Regulations, title 14, division 2, chapter 4, subchapter 2, article 1.

## INFORMATIVE DIGEST/POLICY STATEMENT

### ***Existing Law***

The California Geologic Energy Management Division (CalGEM), within the Department of Conservation, supervises and regulates oil, gas, and geothermal well operations, including their attendant facilities, throughout the state. (See Public Resources Code, § 3106). CalGEM carries out its regulatory authority to encourage the wise development of oil and gas resources, while preventing damage to life, health, property, and natural resources. More specifically, per Public Resources Code section 3106, CalGEM supervises the decommissioning and abandonment of both wells and facilities attendant to oil and gas production. CalGEM's duties include the protection of public health and safety and environmental quality, including

reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon resources. (Pub. Resources Code (PRC), § 3011.)

In 2008, the California State Legislature substantially strengthened and clarified CalGEM's authority to regulate oil and gas production facilities (AB 1960, Nava, Chapter 562, Statutes of 2008, in particular Pub. Resources Code, §§ 3270 *et seq.*)

In October 2019, Governor Newsom signed into law Senate Bill 551 (Jackson, Chapter 774, Statutes of 2019) adding Public Resources Code section 3205.7, which requires every operator to submit a report demonstrating the total estimated costs related to the plugging and abandonment of all of their wells and decommissioning of all attendant facilities, including any needed site remediation. Legislative history suggests that the bill's authors and supporters were concerned about operator insolvencies leaving the state responsible for decommissioning costs. Author Jackson said we need "to begin assessing these costs in a systematic, wholesale, across-the-board, thorough, comprehensive and regular way, or we risk entering into billions in liabilities with no plan and no recourse." (Sen. Rules Com., Senate Floor Analysis, S.B. 551 2017-2018 Reg. Sess.) page 5.)

To implement the new reporting requirement, Public Resources Code section 3205.7 requires CalGEM to establish criteria that operators must adhere to when developing their cost estimates. The statute also requires CalGEM to establish a schedule for operators to submit their initial reports such that at least one-half of the operators are required to submit an initial report by July 1, 2024, and all operators are required to submit an initial report by July 1, 2026. The July 1, 2024 date specified by the statute was not achieved due to delays in the rulemaking process. After initial submission, each operator is required to submit an updated report at least once every five years.

Related to the addition of Public Resources Code section 3205.7, effective January 1, 2020, Public Resources Code section 3205.3 significantly augmented CalGEM's bonding authority. Before adoption of Public Resources Code section 3205.3, operators were generally required to post a bond based upon the number of wells the operator operates and the depth of those wells. (Public Resources Code, §§ 3204, 3205.) With the adoption of Public Resources Code section 3205.3, based on CalGEM's evaluation of the operator's risk of desertion, CalGEM has broad authority to require an operator to provide additional security beyond the minimum indemnity bond amounts required under Public Resources Code sections 3204 and 3205. (Public Resources Code § 3205.3, subdivision (a).) The additional security cannot exceed the lesser of CalGEM's estimation of the reasonable cost of properly plugging and abandoning all of the operator's



wells and decommissioning any attendant production facilities, or thirty million dollars. (Pub. Resources Code, § 3205.3, subdivision (a).) Although the reports required under Public Resources Code section 3205.7 are not required for CalGEM to implement the new bonding authority, the cost estimate reports will be a valuable tool for implementation of that authority.

### ***Proposed Regulations***

The proposed regulations establish the criteria that operators would be required to use when preparing the cost estimate reports required under Public Resources Code section 3205.7, allowing two different methods for making the required estimates. Method 1 is a prescribed methodology whereby an operator uses values developed by CalGEM to estimate the costs associated with well plugging and abandonment, production facility decommissioning, and site remediation based upon the condition, location, and history of the operator's assets. Method 2 allows for the operator to forego the assumed costs under Method 1 and develop their own site-specific cost estimates, providing the estimates are persuasively supported by detailed documentation.

The proposed regulations also establish a schedule for operators to submit their cost reports, grouping operators by recent per-well production volumes in a manner that is intended to ensure at least one-half of operators have a submission due date of January 1, 2025, which is the first quarterly date available after the regulations will be finalized. Remaining operators have a submission due date of July 1, 2026.

### ***Objectives and Benefits of the Proposed Regulations***

The proposed regulations are necessary to respond to the mandate of Public Resources Code section 3205.7 to establish criteria that operators must utilize when preparing the required cost estimate reports. The two methodologies have complementary benefits. Method 1 will allow operators to complete the reports expeditiously by using conservative default cost amounts that CalGEM believes are unlikely to fall short of actual costs. Method 2 will be more labor intensive to complete but will allow the operator the opportunity to demonstrate that the default cost estimates of Method 1 do not accurately reflect cost associated with its assets.

The establishment of a schedule for operators to submit their cost estimate reports is also necessary to respond to the mandates of Public Resources Code section 3205.7, including establishing staggered reporting deadlines and a five-year recurring reporting cadence. Diminished per-well production volumes can be a risk indicator for potential desertion. Requiring operators with lower per-well production volumes to report first will generally provide for data on higher-risk assets sooner.

The proposed regulations will provide the additional benefits of assisting CalGEM with its implementation of its enhanced bonding authority under Public Resources Code section 3205.3. Public Resources Code section 3205.3, subdivision (b), outlines eight criteria CalGEM must consider in estimating the reasonable costs of properly abandoning an operator's wells and decommissioning the attendant production facilities, including any cost estimate submitted by the operator. The methodology contemplated by these regulations considers the applicable factors from Public Resources Code section 3205.3, subdivision (b), and as such will streamline implementation of Public Resources Code section 3205.3.

The proposed regulations will also have the benefit of furthering CalGEM's mandates under Public Resources Code sections 3011 and 3106 of preventing damage to life, health, property, and natural resources and protecting public health and the environment. By ensuring CalGEM and the state have data and analysis available regarding the costs associated with end-of-life remediation of oil and gas operations, this rule-making will allow the state to begin assessing these costs in a comprehensive and regular way, help educate stakeholders on potential future costs, allow for identification of changing cost trends over time, and where appropriate, inform appropriate bonding requirements. Taking these steps now ensures the state can begin to plan the most appropriate approach to managing these risks and costs.

### **CONSISTENCY WITH COMPARABLE FEDERAL STATUTE AND REGULATION**

The proposed regulations are not inconsistent or incompatible with federal statutes or regulations. The Bureau of Land Management (BLM) has overlapping jurisdiction over oil and gas production operations on federal land, but BLM's regulations do not require operators to submit cost estimate reports similar to what is required under Public Resources Code section 3205.7.

The US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) is the federal agency primarily responsible for pipeline regulation and safety. (49 USC, § 108, subdivision (b), (f).) It adopts regulations that prescribe minimum pipeline safety standards for the pipeline transportation of natural gas and hazardous liquids. (See 49 CFR, §§ 190–192, 195.) In California, the PHMSA requirements are implemented by the Public Utilities Commission on behalf of PHMSA. These regulations implementing the cost estimate reporting requirements of Public Resources Code section 3205.7 do not conflict with the PHMSA requirements for testing and inspecting pipelines.

### CONSISTENCY WITH EXISTING STATE REGULATIONS

CalGEM has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. No other state agency is implementing the requirements of Public Resources Code section 3205.7 or otherwise requires comparable cost estimate reporting. The additional reporting required by the proposed regulations would be cumulative to the numerous existing state reporting requirements and neither redundant nor incompatible with them.

### PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349, subdivision (c), and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written in a manner to be easily understood by the persons that will use them.

### LOCAL MANDATE

The Department has determined that the proposed action does not impose a mandate on local agencies or school districts.

### COST TO LOCAL AGENCIES

This proposed action does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code. This proposal does not impose other non-discretionary costs or savings on local agencies.

### COST OR SAVINGS IN FEDERAL FUNDING

This proposal does not result in any costs or savings in federal funding to the state.

### COST OR SAVINGS TO STATE AGENCIES

Implementation of the requirements in the proposed regulations would entail CalGEM to incur additional staff hours for support and oversight of operator compliance with the established cost estimate method. Through the five years of initial reporting, CalGEM will incur total expenses estimated to range between \$1.8 million and \$2.5 million from staff hours devoted to support and oversight operator compliance with the proposed regulations. Out of this total amount required, it is anticipated that CalGEM will incur expenses estimated to range between \$390,000 and \$543,000 during the first year of regulatory implementation and an

annual average between \$350,000 and \$500,000 from the second year to the fifth year of regulatory implementation. These expenditure ranges depend on the cost estimate method selected by operators.

### EFFECT ON HOUSING COSTS

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

### IMPACT ON BUSINESS

The proposed regulations will affect operators of oil and gas wells. The following reporting and compliance requirements will result from the proposed regulations:

- The proposed regulations will establish criteria that owners and operators of oil and gas wells must adhere to when complying with the requirement of Public Resources Code section 3205.7 to prepare and submit reports with cost estimates for plugging and abandoning each well, decommissioning each facility, and remediating each well site.
- The proposed regulations will establish a schedule of deadlines for owners and operators of oil and gas wells to submit cost estimate reports in accordance with the requirement of Public Resources Code section 3205.7.

The Department has made an initial determination that the adoption of these regulations will not contribute to the elimination of jobs and businesses in the oil and gas industry and will not create new business nor eliminate business within the State of California.

### IMPACT ON SMALL BUSINESS

The Department has determined that the proposed regulations will most likely not affect small business. While the proposed regulations generate direct costs of compliance, those costs are minimal, amounting to no more than 0.14% of one year of profits for the average operator.

### COST IMPACTS ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department drafted the proposed regulations after careful consideration of current best practices with regard to cost estimates for plugging and abandoning oil and gas wells, decommissioning attendant facilities, and remediating well sites, as well as similar statutes and regulations implemented by other federal and state agencies.

Additionally, the Department drafted the proposed regulations based on the requirements of Public Resources Code section 3205.7. It has been argued that there is no cost associated with the regulation, that instead all costs are associated with the statutory requirement, but conservatively, the economic impact analysis assumes the economic impact is associated with the criteria being imposed by these regulations.

The following areas of the proposed regulations have been identified by the Department as potentially resulting in economic impact on a representative operator:

- The preparation and submission of an initial report with cost estimates for plugging and abandoning each well, decommissioning each facility, and remediating each well site.
- The preparation and submission of follow-up reports no less frequently than five years after the initial report and each subsequent report with cost estimates for plugging and abandoning each well, decommissioning each facility, and remediating each well site.

Other than these filing and reporting requirements, the agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Based upon its analysis, the Department determined:

- The proposed regulations will benefit the health and welfare of California residents, worker safety, and the environment by providing a cost basis to plan for safe decommissioning of wells and facilities associated with oil and gas production. This will allow for good planning to ensure that wells, facilities, and sites are decommissioned and remediated to prevent future harms to California's communities. Without this planning, it is likely that the responsibility to remediate many wells, facilities, and sites would fall to the state taxpayer. More information on the benefits of this rulemaking can be found in the Initial Statement of Reasons and the Economic Impact Analysis.
- The proposed regulations may affect the creation of jobs within the State of California. The proposed regulations will not affect the elimination of jobs within the State of California.
- The proposed regulations will not affect the creation of new businesses nor the elimination of existing businesses within the State of California.

- The proposed regulations will not affect expansion of businesses currently doing business within the state.

The proposed regulations satisfy CalGEM's statutory mandate under Public Resources Code section 3205.7 to:

- Require each operator of an oil or gas well to submit a report to the Supervisor that demonstrates the operator's total liability to plug and abandon all wells and to decommission all attendant production facilities, including site remediation.
- Develop criteria, including certain requirements, to be used by operators for estimating costs to plug and abandon wells and decommission attendant production facilities, including site remediation.

#### NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT

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

#### BUSINESS REPORTING REQUIREMENT

These regulations will implement the requirements under Public Resources Code section 3205.7 for the submission of information to the Department by businesses that own or operate oil and gas wells. The Department finds that it is necessary for the health, safety, or welfare of the people of this state that the submission of information required by these regulations applies to the affected businesses.

#### CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at any hearing scheduled to take statements or arguments that are relevant to the proposed action.

### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Conservation  
715 P Street, MS 1907  
Sacramento CA 95814  
Attention: Cost Estimate Regulations

Christine Hansen  
Regulations Manager  
[Christine.Hansen@conservation.ca.gov](mailto:Christine.Hansen@conservation.ca.gov)  
Phone: 916-694-7577

Nicholas Pesci  
Regulations Analyst  
[Nicholas.Pesci@conservation.ca.gov](mailto:Nicholas.Pesci@conservation.ca.gov)  
Phone: 916-208-4190

The Department has made available the express terms of the regulation, the Initial Statement of Reasons, and all the information upon which the proposal is based (the rulemaking record). Copies of these documents are available on the Department website at: <https://www.conservation.ca.gov/index/Pages/rule-making.aspx> and via email from the contact persons listed above.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department will consider all timely and relevant comments received during the written comment period and at the public hearings above. Thereafter, the Department may adopt the proposed regulations in substantially the same form as described in this Notice.

If the Department makes any modifications to the text of the proposed regulations that are substantial, but sufficiently related to the original proposed text as described in this Notice, the Department will make the modified text (with changes clearly indicated) available to the public for at least 15 days before adopting the proposed regulations as modified. The Department will accept written comments regarding modified regulations for 15 days after the date upon which they are made available to the public. Please send requests for copies of any modified regulations via email or mail to the persons identified as contact persons in this notice.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by sending an inquiry to one of the contact persons above. The Final Statement

of Reasons will also be available on the Department website at: <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>.

### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>.

If you have any questions regarding the process of this proposed action, please contact the Department of Conservation by email at: [CalGEMCostEstimates@conservation.ca.gov](mailto:CalGEMCostEstimates@conservation.ca.gov).

## TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or department), proposes to amend section 3332 of Title 15, Division 3, Chapter 1, regarding Administration and Supervision of Detention Units.

### PUBLIC COMMENT PERIOD

The public comment period begins **August 18, 2023** and closes on **October 3, 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.

### CONTACT PERSONS

#### *Primary Contact*

R. Ruiz  
Telephone: (916) 455-2244  
Regulation and Policy Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

#### *Back-Up*

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

*Program Contact*

T. Ramsey  
Telephone: (916) 445-8282  
Division of Adult Institutions  
P.O. Box 942883  
Sacramento, CA 94283-0001

PUBLIC HEARING

Date and Time: **October 4, 2023**

**10:00 a.m. to 11:00 a.m.**

Place: Department of Corrections and  
Rehabilitation  
Room 151 North  
1515 S Street – North Building  
Sacramento, CA 95811

AUTHORITY AND REFERENCE

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

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

**PC Section 5054** provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend section 3332 of the California Code of Regulations, Title 15, for Contraband Surveillance Watch (CSW). The objective of placing an inmate on CSW is to retrieve suspected concealed contraband from the inmate, without physical intrusion if possible, to ensure that contraband is not circulated into the inmate population, and to ensure the safety of the inmate suspected of having the concealed contraband.

**This action will:**

- Establish CDCR Form 114-CSW (12/16), Contraband Surveillance Watch Log.
- Establish the factors that will be monitored during the Contraband Surveillance Watch.
- Establish a procedure for custody and medical staff observation of a person on Contraband Surveillance Watch.
- Establish a procedure for retaining a person under Contraband Surveillance Watch beyond the initial watch period.

DOCUMENTS INCORPORATED  
BY REFERENCE

None.

SPECIFIC BENEFITS ANTICIPATED BY  
THE PROPOSED REGULATIONS

The proposed regulations increase openness and transparency in government by standardizing CSW record-keeping. This promotes fairness and social equality preventing discrimination as staff, inmates, and members of the public are able to conduct a more accurate search of an inmate's CSW history. The proposed regulations may also benefit the health and welfare of California residents as inmate hygiene, dental hygiene, trash removal, and cell hygiene are monitored during CSW placement. Additionally, standardizing CSW record-keeping may reduce the opportunities for conflict or physical violence within the institution.

EVALUATION OF INCONSISTENCY/  
INCOMPATIBILITY WITH  
EXISTING REGULATIONS

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

that concern the administration and supervision of detention units.

#### 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 the proposed regulations will have no effect on the state's environment. The proposed regulations may benefit worker safety and California residents by creating safer institutions for staff, inmates, and visitors as standardizing CSW records may reduce opportunities for conflict or physical violence within institutions.

#### 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 22. DEPARTMENT OF  
HEALTHCARE ACCESS  
AND INFORMATION**

DIVISION 7, CHAPTER 11,  
ARTICLE 1 TO 7,  
SECTIONS 97300–97370:  
HEALTH CARE PAYMENTS  
DATA PROGRAM

This notice of proposed rulemaking commences the Department of Health Care Access and Information’s (Department or HCAI) rulemaking to make permanent the December 2021 emergency regulations for the Health Care Payments Data Program (HPD) after considering all comments, objections, and recommendations regarding the proposed action. The Department also proposes some updates and changes to the 2021 emergency regulations.

I. PUBLIC HEARING

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

II. WRITTEN PUBLIC COMMENT  
PERIOD AND CONTACT PERSON

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. All comments must be received by the Department by 5:00 p.m. on October 3, 2023. Inquiries and written comments regarding the

proposed action should be addressed to the primary contact person named below. Comments delivered by email are suggested. Comments may also be hand delivered or mailed.

Sherry Mung, Health Program Specialist II  
Office of Information Services  
Department of Health Care Access and  
Information|Telephone: (916) 326–3939  
Email: [SherryMung@hcai.ca.gov](mailto:SherryMung@hcai.ca.gov)  
Mailing address:  
2020 West El Camino Avenue, Suite 1100  
Sacramento, CA 95833–1880

Inquiries and comments may also be directed to the backup contact person at the same mailing address:

Suzanne Hermreck, Health Program Specialist II  
Office of Information Services  
Department of Health Care Access and  
Information  
Telephone: (916) 326–3841  
Email: [Suzanne.Hermreck@hcai.ca.gov](mailto:Suzanne.Hermreck@hcai.ca.gov)

III. AUTHORITY AND REFERENCE

Health and Safety Code (HSC) section 127673(f) authorizes the Department to adopt these proposed regulations. The specific code sections that are being implemented, interpreted, or made specific are HSC sections 127671, 127671.1, 127673, 127673.1, 127673.2, and 127673.4.

IV. INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

a. *Summary of Existing Laws and Effect of the  
Proposed Regulations*

Existing law requires the Department to establish the HPD to collect health care data from health plans, insurers, government agencies, and others. Furthermore, existing law requires the Department to “substantially complete” the development of the HPD System no later than July 1, 2023. The Department substantially completed the development of the HPD System through the release of the HPD Program’s first public report, the HPD Snapshot visualization, on June 27, 2023. The HPD Snapshot can be viewed at <https://hcai.ca.gov/visualizations/healthcare-payments-data-hpd-snapshot/>.

The primary purpose of this rulemaking proposal is to make permanent the emergency regulations the Department adopted on December 20, 2021, which started data collection for the HPD. The emergency rulemaking added Chapter 11 of Division 7 of Title 22 of the California Code of Regulations (sections 97300 to 97370). With this rulemaking, the Department will

be able to continue collecting data for the HPD and this rulemaking permanently establishes the following to implement the HPD:

- Definitions for HPD (section 97300);
- A process for entities to become voluntary data submitters (section 97305);
- Who mandatory HPD data submitters are, including exemptions such as plan size thresholds (sections 97300(j), 97300(k), 97310, and 97314);
- Obligations for mandatory data submitters to coordinate data submissions with their contractors (sections 97318 and 97346);
- Registration processes for mandatory submitters and any entity transmitting data for mandatory submitters (sections 97330 to 97334);
- Frequency and timelines for data submissions (section 97340);
- Content, specification, and format requirements for data submissions (section 97342 to 97344);
- A process for test data submissions (section 97348);
- Special rules for the start of the HPD, including initial registrations, the start of data collection, and collection of historical data (sections 97349 to 97352);
- The process for HCAI to review and accept/reject data submissions (sections 97360 to 97362); and
- The process for data submitters to request a variance if they are unable to submit data as required (section 97370).

The Department also proposes to update and modify parts of the emergency regulations because of updates to documents incorporated by reference, and to clarify data collection requirements for the HPD data collection. These changes include:

- Incorporating new versions of the Common Data Layout for All-Payer Claims Databases (APCD–CDL™) from Version 2.1 to 3.0.1 and accordingly, a new version of the HPD Data Submission Guide from Version 1.0 to 2.0 (section 97300(a) and (c));
- Clarification of registration requirements and requiring re-registrations each year (sections 97330 to 97334);
- For the transition to the new APCD–CDL™, establishing a special timeline for January 2024 data submissions (section 97340(c));
- Making test file submission discretionary instead of mandatory (section 97348); and
- Moving the requirement for initial dental plan registration from section 97330 to new section 97349.

#### *b. Policy Statement Overview*

As stated in HSC section 127671(b), the HPD was created because health care data is reported and collected through many disparate systems which makes it difficult to study California’s health care system. This creates substantial hurdles to improve health care in California. To address this problem, the HPD’s purpose is to collect and centralize health care data from various sources and process the data in a way that it can be used by the state and the public to learn and seek improvements in health care in California while protecting patient privacy.

As required by statute, the HPD’s purpose is to collect health care data from the entities that make payments for health care, i.e., commercial health plans and health insurers, and government health plans. The December 2021 emergency regulations were promulgated to initiate HPD data collection and identified mandatory data submitters, specified data to be collected, created a process for data submission, and set a timeline for data collection. Data collection for the HPD Program is now occurring for health plans, health insurers, and government plans and this rulemaking will allow this to continue.

Regarding benefits of this rulemaking, this rulemaking will allow HPD to continue collecting health care data to help inform the state’s approach to improving health care in California. As stated in HSC section 127671, by collecting, aggregating, and processing this health care data, the HPD will provide greater transparency about California’s health care system to the State and the public, which will inform health care policy decisions. By studying HPD data, California will learn more about its health care system and hopefully will lead to improvements in public health, reduction of health disparities, advancement of health coverage, reduction of health care costs, and better oversight of the health system and health care companies. It is also hoped that the public and government agencies will also use HPD data “to develop innovative approaches, services, and programs that may have the potential” to improve health care for Californians.

#### *c. Existing Comparable Federal Regulation or Statute*

The Department is not aware of any comparable federal statute or regulation to the proposed regulations.

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

The Department evaluated the proposed regulations and determined that these proposed regulations are not inconsistent with or incompatible with existing state regulations.

e. *Documents Incorporated by Reference*

The following are documents HCAI intends to incorporate by reference through these proposed regulations:

- *The Common Data Layout for All-Payer Claims Databases, Version 2.1*, released July 1, 2021;
- *The Common Data Layout for All-Payer Claims Databases, Version 3.0.1*, released April 1, 2023;
- *The Health Care Payments Data Program: Data Submission Guide, Version 1.0*, dated November 23, 2021; and
- *The Health Care Payments Data Program: Data Submission Guide, Version 2.0*, dated July 17, 2023.

V. MANDATE ON LOCAL AGENCY OR SCHOOL DISTRICT

HCAI determined that these regulations do not impose a mandate on local agencies or school districts because it does not mandate a new program or a higher level of service of an existing program pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. These regulations are applicable to public and private entities and are not unique to local government.

VI. FISCAL IMPACT ESTIMATES

The Department has made the following fiscal impact estimates:

- a. Cost or savings to any state agency: None.
- b. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- c. Other nondiscretionary cost or savings imposed on local agencies: None.
- d. Cost or savings in federal funding to the state: None.

VII. HOUSING COSTS

The Department determined that the proposed regulations will not impact housing costs.

VIII. SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

HCAI has determined that the permanent adoption of the HPD emergency regulations would not have a significant adverse economic impact on any businesses in California who are mandated by statute, not these

regulations, to submit data for the HPD program. The emergency regulations implemented the statutory reporting requirement for the HPD Program and HCAI was successful in collecting data from mandatory and voluntary plans from the adoption of the emergency regulations to present.

Regardless, to understand what impacts there may be to mandatory plans, HCAI administered a survey to all currently registered plans and submitters. The survey assessed the one time and ongoing costs for complying with HPD emergency regulations, whether jobs were created or eliminated, and the types of jobs used to support HPD data collection. A total of six health plans and insurers responded to the survey representing 16 data submitters. The size of these health plan and insurer respondents ranged from providing medical coverage to 89,000 to 8.2 million covered lives. The results of the survey concluded that there was an economic impact to registered plans and submitters (see part IX below), however, the impact did not eliminate jobs. One respondent concluded that the requirements of HPD data collection created an estimated one to three jobs. This supports HCAI's position that this regulatory action does not have a significant adverse economic impact on businesses required to report for the HPD program.

IX. COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

As stated above, HCAI administered a survey to all currently registered plans and submitters to assess the one time and ongoing costs for complying with HPD emergency regulations, whether jobs were created or eliminated, and the types of jobs used to support HPD data collection. A total of six health plans and insurers responded to the survey representing 16 data submitters. The total covered lives served by these health plan and insurer respondents ranged from 89,000 to 8.2 million. Plans at the lower range of total covered lives membership (with annual revenues at least in the tens of millions of dollars<sup>1</sup>) indicated that the estimated one-time cost were \$50,000 or less and ongoing annual costs were \$25,000 or less. This is compared to plans at the higher range of total covered lives membership (with annual revenues in the billions of dollars<sup>2</sup>) who indicated the estimated one-time cost were \$1 million and estimated annual ongoing costs were \$650,000. Based on the results of the survey, HCAI estimates the total one-time cost for all submitters

<sup>1</sup> Information from the California Department of Managed Health Care, "Health Plan Financial Summary Report," available at <https://wpsso.dmhca.ca.gov/flash/> (last visited on June 20, 2023).

<sup>2</sup> See above footnote.

implementing the requirements of HPD data collection regulations to be approximately \$11,659,084; the total ongoing costs to be approximately \$5,052,290; and the total statewide costs to comply with this regulatory action for initial start-up costs and the first year of annual costs to be \$16,711,974. Based on this information, HCAI has determined that there is a cost impact to registered plans and submitters, however the impact does not impede health plans and submitters from complying with the requirements of HPD data collection.

#### **X. STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS (EIA)**

The Department surveyed those health plans, insurers, and public self-insured entities which are currently registered and submitting data to the HPD. From this, the Department concludes that this regulatory action:

- a. Will likely not create jobs within the state;
- b. Will likely not eliminate jobs within the state;
- c. Will not create new businesses;
- d. Will not eliminate existing businesses; and
- e. Will not affect the expansion of businesses currently doing business in the state.

As stated previously in the Informative Digest, this regulatory action is to implement statutory requirements which are intended to improve the health and welfare of California residents by having HCAI collect, aggregate and process fragmented health care data in the HPD. In this way, the HPD will provide greater transparency about California's health care system to the state and the public, which will inform health care policy decisions. By studying HPD data, California will learn more about its health care system and hopefully will lead to improvements in public health, reduction of health disparities, advancement of health coverage, reduction of health care costs, and better oversight of the health system and health care companies. It is also hoped that the public and government agencies will also use HPD data "to develop innovative approaches, services, and programs that may have the potential" to improve health care for Californians. Furthermore, there are no anticipated benefits of these regulations to worker safety or the state's environment.

#### **XI. BUSINESS REPORT**

The proposed regulatory requirements for businesses to submit health care data to HPD is a statutory mandate and does not originate from this regulatory action.

The proposed regulations require HPD mandatory data submitters and their delegated submitters to register and to re-register each year. To the extent these are considered "reports," HCAI finds that this is necessary for the health, safety, and welfare of the public that this applies to businesses.

#### **XII. EFFECT ON SMALL BUSINESS**

The Department has determined that the regulations will have no effect on small businesses. The health plans and insurers who are mandated to report data to the HPD program are not part of the small business community. The smallest health plan who is mandated to report for the HPD program is estimated to have between 50–200 employees and has a total annual revenue of over \$35 million. All other health plans and insurers have greater than 200 employees and annual revenues greater than \$35 million.

#### **XIII. REASONABLE ALTERNATIVE INFORMATION**

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

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

#### **XIV. AVAILABILITY OF EXPRESS TERMS, INITIAL STATEMENT OF REASONS, AND INFORMATION UPON WHICH PROPOSED RULEMAKING IS BASED**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published, the rulemaking file consists of this notice, the text of the proposed regulations, all documents incorporated by reference as identified in this notice, the initial statement of reasons, an economic impact analysis, and all information upon which this proposed rulemaking is based. Copies may be obtained by contacting the listed contact persons using the contact information above and parts of the rule-



making file are available at <https://hcai.ca.gov/about/laws-regulations/>.

#### XV. AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL

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 the regulations as revised.

Please send requests for copies of the modified text to the listed contact person. The modified text will also be available on the website at <https://hcai.ca.gov/about/laws-regulations/>. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### XVI. AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons, including all of the comments and responses, will be available, after its completion, through the Department's website at <https://hcai.ca.gov/about/laws-regulations/>. The Final Statement of Reasons will also be available from the above contact persons.

#### XVII. AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this notice, the initial statement of reasons, the text of the proposed regulations, and other documents can be accessed through the Department's website at <https://hcai.ca.gov/about/laws-regulations/>.

### TITLE 23. STATE WATER RESOURCES CONTROL BOARD

#### DIVISION 3, CHAPTER 3.5 — URBAN WATER USE EFFICIENCY AND CONSERVATION ARTICLE 1 SUBJECT: MAKING CONSERVATION A CALIFORNIA WAY OF LIFE

The State Water Resources Control Board (State Water Board or Board) proposes to adopt the proposed regulation described below, after considering all comments, objections, and recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The State Water Board proposes to add California Code of Regulations, title 23, division 3, chapter 3.5, article 1, sections 965–975 and 978. Existing articles 1, 2, and 3 will be renumbered to articles 2, 3, and 4, respectively. The proposed new sections would establish a new foundation for long-term improvements in water conservation and drought planning to adapt to climate change and the resulting longer and more intense droughts in California. The proposed *Making Conservation a California Way of Life* regulation (proposed regulation) would require Urban Retail Water Suppliers (suppliers) to calculate and adhere to water use objectives, implement Commercial, Industrial, and Institutional (CII) performance measures, and submit annual progress reports.

#### PUBLIC HEARING

The State Water Board will conduct a public hearing on **October 4, 2023**. The public hearing will include an overview of the regulatory timeline and process, along with presentations led by urban retail water suppliers and other interested parties on the proposed regulation. At the hearing, any person may present oral or written comments relevant to the proposed action described in this notice, in addition to the written comment opportunity described below. Board staff will provide an overview of the proposed regulation and key provisions, followed by an opportunity for the public to comment. While a quorum of the State Water Board may be present, the Board will not take formal action at the public hearing.

The meeting will be held at the Joe Serna Jr. CalEPA Building, 1001 I Street, Sacramento, CA 95814, with the option to participate remotely.

Notices will be sent to those who subscribe to the "Water Conservation Regulations" GovDelivery topic list. Information about the public hearing will be posted on the webpage: [https://www.waterboards.ca.gov/water\\_issues/programs/conservation\\_portal/regs/water\\_efficiency\\_legislation.html](https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/regs/water_efficiency_legislation.html).

#### LANGUAGE SERVICES

To request translation of documents, interpretation services, or to submit a language access complaint, please submit your request by September 22, 2023, using one of the following options:

1. Complete online request at: [bit.ly/LanguageAccessForm](https://bit.ly/LanguageAccessForm).
2. Call (916) 341–5254.
3. Email [OPP-LanguageServices@Waterboards.ca.gov](mailto:OPP-LanguageServices@Waterboards.ca.gov).

## SPECIAL ACCOMMODATION REQUEST

To request special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5611 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

Para solicitar comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 341-5611 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo.

## WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

[Gov. Code, § 11346.4(a), § 11346.5(a)(15)]

Any interested person may submit written comments relevant to the proposed regulatory action to the Clerk to the State Water Board. Any written comments pertaining to the proposed regulation, regardless of the method of transmittal, must be received by the Clerk **by October 17, 2023**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Written comments may be submitted via any of the following methods:

1. By email to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov). The State Water Board requests but does not require that email transmission of comments, particularly those with attachments, contain the regulation package identifier **“Comment Letter—Proposed Making Conservation a California Way of Life Regulation”** in the subject line to facilitate timely identification and review of the comment.
2. By fax transmission to: (916) 341-5620. The State Water Board requests but does not require that faxed comments contain the subject line **“Comment Letter—Proposed Making Conservation a California Way of Life Regulation.”**
3. By mail to: Clerk to the Board, Courtney Tyler, State Water Resources Control Board, P.O. Box 100, Sacramento, CA 95812-0100.
4. Hand-delivered to: Clerk to the Board, Courtney Tyler, State Water Resources Control Board, 1001 I Street, 24th Floor, Sacramento, CA 95814.

The State Water Board requests but does not require that written comments be sent by mail or that hand-delivered be submitted in triplicate.

The State Water Board requests, but does not require, that, if reports or articles in excess of 25 pages are submitted in conjunction with the comments, the commenter provide a summary of the report or article and describe the reason for which the report or article

is being submitted or its relevance to the proposed regulation.

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the State Water Board to provide copies of any notices that may be required in future.

Due to the limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by the State Water Board. Therefore, emails larger than 15 MB should be submitted under separate emails or via another form of delivery.

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

If you would like to request a copy of the public comment letters received by the Board for this item, send an email to [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov) and identify that you are requesting copies of public comments for the proposed Making Conservation a California Way of Life Regulation.

To be added to the mailing list for this rulemaking and to receive notification of updates for this rulemaking, you may subscribe to the GovDelivery list at **“Water Conservation Regulations”** by selecting “General Interests,” then selecting “Water Conservation Regulations.”

## AUTHORITY AND REFERENCE

The State Water Board proposes to adopt regulations implementing, interpreting, and making specific Water Code (Wat. Code) sections 275, 10609, 10609.2, 10609.4, 10609.6, 10609.8, 10609.9, 10609.10, 10609.12, 10609.14, 10609.16, 10609.20, and 10609.22.

Authority: Sections 275, 1058, 10609.2, 10609.10, 10609.20, and 10609.28, Water Code.

References: Article X, Section 2, California Constitution; Sections 3080, 4080, 4100, and 4185, Civil Code; Sections 8558 and 51201, Government Code; Sections 116275 and 116530, Health and Safety Code; Sections 102, 104, 105, 350, 1122, 1123, 1124, 1846, 1846.5, 10608.12, 10608.20, 10608.34, 10609.2, 10609.4, 10609.6, 10609.8, 10609.9, 10609.10, 10609.12, 10609.20, 10609.24, 10609.26, 10609.27, 10609.28, 10611.3, 10617, 10632, and 10728, Water Code.



CALIFORNIA ENVIRONMENTAL  
QUALITY ACT

Pursuant to section 10609.34 of the Water Code, the proposed regulation is exempt under California Code of Regulations, title 14, section 15308 (Class 8 exemption). The proposed action does not involve the relaxation of existing water conservation or water use standards.

INFORMATIVE DIGEST  
[Gov. Code, § 11346.5(a)(3)]

**Summary of Existing State Law and Regulations**

In 2018, the California State Legislature enacted Senate Bill (SB) 606 and Assembly Bill (AB) 1668 (together, 2018 conservation legislation) to establish a new foundation for long-term improvements in water conservation and drought planning to adapt to climate change and the longer and more intense droughts that are likely to result in California. Water Code section 10609.2 directs the State Water Resources Control Board (State Water Board or Board) to adopt long-term standards for the efficient use of water, variances for unique uses that can have a material effect on urban water use, and guidelines and methodologies pertaining to the calculation of an urban water use objective (objective). Water Code section 10609.10, subdivision (d) directs the Board to adopt performance measures for Commercial, Industrial, and Institutional (CII) water use. Water Code sections 10609.22 and 10609.24 direct each Urban Retail Water Supplier (supplier) to annually calculate its objective and provide a report pertaining to the objective and implementation of the CII performance measures. The Board's proposed *Making Conservation a California Way of Life* regulation (proposed regulation) would establish methodologies and guidelines to calculate the objectives; standards for efficient residential outdoor water use and efficient use of water on CII landscapes with Dedicated Irrigation Meters (DIMs); CII performance measures; and annual reporting requirements.

Water Code section 10609.2, subdivision (d) directs that the proposed regulation exceeds the targets established by SB X7-7.

Water Code section 10609, subdivision (c)(3) directs that the "long-term standards and urban water use objectives should acknowledge the shade, air quality, and heat-island reduction benefits provided to communities by trees through the support of water-efficient irrigation practices that keep trees healthy."

Water Code section 10609, subdivision (c)(2) directs that the "long-term standards and urban water use objectives should advance the state's goals to mitigate and adapt to climate change."

**Comparable Federal Statute and Regulations**

[Gov. Code § 11346.5(a)(3)(B)]

There are no federal regulations or statutes that address the specific subject addressed by the proposed regulation.

**Effect of the proposed rulemaking**

[Gov. Code § 11346.5(a)(3)(A)]

The proposed regulation creates a new framework for managing urban water use by California's largest water suppliers. It would establish unique efficiency goals for each supplier based on local conditions, while leaving flexibility to implement locally appropriate solutions. In addition to establishing long-term standards for the efficient use of water throughout California's urban areas and a framework that incorporates local conditions and provides flexibility to suppliers to make locally appropriate implementation choices, the proposed regulation is expected to save a significant amount of water.

A recent assessment of urban water supplies found that adopting proven technologies and practices could reduce urban water use in California by 2.0 million to 3.1 million acre-feet per year (AFY), or by 30 to 48 percent (Cooley et al., 2022). The proposed regulation would help California begin to realize that potential; by 2035, it is expected to reduce statewide urban water use by approximately 15 percent from 2020 levels. The Board estimates that the proposed regulation would save approximately 235,000 acre-feet of water in 2025 (compared to the assumed 2025 baseline water use) and increased amounts in subsequent years, reaching almost 440,000 acre-feet of water in 2040 (compared to the assumed 2040 baseline water use). In this way, the proposed regulation would help to realize the *California Water Supply Strategy* goal of building upon the conservation achievements of the last two decades to reduce annual water demand in towns and cities by at least half a million acre-feet by 2030.

The proposed regulation would help realize the water savings outlined in the water supply strategy. It is also expected to create indirect benefits beyond water savings. While not the primary goal of the proposed regulation, implementation of the framework is likely to result in suppliers making investments and programmatic changes that encourage individuals, businesses, and local governments to change how they use water. Such changes have the potential to advance the State Water Board's mission of preserving, enhancing, and restoring the quality of water resources and the statutory directive to advance California's climate change mitigation and adaptation goals. The proposed regulation can also support statewide policies to accelerate nature-based solutions, divert organic waste from landfills, build healthy soils, and advance equity.

## Policy Statement Overview

[Gov. Code § 11346.5(a)(3)(C)]

The proposed regulation is designed to establish a new foundation for long-term improvements in water conservation and drought planning to adapt to climate change and the longer and more intense droughts that are likely to result in California. The effect of the proposed regulation is the establishment of long-term standards for the efficient use of water and performance measures for commercial, industrial, and institutional water use. Additionally, it will establish a method to estimate the aggregate amount of water that would have been delivered the previous year by an urban retail water supplier if all that water had been used efficiently. This estimated aggregate water use is the urban retail water supplier's urban water use objective. The objective is based on the water use efficiency standards and local service area characteristics for that year. By comparing the amount of water used in the previous year with the urban water use objective, local urban water suppliers will be in a better position to help eliminate unnecessary use of water; that is, water used in excess of that needed to accomplish the intended beneficial use.

## Specific Benefits Anticipated from the Proposed Regulatory Action

[Gov. Code § 11346.5(a)(3)(C)]

### *Protecting Human Health and Water Resources*

- In addition to saving water, the proposed regulation may also bring about changes to urban landscapes that protect water quality by reducing dry-weather and wet-weather runoff.
- The proposed regulation would incentivize changes to urban landscapes, including, in some cases, the transition to climate-ready landscapes, which, for the purposes of the proposed regulation are landscapes that save water, reduce waste, nurture soil, sequester carbon, conserve energy and reduce urban heat, protect air and water quality, and create habitat for native plants and pollinators. Because climate-ready landscapes are more efficiently irrigated and make better use of precipitation, the proposed regulation could reduce wet-weather runoff, preventing water pollution and protecting water resources.
- By reducing urban water demand, the proposed regulation could help to preserve in-stream flows and water availability.

### *Supporting Practices that Keep Trees Healthy*

- The proposed regulation incentivizes efforts to maintain and increase the urban tree canopy in California. It includes a provision for the planting of new, climate-ready trees and an alternative compliance pathway for suppliers that

demonstrate their support of practices that keep trees healthy. By encouraging suppliers to invest in water conservation and tree care, the proposed regulation could not only save water but also support water-efficient irrigation practices that keep trees healthy.

### *Mitigating and Adapting to Climate Change*

- Climate change is driving aridification and changing precipitation patterns. Aridification — hotter and drier conditions over longer periods — could diminish our existing water supply by up to 10 by 2040 (California Natural Resources Agency, 2022). Although a naturally occurring feature of California's climate, drought conditions have become more frequent and more intense. A combination of hotter temperatures and low precipitation years — especially when snowpack and snowmelt runoff are low — creates drier conditions. California has been getting drier since 1895. In California and across the southwestern United States, 2000 to 2021 were the driest 22-year period over the past 1,000 years, part of what scientists call an emerging “megadrought” era (OEHHA, 2022). At the same time, changing precipitation patterns — more rain instead of snow and an increase in the duration, frequency, and intensity of “atmospheric river” storms — may lead to greater flooding risks and reservoirs having to release more water early in the spring to fulfill flood control functions, meaning less of the precipitation we do get can be captured and stored. Toward the end of the century, warming temperatures in California could result in a 30 percent loss of snowpack and a 25 percent increase in rain, leading to a higher volume of water rushing from headwaters and washing out across the state (Huang et al., 2020). In other words, we will likely be grappling with floods and drought simultaneously, causing impacts to water storage and availability.
- The proposed regulation will help us adapt to aridification and changing precipitation patterns. Finding and fixing leaks along with replacing older fixtures and appliances with efficient models will save water indoors and out. Saving water indoors, especially, saves energy, which can reduce the emission of greenhouse gases and other co-emitted air pollutants, improving air quality. If, as a result of work undertaken by suppliers to meet their objectives, households were to replace inefficient clothes washers with more efficient models, embedded statewide energy savings would reach approximately 1,860 GWh of electricity and 36.5 million MMBtu of natural gas by 2040; this equates to \$49 million in direct

energy cost savings in 2025 and increased energy cost savings thereafter, reaching approximately \$100 million in 2040.

- Significant water savings can also be realized by transitioning away from high water–using landscapes such as turf to “climate–ready” landscapes. Climate–ready landscapes require much less water because they are planted with lower water–using vegetation that is irrigated much more efficiently. Because they are composed of deeply rooted vegetation and their soils enriched with mulch and compost, climate–ready landscapes are better at retaining rainwater. According to one study, such landscapes retain 80 percent of the rain (Kent, 2017). By slowing, spreading, and sinking rainwater, climate–ready landscapes help keep soils hydrated, which reduces irrigation needs. Climate–ready landscapes also lessen the impact of extreme wet weather events, helping to reduce flooding in urbanized areas.

*Accelerating Nature–based Solutions, Diverting Organic Waste from Landfills, and Building Healthy Soils*

- Implementation of the proposed regulation is likely to result in suppliers making investments and programmatic changes that encourage individuals, businesses, and local governments to change how they use water. Such changes have the potential to support statewide policies to accelerate nature–based solutions, divert organic waste from landfills, and build healthy soils.

*Advancing equity*

- The proposed regulation aims to support Governor Newsom’s California’s Water Supply Strategy’s call on state agencies to respond to the hydrological challenges posed by climate change in a way that advances equity and supports disadvantaged communities (Water Supply Strategy, 2022). The proposed regulation incentivizes suppliers to make investments that not only save water but also advance equity. Specifically, the proposed regulation may, in the long–run, mitigate rate increases; it may also encourage suppliers to assess rate structures and invest in programs and partnerships that reduce urban heat.

EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

[Gov. Code, § 11346.5(a)(3)(D)]

The State Water Board reviewed its existing general regulations and regulations specific to water use efficiency and conservation to evaluate whether the proposed regulation is inconsistent or incompatible with

existing state regulations. The State Water Board determined that no other state regulation addressed the same subject matter and that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATIONS  
[Gov. Code, § 11346.2(c)]

Adoption of this regulation is not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS  
[Gov. Code, § 11346.5(a)(4)]

**Safe, Clean, Affordable Water**  
[Wat. Code, § 106.3]

Water Code section 106.3 states that it is the policy of the state that every human has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. In preparing the proposed regulation, the State Water Board determined the proposed regulation is consistent with this statewide policy. While the proposed regulation may, in some cases, result in increased costs to those served by a water system, that potential cost is expected to render water neither unaffordable nor inaccessible.

**Urban Water Use Objectives and Water Use Reporting**  
[Wat. Code, § 10609.2]

Water Code section 10609.2 states that the Board, in coordination with the department, shall adopt long–term standards for the efficient use of water, and that the standards shall be adopted for (1) Outdoor residential water use; (2) Outdoor irrigation of landscape areas with dedicated irrigation meters in connection with CII water use; (3) A volume for water loss. Additionally, when adopting the standards, the Board shall consider the policies of Chapter 9 of Division 6, Part 2.55 of the Water Code and the proposed efficiency standards’ effects on local wastewater management, developed and natural parklands, and urban tree health. The Board also is required to set the long–term standards at a level designed so that the water use objectives, together with other demands excluded from the long–term standards such as CII indoor water use and CII outdoor water use not connected to a dedicated landscape meter, would exceed the statewide conservation targets required pursuant to Chapter 3 (commencing with Section 10608.16). Finally, section 10609.2 states that the Board, in coordination with the department, shall adopt by regulation variances recommended by the department pursuant to Section 10609.14 and guidelines and methodologies pertaining

to the calculation of an urban retail water supplier's urban water use objective recommended by the department pursuant to Section 10609.16.

[Wat. Code, § 10609.10]

Water Code section 10609.10 states that the Board, in coordination with the department, shall adopt performance measures for CII water use.

#### **Pre-Notice Meeting with Affected Parties**

[Gov. Code, §11346.45(a)]

Government Code section 11346.45, subdivision (a) requires that, prior to publication of the notice of proposed rulemaking, the agency proposing the regulation must involve parties who would be subject to the proposed regulation in public discussions, when the proposed regulation involves complex proposals or a large number of proposals that cannot be easily reviewed during the comment period. The State Water Board provided suppliers and other interested parties opportunities to be involved in public discussions about the proposed regulation in 12 workshops on the following topics:

- On December 3 and 4, 2021, State Water Board staff hosted two workshops describing the methods being used to analyze how the proposed efficiency standards could affect trees, parklands, and local wastewater management.
- On May 11, 2022, State Water Board staff hosted a workshop summarizing the results of the analysis undertaken to understand how the residential indoor and outdoor standards may affect the wastewater sector.
- On August 12, 2022, State Water Board staff hosted a workshop summarizing the results of the analysis undertaken to understand how the standards may affect trees and parklands.
- On February 23 and 28, 2023 and March 6, 8, and 10, 2023, State Water Board staff hosted workshops to provide an overview of the draft regulatory framework and sought the input of interested parties. Parties provided feedback to help staff understand and evaluate how the framework could affect various organizations, communities, and California. Staff also heard about whether or how various organizations could support efforts to make conservation a way of life.
- On March 22, 2023, State Water Board staff hosted a pre-rulemaking workshop during a public Board meeting. During this workshop, staff presented the proposed regulatory framework.
- On May 17 and 18, 2023, State Water Board staff hosted two workshops with small suppliers (those with less than 10,000 connections) to better understand how the draft regulatory framework could specifically affect small water suppliers.

#### **LOCAL MANDATE** [Gov. Code, § 11346.5(a)(5)]

The proposed regulation would not impose a mandate on local agencies or school districts that requires state reimbursement. The proposed regulation will not be a requirement unique to local government and will apply equally to public and private water systems.

Local agencies currently incur costs in their operation of urban water systems. The costs imposed by the proposed regulation are not the result of a "new program or higher level of service" within the meaning of Article XIII B, section 6 of the California Constitution because the proposed regulation applies generally to all individuals and entities that operate urban water systems in California and does not impose unique requirements on local governments (County of Los Angeles vs. State of California et al, 43 Cal. App. 3d 46 (1987)). In addition, suppliers can pass on the cost of regulation implementation through increasing service fees. Therefore, no state reimbursement of these costs is required (Gov. Code, §17556, subdivision (d)).

#### **FISCAL IMPACT** [Gov. Code, § 11346.5(a)(6)]

#### **Cost to Local Agencies and School Districts Requiring Reimbursement**

None. Any costs incurred by local agencies or school districts as a result of the proposed regulation are not reimbursable by the State pursuant to Article XIII B, section 6 of the California Constitution. Urban retail water suppliers are expected to fully make up for the costs incurred as a result of the proposed regulation by adjusting their rates to customers over time. Government Code §17556, subdivision (d), identifies the types of actions that are not reimbursable state mandates: "the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. This subdivision applies regardless of whether the authority to levy charges, fees, or assessments was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued."

#### **Other Non-discretionary Cost or Savings Imposed Upon Local Agencies**

*Suppliers operated by local governments:* Most suppliers are operated by local governments, usually a city, county, or district, and these suppliers serve almost 81 percent of the total population in the state. Like privately-owned suppliers, some publicly-owned suppliers will likely incur costs to meet their water use objectives. Like privately-owned suppliers, publicly-owned suppliers on the one hand will spend less to acquire water and less on stormwater-related corrective measures, but, on the other hand, will po-

tentially lose revenue due to the water use reductions. Ultimately, the Board expects that suppliers will fully make up for their lost revenues by adjusting their rates to customers over time. Publicly-owned suppliers would incur aggregate costs of approximately \$8.45 billion and accrue benefits of approximately \$9.09 billion from 2025 to 2040.

*Local wastewater management agencies:* Water Code section 10609.2 requires that the State Water Board evaluate how the proposed efficiency standards may affect local wastewater management. Wastewater collection, treatment, and reuse agencies may experience increased costs, as well as potential benefits, when the influent volumes lessen or become more concentrated. Local wastewater management agencies would incur costs of \$2.5 billion; benefits for these agencies could not be quantified.

*Urban forestry and landscape management agencies:* Water Code section 10609.2 requires that the State Water Board evaluate how the proposed efficiency standards may affect urban tree health as well as natural and developed parklands. Potentially affected areas may develop or update urban forestry management plans to prioritize spending on new trees. To meet their objectives, 149 suppliers may have to facilitate savings in outdoor water use. The urban forests within the service areas of these suppliers could be at risk if the required savings are not thoughtfully achieved. If, however, the required water savings are achieved by, for example, increasing the efficiency of irrigation systems and/or by converting turf into climate-ready landscapes, the risk would be minimized. In such areas, likely mitigation actions would include improved public education programs for irrigation management, development of urban forestry management plans and updated tree inventories, and new investments in irrigation technologies adapted to tree watering needs. Local wastewater management agencies would incur costs of approximately \$100 million; benefits for these agencies could not be quantified.

*Local institutional water users:* Suppliers, both privately- and publicly-owned, and wastewater management agencies may choose to pass on some or all of their increased costs and benefits to their end-customers. Some of their end-customers are local governments, i.e., local institutional water users. The average water cost for an affected CII property might decrease by approximately \$168 per month in the 2025–2040 period (compared to the assumed future baseline). The average wastewater cost might increase by approximately \$6 per month in the same period (compared to the assumed future baseline). Combined, water and wastewater costs would decline on average by \$1,944 a year (compared to the assumed future baseline). Local institutional water users will not incur the cost of purchasing from their suppliers the water that they

save. More specifically, local institutional water users, as well as other CII customers, will not use as much water as they would in the absence of the proposed regulation. These water savings are a direct result of the CII performance measures that CII customers, including local institutional water users, implement. All else equal, water savings mean lower water bills (compared to the assumed future baseline).

*Local sales tax:* Suppliers and households will spend more on residential water use efficiency programs and CII performance measures. Wastewater management agencies and urban forestry and landscape management agencies will also incur expenses because of the proposed regulation. Much of that spending includes purchases of several types of goods, including, for example, landscape material, high-efficiency toilets and washers, valves, and water leak monitoring equipment. Sales tax will generally apply to such purchases. The proposed regulation therefore is expected to have an impact on sales tax revenues. Local sales tax revenues will be greater in the first years of the proposed regulation as this is when much of the water use efficiency measures are assumed to be implemented. Aggregate local sales tax revenues are estimated to increase (compared to the assumed future baseline) by almost \$21 million in 2025, and between \$500,000 and \$3.6 million per year in the following years.

*Local inspection and permit fees:* As Dedicated Irrigation Meters (DIMs), DIM tie-ins, and backflow devices are installed, suppliers will pay fees to local governments for the appropriate permits and backflow inspections. Local governments thus will experience an increase in revenues from such fees. The aggregate increase in revenue from inspection and permit fees across all local governments will amount to approximately \$2.9 million per year between 2025 and 2030. The additional local staff for these inspections and permitting processes would cost approximately \$1.8 million per year, including overhead, between 2025 and 2030 to local governments.

*Local property taxes:* Together, wastewater management agencies would incur costs of \$385 million per year between 2025 and 2030, and \$78 million per year afterward. The Board assumed that such costs would be passed on to customers. Wastewater management agencies may pass service charges to customers in different ways, including, for example, through wastewater service bills and property taxes. Wastewater charges are not a property tax and are not related to the assessed value of a property. However, these charges are sometimes included in property tax statements to save on administrative costs. If the estimated wastewater costs were passed on entirely via property tax statements, aggregate revenues across all counties in California would increase (compared to the as-

sumed future baseline) by as much as \$385 million in 2025, and \$78 million per year in the following years.

### Costs or Savings Imposed Upon State Agencies

*State Water Resources Control Board:* None. The State Water Board does not anticipate an increase in resource needs because of the proposed regulation.

*State institutional water users:* Suppliers are expected to pass on costs and benefits of the proposed regulation to customers, some of which are state institutional water users. The cost pass-through calculation for state institutional water users is the same as the one performed for local institutional water users, and, therefore, relies on the same assumptions and has the same limitations. The average water cost for an affected CII property might decrease by approximately \$168 per month in the 2025–2040 period (compared to the assumed future baseline). The average wastewater cost might increase by approximately \$6 per month in the same period (compared to the assumed future baseline). Combined, water and wastewater costs would decline on average by \$1,944 per year (compared to the assumed future baseline). Collectively, state institutional water users would not incur the cost of purchasing from their suppliers the water that they would save as a result of the proposed regulation. That is, state institutional water users, as well as other CII customers, will not use as much water as they would in the absence of the proposed regulation. These water savings are a direct result of the CII performance measures that CII customers, including state institutional water users, implement. All else equal, water savings mean lower water bills (compared to the assumed future baseline).

*State sales tax:* As explained for local sales tax, much of the spending by suppliers, households, wastewater management agencies, and urban forestry and landscape management agencies includes purchases of several types of goods; sales tax will generally apply to such purchases. The proposed regulation therefore is expected to have an impact on the state's sales tax revenue. State sales tax revenues will be greater in the first years of the proposed regulation as this is when much of the water use efficiency measures are expected to be implemented. State sales tax revenues are estimated to increase (compared to the assumed future baseline) by almost \$162 million in 2025, and between \$4 million and \$28 million per year in the following years.

### Costs or Savings in Federal Funding to the State

None. The State Water Board has determined that the proposed regulation will not create additional costs or savings in federal funding to the state.

### HOUSING COSTS [Gov. Code, § 11346.5(a)(12)]

The State Water Board does not expect that the regulation will have an impact on housing costs.

### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE [Gov. Code, § 11346.3(a), § 11346.5(a)(7), § 11346.5(a)(8)]

#### Types of Businesses Affected

Urban retail water suppliers can be either publicly-owned (e.g., municipal agencies, special-purpose and irrigation districts, municipal water districts, and counties) or privately-owned (e.g., investor-owned utilities and nonprofit mutual water companies). The proposed regulation would apply to 405 urban retail water suppliers in the state, 337 of which are publicly-owned. For the purpose of the economic impact assessment, the Board assumed that “businesses” refer to the remaining 68 regulated privately-owned suppliers. Suppliers are generally local monopolies; households and CII customers usually do not have a choice between their water service supplier and another one. Therefore, suppliers are typically not subject to competition in the short term (see Creation of New Businesses or Elimination of Existing Businesses within California section and Competitive Advantages or Disadvantages for California Businesses section below).

#### Projected Compliance Requirements

Water Code section 10609 et seq. required the Department of Water Resources to provide recommendations on and the State Water Board to adopt standards for the efficient use of water, variances for unique uses that can have a material effect on water use, performance measures for commercial, industrial, and institutional water use, and guidelines and methodologies that identify how each urban retail water supplier will calculate an urban water use objective. The proposed regulation would require suppliers to comply with urban water use objectives, implement the adopted CII performance measures, and submit annual progress reports.

*Urban water use objective:* A supplier's urban water use objective is a retrospective estimate of aggregate, efficient water use for the previous year, based on adopted water use efficiency standards and local service area characteristics for that year. A supplier's water use objective equals the sum of standard-based budgets for residential indoor use, residential outdoor use, CII landscapes with DIMs, which are submeters that supply water for only outdoor irrigation, and real water losses. When applicable, the urban water use



objectives will also include variances (for example, for water use associated with livestock), provisions (for example, for existing pools, spas and similar water features or for the planting of new, climate-ready trees) and a bonus incentive for potable recycled water use.

*Performance measures:* CII performance measures are actions to be taken by urban retail water suppliers that would result in increased water use efficiency by CII water users. They will not affect industrial process water. Under the proposed regulation, there are three CII performance measures: (1) suppliers will be required to install DIMs on or employ in-lieu technologies for the landscapes of CII customers that a) do not have a DIM and b) the supplier estimates to have used more than 500,000 gallons of water; (2) suppliers will be required to classify their CII customers according to the broad classification categories used by the U.S. Environmental Protection Agency's ENERGYSTAR Portfolio Manager tool; (3) suppliers will be required to offer best management practices (BMPs) to CII customers that meet specific criteria.

#### **Ability to Compete**

[Gov. Code, §11346.5(a)(7)(C)]

The State Water Board has made an initial determination that the adoption of this regulation may have a significant, statewide adverse economic impact directly affecting business. The State Water Board has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

The State Water Board has made an initial determination that the adoption of this regulation will not directly affect the ability of California businesses to compete with businesses in other states.

### RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA) [Gov. Code, § 11346.5(a)(10), § 11346.3(c)]

#### **Statement of Results**

The State Water Board determined that the economic impact of the proposed regulation would likely exceed \$50 million in a 12-month period so the regulation should be considered a Major Regulation

as defined by California Code of Regulations, title 1, section 2000, subdivision (g). The State Water Board prepared a SRIA as required by Government Code section 11346.3, subdivision (c).

The proposed regulation would save approximately 235,000 acre-feet of water in 2025 (compared to the assumed 2025 baseline water use) and increased amounts in subsequent years, reaching almost 440,000 acre-feet of water saved in 2040 (compared to the assumed 2040 baseline water use). The total cumulative amount of water savings in the 2025–2040 period would be approximately 6.3 million acre-feet. Most of the estimated water savings (approximately 80 percent) would come from the assumed residential water use efficiency measures, and the remainder (approximately 20 percent) from CII performance measures.

In the 2025–2040 period, quantified benefits of the proposed regulation are estimated to exceed the quantified costs. Assuming a discount rate of 3 percent, the State Water Board estimates present discounted values of \$16.0 billion for the quantified benefits and \$13.5 billion for the quantified costs.

Most of the estimated benefits originate from reduced water purchases or reduced water production (compared to the assumed future baseline) by the affected suppliers. The estimated benefits also originate from reduced water use (compared to the assumed future baseline) by residential customers (reduced water use by CII customers, although also a benefit, could not be quantified).

Most of the estimated costs originate from the implementation of residential water use efficiency measures, approximately \$5.8 billion from 2025 to 2040 or 43 percent of total estimated costs, and revenues that would be lost by suppliers (and, to a lesser extent, no wastewater management agencies), approximately \$4.7 billion or 35 percent. The estimated cost of wastewater infrastructure improvements and other related infrastructure projects during that period is approximately \$1.6 billion or 12 percent of total estimated costs.

#### **Creation or Elimination of Jobs within California**

The total number of jobs within the state is estimated to increase by approximately 18,000 in 2025. Increases in jobs statewide will range from 5,000 to 11,000 per year in the following years. The top industries experiencing increased employment are architectural, engineering, and related services; greenhouse, nursery, and floriculture production (including compost and mulch operations); and valve and fittings other than plumbing — mostly because of the increase in the demand for turf conversion to climate-ready landscapes.

### **Creation of New Businesses or Elimination of Existing Businesses within California**

The main businesses affected by the proposed regulation are suppliers. Because these are generally local monopolies, households and CII customers usually do not have a choice between their water service supplier and another one. Thus, the proposed regulation is not expected to cause the entry of new suppliers or the exit of existing ones.

Based on increased expenditures by suppliers on residential water use efficiency measures and CII measures, and also on increased expenditures by urban forestry and landscape management agencies, and wastewater management agencies, the top industries experiencing increased sales growth rates include greenhouse, nursery, and floriculture production (including compost and mulch operations); major household appliance manufacturing; valve and fittings other than plumbing; architectural, engineering, and related services; and watch, clock, and other measuring and controlling device manufacturing. Sales growth can be met by increases in the size of existing firms or the creation of new firms in these industries. For traditionally local and small scale, labor-intensive firms such as landscapers or nurseries, sales growth will probably encourage new small businesses. On the other hand, existing manufacturers of major household appliances and plumbing fixtures may expand production.

### **Competitive Advantages or Disadvantages for California Businesses**

The proposed regulation would not put in-state firms at a disadvantage. As noted, before, households and CII customers purchase water from their local water supplier, and they generally do not have a choice between their water service supplier and an out-of-state enterprise. Landscape services are labor-intensive and will likely be provided by existing California-based businesses. Products needed for residential and CII water conservation, such as laundry equipment and valve and fittings manufacturing, tend to be provided by sectors that already compete across state lines. Thus, the proposed regulation is not expected to affect the relative interstate competitiveness of California as a location for those industries.

### **Increase or Decrease in Investment in California**

The increased production by various businesses, due to increased spending by suppliers, households, urban forestry and landscape management agencies, and local wastewater management agencies, should be met through increased production by in-state companies. Landscape services will grow, and given that these are labor-intensive, it seems unlikely that out-of-state companies will displace local landscaping companies. Production and manufacturing in other growth industries, including greenhouse and nursery production,

valve and fittings manufacturing, household laundry equipment, and plumbing fixture manufacturing, will experience growth as well, which should attract in-state producers. The growth of these firms will require investment in capital equipment and raw materials.

Additionally, as discussed above, local wastewater management agencies are expected to invest in wastewater infrastructure improvements, such as pipe replacement in wastewater collection systems, and other related infrastructure projects, amounting to approximately \$1.6 billion from 2025 to 2040. These investments in wastewater-related infrastructure will in turn increase production and manufacturing in other industries including fabricated pipe and pipe fitting manufacturing, and pump and pumping equipment manufacturing, which, again, should attract in-state manufacturers. The growth of these firms will require further investment in capital equipment and raw materials.

### **Incentives for Innovation**

Spending by suppliers is expected to spur innovation in certain areas. Given the noticeable increase in spending on landscape conservation programs, the Board anticipates that the industry will respond by developing new technologies and products, for example, new irrigation systems and products, new climate-ready landscapes, improved composting and mulch operations and processes, and by improving on existing installation processes. Many households will seek new low-cost climate-ready landscape strategies, and entrepreneurs who can supply products and services accordingly will grow. Additionally, leak detection equipment and infrastructure are growing and developing, and the increased spending by suppliers will hasten those developments.

### **Benefits of the Regulation**

As explained before, one of the benefits of the proposed regulation that can be quantified is the water savings to suppliers and their customers. As a result of the proposed regulation, suppliers will spend less to acquire water, and similarly, customers will spend less on their water bills. The benefits to suppliers from the CII performance measures also include avoided stormwater-related expenses. Upgrading to more efficient fixtures and appliances leads to both water savings and energy savings. In particular, because more efficient washers use less water than inefficient ones, less water needs to be heated, and less energy is used.

The proposed regulation is expected to yield benefits that are not possible to quantify given the existing data. Compliance with the proposed regulation likely will:

1. Reduce the overall pressure on the limited water resources that many sectors in California compete

for and reduce the need to cut water use—in any sector—when there is a drought.

2. Free up suppliers' water for their future use.
3. Improve water quality, improve soils, and sequester more carbon.
4. Improve safety, such as reductions in over-irrigation, mosquito breeding pools and slip hazards.
5. Reduce some landscape maintenance costs.
6. Reduce state costs of disposing of organic materials that should not go to landfills by increasing demand for mulch.
7. Protect biodiversity and support ecosystems.

#### **Department of Finance Comments and State Water Board Responses**

The SRIA was submitted to the Department of Finance (DOF) on March 13, 2023. DOF provided comments to the State Water Board on April 12, 2023. DOF generally concurred with the State Water Board's methodology in the SRIA and made three comments. The three comments, and the State Water Board's response to those comments, are as follows:

*Comment 1:* The version of the SRIA that DOF reviewed assumes that the estimated impacts will be not biased by the omission of water use data for the suppliers that did not provide the requested data, which account for about 11 percent of the affected population. However, if those water districts' water usage is significantly different, the estimated costs may be higher or lower. The SRIA must provide an analysis that shows the omitted suppliers have generally similar water usage patterns to the suppliers that provided data. For example, the SRIA can show that the omitted districts are generally consistent with the state average on publicly available characteristics that are correlated with water use.

*Response to Comment 1:* An analysis of omitted suppliers was added to the updated SRIA (see SRIA Appendix H). Twenty suppliers without available data had been omitted. The omitted suppliers are on average smaller (fewer than 10,000 connections) than the suppliers included in the least-cost analysis and represent less than 2 percent of all potentially affected connections. The omission of the suppliers, however, should not materially affect the findings in the SRIA. Using data on the number of connections for the 20 suppliers to extrapolate per-connection-year assumptions, present discounted values for residential cost and benefit were calculated. Residential cost and benefit would be approximately \$260 million and \$341 million, respectively, across all 20 suppliers and for the entire 2025–2040 period. These amounts represent approximately 2.5 percent of the combined residential cost and benefit estimated for all suppliers for which data were sufficiently available.

*Comment 2:* The version of the SRIA that DOF reviewed assumes that customers will apply an average use throttling (e.g., opening a faucet partially, rather than all the way) of 67 percent on their faucets and waterheads. If, instead, customers averaged 80 percent or 40 percent then the costs would change accordingly. The SRIA must provide evidence that the 67 percent assumption is the most accurate or provide a sensitivity analysis to show how the impacts may vary based on average throttling.

*Response to Comment 2:* An explanation of the 67 percent throttling assumption and supporting evidence was added to the updated SRIA (see SRIA Appendix D). Throttling assumptions were obtained from existing research on residential end use. More specifically, measured average flow rate for showerheads, bathroom faucets, and kitchen faucets was gathered from the residential end use studies' various data collection periods. This included data from: 1996 to 1998, 2005 to 2010, and 2010 to 2013. To calculate throttling rates, the measured average flow rate was then compared to the respective fixture standard during the data collection period. The calculated throttling rate ranged from 50 percent to 86 percent, with an average of 67 percent.

*Comment 3:* The version of the SRIA that DOF reviewed assumes that California energy costs from 2025 to 2040 will be equal to projected U.S. energy costs over the same period despite acknowledging that historically energy prices have been more costly in the state than nationwide. The SRIA should either adjust the projected energy costs to account for this historical difference or justify the energy cost assumptions.

*Response to Comment 3:* The assumed projected U.S. energy costs were replaced in the SRIA with projected California energy costs obtained from the California Energy Commission, and the analysis was updated accordingly (see Energy Savings section of the SRIA). More specifically, annual energy price forecasts for natural gas and electricity for the 2025–2035 period were obtained from California Energy Commission's Energy Demand Forecasts (CEC 2021 and 2022 Integrated Energy Policy Reports). The estimated annual energy cost savings for residential customers of both privately-owned suppliers and publicly-owned suppliers were updated accordingly. Under the assumed California energy costs, the replacement inefficient clothes washers with more efficient clothes washers across suppliers' service areas would result in approximately \$49 million in energy savings in 2025 and increased energy cost savings thereafter, reaching approximately \$100 million in 2040.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**  
[Gov. Code, § 11346.5(a)(9);  
Cal. Code Regs., title 1, § 4(a) and(b)]

**Typical Business**

To assess the direct cost impact on the typical regulated business (all regulated businesses are privately-owned suppliers), the Board analyzed the 67 privately-owned suppliers for which data were available. Combined, they serve approximately six million people statewide. For this analysis, a typical business is defined as a hypothetical privately-owned supplier with the average size and average attributes. The typical supplier thus defined has 22,000 service connections and serves approximately 92,000 people. The typical supplier would incur a direct cost of approximately \$7.5 million in 2025. In subsequent years, the typical supplier would incur direct costs ranging between \$1 million and \$5 million.

**Individual**

The proposed regulation applies to urban retail water suppliers only. Customers who elect to participate in rebate and incentives programs their suppliers may offer will incur upfront costs associated with the implementation of the residential water use efficiency measures. If an average of 38.9 million individuals are assumed to reside in the service areas of all suppliers in the 2025–2040 period, then, before rebates, the upfront expenses incurred by customers with the residential water use efficiency measures are approximately \$102.6 per person on average in 2025, and range between \$1.3 and \$7.7 per person on average, per year, in the following years.

**BUSINESS REPORT**  
[Gov. Code, § 11346.5(a)(11), § 11346.3(d)]

As a result of the proposed regulation, urban retail water suppliers likely will have to develop water reduction strategies, including rebate and other incentives programs, and submit annual progress reports. It was assumed that there will be ongoing administrative compliance costs of reporting. The annual reporting costs per supplier, whether privately-owned or publicly-owned, was estimated to be approximately \$5,000, and is based on the annual cost of one eight-hour day each month for a typical engineer (the median California wage for a mechanical engineer is \$53.99 per hour as reported by the Employment Development Department). These work-hour estimates for the reporting costs were obtained based on outreach with suppliers across California and a review of conservation programs statewide. The State Water Board has concluded that it is necessary for the health, safety,

or welfare of the people of the state that the regulation apply to businesses.

**SMALL BUSINESS**  
[Cal. Code Regs., title 1, § 4(a)]

Urban retail water suppliers are water companies (utilities) providing drinking water to the public and, pursuant to Government Code section 11342.610, are not small businesses.

**CONSIDERATION OF ALTERNATIVES**  
[Gov. Code, § 11346.5(a)(13)]

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

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

**ALTERNATIVES CONSIDERED  
BY THE BOARD**

The State Water Board considered two alternatives to the proposed regulation. The two alternatives were evaluated for costs and benefits, economic impacts, and cost-effectiveness relative to the proposed regulation, and both alternatives were rejected. A fuller discussion of Alternatives Considered by the Board can be found on pages 28–29 in the Initial Statement of Reasons.

**FORMS OR DOCUMENTS INCORPORATED  
BY REFERENCE**  
[Cal. Code Regs., title 1, § 20(c)(3)]

None.

**STATE WATER BOARD  
CONTACT PERSONS**  
[Gov. Code, § 11346.5(a)(14)]

Requests for copies of the proposed regulatory text, the Initial Statement of Reasons, subsequent modifications of the proposed regulatory text, if any, or other inquiries concerning the proposed action may be directed to:

Charlotte Ely  
Environmental Program Manager  
State Water Resources Control Board  
Email address: [charlotte.ely@waterboards.ca.gov](mailto:charlotte.ely@waterboards.ca.gov)

Karina Herrera  
Senior Environmental Scientist  
State Water Resources Control Board  
Email address:  
[karina.herrera@waterboards.ca.gov](mailto:karina.herrera@waterboards.ca.gov)

In the event Charlotte Ely and Karina Herrera are not available to respond to requests or inquiries, please contact:

Paola Gonzalez  
Environmental Scientist  
State Water Resources Control Board  
Email address:  
[paola.gonzalez@waterboards.ca.gov](mailto:paola.gonzalez@waterboards.ca.gov)

Climate and Conservation inbox

[ORPP-WaterConservation@Waterboards.ca.gov](mailto:ORPP-WaterConservation@Waterboards.ca.gov)

Please identify the regulation by using the State Water Board regulation package identifier, “**Proposed Making Conservation a California Way of Life Regulation**” in any inquiries or written comments.

AVAILABILITY OF INITIAL  
STATEMENT OF REASONS, TEXT OF  
PROPOSED REGULATION AND THE  
RULEMAKING FILE  
[Gov. Code, § 11346.5(a)(16)]

The State Water Board has prepared and has available for public review an initial statement of reasons for the proposed regulation, all the information upon which the proposed regulation is based, the text of the proposed regulation, and all other required forms, statements, and reports. In order to request that copies of these documents or alternative formats of these documents be mailed or emailed to you, please write to or email the Contact Persons. Upon specific request, these documents will be made available in Braille, large print, or CD.

AVAILABILITY OF CHANGED OR  
MODIFIED TEXT  
[Gov. Code, § 11346.5(a)(16)]

After holding the hearing and considering relevant comments received in a timely manner, the State Water Board may adopt the proposed regulation substantially as described in this notice. If the State Water Board makes modifications that are substantially related to the originally proposed text, the State Board

will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the State Water Board adopts the modified regulation. Any such modifications will also be posted on the State Water Board Web site. Please send requests for copies of any modified regulation to the attention of the contact persons provided above (“Contact Persons”). The State Water Board will accept written comments on the modified regulation for 15 days after the date on which they were made available.

AVAILABILITY OF FINAL  
STATEMENT OF REASONS  
[Gov. Code, § 11346.5(a)(19)]

The State Water Board will prepare a final statement of reasons pursuant to Government Code section 11346.9 after final adoption of the regulation, and when ready will make the final statement of reasons available. A copy of the Final Statement of Reasons may be obtained from the contact persons or the State Water Board program webpage, listed in the next section.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET  
[Gov. Code, § 11346.4(a)(6); § 11346.5(a)(20)]

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulation may be found on the [Rulemaking to Make Conservation a California Way of Life | California State Water Resources Control Board](#) page.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND  
WILDLIFE**

**HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653–2023–122–001–R3**

**Project:** Iron Horse Vineyards Fish Screen Implementation  
**Location:** Sonoma County  
**Applicant:** Laurence Sterling  
**Notifier:** Will Spangler, Gold Ridge Resource Conservation District

**Background**

*Project Location:* The Iron Horse Vineyards Fish Screen Implementation Project (Project) is located

at 9786 Ross Station Road, Sebastopol, CA 95472, at a property owned by Laurence Sterling (Iron Horse Vineyards), 38.460876° N., -122.895978° W., Assessor Parcel Number (APN) 084-190-001, and affects Green Valley Creek, a tributary to the Russian River. Green Valley Creek supports populations of Central California Coast (CCC) coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss*), California freshwater shrimp (*Syncaris pacifica*), and California red-legged frog (*Rana draytonii*).

*Project Description:* Will Spangler, representing Gold Ridge Resource Conservation District, on behalf of Laurence Sterling (Applicant), proposes to enhance or restore habitat within Green Valley Creek to provide a net conservation benefit for CCC coho salmon, steelhead, and California freshwater shrimp. Conservation benefits are proposed by installing a traveling fish belt screen on an existing unscreened water diversion along Green Valley Creek at Iron Horse Vineyards. Current conditions of the diversion do not fully prevent aquatic species from entering the diversion. The installation of the traveling fish belt screen will protect aquatic species by preventing entrainment and potential injury or mortality during seasonal water withdrawals for irrigation and frost protection for the vineyard operations.

Currently, water enters a concrete intake structure that is approximately 16 feet wide by 8.5 feet tall, with an opening measuring 2 feet wide by approximately 6.5 feet tall. The Project will modify the structure opening to ensure a good fit for the new screen. Additionally, new electrical conduit will be installed in the same trench as the existing buried conduit. If streamflow is present at the time of construction, cofferdams will be installed, the site will be temporarily dewatered, and aquatic species will be relocated from the work area by a qualified biologist. Relocated aquatic species will be prevented from reentering the work area by blocking the stream channel above and below the work area with fine-meshed net or screens.

The California Department of Fish and Wildlife (CDFW) Fisheries Restoration Grant Program has partially funded the Project, but the Project is not fully permitted by that program's programmatic permits.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 0.35 acres and up to 100 linear feet. 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).

*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 following: (1) 6

cubic yards of sandbags and plastic sheeting will be temporarily placed for dewatering.

*Project Timeframes:* Start date: August 2023.

Completion date: October 2023.

Work window: August 2023–October 2023.

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and protect aquatic species by installing a travelling fish belt screen on an existing unscreened water diversion, the North Coast 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 1B22152WNSO, Electronic Content Management Identification (ECM PIN) Number CW-884644 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to CCC coho salmon, steelhead, California freshwater shrimp, and California red-legged frog.

*Receiving Water:* Green Valley Creek, tributary to the Russian River.

*Filled or Excavated Area:* Permanent area impacted: none.

Temporary area impacted: 0.35 acres.

Length temporarily impacted: 100 linear feet.

Length permanently impacted: 0 linear feet.

*Dredge Volume:* 2 cubic yards of sediment (installation of new fish screen).

*Discharge Volume:* 6 cubic yards of sandbags and plastic sheeting for dewatering.

*Project Location:* Latitude 38.460876° N. and Longitude -122.895978° W. (NAD 83); APN: 084-190-001.

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 July 17, 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 July 17, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. No-



tice File Number Z-2023-0717-04 on July 28, 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 in an attachment to the NOI, which contains the following categories: (1) California Red-legged Frog Measures; (2) California Freshwater Shrimp Measures; (3) General Protection Measures; (4) Guidelines for Dewatering; (5) General Conditions for Fish Capture and Relocation Activities; (6) Electrofishing Guidelines; (7) Seining Guidelines; (8) Guidelines for Relocation of Salmonids; (9) Measures to Minimize Disturbance from Instream Construction; (10) Measures to Minimize Degradation of Water Quality; and (11) Measures to Minimize Loss or Disturbance of Riparian Vegetation. The specific avoidance and minimization requirements are found in two attachments to the NOI, *Biological Assessment for Coho Salmon (Oncorhynchus kisutch) and Steelhead (Oncorhynchus mykiss), Iron Horse Vineyards Fish Screen Project, Green Valley Creek, Sonoma County, CA, June 2022*, prepared by Gold Ridge Resource Conservation District and Swift Biological Consulting LLC; and *Biological Assessment for California Red-legged Frog (Rana draytonii) and California Freshwater Shrimp (Syncaris pacifica), Iron Horse Vineyards Fish Screen Project, Green Valley Creek, Sonoma County, CA, May 2022*, prepared by Gold Ridge Resource Conservation District and Swift Biological Consulting LLC.

### Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring pa-

rameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Iron Horse Fish Screen Implementation Project Monitoring and Reporting Plan*, dated November 15, 2022, prepared by Gold Ridge Resource Conservation District.

### 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 and ECM PIN 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, WDID number, and ECM PIN 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: [Michael.Stuhldreher@wildlife.ca.gov](mailto:Michael.Stuhldreher@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 and Game Code, § 1654, subdivision (c)).

DEPARTMENT OF FISH AND  
WILDLIFE

HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653-2023-123-001-R4

**Project:** San Benito River Restoration Project at Paicines Ranch  
**Location:** San Benito County  
**Applicant:** Greg Richardson, Doodlebug Ranches, LLC

**Background**

*Project Location:* The San Benito River Restoration at Paicines Ranch Project (Project) will occur within the San Benito River at two separate Project sites, both of which are located within Paicines Ranch, near the unincorporated community of Paicines, San Benito County; Centered at coordinates 36.740264, -121.306476 and 36.726433, -121.304725; Section 00, Township 14 South, Range 6 East; U.S. Geological Survey map Paicines; Assessor's Parcel Numbers (APN) 023-120-026-000, 023-120-029-000, 023-100-045-000, 023-120-027-000 and 023-120-031-000. The San Benito River supports an abundance of fish and wildlife, including populations of federally threatened California red-legged frog (*Rana draytonii*) and both federal and state-threatened California tiger salamander (*Ambystoma californiense*).

*Project Description:* Greg Richardson (Applicant) proposes to enhance or restore habitat associated within the San Benito River by implementing a process-based restoration project which will facilitate natural fluvial geomorphic changes, including sediment retention, stream sinuosity, and pool formation. This dynamic channel evolution is expected to enhance groundwater recharge, provide riverscape complexity, and expand ponds, which is likely to provide a net conservation benefit to California red-legged frog and California tiger salamander. The Project includes initial construction of two post-assisted log structures (PALS) and 23 beaver dam analogs (BDAs), with up to 96 additional structures implemented within the 5-year Project term. BDAs will consist of brush, logs, branches, and small trees harvested onsite, and may incorporate untreated 3-inch diameter softwood posts. The structures will be packed with a mixture of mud, sand, clay, gravel, and rocks. PALS will consist of logs, root wads, downed trees, and other woody material harvested onsite. PALS and BDAs may require adaptive maintenance in order to achieve desired effects. The Project also includes the conversion of three dirt road stream crossings into on-grade rock-fill

fords, to ensure viable road access after newly inundated conditions are established. Crossings will have a linear stream length of 12 feet and a 50-foot average width across the streambank. Though the Project will remove and utilize vegetation from within the riparian corridor, the Project is expected to improve water availability for natural recruitment of riparian vegetation.

*Project Size:* The initial area of ground disturbance associated with the Project is approximately 0.26 acres or 156 linear feet. Adaptive management of the Project may expand the ground disturbance area to a total no greater than five acres and 500 linear feet of stream. 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).

*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 following: (1) native soil, (2) rock riprap, (3) native vegetation, (4) large woody material, and (5) wood posts.

*Project Timeframes:* Start date: June 2023.

Completion date: June 2028.

Project term: Five years.

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to facilitate channel complexity, promote drought resiliency, and improve the quality of waters in California, the Central Coast 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 33523WQ02). The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to existing vegetation, nesting birds, aquatic species, and burrowing species.

*Receiving Water:* San Benito River.

*Discharge Volume:* Initial structures will incur a discharge volume of (1) 133 cubic yards of native soil, native vegetation, large woody material, and woody posts from construction of PALS and BDAs, and (2) 100 cubic yards of rock riprap from construction of rock-fill fords. Adaptive management of structures may raise the total discharge volume up to a maximum of 5,000 cubic yards.

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Proj-

ect, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On July 20, 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 July 21, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0721-03) on August 4, 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

Avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Weather-based Work Limitations; (2) Water Quality Management and Erosion Management; (3) Habitat and Wildlife Protection; and (4) Petroleum, Chemical, and Other Pollutants. The specific avoidance and minimization requirements are found in an attachment to the NOI, "SanBenitoRiverRestorationatPaicinesRanch\_NOI-Final2", *Measures to Avoid or Minimize Adverse Impacts* (pages 23 and 24).

### Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the

plan are found in an attachment to the NOI, "SanBenitoRiverRestorationatPaicinesRanch\_NOI-Final2".

### 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; and
- 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: [Megan.Rooney@wildlife.ca.gov](mailto:Megan.Rooney@wildlife.ca.gov) and [R4LSA@wildlife.ca.gov](mailto:R4LSA@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 and Game Code, § 1654, subdivision (c).)

DEPARTMENT OF FISH AND  
WILDLIFE

HABITAT RESTORATION AND  
ENHANCEMENT ACT  
CONSISTENCY DETERMINATION  
NUMBER 1653-2023-119-001-R1

**Project:** Bear Haven Creek Large Wood  
Enhancement Project

**Location:** Mendocino County

**Applicant:** Elise Ferrarese, Trout Unlimited

**Background**

*Project Location:* The Bear Haven Creek Large Wood Enhancement Project (Project) is located on John Smith Creek, tributary to the Middle Fork Ten Mile River, approximately 10 miles northeast of Fort Bragg, California; Assessor's Parcel Numbers 015-150-04, 015-150-11, 015-150-07; and Longitude/Latitude 39.556142 N, 123.680493 W. Bear Haven Creek supports populations of supports populations of coho salmon (*Oncorhynchus kisutch*), steelhead trout (*O. mykiss*), and other fish and wildlife species.

*Project Description:* Elise Ferrarese (Applicant) representing Trout Unlimited, proposes to install large wood features in Bear Haven Creek to improve habitat for juvenile and adult salmonids. The aquatic habitat within Bear Haven Creek is currently simplified and has limited amounts of large wood within the stream. The Project will improve the existing habitat by installing 136 pieces of large wood, within 50 structures, throughout 1.25 miles of instream habitat. The large wood features will be constructed using both unanchored and anchored techniques. The addition of large wood in Bear Haven Creek will promote scouring of pools and sorting of gravel, and thereby improve spawning and rearing habitat for juvenile and adult salmonids.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 1.05 acres and 272 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).

*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 following: (1) 605 cubic yards of large wood, (2) 4 cubic yards of soil, and (3) anchoring materials (708 feet of threaded rebar, 423 nuts, and 344 washers).

*Project Timeframes:* Start date: August 1, 2023.

Completion date: October 31, 2024.

Work window: July 10 to October 31, with an option for variance or extension with written approval from the North Coast Regional Water Quality Control Board (Regional Water Board) and the California Department of Fish and Wildlife (CDFW).

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the Regional Water Board issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1B23095WNME, Electronic Content Management Identification (ECM PIN) Number CW-889060 for the. The NOA describes the Project and requires the Applicant to comply with the terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to coho salmon, steelhead trout, and other fish, wildlife, and plant species.

*Receiving Water:* Bear Haven Creek, tributary to the Middle Fork Ten Mile River.

*Filled or Excavated Area:* Permanent area impacted: 1.05 acres.

Temporary area impacted: 0 acres.

Length permanently impacted: 272 linear feet.

Length temporarily impacted: 0 linear feet.

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.).

*Noticing:* On July 14, 2023, the Director of 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 July 14, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0714-06) on July 28, 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 the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction-period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post-construction and Sediment Control and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Additional Pages — Bear Haven Creek Large Wood Augmentation Project, Notice of Intent — General 401 Water Quality Certification Order for Small habitat Restoration Projects*.

#### Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan, Bear Haven Creek Large Wood Augmentation Project*, prepared by Trout Unlimited and the California Conservation Corps.

#### 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 and ECM PIN 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, WDID number, and ECM PIN 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: [Nicholas.VanVleet@wildlife.ca.gov](mailto:Nicholas.VanVleet@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 and Game Code, § 1654, subdivision (c).)

## DEPARTMENT OF FISH AND WILDLIFE

### HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NUMBER 1653-2023-120-001-R1

**Project:** Hollow Tree Creek Large Wood Enhancement Project

**Location:** Mendocino County

**Applicant:** Elise Ferrarese, Trout Unlimited

#### Background

*Project Location:* The Hollow Tree Creek Large Wood Enhancement Project (Project) is located on Hollow Tree Creek, tributary to the South Fork Eel River, approximately seven miles south of Leggett, California; Assessor's Parcel Number 013-450-16; Latitude/Longitude 39.75701 N, 123.72530 W. Hollow Tree Creek supports populations of coho salmon (*Oncorhynchus kisutch*), steelhead trout (*O. mykiss*), and other fish and wildlife species.

*Project Description:* Elise Ferrarese (Applicant) representing Trout Unlimited, proposes to install



large wood features in Hollow Tree Creek to improve habitat for juvenile and adult salmonids. The aquatic habitat within Hollow Tree Creek is currently simplified and has limited amounts of large wood within the stream. The Project will improve the existing habitat by installing 134 pieces of large wood, within 50 structures, throughout 1.8 miles of instream habitat. The large wood features will be constructed using both unanchored and anchored techniques. The addition of large wood in Hollow Tree Creek will promote scouring of pools and sorting of gravel, and thereby improve spawning and rearing habitat for juvenile and adult salmonids.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 1.49 acres and 268 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).

*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 following: (1) 702 cubic yards of large wood, (2) 5 cubic yards of soil, and (3) 213 anchor points (1" diameter threaded rebar, 3.5" hex nuts, and washers).

*Project Timeframes:* Start date: August 1, 2023.

Completion date: October 31, 2024.

Work window: July 10 to October 31, with an option for variance or extension with written approval from the North Coast Regional Water Quality Control Board (Regional Water Board) and the California Department of Fish and Wildlife (CDFW).

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the Regional Water Board issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1B23098WNME, Electronic Content Management Identification (ECM PIN) Number CW-889200 for the. The NOA describes the Project and requires the Applicant to comply with the terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to coho salmon, steelhead trout, and other fish, wildlife, and plant species.

Receiving Water: Hollow Tree Creek, tributary to the South Fork Eel River.

Filled or Excavated Area: Permanent area impacted: 1.43 acres.

Temporary area impacted: 0.06 acres.

Length permanently impacted: 268 linear feet.

Length temporarily impacted: 0 linear feet.

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.).

*Noticing:* On July 14, 2023, the Director of 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 July 14, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0714-07) on July 28, 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 the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction-period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post-construction and Sediment Control and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Hollow Tree Creek Large Wood Enhancement Project, 401 Additional Information*.

## Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan, Hollow Tree Creek Large Wood Enhancement Project*, prepared by Trout Unlimited and the Eel River Watershed Improvement Group.

## 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 and ECM PIN 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, WDID number, and ECM PIN 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: [Nicholas.VanVleet@wildlife.ca.gov](mailto:Nicholas.VanVleet@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 and Game Code, § 1654, subdivision (c).)

## DEPARTMENT OF FISH AND WILDLIFE

### HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NUMBER 1653-2023-118-001-R1

**Project:** John Smith Creek Large Wood Enhancement Project

**Location:** Mendocino County

**Applicant:** Elise Ferrarese, Trout Unlimited

## Background

*Project Location:* The John Smith Creek Large Wood Enhancement (Project) is located on John Smith Creek, tributary to the North Branch North Fork Navarro River, approximately 12 miles east of Albion, California; Assessor's Parcel Numbers 125-460-15, 125-460-07, 125-470-01, 125-280-57, 125-270-21; and Latitude/Longitude 39.207577 N, 123.536638 W. John Smith Creek supports populations of coho salmon (*Oncorhynchus kisutch*), steelhead trout (*O. mykiss*), and other fish and wildlife species.

*Project Description:* Elise Ferrarese (Applicant) representing Trout Unlimited, proposes to install large wood features in John Smith Creek to improve habitat for juvenile and adult salmonids. The aquatic habitat within John Smith Creek is currently simplified and has limited amounts of large wood within the stream. The Project will improve the existing habitat by installing 172 pieces of large wood, within 72 structures, throughout 1.9 miles of instream habitat. The large wood features will be constructed using both unanchored and anchored techniques. The addition of large wood in John Smith Creek will promote scouring of pools and sorting of gravel, and thereby improve spawning and rearing habitat for juvenile and adult salmonids.

*Project Size:* The total area of ground disturbance associated with the Project is approximately 1.26 acres and 291.6 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).

*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 following: (1) 559 cubic yards of large wood, (2) 5 cubic yards of soil, and (3) 89 bolts (1" diameter threaded rebar, 3.5" hex nuts, and washers).



*Project Timeframes:* Start date: August 1, 2023.  
Completion date: October 31, 2024.

Work window: July 10 to October 31, with an option for variance or extension with written approval from the North Coast Regional Water Quality Control Board (Regional Water Board) and the California Department of Fish and Wildlife (CDFW).

*Water Quality Certification Background:* Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the Regional Water Board issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1B23099WME, Electronic Content Management Identification (ECM PIN) Number CW-889203 for the Project. The NOA describes the Project and requires the Applicant to comply with the terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to coho salmon, steelhead trout, and other fish, wildlife, and plant species.

Receiving Water: John Smith Creek, tributary to the North Branch North Fork Navarro River.

Filled or Excavated Area: Permanent area impacted: 1.16 acres.

Temporary area impacted: 0.1 acres.

Length permanently impacted: 291.6 linear feet.

Length temporarily impacted: 0 linear feet.

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.).

*Noticing:* On July 14, 2023, the Director of 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 July 14, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0714-04 on July 28, 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 the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction-period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post-construction and Sediment Control and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Additional Pages—Small Habitat Restoration Project 401 Notice of Intent, John Smith Creek*.

#### **Monitoring and Reporting**

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan, John Smith Creek Large Wood Augmentation Project*, prepared by Trout Unlimited and Blencowe Watershed Management.

#### **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 and ECM PIN 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. Ap-

plicant shall include the project name, WDID number, and ECM PIN 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: [Nicholas.VanVleet@wildlife.ca.gov](mailto:Nicholas.VanVleet@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 and Game Code, § 1654, subdivision (c).)

## HORSE RACING BOARD

### NOTICE OF EXTENSION OF WRITTEN COMMENT PERIOD

On July 28, 2023, the California Horse Racing Board's Notice of Proposed Rulemaking concerning fire safety was published in the California Regulatory Notice Register.

The original written comment period deadline for this action was September 11, 2023. The Board is now extending the written comment deadline for this action to September 21, 2023.

Please submit comments to:

Rick Pimentel, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 274-6043  
Email: [repimentel@chrb.ca.gov](mailto:repimentel@chrb.ca.gov)

If you have any questions, please contact Mr. Pimentel.

## DEPARTMENT OF TOXIC SUBSTANCES CONTROL

### NOTICE OF PUBLIC COMMENT PERIOD

#### COOPER CONSENT AGREEMENTS FOR GARDENA SUMPS

The Department of Toxic Substances Control (DTSC) invites the public to review and comment on the Cooper Consent Agreement for the Gardena Sumps (Site) in the City of Gardena. DTSC and responsible parties entered into this agreement under Health and Safety Code 25358.3 and 58009.

**PROJECT SUMMARY.** The approximately 1-acre Site is in a mixed-use area of Gardena. Hazardous substances including petroleum products, volatile organic compounds and semi-volatile organic compounds have been found in the Site oil sludge. DTSC determined that environmental response actions are necessary at the Site because there has been a release and/or there is a threatened release of a hazardous substance. DTSC conducted a response action to protect public health and the environment. DTSC is recovering a part of its response costs from responsible parties under the California Hazardous Substances Account Act. Details are outlined in the Cooper Consent Agreement.

**PUBLIC COMMENT PERIOD.** The 30-day public comment period for the Cooper Consent Agreement will begin on August 23, 2023 and end on September 22, 2023. DTSC will provide a Response to Comments document to anyone who submits a comment or requests a copy. Written comments must be sent by mail or email no later than September 22, 2023 to:

Nicholas Ta  
DTSC Project Manager  
5796 Corporate Avenue  
Cypress, CA 90630-4732  
Email: [Nicholas.Ta@dtsc.ca.gov](mailto:Nicholas.Ta@dtsc.ca.gov)

### WHERE TO FIND PROJECT DOCUMENTS:

DTSC Regional File Room  
5796 Corporate Avenue, Cypress, CA 90630  
Call (714) 484-5336 for an appointment.

Documents are also available at the Envirostor database:

[https://www.envirostor.dtsc.ca.gov/public/profile\\_report.asp?global\\_id=19490135](https://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=19490135)

### FOR MORE INFORMATION:

Contacts for project related questions:

Nick Ta, DTSC Project Manager  
Telephone: (714) 484-5381  
Email: [Nicholas.Ta@dtsc.ca.gov](mailto:Nicholas.Ta@dtsc.ca.gov)

Chinh Sheow, DTSC Public Participation  
Telephone: (818) 717-6571  
Email: [Chinh.Sheow@dtsc.ca.gov](mailto:Chinh.Sheow@dtsc.ca.gov)

## **SUMMARY OF REGULATORY ACTIONS**

### **REGULATIONS FILED WITH THE SECRETARY OF STATE**

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

CalSavers Retirement Savings Board  
File # 2023-0623-01  
CalSavers Retirement Savings Program

This Certificate of Compliance action makes permanent the Board's emergency regulations concerning the number of eligible employees an employer must have for purposes of required registration with the CalSavers Retirement Savings Program. The action also makes permanent deletions of provisions which have become obsolete due to the passage of time.

Title 10  
Amend: 10000, 10001, 10002, 10005, 10006  
Filed 08/07/2023  
Effective 08/07/2023  
Agency Contact: Eric Lawyer (916) 653-1748

Governor's Office of Business and Economic  
Development  
File # 2023-0727-03  
Conflict-of-Interest

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: 59740  
Filed 08/09/2023  
Effective 09/08/2023  
Agency Contact:  
Hannah Goldsmith (916) 715-5697

Office of Environmental Health Hazard Assessment  
File # 2023-0801-01  
Chemicals Known to the State to Cause Cancer or  
Reproductive Toxicity

This action by the Office of Environmental Health Hazard Assessment amends the list of "Chemicals Known to the State to Cause Cancer or Reproductive Toxicity" pursuant to Health and Safety Code, section 25249.8.

Title 27  
Amend: 27001  
Filed 08/09/2023  
Effective 08/11/2023  
Agency Contact: Kiana Vaghefi (279) 216-0002

California Highway Patrol  
File # 2023-0628-03  
California Highway Patrol Contact

This action without regulatory effect amends the mailing address for the California Highway Patrol for purposes of an application for exemption from any of the requirements of Title 13, Division 2, Chapter 6.5 of the California Code of Regulations regarding motor carrier safety. The action also amends language to be gender neutral.

Title 13  
Amend: 1202  
Filed 08/09/2023  
Agency Contact: Adam Roha (916) 843-3407

Department of Resources Recycling and Recovery  
File # 2023-0628-02  
Use of Correct Department Name Section 100  
Changes

This action without regulatory effect by the Department of Resources Recycling and Recovery ("CalRecycle") amends regulations related to the Beverage Container Recycling and Litter Reduction Act ("the Act"), Division 12.1 (commencing with Section 14500) of the Public Resources Code ("PRC"), so that existing references to the Department of Conservation will now refer to CalRecycle, consistent with statutes amended by Senate Bill 63 (Stats. 2009, chapter 21) ("SB 63").

Title 14  
Amend: 2000, 2095, 2130  
Filed 08/02/2023  
Agency Contact: Kris Chisholm (916) 322-2404

Commission on Peace Officer Standards and Training  
File # 2023-0620-01  
Employment Status Notifications

This rulemaking action by the Commission on Peace Officer Standards and Training (POST) amends the Affidavit of Separation, POST Form-2-357 and makes corresponding changes to the revision date in title 11, section 1003.

Title 11  
Amend: 1003  
Filed 08/02/2023  
Effective 08/02/2023  
Agency Contact: Michelle Weiler (916) 227-4870

Department of Financial Protection and Innovation  
File # 2023-0623-02  
Small Business Unfair, Deceptive, and Abusive Acts and Practices

This action by the Department of Financial Protection and Innovation adopts regulations further implementing Financial Code section 90009, subdivision (e), that (1) define and prohibit unfair, deceptive, and abusive acts and practices in the offering or provision of commercial financing to small businesses, nonprofits, and family farms and (2) establish data collection and reporting requirements.

Title 10  
Adopt: 1060, 1061, 1062  
Filed 08/02/2023  
Effective 10/01/2023  
Agency Contact: DeEtte Phelps (916) 477-9095

Public Employment Relations Board  
File # 2023-0714-02  
Expedited Case Processing and Finality of Board Agent Decisions

In this rulemaking action, the Public Employment Relations Board (PERB) specifies the procedures for requesting expedited case processing and the procedures for documenting that a case is subject to expedited processing. The rulemaking action also addresses the finality of Board Agent decisions.

Title 08  
Amend: 32147, 32305  
Filed 08/08/2023  
Effective 08/08/2023  
Agency Contact: James Coffey (916) 584-5676

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

